

## **DEPARTMENT OF HUMAN SERVICES**

### **Food Assistance Program**

#### **RULE MANUAL VOLUME 4B, FOOD ASSISTANCE**

##### **10 CCR 2506-1**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### **HISTORICAL RECORD OF STATEMENT OF BASIS AND PURPOSE, FISCAL IMPACT/REGULATORY ANALYSIS AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO STAFF MANUAL VOLUME 4B FOOD STAMPS**

Revisions to sections B-4223.1, B-4223.4, B-4223.5, B-4230 and B-4515.1 were adopted on an emergency and final basis at the 11/1/85 State Board meeting, with an effective date of 11/1/85 (Document 9). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4216.4, B-4216.41, B-4220.6, B-4223.5, B-4240, and B-4242.12 were finally adopted at the 11/1/85 State Board meeting, with an effective date of 1/1/86 (Document 8). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4225.4 and B-4225.5 were adopted on an emergency basis at the 12/6/85 meeting, with an effective date of 12/6/85 (Document 6). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4213, B-4213.2, and B-4213.32 were adopted at the 12/6/85 meeting, with an effective date of 2/1/86 (Document 5). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4217, B-4217.1, B-4217.2, B-4221.11, B-4221.21, B-4221.24, B-4221.25, B-4222.6, B-4222.7, and B-4310 were finally adopted at the 1/3/86 meeting, with an effective date of 3/1/86 (Document 6). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4225.4 and B-4225.5 were extended as permanent rules at the 1/3/86 meeting, with an effective date of 3/6/86 (Document 5). Statement of basis and purpose, fiscal impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to Sections B-4014, B-4014.66, B-4220.4, were finally adopted following publication at the 2/7/86 meeting, with an effective date of 4/1/86 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to Sections B-4311.5 - Cont., B-4311.51 - Concl., B-4317, B-4317.1, B-4317.6 - Concl., were emergency adopted at the 4/11/86 meeting, with an effective date of 4/11/86 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4014 - B-4014.3, B-4014.66 - B-4015.5, B-4220.4 - B-4220.6, were finally adopted following publication at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 8). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4216.4 - Cont. - B-4216.4 - Cont., were emergency adopted at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4222.7 - B-4223.2, B-4223.31 - B-4223.5, B-4224 - B-4224.3, B-4225.9 - B-4230.1, B-4242 - B-4242.2, B-4311.51 - Concl., were emergency adopted at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4713.1 - B-4714-Concl., B-4742.11 - B-4742.15-Concl., were finally adopted following publication at the 5/2/86 meeting, with an effective date of 7/1/86 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4225.4, B-4242, B-4242.1, B-4242.12, B-4242.13, B-4242.2, B-4242.21, B-4242.3, B-4242.31, B-4242.32, B-4430.1, B-4430.2, B-4515.1, were finally adopted following publication at the 6/6/86 meeting, with an effective date of 8/1/86 (Documents 4, 6, 10, 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4110; B-4220.11 - B-4220.12; were emergency adopted at the 7/11/86 meeting, with an effective date of 7/11/86 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011.1, B-4011.6, B-4012, B-4015.2, B-4110.1, B-4221, B-4225, B-4243.3, B-4311.5, B-4317, and B-4321, were finally adopted following publication at the 9/5/86 meeting, with an effective date of 11/1/86 (Document 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4110, B-4211, B-4217, B-4220, B-4223.51, B-4223.52, B-4240.1, and B-4311.5, were finally emergency adopted at the 9/5/86 meeting, with an effective date of 9/5/86 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011.1, B-4011.2, B-4011.3, B-4209, B-4211.1, B-4213, B-4220, B-4223, B-4224, B-4230, and B-4242.2 were emergency adopted at the 10/3/86 meeting, with an effective date of 10/3/86 (Documents 12 and 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011.1, B-4011.22, B-4011.3, B-4209, B-4211.1, B-4213, B-4220, B-4220.1, B-4223.31, B-4223.1, B-4223.4, B-4223.5, B-4224, B-4230, and B-4242.2, were finally adopted emergency at the 11/7/86 meeting, with an effective date of 10/3/86 (Documents 9, 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions, additions, and deletions to sections B-4217, B-4221.24, B-4222.6, B-4242.2, B-4242.3, B-4430.1, B-4430.22, B-4430.25, B-4714, and B-4742.11, were finally adopted at the 12/5/86 State Board meeting, with an effective date of 2/1/87 (Document 4). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4213 and B-4223.4 were emergency adopted at the 1/21/87 State Board meeting, with an effective date of 1/21/87 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4014.2, B-4014.3, B-4220.6, B-4220.7, B-4222.6, B-4242.2, B-4311.4, B-4317.3, and B-4515.1 were finally adopted following publication at the 2/6/87 State Board meeting, with an effective date of 4/1/87 (Documents 10, 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4213 and B-4223.4 were finally adopted emergency at the 2/6/87 State Board meeting, with an effective date of 1/21/87 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4212, B-4216.2 and B-4222.6 were adopted emergency at the 3/6/87 State Board meeting, with an effective date of 3/6/87 (Documents 6 and 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4212, B-4216.2 and B-4222.6 were finally adopted emergency at the 4/3/87 State Board meeting, with an effective date of 3/6/87 (Document 14). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4500, B-4511 and applicable forms were finally adopted following publication at the 4/3/87 State Board meeting, with an effective date of 6/1/87 (Document 12). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section B-4316 were emergency adopted at the 4/3/87 State Board meeting, with an effective date of 4/3/87 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4216 and B-4316 were finally adopted emergency at the 5/1/87 State Board meeting, with an effective date of 3/6/87 (Document 15) and 4/3/87 (Document 14). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4215 through B-4216 were finally adopted following publication at the 6/5/87 State Board meeting, with an effective date of 8/1/87 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4110, B-4220, and B-4223.5 were emergency adopted at the 6/5/87 State Board meeting, with an effective date of 6/5/87 (Documents 5 and 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4110, B-4220, and B-4223.5 were finally adopted emergency at the 7/10/87 State Board meeting, with an effective date of 6/5/87 (Documents 14 and 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4010, B-4011, B-4013, B-4014, B-4214, B-4215 through B-4216, B-4220 through B-4221, B-4430, and B-4821 through B-4832 were finally adopted following publication at the 7/10/87 State Board meeting, with an effective date of 9/1/87 (Documents 12 and 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section B-4212 were adopted emergency at the 7/10/87 State Board meeting, with an effective date of 7/10/87 (Document 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section B-4212 were finally adopted emergency at the 8/7/87 State Board meeting, with an effective date of 7/10/87 (Document 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section B-4010, B-4011, B-4213, B-4220, B-4221, B-4222, and B-4225 were finally adopted following publication at the 9/11/87 State Board meeting, with an effective date of 11/1/87 (Document 8 and 17). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section B-4212, B-4222, B-4223, and B-4225 were emergency adopted at the 9/11/87 State Board meeting, with an effective date of 9/11/87 (Documents 12 and 27). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4223 and B-4230 were finally adopted emergency at the 10/2/87 State Board meeting, with an effective date of 10/1/87 (Document 3). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4224, B-4400 through B-4410, B-4514 through B-4515, and B-4723 through B-4740 were finally adopted following publication at the 10/2/87 State Board meeting, with an effective date of 12/1/87 (Documents 1 and 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4100 through B-4110.2 were adopted emergency at the 10/2/87 State Board meeting, with an effective date of 10/1/87 (Document 4). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4100 through B-4110.2 were finally adopted emergency at the 11/6/87 State Board meeting, with an effective date of 10/1/87 (Document 13). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4212 were emergency and final adopted at the 11/6/87 State Board meeting, with an effective date of 11/6/87 (Document 15). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4013, B-4111 through B-4121, B-4224, B-4318 through B-4319, B-4321 through B-4322, B-4410 through B-4425, B-4430, and B-4524 were finally adopted following publication at the 11/6/87 State Board meeting, with an effective date of 1/1/88 (Document 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011 and B-4220 were emergency adopted at the 11/6/87 State Board meeting, with an effective date of 11/6/87 (Documents 16 and 23). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011 and B-4220 were finally adopted emergency at the 12/4/87 State Board meeting, with an effective date of 11/6/87 (Documents 8 and 9). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4212, B-4221, B-4222 and B-4223 were finally adopted following publication at the 12/4/87 State Board meeting, with an effective date of 2/1/88 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4011, B-4014, B-4200, B-4220 - B-4221, B-4223, B-4242, B-4425, B-4427 - B-4428, B-4430, and B-4540 were finally adopted following publication at the 1/8/88 State Board meeting, with an effective date of 3/1/88 (Documents 6 and 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4222.7 through B-4223.2 were adopted emergency at the 2/5/88 State Board meeting (CSPR# 87-12-21-1), with an effective date of 2/5/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4222.7 through B-4223.2 were finally adopted emergency at the 3/4/88 State Board meeting (CSPR# 87-12-21-1), with an effective date of 2/5/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section B-4222.7 through B-4223 were adopted emergency at the 3/4/88 State Board meeting (CSPR# 88-1-20-1), with an effective date of 3/4/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4222.7 through B-4223 were final adoption of emergency at the 4/1/88 State Board meeting, with an effective date of 3/4/88 (CSPR# 88-1-20-1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections B-4014, B-4015, B-4215, B-4216, B-4220, B-4221, B-4222, B-4225 and B-4319 were finally adopted following publication at the 5/6/88 State Board meeting, with an effective date of 7/1/88 (CSPR# 88-2-12-1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4713 - B-4714 and B-4742 were finally adopted following publication at the 6/3/88 State Board meeting, with an effective date of 8/1/88 (CSPR# 88-3-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4316 were adopted emergency at the 6/3/88 State Board meeting, with an effective date of 6/3/88 (CSPR# 88-4-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4316 were final adoption of emergency at the 7/8/88 State Board meeting, with an effective date of 6/3/88 (CSPR# 88-4-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4011 were finally adopted following publication at the 7/8/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-4-20-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4212, B-4215, and B-4222 were final adoption following publication at the 8/5/88 State Board meeting, with an effective date of 10/1/88 (CSPR#'s 88-1-15-2, 88-3-8-1 and 88-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services

Revisions to sections B-4100 - B-4110, B-4220, B-4222, B-4223, and B-4225 - B-4230 were emergency adopted at the 9/9/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-8-12-2) and effective date of 10/1/88 (CSPR# 88-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 - B-4110, B-4220, B-4222, B-4223, and B-4225 - B-4230 were final adoption of emergency at the 10/7/88 State Board meeting, with an effective date of 9/1/88 (CSPR# 88-8-12-2) and effective date of 10/1/88 (CSPR# 88-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections Table of Contents, B-4215, B-4216 and Form. FS-4J were final adoption following publication at the 11/4/88 State Board meeting, with an effective date of 1/1/89 (CSPR#'s 88-6-28-2 and 88-8-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4013, B-4215, and B-4216 were emergency adopted at the 12/2/88 State Board meeting, with an effective date of 12/2/88 (CSPR# 88-9-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4013, B-4215, and B-4216 were final adoption of emergency at the 1/6/89 State Board meeting, with an effective date of 12/2/88 (CSPR# 88-9-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4014 and B-4220 - B-4221 were adopted emergency at the 1/6/89 State Board meeting, with an effective date of 1/6/89 (CSPR# 88-11-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4014 and B-4220 - B-4221 were final adoption of emergency at the 2/3/89 State Board meeting, with an effective date of 1/6/89 (CSPR# 88-11-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4110 - B-4121 and B-4221 were adopted emergency at the 2/3/89 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-12-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4110 - B-4121 and B-4221 were final adoption of emergency at the 3/3/89 State Board meeting, with an effective date of 2/1/89 (CSPR# 88-12-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010, B-4011, B-4111 - B-4121, B-4212, B-4222, B-4223, B-4318 - B-4319, and forms following section B-4515 were adopted emergency at the 3/3/89 State Board meeting, with an effective date of 3/3/89 (CSPR#'s 88-12-5-1 and 89-1-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010, B-4011, B-4111 - B-4121, B-4212, B-4222, B-4223, B-4318 - B-4319, and forms following section B-4515 were final adoption of emergency at the 4/7/89 State Board meeting, with an effective date of 3/3/89 (CSPR#'s 88-12-5-1 and 89-1-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4230, and B-4410 were adopted emergency at the 4/7/89 State Board meeting, with an effective date of 5/1/89 (CSPR# 89-3-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4230, and B-4410 were final adoption of emergency at the 5/5/89 State Board meeting, with an effective date of 5/1/89 (CSPR# 89-3-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.



Revisions to sections B-4642 through B-4644, B-4713 through B-4716, and B-4812 through B-4820 were adopted emergency at the 6/2/89 State Board meeting, with an effective date of 6/2/89 (CSPR# 89-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4642 through B-4644, B-4713 through B-4716, and B-4812 through B-4820 were final adoption of emergency at the 7/7/89 State Board meeting, with an effective date of 6/2/89 (CSPR# 89-5-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4400 through B-4428 and B-4430 were adopted emergency at the 7/7/89 State Board meeting, with an effective date of 7/1/89 (CSPR# 89-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4400 through B-4428 and B-4430 were adopted emergency and final at the 8/4/89 State Board meeting, with an effective date of 7/1/89 (CSPR# 89-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010, B-4011, B-4100 - B-4110, B-4222 - B-4223, B-4225, B-4242 and B-4518 - B-4519 were adopted emergency at the 8/4/89 State Board meeting, with an effective date of 8/4/89 (CSPR#'s 89-7-14-1 and 89-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010, B-4011, B-4100 - B-4110, B-4222 - B-4223, B-4225, B-4242 and B-4518 - B-4519 were final adoption of emergency at the 9/8/89 State Board meeting, with an effective date of 8/4/89 (CSPR#'s 89-7-14-1 and 89-7-19-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were adopted emergency at the 9/8/89 State Board meeting, with an effective date of 10/1/89 (CSPR# 89-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were final adoption of emergency at the 10/6/89 State Board meeting, with an effective date of 10/1/89 (CSPR# 89-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4740 - B-4742 were adopted emergency at the 10/6/89 State Board meeting, with an effective date of 10/6/89 (CSPR# 89-8-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4330 - B-4331 and B-4740 - B-4742 were adopted emergency and final at the 11/3/89 State Board meeting, with effective dates of 10/6/89 and 11/3/89 (CSPR# 89-8-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4012, B-4014, B-4015, B-4218 - B-4220 - B-4221, B-4222 - B-4223, B-4230 - B-4242, B-4243 - B-4311, B-4330, B-4331, B-4410, B-4430, and B-4600 - B-4834 were final adoption following publication at the 12/1/89 State Board meeting, with effective dates of 2/1/90 (CSPR#'s 89-7-20-1, 89-9-8-1, and 89-9-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4110 through B-4111, B-4213, and B-4311 were adopted emergency at the 1/5/90 State Board meeting, with effective dates of 1/5/90 (CSPR#'s 89-11-7-1 and 89-12-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4110 through B-4111, B-4213, and B-4311 were final adoption of emergency at the 2/2/90 State Board meeting, with effective dates of 1/5/90 (CSPR#'s 89-11-7-1 and 89-12-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010 - B-4011, B-4221 - B-4223, B-4225, B-4230 - B-4240, B-4242 - B-4311, B-4317, B-4430, and B-4625 - B-4651 were final adoption following publication at the 7/6/90 State Board meeting, with an effective date of 9/1/90 (CSPR# 90-4-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4222 and B-4225 were final adoption following publication at the 8/3/90 State Board meeting, with an effective date of 10/1/90 (CSPR# 90-5-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 - B-4110, B-4220, B-4222 - B-4223, and B-4225 - B-4230 were adopted emergency at the 10/5/90 State Board meeting, with an effective date of 10/5/90 (CSPR# 90-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were final adoption of emergency at the 11/2/90 State Board meeting, with an effective date of 10/5/90 (CSPR# 90-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4013, B-4111 through B-4121, B-4215, and B-4318 through B-4319 were adopted emergency at the 12/7/90 State Board meeting, with an effective date of 12/7/90 (CSPR# 90-10-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4013, B-4111 through B-4121, B-4215, and B-4318 through B-4319 were final adoption of emergency at the 1/4/91 State Board meeting, with an effective date of 12/7/90 (CSPR# 90-10-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were adopted emergency at the 1/4/91 State Board meeting, with an effective date of 1/4/91 (CSPR# 90-12-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were final adoption of emergency at the 2/1/91 State Board meeting, with an effective date of 1/4/91 (CSPR# 90-12-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4213, B-4222, B-4223, B-4225, B-4242, B-4425, and B-4712 through B-4760 were final adoption following publication at the 2/1/91 State Board meeting, with an effective date of 4/1/91 (CSPR# 90-11-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4223.61 were adopted emergency at the 2/1/91 State Board meeting, with an effective date of 3/1/91 (CSPR# 90-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4223.61 were final adoption of emergency at the 3/8/91 State Board meeting, with an effective date of 3/1/91 (CSPR# 90-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4222, B-4225, and B-4430 were adopted emergency at the 5/3/91 State Board meeting, with an effective date of 5/3/91 (CSPR# 91-3-26-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4222, B-4225, and B-4430 were final adoption of emergency at the 6/7/91 State Board meeting, with an effective date of 5/3/91 (CSPR# 91-3-26-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were final adoption following publication at the 7/12/91 State Board meeting, with an effective date of 9/1/91 (CSPR# 91-4-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4222 were adopted emergency at the 7/12/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4222 were final adoption of emergency at the 8/2/91 State Board meeting, with an effective date of 7/12/91 (CSPR# 91-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were final adoption following publication at the 8/2/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-6-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4221, B-4223, and B-4318 through B-4319 were adopted emergency at the 8/2/91 State Board meeting, with an effective date of 8/2/91 (CSPR# 91-6-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4221, B-4223, and B-4318 through B-4319 were final adoption of emergency at the 9/6/91 State Board meeting, with an effective date of 8/2/91 (CSPR# 91-6-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, B-4222, B-4223, and B-4225 through B-4230 were adopted emergency at the 9/6/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, B-4222, B-4223, and B-4225 through B-4230 were final adoption of emergency at the 10/4/91 State Board meeting, with an effective date of 10/1/91 (CSPR# 91-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4215 were final adoption following publication at the 10/4/91 State Board meeting, with an effective date of 12/1/91 (CSPR# 91-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4240 were adopted emergency at the 11/1/91 State Board meeting, with an effective date of 11/1/91 (CSPR# 91-8-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4240 were final adoption of emergency at the 12/6/91 State Board meeting, with an effective date of 11/1/91 (CSPR# 91-8-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4420 were final adoption following publication at the 2/7/92 State Board meeting, with an effective date of 4/1/92 (CSPR# 91-11-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4212, B-4213 - B-4214, B-4221, B-4222, B-4223, B-4225 - B-4230 and B-4318 were adopted emergency at the 2/7/92 State Board meeting, with an effective date of 2/1/92 (CSPR# 91-12-17-1); to sections B-4215 and B-4222, with an effective date of 2/7/92 (CSPR# 91-12-10-1); and, to section B-4223, with an effective date of 3/1/92 (CSPR# 91-12-30-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4215 and B-4222 were final adoption of emergency at the 3/6/92 State Board meeting, with an effective date of 2/7/92 (CSPR# 91-12-10-1); and, to section B-4223, with an effective date of 3/1/92 (CSPR# 91-12-30-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were final adoption following publication at the 3/6/92 State Board meeting, with an effective date of 5/1/92 (CSPR# 91-12-16-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4222, B-4225, and B-4430 were adopted emergency at the 3/6/92 State Board meeting, with an effective date of 3/6/92 (CSPR# 92-1-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011, B-4212, B-4214, B-4221, B-4222, B-4223, B-4230 and B-4318 were adopted emergency and final at the 4/3/92 State Board meeting, with an effective date of 2/1/92 and 4/3/92 (CSPR# 91-12-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4111 through B-4121, B-4216 through B-4217, B-4222, B-4225, and B-4430 were final adoption of emergency at the 4/3/92 State Board meeting, with an effective date of 3/6/92 (CSPR# 92-1-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4013, B-4222 through B-4223, and B-4225 were adopted emergency at the 6/5/92 State Board meeting, with an effective date of 6/5/92 (CSPR#'s 92-4-9-1 and 92-4-29-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4013, were final adoption of emergency at the 7/10/92 State Board meeting, with an effective date of 6/5/92 (CSPR# 92-4-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were final adoption following publication at the 8/7/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-5-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4215 and B-4222 were final adoption following publication at the 9/4/92 State Board meeting, with an effective date of 11/1/92 (CSPR# 92-6-18-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, and B-4222 through B-4223 were adopted emergency at the 10/2/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, and B-4222 through B-4223 were final adoption of emergency at the 11/6/92 State Board meeting, with an effective date of 10/1/92 (CSPR# 92-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010, B-4213, B-4215, B-4222, and B-4223 were final adoption following publication at the 3/5/93 State Board meeting, with an effective date of 5/1/93 (CSPR# 92-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4240.1 were adopted emergency at the 4/2/93 State Board meeting, with an effective date of 4/2/93 (CSPR# 93-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4240.1 were final adoption of emergency at the 5/7/93 State Board meeting, with an effective date of 4/2/93 (CSPR# 93-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4215 through B-4216 were final adoption following publication at the 5/7/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-2-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011 and B-4220 were adopted emergency at the 6/4/93 State Board meeting, with an effective date of 6/4/93 (CSPR# 93-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011 and B-4220 were final adoption of emergency at the 7/9/93 State Board meeting, with an effective date of 6/4/93 (CSPR# 93-4-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4011 were final adoption following publication at the 7/9/93 State Board meeting, with an effective date of 9/1/93 (CSPR# 93-3-25-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4222 were adopted emergency at the 7/9/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-6-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4222 were final adoption of emergency at the 8/6/93 State Board meeting, with an effective date of 7/1/93 (CSPR# 93-6-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4010, B-4013, B-4213, B-4215, B-4216, B-4221, B-4223, B-4230 - B-4240, B-4242, B-4318 - B-4319, B-4410, B-4430, B-4612 - B-4651, B-4660 - B-4662, and B-4712 - B-4760 were final adoption following publication at the 8/6/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-5-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011 and B-4632 were adopted emergency at the 9/10/93 State Board meeting, with an effective date of 9/10/93 (CSPR# 93-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4011 and B-4632 were final adoption of emergency at the 10/1/93 State Board meeting, with an effective date of 9/10/93 (CSPR# 93-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4218 through B-4220 were final adoption following publication at the 10/1/93 State Board meeting, with an effective date of 12/1/93 (CSPR# 93-8-18-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4400 through B-4410 and B-4425 were adopted emergency and final at the 10/1/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-6-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were adopted emergency at the 10/1/93 State Board meeting, with an effective date of 10/1/93 (CSPR# 93-8-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4100 through B-4110, B-4220, B-4222 through B-4223, and B-4225 through B-4230 were adopted emergency and final at the 11/5/93 State Board meeting, with effective date of 10/1/93 and 11/5/93 (CSPR# 93-8-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to section B-4430 were final adoption following publication at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-11-16-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4222, B-4224, B-4672 through B-4676, B-4694, and B-4704 through B-4760 were adopted emergency at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4222, B-4224, B-4672 through B-4676, B-4694, and B-4704 through B-4760 were adopted emergency and final at the 3/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4000 - B-4010, B-4011, B-4013, B-4216 - B-4218, B-4220, B-4221, B-4222, B-4230 - B-4240, and B-4242 were final adoption following publication at the 3/4/94 State Board meeting, with an effective date of 5/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.



Revisions to sections B-4010 and B-4223 were final adoption following publication at the 5/6/94 State Board meeting, with an effective date of 7/1/94 (CSPR#'s 94-1-20-1 and 94-3-3-3). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to sections B-4215, B-4222 - B-4223, B-4225, and B-4430 were final adoption following publication at the 6/3/94 State Board meeting, with an effective date of 8/1/94 (CSPR# 94-2-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Deletion of forms, including sections B-4500 and B-4900, were final adoption following publication at the 7/8/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-3-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4012, B-4100 - B-4110, B-4213 - B-4214, B-4215, B-4222, B-4223, B-4225, B-4317, and B-4427 were adopted emergency at the 8/5/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-6-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4012, B-4100 - B-4110, B-4213 - B-4214, B-4215, B-4222, B-4223, B-4225, B-4317, and B-4427 were adopted emergency and final at the 9/9/94 State Board meeting, with an effective date of 9/1/94 (CSPR# 94-6-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4110, B-4220, B-4222, and B-4225 through B-4230 were adopted emergency at the 9/9/94 State Board meeting, with an effective date of 10/1/94 (CSPR# 94-7-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4110, B-4220, B-4222, and B-4225 through B-4230 were final adoption of emergency at the 10/7/94 State Board meeting, with an effective date of 10/1/94 (CSPR# 94-7-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4010, B-4011, B-4222, B-4225, B-4318 - B-4319, B-4425, B-4430, and B-4695 - B-4711 were final adoption following publication at the 11/4/94 State Board meeting, with an effective date of 1/1/95 (CSPR#'s 94-7-21-1, and 94-8-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4010 - B-4214, B-4216 - B-4220, B-4222, B-4223 - B-4225, B-4230 - B-4240, B-4242, B-4314 - B-4316, B-4318 - B-4410, B-4425 - B-4428, and B-4430 - B-4770 were final adoption following publication at the 3/3/95 State Board meeting, with an effective date of 5/1/95 (CSPR# 94-12-1-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4223 were final adoption following publication at the 5/5/95 State Board meeting, with an effective date of 7/1/95 (CSPR# 95-2-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4100 - B-4110, B-4220, and B-4223 - B-4230 were adopted emergency at the 10/6/95 State Board meeting, with an effective date of 10/1/95 (CSPR# 95-8-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100 - B-4110, B-4220, and B-4223 - B-4230 were adopted emergency and final at the 11/3/95 State Board meeting, with effective dates of 10/1/95 and 12/1/95 (CSPR# 95-8-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4215 through B-4220, B-4240 through B-4242, B-4321 through B-4322, B-4410, B-4425, B-4633 through B-4640, B-4660 through B-4662, and B-4695 through B-4698 were final adoption following publication at the 1/5/96 State Board meeting, with an effective date of 3/1/96 (CSPR# 95-10-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4425 through B-4427 were final adoption following publication at the 2/2/96 State Board meeting, with an effective date of 4/1/96 (CSPR# 95-11-29-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4222 and B-4225 were final adoption following publication at the 7/12/96 State Board meeting, with an effective date of 9/1/96 (CSPR# 96-4-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4100 through B-4110, B-4214, B-4220, B-4222 through B-4230, and B-4317 through B-4318 were adopted emergency at the 10/4/96 State Board meeting, with an effective date of 10/1/96 (CSPR# 96-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4100 through B-4110, B-4214, B-4220, B-4222 through B-4230, and B-4317 through B-4318 were final adoption of emergency at the 11/8/96 State Board meeting, with an effective date of 10/1/96 (CSPR# 96-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions/additions to sections B-4010, B-4430, B-4600 through B-4612, B-4625 through B-4651, and B-4800 were final adoption following publication at the 12/6/96 State Board meeting, with an effective date of 2/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4215 were adopted emergency at the 12/6/96 State Board meeting, with an effective date of 12/6/96 (CSPR# 96-10-21-1) and sections B-4010, B-4012, B-4111 through B-4121, B-4212, B-4222 through B-4223, B-4321 through B-4322, B-4425, and B-4430 were adopted emergency at the 12/6/96 State Board meeting, with an effective date of 1/1/97 (CSPR#'s 96-10-7-1 and 96-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4215 were adopted emergency and final at the 1/3/97 State Board meeting, with an effective date of 12/6/96 (CSPR# 96-10-21-1) and sections B-4010, B-4012, B-4111 through B-4121, B-4212, B-4222 through B-4223, B-4321 through B-4322, B-4425, and B-4430 were adopted emergency and final at the 1/3/97 State Board meeting, with an effective date of 1/1/97 (CSPR#'s 96-10-7-1 and 96-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4010, B-4430, B-4600 to B-4612, B-4625 through B-4651, and B-4800 were re-promulgated as final adoption following publication at the 3/7/97 State Board meeting, with an effective date of 5/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4013, B-4215, B-4216, B-4223 through B-4225, and B-4430 were final adoption following publication at the 6/6/97 State Board meeting, with an effective date of 8/1/97 (CSPR# 97-4-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4400 through B-4410 were adopted emergency at the 6/20/97 State Board meeting, with an effective date of 7/1/97 (CSPR# 97-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4400 through B-4410 were adopted emergency and final at the 8/1/97 State Board meeting, with effective dates of 7/1/97 and 8/1/97 (CSPR# 97-5-16-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4010, B-4215, B-4222, B-4225, and B-4427 through B-4430 were final adoption following publication at the 10/3/97 State Board meeting, with an effective date of 12/1/97 (CSPR# 97-7-2-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100 through B-4111, B-4220, and B-4225 through B-4230 were adopted emergency at the 10/3/97 State Board meeting, with an effective date of 10/1/97 (CSPR# 97-9-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100 through B-4111, B-4220, and B-4225 through B-4230 were final adoption of emergency at the 11/7/97 State Board meeting, with an effective date of 10/1/97 (CSPR# 97-9-4-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4212 and B-4321 were adopted emergency at the 11/7/97 State Board meeting, with an effective date of 11/7/97 (CSPR# 97-9-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4212 and B-4321 were final adoption of emergency at the 12/5/97 State Board meeting, with an effective date of 11/7/97 (CSPR# 97-9-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4111 - B-4121, B-4212 - B-4213, B-4215, B-4222, B-4225, B-4321 through B-4322, and B-4430 were final adoption following publication at the 2/6/98 State Board meeting, with an effective date of 4/1/98 (CSPR# 97-11-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4430 were final adoption following publication at the 5/1/98 State Board meeting, with an effective date of 7/1/98 (CSPR# 98-1-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, B-4223 and B-4230 were adopted emergency at the 10/2/98 State Board meeting, with an effective date of 10/1/98 (CSPR# 98-8-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4212 were adopted emergency at the 10/2/98 State Board meeting, with an effective date of 11/1/98 (CSPR# 98-8-24-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, B-4223 and B-4230 were final adoption of emergency at the 11/6/98 State Board meeting, with an effective date of 10/1/98 (CSPR# 98-8-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to section B-4212 were final adoption of emergency at the 11/6/98 State Board meeting, with an effective date of 11/1/98 (CSPR# 98-8-24-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4111, B-4212, B-4215 through B-4217, B-4220, B-4222 - B-4225, and B-4240 were final adoption following publication at the 11/6/98 State Board meeting, with an effective date of 1/1/99 (CSPR# 98-8-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, and B-4230 were adopted emergency at the 9/3/99 State Board meeting, with an effective date of 10/1/99 (CSPR# 99-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, and B-4230 were final adoption of emergency at the 10/1/99 State Board meeting, with an effective date of 10/1/99 (CSPR# 99-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Revisions to sections B-4011, B-4214, B-4220, B-4221, B-4223, B-4240, B-4242, B-4321 B-4672, B-4694, B-4704, B-4733, and B-4770 were final adoption following publication at the 4/7/2000 State Board meeting, with an effective date of 6/1/2000 (CSPR# 99-12-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of Public Affairs, Department of Human Services.

Revisions to sections B-4100, B-4220, B-4223, and B-4230 were adopted emergency at the 9/8/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-8-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to sections B-4100, B-4220, B-4223, and B-4230 were final adoption of emergency at the 10/6/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-8-4-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to sections B-4242.11 to B-4242.12 were final adoption following publication at the 11/3/2000 State Board meeting, with an effective date of 1/1/2001 (CSPR# 00-8-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to sections B-4224.4 and B-4225 were final adoption following publication at the 12/1/2000 State Board meeting, with an effective date of 2/1/2001 (CSPR# 00-9-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revision to section B-4223.5 was adopted as emergency at the 2/2/2001 State Board meeting, with an effective date of 3/1/2001 (CSPR# 01-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revision to section B-4223.5 was final adoption of emergency rule at the 3/2/2001 State Board meeting, with an effective date of 3/1/2001 (CSPR# 01-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4224.4 through B-4225.6 were final adoption following publication at the 4/6/2001 State Board meeting, with an effective date of 6/1/2001 (CSPR# 01-1-22-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4011.2, B-4242.11, B-4242.21 and B-4242.33 were final adoption following publication at the 5/4/2001 State Board meeting, with an effective date of 7/1/2001 (CSPR# 01-2-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4224, B-4225 and B-4430 were final adoption following publication at the 7/6/2001 State Board meeting, with an effective date of 9/1/2001 (CSPR# 01-4-16-1 and 01-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Section B-4223.51 were adopted emergency at the 7/6/2001 State Board meeting, with an effective date of 7/6/2001 (CSPR# 01-5-22-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Section B-4223.51 were final adoption of emergency rule at the 8/3/2001 State Board meeting, with an effective date of 7/6/2001 (CSPR# 01-5-22-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4010 - B-4012, B-4100 - B-4112, B-4212 - B-4213, B-4221 - B-4223, B-4230 - B-4240, B-4243 - B-4316, and B-4321 - B-4322 were final adoption following publication at the 9/7/2001 State Board meeting, with an effective date of 11/1/2001 (CSPR# 01-2-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4100, B-4220, B-4223.5, and B-4230 were adopted on an emergency basis at the 9/7/2001 State Board meeting, with an effective date of 10/1/2001 (CSPR# 01-8-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4100, B-4220, B-4223.5, and B-4230 were adopted on as emergency and final at the 10/5/2001 State Board meeting, with an effective date of 10/5/2001 (CSPR# 01-8-8-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4224.2, B-4224.4, Br4225.11, B-4225.4 through B-4225.63, B-4225.9, and addition of B-4242.34 through B-4242.343 were final adoption following publication at the 4/5/2002 State Board meeting, with an effective date of 6/1/2002 (CSPR#s 01-12-20-1 and 01-12-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4011.3, B-4011.4, B-4011.52, B-4215.45, B-4215.6, B-4217.1, B-4221.13, B-4222.7, B-4240.1, B-4242.2, B-4314.1, B-4318, B-4318.4, B-4319.1, B-4330.1, 3-4430.21, and B-4430.22 were adopted following publication at the 7/12/2002 State Board meeting, with an effective date of 9/1/2002 (CSPR# 01-12-28-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were adopted as emergency at the 9/6/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR#01-8-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4212.3, B-4223.1, B-4223.6, B-4224, B-4242.342, and B-4242.343 were adopted as emergency at the 10/4/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were final adoption of emergency rules at the 11/1/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-8-9-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4212.3, B-4223.1, B-4223.6, B-4224, B-4242.342, and B-4242.343 were adopted as emergency and final at the 11/1/2002 State Board meeting, with an effective date of 10/1/2002 (CSPR# 01-7-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4215.42, B-4215.72, B-4215.73, and B-4242.11 were adopted following publication at the 2/7/2003 State Board meeting, with an effective date of 4/1/2003 (Rule-making #02-11-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4111.2, B-4111.6, B-4212.3, B-4215.2, B-4222.3, B-4240, B-4240.1, B-4242.11, B-4314.1, B-4319, B-4319.1, and B-4321.1 were adopted following publication at the 6/6/2003 State Board meeting, with an effective date of 8/1/2003 (Rule-making #03-2-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4215.45, B-4242, and B-4242.11 were adopted following publication at the 9/5/2003 State Board meeting, with an effective date of 11/1/2003 (Rule-making# 03-6-27-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, and B-4230 were adopted as emergency at the 10/3/2003 State Board meeting, with an effective date of 10/1/2003 (Rule-making# 03-8-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement Boards and Commissions Division, State Board Administration.

Revisions to Section B-4223.51 were final adoption of emergency at the 1/9/2004 State Board meeting, with an effective date of 1/1/2004 (Rule-making# 03-11-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Section B-4230.1 were adopted following publication at the 3/5/2004 State Board meeting, with an effective date of 5/1/2004 (Rule-making# 03-8-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, B-4223.51, and B-4230 were adopted as emergency at the 10/1/2004 State Board meeting, with an effective date of 10/1/2004 (Rule-making# 04-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.



Revisions to Sections B-4100, B-4220.11, B-4220.12, B-4223.5, B-4223.51, and B-4230 were adopted as final emergency rules at the 11/5/2004 State Board meeting, with an effective date of 10/1/2004 (Rule-making# 04-8-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Section B-4223.51 were adopted as emergency at the 2/3/2006 State Board meeting, with an effective date of 3/1/2006 (Rule-making# 06-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Section B-4223.51 were final (permanent) adoption of emergency rules at the 3/3/2006 State Board meeting, with an effective date of 3/1/2006 (Rule-making# 06-1-10-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4010, B-4010.1, B-4010.11, B-4011.21, B-4100, B-4220.11, B-4220.12, B-4222.7, B-4223, B-4223.1, B-4223.4, B-4223.5, B-4223.51, B-4224.1, B-4224.2, B-4224.3, B-4225.5, B-4230, and B-4242.11 were adopted as emergency at the 9/5/2008 State Board meeting, with an effective date of 10/1/2008 (Rule-making# 08-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4010, B-4010.1, B-4010.11, B-4011.21, B-4100, B-4220.11, B-4220.12, B-4222.7, B-4223, B-4223.1, B-4223.4, B-4223.5, B-4223.51, B-4224.1, B-4224.2, B-4224.3, B-4225.5, B-4230, and B-4242.11 were final (permanent) adoption of emergency rules at the at the 10/3/2008 State Board meeting, with an effective date of 12/1/2008 (Rule-making# 08-8-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.

Revisions to Sections B-4010.11 and B-4230 were adopted on an emergency basis at the 3/6/2009 State Board meeting, with an effective date of 4/1/2009 (Rule-making# 09-3-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4010.11 and B-4230 were final (permanent) adoption of emergency rules at the 5/1/2009 State Board meeting, with an effective date of 7/1/2009 (Rule-making# 09-3-3-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4242 through B-4242.1 and B-4242.12 through B-4242.13 were final adoption following publication at the 1/8/2010 State Board meeting, with an effective date of 3/2/2010 (Rule-making# 09-10-20-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4011.1 through B-4011.11, B-4011.131 through B-4011.136, B-4011.22 through B-4011.23, B-4011.3, B-4220 through B-4220.12, B-4224, B-4230.1, B-4242.11 through B-4242.13, B-4430.11, B-4430.2 through B-4430.22 were final adoption following publication at the 12/3/2010 State Board meeting, with an effective date of 2/1/2011 (Rule-making# 10-7-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4222.8, B-4223, and B-4225.7 were adopted on an emergency basis at the 6/10/2011 State Board meeting, with an effective date of 6/10/2011 (Rule-making# 11-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4222.8, B-4223, and B-4225.7 were final (permanent) adoption of prior emergency rules at the 7/8/2011 State Board meeting, with an effective date of 9/1/2011 (Rule-making# 11-4-26-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Section B-4224 were adopted on an emergency basis at the 9/9/2011 State Board meeting, with an effective date of 10/1/2011 (Rule-making# 11-8-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions to Section B-4224 were adopted as final (permanent) at the 11/4/2011 State Board meeting, with an effective date of 1/1/2012 (Rule-making# 11-8-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions and/or repeals of Sections B-4225.62 through B-4225.63, B-4230.11 through B-4230.12, B-4230.2 through B-4230.21, B-4240, B-4242.34 through B-4242.343, B-4242.35 through B-4242.36, B-4315, B-4315.2, B-4317.4, B-4317.6, B-4600 through B-4611.1, B-4640 through B-4653, B-4691.1 through B-4697.2, B-4698 through B-4698.3, B-4730 through B-4733, B-4740 through B-4760, and B-4800.1 through B-4800.3 were final adoption following publication at the 3/2/2012 State Board meeting (Rule-making# 11-11-16-2), with an effective date of 5/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions of Sections B-4430.22 and B-4430.32 were final adoption following publication at the 5/4/2012 State Board meeting (Rule-making# 12-1-27-1), with an effective date of 7/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions of Sections B-4010.42 through B-4010.424 were final adoption following publication at the 6/1/2012 State Board meeting (Rule-making# 11-8-11-2), with an effective date of 8/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions of Sections B-4011.31 through B-4011.32 and B-4110.1 through B-4110.2 were final adoption following publication at the 9/7/2012 State Board meeting (Rule-making# 11-12-23-1), with an effective date of 11/1/2012. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Section B-4224 were final adoption following publication at the 2/1/2013 State Board meeting (Rule-making# 12-12-3-1), with an effective date of 4/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4100, B-4220.11 and B-4220.12, B-4223.1, B-4223.5 and B-4223.51 were adopted on an emergency basis at the 9/6/2013 State Board meeting (Rule-making# 13-5-14-2), with an effective date of 10/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4100, B-4220.11 and B-4220.12, B-4223.1, B-4223.5 and B-4223.51 were final (permanent) adoption of prior emergency rules at the 10/4/2013 State Board meeting (Rule-making# 13-5-14-2), with an effective date of 12/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4010.12, B-4230 through B-4230.1, and B-4430.4 were adopted as emergency at the 10/4/2013 State Board meeting (Rule-making# 13-8-19-1), with an effective date of 11/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Sections B-4010.12, B-4230 through B-4230.1, and B-4430.4 were adopted as final (permanent) following publication at the 11/8/2013 State Board meeting (Rule-making# 13-8-19-1), with an effective date of 1/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Sections B-4000 through B-4800.4 were repealed in entirety and rewritten as Sections 4.000 through 4.906 and adopted as final following publication at the 7/11/14 State Board meeting (Rule-making# 12-1-3-2), with an effective date of 9/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.

Revisions to Sections 4.207.3, 4.401.1, 4.407.1, and 4.407.3 through 4.407.31 were adopted on an emergency basis at the 9/5/2014 State Board meeting (Rule-making# 14-8-12-1), with an effective date of 10/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.

Revisions to Sections 4.207.3, 4.401.1, 4.407.1, and 4.407.3 through 4.407.31 were final (permanent) adoption of prior emergency rules at the 10/3/2014 State Board meeting (Rule-making# 14-8-12-1), with an effective date of 12/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.

Revisions to Sections 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, and 4.407.31 were adopted as emergency at the 10/2/2015 State Board meeting (Rule-making# 15-9-1-1), with an effective date of 10/1/2015. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.

Revisions to Sections 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, and 4.407.31 were adopted as final (permanent) at the 11/6/2015 State Board meeting (Rule-making# 15-9-1-1), with an effective date of 1/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.

Revisions to Sections 4.704.1, 4.801.2 through 4.801.43, 4.803 through 4.803.41, 4.803.43, 4.803.5, 4.803.7, and 4.804.1 were adopted as final following publication at the 11/6/2015 State Board meeting (Rule-making# 15-2-9-1), with an effective date of 1/1/2016. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.

## **4.000 FOOD ASSISTANCE PROGRAM**

### **4.010 PROGRAM INTRODUCTION**

This material sets forth rules, policies, and procedures concerned with eligibility determination and certification of persons who apply to participate in the Food Assistance Program, and, if determined eligible, the requirements concerning the use of Food Assistance benefits. The rules and regulations herein are promulgated in accordance with Program regulations of the United States Department of Agriculture (USDA), 7 CFR 271–274 (2012), as amended, and the State Plan of Operation. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of 7 CFR Parts 271 through 274 are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203. Electronic copies of 7 CFR parts 271 through 274 may be found by accessing the electronic code of federal regulations at <http://www.ecfr.gov>.

#### **4.020 USE OF THE FOOD ASSISTANCE MANUAL**

Below is a summary of the information contained in each section:

Section 4.000 contains general Program information, confidentiality requirements, and complaint procedures, including complaints regarding alleged discrimination.

Section 4.100 contains Program-specific definitions.

Section 4.200 sets forth policies and procedures for the application and recertification processes. Information contained in this section includes the process of filing an application and recertification, interview requirements, timely processing standards, determination of certification periods, and initial month allotment proration.

Section 4.300 outlines the non-financial criteria a household must meet in order to be eligible for the Program. Non-financial criteria include identity of applicant, Social Security Number (SSN) requirement, residency, household composition, citizenship and non-citizenship status, and work program requirements.

Section 4.400 sets forth the financial criteria a household must meet in order to be eligible for the Program. Financial criteria include gross and net income standards, resource standards, and deductions from income.

Section 4.500 sets forth policies and procedures regarding the verification and documentation of a household's circumstances.

Section 4.600 outlines a household's obligation to report changes during the certification period, and how certain changes are handled by the county department.

Section 4.700 sets forth policies and procedures for issuing Food Assistance benefits, including restoration and replacement of issuances.

Section 4.800 outlines the rules and processes regarding claims, appeals, and fraud.

Section 4.900 outlines state and county administrative requirements.

#### **4.030 PURPOSE OF THE FOOD ASSISTANCE PROGRAM**

The purpose of the Food Assistance Program is expressed by the United States Congress in Section 2 of the Food and Nutrition Act of 2008, Public Law No. 110-246 (codified at 7 USC 2012). The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.

The Food Assistance Program is designed 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.

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#### **4.040 USING FOOD ASSISTANCE BENEFITS**

Food assistance benefits received by an eligible household may be used at any time by the household or other persons whom the household selects to purchase eligible food for the household. Food Assistance benefits are issued through an Electronic Benefit Transfer (EBT) system in which benefit allotments are stored on an electronic benefit transfer card and used to purchase authorized items at a point-of-sale (POS) terminal. EBT cards shall be presented only to retailers authorized by USDA/FNS to accept food benefit payment for food purchases.

Food Assistance benefits must be used to pay for food currently purchased and cannot be used to pay for foods previously or subsequently secured or to pay back bills owed the grocer. The only exceptions are that Food Assistance benefits may be used to pay for food items such as milk or bakery goods that are delivered to the home on a regular basis, or for advance payment to a non-profit cooperative food venture when food purchased is to be delivered at a later date.

##### **4.040.1 WHERE HOUSEHOLDS CAN USE FOOD ASSISTANCE BENEFITS**

- A. Specified persons may use their Food Assistance benefits to purchase meals from the following:
1. A meal delivery service approved by the USDA, Food and Nutrition Service (FNS);
  2. A communal dining facility for elderly persons and/or SSI households;
  3. An authorized drug or alcoholic treatment and rehabilitation center;
  4. An authorized public or private, nonprofit group living arrangement facility; and
  5. A shelter for battered women and children.
- B. Homeless households shall be permitted to use their benefits to purchase prepared meals from an authorized public or private nonprofit provider for homeless persons. A meal provider for homeless persons means a public or private non-profit establishment, including, but not limited to, soup kitchens and temporary shelters which feed homeless persons. In order to be considered a homeless meal provider, the meal provider must be approved as such by the USDA, FNS.

Homeless households may also purchase meals from restaurants if the restaurant offers discounts to homeless households or serves food to homeless households at concessional (reduced) prices, and the restaurant is authorized by the USDA, FNS as a retailer.

##### **4.040.2 ELIGIBLE FOODS**

Households can only purchase eligible foods with Food Assistance benefits. Eligible foods include:

- A. Any food or food product intended for human consumption, except for alcoholic beverages, tobacco, and hot food, including hot food products prepared by the retailer and sold at above room temperature for immediate consumption.
- B. Seeds and plants to grow foods for the personal consumption by eligible household members.

#### **4.050 CONFIDENTIALITY**

- A. If there is a written request by a responsible member of the household, or it's currently authorized representative, or a person acting on behalf of the household to review materials contained in the case record, the material and information contained in the case record shall be made available for inspection during normal business hours.

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- B. The local office shall withhold confidential information, such as the names of persons who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal investigations or prosecutions.
- C. Use or disclosure of information obtained from a Food Assistance applicant or household or from any state or federal agency included in the Income and Eligibility Verification System (IEVS), including the Internal Revenue Service (IRS), Social Security Administration (SSA) and Colorado Department of Labor and Employment (DOLE) exclusively for the Food Assistance Program, shall be restricted to the following persons:
1. Persons directly connected with the administration or enforcement of the regulations or provisions of the Food and Nutrition Act of 2008, Public Law No. 110-246, as amended, (codified at 7 USC 2012), other federal assistance programs, or federally-assisted state programs which provide assistance on a means-tested basis to low income individuals. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.
  2. Employees of the Comptroller General's office of the United States for audit examination authorized by any other provision of law;
  3. Except for IRS information, local, state or federal law enforcement officials for the purpose of investigating an alleged violation of the regulations of Public Law No. 110-246, as amended, (codified at 7 USC 2012). The request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested;  
  
The agency will provide the address, Social Security Number, and, if available, photographs of any member of a household on request by a federal, state or local law enforcement officer. The officer must furnish the name and notify the agency that the individual is fleeing to avoid prosecution, custody, or confinement after a conviction for a crime or attempt to commit a crime, and that under the law, the crime is a felony (or high misdemeanor in New Jersey). The information will also be provided if the individual has violated a condition of probation or parole imposed under federal or state law. Information will also be provided if the member of the household has information necessary for the officer to conduct an official duty related to a fleeing felon or parole violation;
  4. Persons Connected with the Parent Locator Service  
  
Information made available to the Parent Locator Service must be restricted to the recipient or applicant's most recent address and place of employment;
  5. Persons directly connected with the administration of the Child Support Program, the Social Security Administration, or agencies in other states in order to assist in the administration of their program, and to the extent IEVS information is necessary for determining eligibility or benefit amounts. IRS information will not be shared;
  6. Persons directly connected with the verification of immigration status of non-citizen Food Assistance applicants through the Systematic Alien Verification for Entitlements (SAVE) system, to the extent the information is necessary to identify the individual for verification purposes;

7. School authorities for the purpose of determining which children are from families who participate in the Program. This information is used to determine eligibility for meals under the National School Lunch or Breakfast Program; and,
8. Persons directly connected with the administration or enforcement of programs included in the Income and Eligibility Verification System (IEVS).

Information obtained through the IEVS will be stored and processed so that no unauthorized personnel may acquire or retrieve the information for unauthorized purposes.

All persons with access to information obtained pursuant to the IEVS requirements will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

#### **4.060 RIGHT AND OPPORTUNITY TO REGISTER TO VOTE**

An applicant for Food Assistance benefits shall be provided the opportunity to register to vote. The county department shall provide to all applicants the prescribed voter registration application.

The county department shall not:

- A. Seek to influence the applicant's political preference or party registration.
- B. Display any political preference or party allegiance.
- C. Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote.
- D. Make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

##### **4.060.1 Transmittal of Voter Registration Records**

A completed voter registration application shall be transmitted to the county clerk and recorder for the county in which the county department is located not later than ten (10) calendar days after the date of acceptance; except that, if a registration application is accepted within five (5) calendar days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk and recorder for the county not later than five (5) calendar days after the date of acceptance.

##### **4.060.2 Confidentiality of Voter Registration Records**

Records concerning voter registration and declination to register to vote shall be maintained for two years by the county department, and these records shall not be a part of the Food Assistance case record and are not subject to subpoena. The county department shall ensure the confidentiality of individuals registering or declining to register to vote. A voter registration application completed at the agency is not to be used for any purpose other than voter registration.

#### **4.070 Complaint Requirements**

The local office shall, as part of its overall outreach responsibility, publicize the state's complaint system. In addition, the local office shall advise any household wishing to file a complaint of the complaint procedure and offer assistance in filing a complaint, if appropriate.



The State Department shall ensure that information is made available to potential participants, applicants, participants, or other interested persons concerning the complaint system, and the procedure for filing a complaint at the state or county level. Such information shall be made available to potential participants, applicants, and other interested parties through written materials and posters which shall be prominently displayed in all certification and issuance offices.

For complaints of discrimination, refer to 4.060.2 through 4.060.22.

The local office shall make every effort to resolve all complaints, excluding complaints of discrimination, brought to their attention at the local level. However, all complainants shall be informed they have the right to contact the State Department if they are not satisfied with the action taken at the local level.

#### **4.070.1 State and County Department Responsibility**

- A. The State Department shall maintain records of complaints received. These records will be reviewed on an office-by-office basis at least annually. Any potential or actual patterns of deficiencies identified shall be reported to the State Food Assistance Division coordinator for action or for inclusion, if appropriate, in the state and/or county department's Performance Improvement Plan.

The State Food Assistance Division shall be the primary contact through which complaints are filed. State staff shall either handle the complaint when filed, or refer the complaint to appropriate state or county staff for disposition.

- B. When requested to do so by the State Department, the local office shall provide information sufficient to enable the State Food Assistance Division to provide notification to the complainant in accordance with timeframes specified in item C below.
- C. The State level complaint system shall include notification to the complainant, either verbally or in writing, of the action taken by the State Department in resolving the complaint. Notification to the complainant by the State Department shall be accomplished within the following time frames:
1. Complaints involving expedited services shall be investigated and a response provided to the complainant no later than three (3) business days following the date the complaint was received by the State Department.
  2. All other complaints shall be investigated and a response provided to the complainant no later than thirty (30) calendar days following the date the complaint was received by the State Department.
- D. If a complaint can be resolved through the fair hearing process, the State Department shall advise the complainant of the process for requesting a fair hearing and offer the complainant assistance to request a fair hearing.

#### **4.070.2 Non-Discrimination Complaint Requirements**

Food Assistance benefits shall be extended to all eligible households without regard to age, race, color, sex, disability, religious creed, national origin or political beliefs. Local offices shall ensure that the non-discrimination poster provided by FNS is prominently displayed. Posters may be obtained through the State Department.

The local office shall explain the complaint procedures, as outlined in 4.060.21 "Discrimination Complaint Procedure," to each person expressing an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint under this procedure. Such information shall be made available within ten (10) calendar days from the date of request.

**4.070.21 Discrimination Complaint Procedure**

- A. Individuals who believe they have been subject to discrimination may file a written complaint with the USDA, FNS national office, the local office, and/or the State Department. All complaints of alleged discrimination shall be made in writing and shall be submitted to the FNS national office.

If allegations of discrimination are made verbally, and if the complainant is unable or unwilling to put the allegations in writing, the State or county employee to whom the allegation is made shall document the complaint in writing. The person accepting the complaint shall make every effort to secure the information specified in Subsection C, below.

- B. The complainant shall be advised that a complaint may be submitted to the State Department, FNS or both, and that a complaint shall not be investigated unless information specified in items C, 1, through C, 6, below, is provided. In addition, the complainant shall be advised that a complaint must be filed no later than one hundred eighty (180) calendar days from the date of the alleged discrimination. The local office shall date stamp or otherwise note the date the complaint is received by the office.

1. Complaints directed to the FNS national office shall be addressed to: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410.
2. Complaints directed to the State Department shall be addressed to: Colorado Department of Human Services, Food Assistance Program, 1575 Sherman St., Denver, CO 80203.

- C. The complaint shall include the following information to facilitate investigations:

1. The name, address and telephone number or other means of contacting the person alleging discrimination;
2. The location and name of the 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, sex, handicap, religious creed, national origin, or political beliefs);
5. The name(s) and title(s), if appropriate, of person(s) who may have knowledge of the alleged discriminatory act; and
6. The date(s) on which the alleged discriminatory action(s) occurred.

**4.070.22 Disposition of Discrimination Complaints**

When the local office receives a complaint of alleged discrimination and obtains the information specified in 4.060.21 "Discrimination Complaint Procedure," it shall transmit a copy of the complaint to the FNS national office and/or the State Department within five (5) working days. The State Department shall file the complaint with the FNS national office on behalf of the complainant if the local office does not file the complaint with the FNS national office.

**4.100 FOOD ASSISTANCE PROGRAM DEFINITIONS**

"ABAWD", see "Able-bodied adult without dependent."

“ABAWD County” means a county with an Employment First Program that requires ABAWDs to meet a mandatory monthly ABAWD work requirement of working or participating in an acceptable work activity eighty (80) hours per month or completing all assigned workfare hours monthly.

“Able-bodied adult without dependent” means an individual between the ages of eighteen (18) and fifty (50) without a physical or mental disability, who is not pregnant, and who lives in a food assistance household with no one under the age of eighteen (18).

“ACSES”, see “Automated Child Support Enforcement System.”

“Administrative disqualification hearing (ADH)” means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain assistance.

“Administrative law judge” means the person that presides over fair hearings and administrative disqualification hearings at the state level.

“Adverse action” means any action taken by a local office that causes a household’s benefits to be reduced or terminated.

“Adverse action period” means the period of time that elapses prior to the adverse action becoming effective during the certification period.

“Agency error claim” means that a debt has been established for the household to repay due to an overpayment of benefits that was issued to the household resulting from an error made by the local office.

“Allotment” means the total amount of Food Assistance benefits a household is authorized to receive in a particular month.

“ALJ”, see “Administrative Law Judge.”

“Appeal” means a request made by a household to have a decision about its case reviewed by an impartial third party to determine whether the decision was correct.

“Application filing date” means the date an application for assistance is received by the county office.

“Application” means a request on a state-approved form for benefits, which can include the electronic state-prescribed form.”

“Application for redetermination” means an application submitted prior to the last month of the certification period to determine a household’s continued eligibility for the next certification period.

“Application process” means the required process a household must complete for purposes of determining eligibility for benefits.

“Authorized representative” means an individual who has been designated in writing by a responsible member of the household to act on behalf of or assist the household with the application process, obtaining benefits, and/or in using benefits at authorized retailers.

“Automated Child Support Enforcement System “ means the automated computer system used by Child Support Services to record child support payments.

“Basic Categorical Eligibility” means the status granted to any household that is not eligible for Expanded Categorical Eligibility and contains only members who receive, or are eligible to receive, benefits from Colorado Works, Supplemental Security Income, Old Age Pension, Aid to the Needy and Disabled, Aid to the Blind, or a combination of these benefits (see Section 4.4011.1,1).

“Basic Utility Allowance” means a fixed deduction applied to a household that does not pay for heating or cooling and incurs at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone.

“BCE”, see “Basic Categorical Eligibility.”

“Boarder” means an individual residing with others and paying reasonable compensation to others for lodging and meals.

“Boarding house” means an establishment that is licensed as a commercial enterprise and which offers meals and lodging for compensation.

“BUA”, see “Basic Utility Allowance.”

“Case payee” means the person appointed to receive the household’s benefits.

“Case record” means a combination of the physical case file that contains documents pertinent to a household’s case; similar documents maintained in an electronic database; and information about the household that is contained within the statewide automated system.

“CBMS”, see “Colorado Benefits Management System.”

“Certification period” means the period of time for which a household has been certified to receive benefits.

“Civil union” means a legally binding partnership between two individuals without the legal recognition of these individuals as spouses.

“Claim” means a debt resulting from an overpayment of benefits that a household is obligated to repay.

“Clear and convincing evidence” means evidence which is stronger than a preponderance of evidence and which is unmistakable and free from serious or substantial doubt.

“Client error claim” means a debt that has been established for the household to repay due to an overpayment of benefits that was issued to a household due to a misunderstanding or unintentional error on the part of the household.

“Collateral contact” means a verbal or written confirmation of a household's circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted or by telephone.

“Colorado Electronic Benefit Transfer System (CO/EBTS)” means the electronic system that enables Food Assistance participants or their authorized representatives to redeem their Food Assistance benefits at point-of-sale terminals.

“Communal dining facility” means an establishment approved by FNS that prepares and serves meals for elderly persons, or for Supplemental Security Income (SSI) recipients, and their spouses. This also includes federally subsidized housing for elderly persons at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses.

“Compromise” means the decision to reduce the amount of a claim that is owed by a household.

“County Assistance Office” means the county social or human services office that is responsible for administering the Food Assistance Program.

“CUBS” means the Colorado Unemployment Benefits System.

“D-SNAP” means the Disaster Supplemental Nutrition Assistance Program. This Program shall be implemented as a result of a “major disaster” or “temporary emergency” to provide temporary assistance to households affected by these misfortunes. A Presidential disaster declaration for individual assistance must be declared for the affected areas to be eligible for DSNAP, and the decision to implement this Program after a Presidential declaration shall be at the affected county’s discretion in coordination with the State Food Assistance Office and FNS.

“DCA”, see “Disqualification Consent Agreement.”

“Demand letter”, see “Notice of Overpayment” and “Repayment Agreement.”

“Dispute resolution conference” means an informal meeting between a household and the local office to review an action taken on a case and the relevant facts pertaining to such action.

“Disqualification Consent Agreement” means the form that allows the individual(s) suspected of intentional Program violation/fraud to consent to his/her disqualification in cases of deferred adjudication.

“Disqualified individuals” means any individual who is ineligible to receive Food Assistance due to having been disqualified for an intentional Program violation/fraud, failure to provide or obtain a SSN, ineligible non-citizens, individuals disqualified for failure to cooperate with work requirements, individuals disqualified for failure to cooperate with the State quality assurance division, and able-bodied adults without dependents who have been disqualified after receiving three months of benefits within thirty-six (36) months without meeting the monthly ABAWD work requirement.

“Documentary evidence” means written information used to verify the income, expenses, and other circumstances of a household.

“Documentation” means the collection of documentary evidence, verification, case notes, and other information related to a household’s case upon which eligibility determinations and other decisions are based.

“DRC”, see “Dispute resolution conference.”

“Drug and Alcohol Treatment Center” means any residential facility run by a private, nonprofit organization or institution, or a publicly operated community mental health center, under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) that provides rehabilitative treatment to persons participating in a drug or alcohol treatment program.

“Dual participation” means the receipt of benefits in more than one Food Assistance household or state in the same calendar month.

“Duplicate benefits”, see “Dual Participation.”

“EF”, see “Employment First.”

“Elderly” means an individual that is sixty (60) years of age or older.

“EBT (CO/EBTS)”, see “Colorado Electronic Benefit Transfer System.”

“EBT card” means the card issued to persons authorized to receive Food Assistance to which the household’s allotment is credited. Used for Food Assistance purposes to purchase eligible foods at approved retailers.

“Employment and Training Program” means a program operated by the Department of Human Services consisting of work, training, education, work experience, and/or job search activities designed to help recipients obtain gainful employment.

“Employment First (EF)” means Colorado’s Employment and Training program.

“Excess medical deduction” means a deduction from a household's total gross income applied when a person with a disability or person who is elderly has medical expenses over a specified monthly amount.

“Exempt income” means income that is exempt from consideration when determining eligibility for Food Assistance.

“Expanded Categorical Eligibility (ECE)” means households that are exempt from having resources considered when determining eligibility for Food Assistance.

“Expedited service” means the method by which an application for Food Assistance is processed to ensure that the neediest households have access to Food Assistance benefits no later than the seventh (7<sup>th</sup>) calendar day following the date of application.

“Fair Hearing” means a hearing conducted in person or on the telephone by the Office of Administrative Courts to provide an impartial decision on a household’s appeal of a local office’s decision or action.

“Financial criteria” means the set of rules governing gross and net income and resource standards and the proper methods for computing a household’s income and resources.

“Fleeing felon” means an individual who is fleeing to avoid prosecution or arrest for a felony under a state or federal law.

“FNS” means the Food and Nutrition Service of the U.S. Department of Agriculture.

“Fraud” means the act committed by a person when obtaining, attempting to obtain, or aiding and abetting another to obtain assistance benefits through intentionally false statements, representations, or the withholding of material information.

“Full-time student” means a person who has a school schedule equivalent to a full-time curriculum as defined by the institute of higher education the person is attending.

“Good cause” means a waiver granted to a person or household a) excusing them from complying with a specific eligibility requirement because compliance could cause adverse consequences to the person or household, or b) providing the household with more time to comply with a specific eligibility requirement.

“G-845” means the form submitted to the U.S. Citizenship and Immigration Services to request immigration status verification for a Food Assistance applicant or participant.

“Gross Income” means the total of all non-exempt earned and unearned income added together before any deduction or disregard is considered.

“Group living arrangement” means a public or private non-profit facility certified under Section 1616(e) of the Social Security Act which serves no more than sixteen (16) people.

“HCUA”, see “Heating/Cooling Utility Allowance.”

“Head of household” means the person who is generally regarded as the person with the most knowledge of the household’s circumstances. The head of household is the person to whom the local office addresses correspondence and notices about the household’s case. This person is generally the individual who completes the application process and is responsible for obtaining and using the household’s EBT card.

“Heating/Cooling Utility Allowance” means a fixed deduction applied to any household that incurs a heating or cooling expense.

“HOH”, see “Head of Household.”

“Homeless” means an individual who lacks a fixed and regular nighttime residence or whose primary residence is: a supervised shelter designed for temporary accommodations, a halfway house or similar facility that provides temporary residence, a place not designed for or ordinarily used as regular sleeping accommodations for human beings, or a temporary accommodation in a residence of another individual for ninety (90) days or less.

“Homeless meal provider” means:

- A. A public or private nonprofit establishment that feeds homeless persons; or,
- B. A restaurant which contracts with an appropriate State agency to offer meals at concessional (low or reduced) prices to homeless persons.

“Household” means a group of individuals who live together and customarily purchase and prepare food together.

“Household income” means all earned and unearned income received or anticipated to be received by household members from all sources, unless specifically exempted for Food Assistance eligibility purposes.

“IEVS”, see “Income and Eligibility Verification System.”

“Inadvertent Household Error Claim”, see “Client Error Claim.”

“Income and Eligibility Verification System” means a system used to match applicants’ and participants’ Social Security Numbers with the Social Security Administration, Internal Revenue Service, and the Department of Labor and Employment to obtain information about household income.

“Initial application” means a household’s first application for assistance or an application for assistance that is received after the household has been off of the Program for any period following the end of a certification period.

“Initial month of application” means the first month for which the household is certified for participation in the Program for those who have not received food benefits in the State previously or following any break after the end of the certification period where the household was not certified for participation. If the household submits an application for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, that month shall not be an initial month. Benefits for the initial month of application are prorated in accordance with Section 4.207.2.

“Indigent non-citizen” means a sponsored non-citizen who, after considering all income and contributions provided by the sponsor and other sources in conjunction with the non-citizen’s own income, is unable to obtain food and shelter amounting to one hundred thirty percent (130%) of the federal poverty level for the non-citizen’s household size. When a non-citizen is declared indigent, only the amount provided by the sponsor shall be deemed to the non-citizen. A declaration of indigence may last up to twelve (12) months, but may be renewed at the end of such a period, if necessary. The local office must notify the U.S Attorney General of each indigence determination, including the name of the sponsor and the sponsored non-citizen.

“Institution of higher education” means institutions that normally require a high school diploma or equivalency certificate for a student to enroll, such as colleges, universities, and vocational or technical schools.

“Intentional Program Violation” means when an individual has intentionally made a false or misleading statement or misrepresented, concealed or withheld facts, or committed or intended to commit any act that constitutes a violation of the Food and Nutrition Act of 2008, the Food Assistance Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Assistance benefits.

“Intentional” means a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission.

“IPV”, see “Intentional Program Violation.”

“IPV hearing”, see “Administrative disqualification hearing.”

“IPV hearing waiver”, see “Waiver of administrative disqualification hearing.”

“Issuance month” means the calendar month for which a benefit allotment is issued.

“Lawful Permanent Resident” means a non-citizen legally admitted into the United States to reside on a permanent basis.

“LEAP”, see “Low-income Energy Assistance Program.”

“Liquid resources” means assets such as cash on hand or assets that can be easily converted to cash such as money in checking or savings accounts, saving certificates, or stocks and bonds.

“Live-in attendants” means individuals who reside with a household to provide medical, housekeeping, child care, or other personal services.

“Local-level Dispute Resolution Conference”, see “Dispute Resolution Conference.”

“Local-level hearing”, see “Dispute Resolution Conference”

“Local office” means the county department of social/human services that is responsible for administering the Food Assistance Program. In those counties that have more than one office that administers the Food Assistance Program, “local office” shall be inclusive of all local offices within the county that administer the Program.

“Low-income Energy Assistance Program” means the Colorado program designed to help low-income applicants pay a portion of their winter heating costs.



“Management Evaluation reviews” means state or federal reviews of each county’s administration of the Food Assistance Program to determine each county’s adherence to federal- and state-mandated requirements. Such reviews are mandated by the Food and Nutrition Service of the USDA.

“Major disaster” means a disaster or catastrophe as determined by the President of the United States pursuant to the Disaster Relief Act of 1974.

“Mass update” means a change in data or policy that affects the entire state-wide caseload or a portion of the caseload.

“Material information” means information to which a reasonable person would attach importance when determining a course of action.

“ME reviews”, see “Management Evaluation reviews.”

“Migrant farm worker” means a person who travels away from home on a regular basis to follow the flow of seasonal agricultural work.

“Minimum benefit” means the minimum amount of benefits issued to one- and two-person households that are eligible for assistance, but whose issuance calculates to less than the federally prescribed minimum allotment.

“Net income test” means the one hundred percent (100%) federal poverty level under which a household’s income must fall after all allowable deductions are considered in order to be considered eligible. This level is specific to the household size as defined by USDA, FNS.

“NOA”, see “Notice of Action.”

“Non-ABAWD County” means a county that is not requiring ABAWDs to meet the mandatory monthly ABAWD work requirement; although, the individual may be required to participate in non-ABAWD work program activities.

“Non-Employment First County” means a county in which there is no Employment First Program; although, work registrants must still sign an affidavit attesting that he/she will seek work opportunities through available resources.

“Non-liquid resources” means assets which cannot be easily converted into cash such as vehicles and real property.

“Non-financial criteria” means the set of rules governing elements not related to the gross and net income and resource standards.

“Notice of Action” means the state-prescribed form sent to a household every time an action is taken to increase, decrease, suspend, deny, terminate, or otherwise affect a household’s benefits. This form describes the action taken upon a household’s case and the resulting effect.

“Notice of overpayment” means a notice sent to a household upon the establishment of a claim against the household for an overpayment of benefits.

“On-the-job training” means training provided to an employee after he or she is hired. Such training is designed for individuals who do not have the necessary work experience required for the job.

“One Utility Allowance” means a fixed deduction given to any household that is not eligible to receive the HCUA or BUA and incurs only one (1) non-heating or non-cooling utility expense, such as electricity, water, sewer, trash, or cooking fuel. The OUA is not allowed if the household’s only utility expense is a telephone.

“OUA”, see “One Utility Allowance.”

“Over-issuance” means the amount of Food Assistance benefits issued to a household that exceeds the amount it was eligible to receive.

“Parolee” means a non-citizen allowed into the United States for urgent humanitarian reasons or when the non-citizen’s entry is determined to be for significant public benefit. Parole does not constitute a formal admission to the United States and confers temporary status only, requiring parolees to leave when the conditions supporting their parole cease to exist.

“Payment Error Rate” means the sum of the overpayment error rate and the underpayment error rate, which is the value of all over and underpaid allotments expressed as a percentage of all allotments issued to the cases reviewed, excluding those cases processed by SSA personnel or participating in certain demonstration projects designated by FNS.

“Period of ineligibility” means the period of time a person is ineligible to receive Food Assistance benefits as a result of a failure to cooperate with either a state or federal QA review.

“Periodic Report Form” means the report that must be submitted by the household during the twelfth (12<sup>th</sup>) month of a twenty four (24) month certification period. The purpose of this form is to allow the household to report any changes that occurred during the first half of the twenty four (24) month certification period and for the local office to determine the household’s continued eligibility for the remaining twelve (12) months of the household’s certification period.

“Person with disabilities” means a person who meets any of the following criteria:

- A. Receives Supplemental Security Income benefits under Title XVI of the Social Security Act, or the Colorado Supplement, or Aid to the Needy Disabled-Supplemental Security Income-Colorado Supplement (AND-SSI-CS), or Aid to the Blind-Supplemental Security Income-Colorado Supplement (AB-SSI-CS); or disability or blindness payments under Title I, II, X, or IXV of the Social Security Act;
- B. Is a veteran with a service-connected disability rated or paid as a total disability under Title 38 of the United States Code or is a veteran receiving a pension for a non-service connected disability;
- C. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;
- D. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;
- E. Is a surviving spouse or child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. “Entitled” in this definition refers to those veterans’ surviving spouses and children who are receiving the compensation or benefits or have been approved for such benefits but are not receiving them;

- F. Is a person who has a disability considered permanent under Section 221(i) of the Social Security Act (SSA) and receives a federal, state, or local public disability retirement pension;
- G. Is a person who receives an annuity for disability from the Railroad Retirement Board who is considered disabled by the SSA or who qualifies for Medicare as determined by the Railroad Retirement Board;
- H. Is a recipient of interim assistance benefits pending the receipt of Supplemental Security Income (SSI), disability-related medical assistance under Title XIX of the Social Security Act, or disability-based state assistance benefits provided that the eligibility to receive these benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act.

“Post high school education” means colleges, universities, and post-high school level technical and vocational schools.

“Prospective budgeting” means the method of computing a household’s monthly allotment by using current circumstances and reasonably anticipated income for the month in which the allotment will be issued.

“Prudent Person Principle” means a worker’s reasonable judgment when determining the proper course of action in a given situation in order to make an eligibility determination.

“Public Assistance (PA)” means any of the following programs authorized by the Social Security Act of 1935, as amended: Old Age Pension, TANF, including TANF for children of unemployed fathers, aid to the blind, aid to the permanently and totally disabled and aid to aged, blind or disabled.

“Public assistance households” means households that contain only persons who receive TANF or adult financial cash grants.

“QA” means quality assurance and refers to the division responsible for reviewing Food Assistance cases to determine if the proper eligibility determination was made and if the correct amount of benefits were issued to a household in a given month.

“QA active case” means cases where a household was certified prior to or during the sample month and issued Food Assistance benefits for the sample month.

“QA negative case” means cases where a household was denied certification to receive Food Assistance benefits in the sample month or which had its participation in the Program terminated during a certification period effective for the sample month.

“Qualified non-citizen” means an individual who meets the specific definition of “qualified alien” as defined by the Food and Nutrition Service, United States Department of Agriculture, which includes lawful permanent residents, asylees, refugees, parolees, individuals granted withholding of deportation or removal, conditional entrants, Cuban or Haitian entrants, battered aliens, and non-citizen victims of a severe form of trafficking. This term is not itself an immigration status, but rather includes a collection of immigration statuses. It is a term used solely for Federal public benefits purposes. Qualified non-citizens are not automatically eligible for assistance, but rather must meet all other eligibility requirements.

“Quality Control review” means a review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving the Food Assistance allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct.

“Qwest card” means Colorado’s specific version of the EBT card.

“Recertification/redetermination application”, see “Application for Redetermination.”

“Recoupment” means the withholding of a portion of a household’s monthly allotment to pay back an over-issuance.

“Repayment agreement” means the form sent to a household upon the establishment of a claim that outlines the household’s responsibility and options for repayment.

“Restoration” means a payment of benefits made to a household who was eligible to receive the amount in a past month but did not receive the payment.

“Roomer” means an individual to whom a household furnishes lodging, but not meals, for compensation.

“RRR”, see “Application for Redetermination.”

“Sanction” means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for either Food Assistance or Colorado Works.

“SAVE”, see “Systematic Alien Verification for Entitlements.”

“Self-employment” means a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered and assumes the necessary business risks and expenses connected with the operation of the business.

“Shelter for battered women and children” means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

“Simplified Reporting” means the reporting status granted to households receiving either a six (6) or twenty-four (24) month certification period. Households considered simplified reporting households are not required to report any changes to household circumstances throughout the course of the certification period unless the change that occurred causes the household’s combined gross income to rise above one hundred thirty percent (130%) of the federal poverty level for the applicable household size. Households receiving a twenty four (24) month certification period have the additional requirement of completing and submitting a periodic report form (see “Periodic report form”) at the twelve (12) month point of the certification period on which all changes that have occurred since initial application must be reported.

“SNAP” means Supplemental Nutrition Assistance Program, which is referred to as the Food Assistance Program in Colorado.

“Sponsor” means a person who has executed an affidavit(s) of support or similar agreement on behalf of a non-citizen as a condition of the non-citizen’s entry or admission to the US as a permanent resident.

“Sponsored non-citizen” means those non-citizens lawfully admitted for permanent residence into the United States who have been sponsored by an individual for entry into the country.

“Supplemental Security Income (SSI)” means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) section 1616(a) of the Social Security Act; or (3) section 212(a) of Pub. L. 93-66.

“Standard Eligibility” means the set of rules applicable to households that do not fall under “Expanded categorical eligibility” or “Basic categorical eligibility.” Households considered under standard eligibility rules are subject to resource limits as a condition of eligibility.

“State Department” means the Colorado Department of Human Services.

“State office or Division” means the agency of the state government that has the responsibility for the oversight and monitoring of each county department’s administration of the Food Assistance Program.

“State-level fair hearing” means a review requested by an applicant or recipient which is held before an Administrative Law Judge (ALJ) to establish whether an action or eligibility determination taken was correct.

“Striker” means an individual who is involved in a strike or other concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees.

“Supplement” means a payment of additional allowable benefits made for the current issuance month.

“Systematic Alien Verification for Entitlements” means the system allowing for the validation of immigration statuses of non-citizen applicants and participants through access to centralized U.S. Citizenship and Immigration Service (USCIS) data.

“Telephone allowance” means a fixed deduction given to any household not incurring utility expenses other than the expense for a telephone.

“TANF” means Temporary Assistance for Needy Families.

“Temporary emergency” means an emergency caused by any natural or human-caused disaster, other than a major disaster declared by the President of the United States under the Disaster Relief Act of 1974, which is determined by FNS to have disrupted commercial channels of food distribution.

“Thrifty Food Plan” means the diet required to feed a family of four (4) persons consisting of a man and a woman twenty (20) through fifty (50) years of age, a child six (6) through eight (8) years of age, and a child nine (9) through eleven (11) years of age, determined in accordance with the U.S. Department of Agriculture. The cost of such a diet shall be the basis for uniform allotments for all households regardless of their actual composition.

“Trafficking” means attempting to buy, sell, steal, or otherwise affect an exchange of Food Assistance benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and Personal Identification Numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone. Additionally, any bona fide recipient of Food Assistance or his or her authorized representative who knowingly transfers Food Assistance benefits to another who does not, or does not intend to use said Food Assistance for the benefit of the Food Assistance household for whom the Food Assistance benefits were intended, has committed trafficking.

“Under-issuance” means the difference between the allotment the household was eligible to receive and the allotment the household actually received, which was lower than what the household was eligible to receive.

“UIB” means Unemployment Insurance Benefits.

“Verification” means confirmation of a household’s statements through written, oral, or electronic means

“Verified upon receipt” means information that is provided directly from the primary source and which is not questionable. Information considered verified upon receipt shall be acted upon for both simplified reporting households and non-simplified reporting households.

“Voluntary quit” means when a person voluntarily quits or reduces his or her work hours to less than thirty (30) per week or who are now earning less than the equivalent of thirty (30) hours per week paid at the federal minimum wage.

“Waiver of Administrative Disqualification Hearing” means a waiver sent to individuals suspected of intentional Program violation which presents the individual with the option of waiving his or her right to an administrative hearing, essentially accepting the appropriate disqualification without necessarily admitting the violation.

“Work Registrant” means an individual age sixteen (16) to fifty (50) who is required to participate in a monthly work activity, unless considered otherwise exempt.

## **4.200 APPLICATIONS AND RECERTIFICATIONS**

### **4.201 APPLICATION PROCESSING**

- A. County offices shall not apply additional conditions or processing requirements that are beyond those prescribed by State Food Assistance rules. The application process includes the filing and completion of an application form, being interviewed, and verifying certain information. Signs shall be posted in certification offices that explain the application processing standards and the right to file an application on the day of initial contact. Similar information about same-day filing shall be included in outreach materials and on the application form.
- B. The local office shall act promptly on all applications and provide Food Assistance benefits retroactive to the month of application to those households that have completed the application process and have been determined to be eligible.
- C. Applications will be screened as they are filed, or as individuals come in to apply, to determine eligibility for expedited service or for normal processing. Applicants entitled to expedited service shall be informed immediately and given a same-day interview, whenever possible. Those eligible for expedited processing shall be served in accordance with Sections 4.205.1 and 4.205.11 while those eligible for normal processing shall be served in accordance with Section 4.205.2. Local offices shall not conduct any pre-eligibility screening process prior to securing the date of application.
- D. The household may voluntarily withdraw its application at any time prior to a determination of eligibility. After any determination of eligibility has been made, either through the use of the automated system or outside of the automated system, the local office cannot choose to withdraw the application. Once a determination of eligibility is made, the household may voluntarily terminate its participation. Any reason given by the household for withdrawal or termination shall be documented in the case file. A Notice of Action form, indicating voluntary withdrawal of application or voluntary termination of eligibility, shall be sent to the household within ten (10) calendar days of the decision, to confirm the action taken. The household shall be advised of its right to reapply at any time subsequent to a withdrawal.
- E. No household shall have its Food Assistance benefits denied solely on the basis of its application to participate in another program being denied or its benefits under another program being terminated, without a separate determination by the local office that a household failed to satisfy a Food Assistance Program eligibility requirement.

- F. The State has entered into an agreement with the Social Security Administration (SSA) whereby each SSA office will complete and forward Food Assistance applications from households comprised of only persons who receive Supplemental Security Income (SSI) or persons applying for SSI provided the household is not participating in the Food Assistance Program and has no applications pending. After interviewing the household and obtaining available verification, the SSA office will forward the application to the appropriate local office for eligibility determination. Residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration prerelease program for the institutionalized shall be permitted to apply for Food Assistance at the same time they apply for SSI. See Sections 4.202.3 through 4.202.31 for the provisions regarding the SSA accepting applications and forwarding them to the county department.

The agreement also provides that counties may outstation eligibility worker(s) at district SSA offices, in accordance with Section 4.202.33. In the event a county desires to outstation an eligibility worker(s) in the local SSA office to process Food Assistance applications, it would be necessary for the county to request the State to negotiate an appropriate revision of the agreement.

- G. Households denied Food Assistance that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients. Residents of public institutions who apply jointly for SSI and Food Assistance benefits prior to their release from the institution shall not be eligible for Food Assistance until the individual has been released from the public institution.
- H. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that Program benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility worker challenge or change a self-declaration made by a household member.

#### **4.202 FILING AN APPLICATION**

- A. Regardless of what type of application system is used, the local office must provide a means for applicants to immediately begin the application process. The household shall be advised it may file an incomplete application form as long as the form contains a legible name, address, and is signed by a responsible household member or the household's authorized representative. Local offices shall accept applications for Food Assistance during normal business hours and shall not be restrictive to a certain day or time of day. The household shall be advised that it need not be interviewed before filing an application. The county department shall inform applicants that receiving Food Assistance will have no bearing on any other program's time limits that may apply to the household.
- B. Persons who request information for Food Assistance must be advised of expedited service provisions and encouraged to submit an application so that eligibility processing can begin. County local offices shall encourage the filing of an application form on the same day the household or its representative contacts the local office in person or by telephone and expresses interest in obtaining Food Assistance, or indicates the household is without food or the means to obtain food.

- C. Local offices shall make application forms readily accessible to applicant households, as well as to groups and organizations, and shall also provide an application form to anyone who requests the form. If a household contacting the local office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the local office shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for Food Assistance is received.

Application forms shall be made available in Spanish, or other appropriate languages for use in those counties where it has been determined in conjunction with the State local office that there are a significant number of households without an adult member fluent in English.

- D. The local office shall annotate the application form by recording the date the form was received and processing time begins. Applications signed through the use of electronic signature technique or applications containing a handwritten signature, which are transmitted by fax or other electronic transmissions, are acceptable as a valid application when received by the local office. When an application is submitted through such means outside of business hours, the application filing date shall be recorded as the next business day.
- E. Households must file Food Assistance applications by submitting the forms in person, through an authorized representative, by fax or other electronic transmission, by mail or by completing an on-line electronic application. The local office must provide households that complete an on-line electronic application in person at the local office the opportunity to review the information that has been recorded electronically and must provide the household with a copy of the information for its records. Local offices shall advise applicants if a fax machine or other electronic transmission is available for the submission of an application.
- F. Applications are valid for a period of sixty (60) calendar days. Households reapplying for benefits following a determination of ineligibility more than sixty (60) calendar days from the date of the original application date must submit a new application.
- G. When households contact the wrong certification office within a county either in person or by telephone, the certification office shall give the household the address and telephone number of the appropriate office. The certification office shall also offer to forward the household's application to the appropriate office that same day. If the household has mailed its application to the wrong office within a county, the receiving office shall mail the application to the appropriate office on the same day or forward it the next day by any means that ensures the application will arrive at the appropriate office the same day it is forwarded. An application shall be considered filed and processing standards shall begin the day it is received by any local office in the correct county. A county that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then transfer the case to the correct county once the final eligibility decision is made.

#### **4.202.1 Public Assistance Applications and Processing**

- A. Households applying for public assistance (PA) shall be notified of their right to apply for Food Assistance at the same time, and shall be allowed to apply for Food Assistance at the same time they apply for public assistance benefits.
- B. The local office shall provide benefits using the original application and any other pertinent information occurring subsequent to that application for any household filing a joint application for Food Assistance and public assistance benefits. The original application and relevant subsequent information shall also be used for households that are categorically eligible when they are determined eligible to receive public assistance after being denied for Food Assistance. The local office shall not re-interview the household, but shall use mail or telephone contact to obtain information about any changes.



- C. Households whose public assistance (PA) applications are denied shall not be required to file a new Food Assistance application. The household shall have its Food Assistance eligibility determined or continued based on the applications filed jointly for PA and Food Assistance purposes and any other documented information obtained subsequent to the application that may have been used in the PA determination.

#### **4.202.2 Application Filing by Ineligible Non-Citizens**

The ineligibility of certain non-citizens for Program benefits will not prohibit the remaining household members from applying for and receiving Food Assistance. Ineligible non-citizens living in an applicant household shall not be considered eligible household members for Food Assistance purposes; however the ineligible non-citizen's income and resources are considered in the household's eligibility determination and benefit allotment.

When the eligible members of a household are all unemancipated minors and the only adult is an ineligible non-citizen, the ineligible non-citizen may make application on behalf of the eligible minors without being considered as having applied for him/herself. However, if there is any other eligible adult of an unemancipated minor in the household, even though they would not normally be considered the household head, that eligible person should make application as the head of household.

#### **4.202.3 SSI Households Submitting Food Assistance Applications to the SSA**

- A. Whenever a member of a household consisting only of SSI applicants or recipients transacts business at an SSA office, the member has a right to make a household application for Food Assistance at the SSA office or the local office. The SSA office is not required to accept applications for SSI applicants or recipients who are not members in a household consisting entirely of SSI recipients unless a county has outstationed a worker at the SSA office. The SSA office will refer non-SSI households to the correct local office. An applicant or recipient of SSI shall be informed at the SSA office of the availability of benefits under the Food Assistance Program and the availability of the Food Assistance application at the SSA office. The SSA office shall also complete joint SSI and Food Assistance applications for residents of public institutions who apply for SSI prior to their release from the institutions. The applicants shall be permitted to apply for Food Assistance at the same time that they apply for SSI.
- B. The SSA office will accept and complete Food Assistance applications from SSI households and forward them, within one working day after receipt of a signed application, to the appropriate county local office. The SSA will use the Food Assistance application. The application will be transmitted to the local office with documentation of verification obtained. When an SSA office sends a Food Assistance application and supporting documentation to an incorrect local office, the application and documentation shall be sent to the correct office within one working day.
- C. The SSA office is required to prescreen all Food Assistance applications for entitlement to expedited service and shall mark "expedited processing" on the first page of all applications of households that appear to be entitled to such processing. The SSA will inform households which appear to meet the criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the local office. The household may take the application from the SSA office to local office for screening, and interview and processing of the application. Each local office shall furnish the SSA office(s) serving its geographical area with a street map and/or map defining its boundaries together with the addresses of the certification offices in the project area.

- D. The local office shall prescreen all applications received from the SSA office for entitlement to expedited service on the day the application is received at the correct local office. All households entitled to expedited service shall be certified in accordance with Sections 4.205.1 and 4.205.11, except that the expedited processing time standard shall begin on the date the application is received at a local office in the correct county. To prevent duplication, the local office shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA office are currently participating in the Food Assistance Program.
- E. The SSA office shall refer non-SSI households and those in which not all members have applied for or received SSI to the correct local office. The local offices shall process those applications in accordance with the normal and expedited application processing standards and procedures. Applications from such households shall be considered as filed on the date the signed application is taken at a local office in the correct county.

**4.202.31 SSI Telephone Applications and Recertifications Completed by the SSA**

- A. If an SSA office takes an SSI application or redetermination on the telephone from a member of a pure SSI household, a Food Assistance application shall also be completed during the telephone interview. In these cases, the Food Assistance application shall be mailed by the SSA office to the applicant for signature for return to the SSA office or to the local office. The SSA office shall then forward any Food Assistance applications it receives to the local office. The local office shall not require the household to be interviewed again. The local office may contact the household further to obtain additional information for the eligibility determination in accordance with Section 4.204, E.
- B. The SSA office shall mail information of the client's right to file a Food Assistance application at the SSA office if they are members of a pure SSI household, or at their local office, and their right to an out-of-office Food Assistance interview to be performed by the county department if the household has a hardship condition as outlined in Section 4.204.1, "Waiver of Office Interview."
- C. For households consisting entirely of applicants for, or recipients of, SSI who apply for Food Assistance certification at an SSA office, the application shall be considered filed for normal processing purposes when the application is received by the SSA.

**4.202.32 SSI and Food Assistance Joint Processing**

- A. In those instances where the application has been completed at the SSA office, the local office shall ensure that information required by Section 4.502 is verified prior to certification for households initially applying, and households entitled to expedited certification services shall be processed in accordance with Sections 4.205.1 and 4.205.11. In those cases where the SSI household submits its Food Assistance application to the local office rather than through the SSA office, all verification, including that pertaining to SSA program benefits, shall be provided by the household, by SDX or BENDEX, or obtained by the local office rather than being provided by the SSA.

For those cases in which SSI and Food Assistance are being processed simultaneously, the local office shall question the household and/or use SDX listings to obtain information on SSI determinations. If the information cannot be obtained through SDX listings and/or questioning the households, a written inquiry may be made to the SSA office to obtain information of the status of SSI determinations. Within ten (10) calendar days of learning of the determination of the SSI application, the local office shall take action in accordance with Section 4.604.

- B. The expedited processing time standard for applicants who filed prior to the release from a public institution will begin on the date that the individual is released from the public institution. The SSA shall notify the local office of the date of release of the applicant from the institution. Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and Food Assistance, but the local office was not notified on a timely basis of the applicant's release.
- C. The SSA office shall refer non-SSI households and those in which not all members have applied for or received SSI to the correct local office. The local office shall process those applications in accordance with the normal and expedited application processing procedures. Applications from such households shall be considered as filed on the date the signed application is taken at a local office in the correct county.

**4.202.33      Outstationing Eligibility Workers in SSA Offices**

If the county, with the approval of the State Department, chooses to outstation eligibility workers at SSA offices, with SSA's concurrence, the following actions shall be completed:

- A. SSA will provide adequate space for Food Assistance eligibility workers in SSA offices;
- B. The county shall have at least one outstationed worker on duty at all time periods during which households will be referred for Food Assistance application processing. In most cases, this would require the availability of an outstationed worker throughout normal SSA business hours;
- C. The following households shall be entitled to file Food Assistance applications with, and be interviewed by, an outstationed eligibility worker:
  - 1. Households containing an applicant for or recipient of SSI.
  - 2. Households which do not have an applicant for or recipient of SSI but which contain an applicant for or recipient of benefits under Title II of the Social Security Act, if the county and the SSA have an agreement to allow the processing of such households at SSA offices.
- D. Households shall be interviewed for Food Assistance on the day of application unless there is insufficient time to conduct an interview. The county shall arrange for the outstationed worker to interview applicants as soon as possible;
- E. The outstationed eligibility worker(s) shall not refuse to provide service to an applicant because they do not reside in the county or project area in which the SSA office is located, provided that they reside within the jurisdiction served by the SSA office and the State. The county is not required to process the applications of persons who are not residing within the SSA office's jurisdiction but who do reside within the county's jurisdiction, other than to forward the forms to the correct local offices;
- F. The county may permit the eligibility worker outstationed at the SSA office to determine the eligibility of households, or may require that completed applications be forwarded elsewhere for the eligibility determination;
- G. Applications from households entitled to joint processing through an outstationed eligibility worker shall be considered filed on the date they are submitted to that worker. Both the normal and expedited service time standards shall begin on that date; and,

- H. Households not entitled to joint processing shall be entitled to obtain and submit applications at the SSA office. The outstationed eligibility worker need not process these applications except to forward them to correct local office where they shall be considered filed upon receipt. Both the normal and expedited service time standards shall begin on that date.

#### **4.203 HEAD OF HOUSEHOLD AND AUTHORIZED REPRESENTATIVES**

Application for participation shall be made in the name of the household, by the head of the household, the spouse, another household member, or an authorized representative. Households wishing to participate in the Program must make this desire known through the application process and provide the certification office with enough information regarding household income and other eligibility factors to enable the certification worker to make a determination of eligibility. Refusal by the household to cooperate in providing the specifically stated information necessary for an eligibility determination, or withdrawal of application, is grounds for denial of the application. See Section 4.604, H.

##### **4.203.1 Designating a Head of Household**

- A. The local office shall allow a household with adult parents and children, regardless of age or an adult with parental control over the children (less than eighteen years of age), to select an adult parent of children as its head when all adult members making application agree to the selection. The household may make this designation each time the household is certified for participation, but may not change the designation during a certification period unless there is a change in the composition of the household.
- B. Once an eligible household (household with an adult parent of children) selects its head, no further head of household designation may be imposed by the local office. If the household is not able to select its head of household, or an eligible household does not choose to select its head of household, the local office may make a reasonable determination of the head of household with an understanding that the head of household is usually the household member who has the most knowledge of the household's financial circumstances. Such individual must be a household member, except that, if the only adult in the Food Assistance household is a non-household member, such individual may make application on behalf of the household of minors as the authorized representative.

##### **4.203.2 Designating Authorized Representatives**

- A. The head of the household, spouse or any other responsible household member may designate in writing someone to act on behalf of the household to make an application, obtain an EBT card, and/or use the EBT card to purchase food for the household. In instances where a household is in need of an authorized representative but is unable to obtain one, the local office will assist such a household in finding an authorized representative. The certification office will assure that authorized representatives are properly designated; that is, the name of the authorized representative and the justification for appointing a person outside the household shall be maintained as part of the household's permanent case record.

###### **1. Making an Application**

When the head of the household or spouse cannot make an application for participation, another responsible household member may apply. An adult non-household member may act as the authorized representative. When designated in writing by the head of the household, spouse, or other responsible household member, the authorized representative must be a person who is sufficiently aware of relevant household circumstances. Whenever possible, the head of the household or spouse should prepare or review the application even though another household member or an authorized representative is the person interviewed.

The local office shall inform the household that the household will be held liable for any over-issuance which results from erroneous information given by the authorized representative, except in the cases where the erroneous information is provided by an authorized representative of a drug and alcohol treatment center or group living facility. If a household member is found guilty of intentional program violation/fraud because of erroneous information given by an authorized representative, only the authorized representative will be held liable and not the household. Drug and alcohol treatment centers and group living facilities shall be responsible for any misrepresentation of intentional program violation/fraud which they knowingly commit in the certification of their residents.

2. Obtaining an EBT Card

An authorized representative may be designated to obtain an EBT card for the household at the time the household applies for participation. The authorized representative responsible for obtaining an EBT card may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make an application and obtain an EBT card, the household should be encouraged to name an authorized representative responsible for obtaining an EBT Card in case of illness or other circumstances which might result in an inability to obtain Food Assistance benefits.

3. Using an EBT Card

The authorized representative may use the household's EBT card to purchase food for the household's consumption provided the authorized representative is acting with the full knowledge and consent of the household.

4. Restrictions

An authorized representative may act on behalf of more than one household and limits shall not be placed on the number of households an authorized representative may represent, but such an arrangement should be approved only if there is a bona fide need. In determining such need, consideration shall be given to the proximity of the households to one another, the distance to the certification or issuance office, the availability of transportation, and the health of the household members involved.

In the event employers, such as those that employ migrants, are designated as authorized representatives or that a single authorized representative has access to multiple EBT cards, the certification office should make certain that:

- a. The household has freely requested the assistance of the authorized representative;
- b. The household's circumstances are correctly stated and the household is receiving the correct amount of benefits; and,
- c. The authorized representative is properly using the EBT card.

- B. In the event the only adult living with a household is classified as a non-household member, that individual may be the authorized representative for the minor household members.

- C. Residents of drug or alcohol treatment centers shall participate in the Program through use of an authorized representative who shall be an employee of, and designated by, the private nonprofit organization. Drug or alcohol treatment centers shall receive and spend the Food Assistance benefits for food prepared by and served to the residents of the center who are participating in the Food Assistance Program.
- D. Residents of group living arrangements shall participate through an authorized representative employed and designated by the group living arrangement unless the group living arrangement determines the resident is capable of acting on his/her own behalf. The head of a group living arrangement which acts as the authorized representative for the residents may either receive and spend the residents' benefits for food that will be prepared by and served to each eligible resident or allow each resident to spend all or any portion of the benefits on his or her own behalf.

**4.203.21 Individuals Who Cannot Be an Authorized Representative**

The following individuals cannot be an authorized representative unless otherwise stated:

- A. County department employees who are involved in Program eligibility determination and/or issuance processes, or the supervisors of such workers, unless the local office determines that no other representative is available.
- B. Employees of FNS-authorized retailers and meal services that are authorized to accept Food Assistance benefits, unless the local office determines that no other representative is available.
- C. An individual disqualified for Intentional Program Violation (IPV)/fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the office is unable to arrange for another authorized representative. Local offices shall determine whether these disqualified individuals are needed to apply on behalf of the household, to obtain Food Assistance benefits for the household, and to use the household's Food Assistance benefits to purchase food.
- D. In no event may an authorized meal provider for homeless persons act as an authorized representative.

**4.203.22 Disqualification of an Authorized Representative**

An authorized or emergency representative may be disqualified from representing a household in the Food Assistance Program for up to one (1) year if the local office has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of Food Assistance benefits. The local office shall send written notification to the affected household(s) and to the representative thirty (30) calendar days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information.

This provision is not applicable in the case of drug and alcohol treatment centers or to the heads of group living arrangements that act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and that intentionally misrepresent households' circumstances, may be prosecuted under applicable state fraud statutes for their acts.

### **4.203.3 Emergency Authorized Representatives**

The household may designate an emergency authorized representative during the certification period should the need arise. Such a person obtains the EBT Card for the household when neither a household member nor the previously designated authorized representative is able to obtain the EBT Card because of unforeseen circumstances. An emergency authorized representative must be designated in writing by the head of the household, spouse, or other responsible household member.

Local offices shall develop a system by which a household may designate an emergency authorized representative to obtain the household's benefits for a particular month. Households shall not be required to travel to a local office to designate an emergency authorized representative.

### **4.204 Interviews**

#### **A. Interview Requirements**

All applicant households shall undergo a face-to-face or phone interview with a qualified eligibility worker prior to initial certification and at least once every twelve (12) months. A household certified for twenty-four (24) months is not required to complete an interview at the 12 month interim. The applicant may bring any person(s) he or she chooses to the interview. The individual interviewed may be the head of the household, spouse, or any other responsible member of the household, or an authorized representative. A face-to-face interview may be conducted at the county local office or a mutually acceptable location, including the household's residence. If the interview is to be conducted at the residence, it must be scheduled in advance. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

The eligibility worker shall not simply review the information entered on the application, but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the household's responsibility to report changes. The interviewer must advise households which are applying for other public assistance programs that any time limits and other requirements for the receipt of other public assistance do not apply to the receipt of Food Assistance. Households may still qualify for Food Assistance if they have reached a time limit, begun working, or lost benefits from another program for another reason.

Upon determination that a person should be referred to an Employment First Unit, the county department shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to the work registration and at recertification.

#### **B. Scheduling Interviews**

The local office must schedule an interview for all applicant households who are not interviewed on the same day they submit an application to the county department. Interviews shall be scheduled for a specific date and time and an appointment letter shall be given to the client. All interviews, including the date and time of the interview, shall be documented in the case record.

When scheduling interviews, the interview shall be scheduled as promptly as possible to ensure that eligible applicant households receive an opportunity to participate within the Program's processing guidelines, as outlined in Section 4.205. When the interview is scheduled, the applicant shall be notified that if a responsible member of the household or its authorized representative fails to attend the interview, the household will be responsible for rescheduling and attending an interview within thirty (30) days from the date of application and that failure to do so shall result in the denial of the application.

**C. Missed Interviews**

If the household fails to attend its scheduled interview, the local office shall mail the household a notice of missed interview, informing the household that it missed the scheduled interview and that the household is responsible for rescheduling the interview. If the household does not schedule a subsequent interview for a date within thirty (30) calendar days after the application is filed, the application shall be denied by the local office on the thirtieth (30<sup>th</sup>) day following the date of application. The application shall not be denied before the thirtieth (30<sup>th</sup>) day. If the household fails to appear for a rescheduled interview, no further action need be taken by the local office, unless requested by the household.

If a household misses its first interview, the household forfeits its right to expedited service, unless the second interview is rescheduled for a date within seven (7) days following the date of application.

If a household completes an interview any time after the thirtieth (30<sup>th</sup>) day but no later than the sixtieth (60<sup>th</sup>) day from the date of application, then the original application shall be used to determine eligibility, and the household shall not be required to complete a new application. However, the household's benefits will be prorated from the date the required action was taken within the second thirty (30) day period.

If the household makes contact with the agency after the sixtieth (60<sup>th</sup>) day following the date of application, the household shall be required to complete a new application.

**D. Interviews for Public Assistance Households**

If a household is applying for both public assistance and Food Assistance, the county department shall conduct a single interview at initial application for both public assistance and Food Assistance purposes. The applicant household shall complete the combined application for public assistance and Food Assistance. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for Food Assistance and public assistance. A household's eligibility for an out-of-office interview for Food Assistance purposes does not relieve the household of any responsibility for a face-to-face interview for public assistance purposes. Except for households which may be eligible under basic categorical eligibility, the household's Food Assistance eligibility and benefit level shall be based solely on Food Assistance eligibility criteria, and all households shall be certified in accordance with the noticing, procedural, and timeliness requirements of the Food Assistance regulations. The PA applicant household shall indicate on the single purpose application if it does not wish to apply for Food Assistance.



E. Interviews for SSI Households

Households in which all members are applying for SSI or receiving SSI and are applying and being interviewed for Food Assistance by SSA, will not be required to see a Food Assistance eligibility worker or otherwise be subjected to an additional certification interview. The local office shall accept SSA documentation and shall not contact the household to obtain additional information for the eligibility determination unless the application is improperly completed, mandatory verification required by Section 4.502 is missing, or the local office determines that certain information on the application is questionable. In no event shall the applicant be required to appear at the local office to finalize the eligibility determination. Further contact made in accordance with this paragraph shall not constitute a second Food Assistance certification interview.

**4.204.1 Waiver of Office Interview**

- A. The household shall be notified that the face-to-face interview will be waived in favor of a telephone interview or home visit on a case-by-case basis because of a household hardship, as listed below in D, which may prevent the applicant from coming to the office.

The local office shall conduct a telephone interview or a home visit in cases in which the office interview is waived. Home visits shall be scheduled in advance with the household. Waiver of the office interview does not exempt the household from the verification requirements, although special procedures may be used, and shall not affect the household's certification period. The local office shall document in the case record the reason that a requested waiver was granted or denied.

- B. The office interview shall be waived if requested by any household which is unable to appoint an authorized representative and which has no household members able to come to the local office because they are sixty (60) years of age or older, or have a mental or physical disability, or are residents of a shelter for battered women and children.
- C. The local office shall waive the office interview on a case-by-case basis for a household whenever desirable, including households that are unable to appoint an authorized representative and those households that do not contain A member capable of coming to the local office because of hardships. The local office shall document in the case file the reason that a requested waiver was granted or denied.
- D. Hardship conditions include, but are not limited to:
1. Illness or the need to care for someone;
  2. Work schedule;
  3. Loss of pay or fear of loss of job;
  4. The household members are sixty (60) years of age or older;
  5. The household member is mentally or physically disabled;
  6. The household has an adult who has earned income;
  7. The household has an adult in school or training;
  8. The household resides in a rural area;

9. Prolonged severe weather;
10. Transportation difficulties, including if the household does not own a vehicle or does not have transportation available;
11. Family violence or harassment or stalking;
12. Work hours or employment training hours; and,
13. Any other challenge which precludes an in-office interview

#### **4.205 Application Processing Standards**

All newly certified households, except those that are given expedited service, shall be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. Households entitled to expedited service shall have benefits available no later than the seventh calendar day following the date of application. For application processing purposes, day “one” (1) is the first calendar day after the application is received by a local office in the correct county.

If the local office does not determine a household’s eligibility and provide an opportunity to participate within thirty (30) calendar days following the date the application was filed, the office shall determine whether the delay was caused by failure to act on the part of the household or on the part of the local office as outlined in Sections 4.205.3 through 4.205.4.

For more information about authorizing and accessing benefits, refer to 4.207, “Authorizing Benefits.”

##### **4.205.1 Processing Standards for Expedited Service**

- A. The following households are entitled to expedited service:
  1. Migrant or seasonal farm worker households whose liquid resources do not exceed one hundred dollars (\$100) and who are destitute of income as defined in Section 4.406.
  2. Households whose liquid resources do not exceed one hundred dollars (\$100) and who reasonably expect to have less than one hundred fifty dollars (\$150) of gross monthly income in the calendar month of application.
  3. Eligible households whose combined monthly gross income and liquid resources are less than the household's anticipated monthly rent/mortgage and utilities. The appropriate utility standard, as defined in Section 4.407.31, shall be utilized when determining a household’s utility costs.
- B. Households eligible for expedited service shall be able to access EBT benefits no later than the seventh (7<sup>th</sup>) calendar day following the date of application.
  1. If a household is entitled to expedited service the local office shall conduct the interview, unless the household cannot be reached, and complete the application process within seven (7) calendar days.
  2. Households entitled to expedited service shall complete an interview prior to any determination of eligibility. If a household fails to complete the required interview within seven (7) calendar days following the date the application for assistance was filed, the household is no longer entitled to expedited benefits by the seventh (7<sup>th</sup>) day following the date of application.

3. In instances in which the household is entitled to expedited service and to a waiver of the office interview and a proxy cannot be secured to complete the application process, the county department shall make all reasonable efforts to send a staff member or volunteer to the household's residence to complete the application within the six (6) calendar-day period.
- C. Households that apply for initial benefits after the fifteenth (15<sup>th</sup>) of the month under the expedited service procedures, which have completed the application and provided all verification within the expedited timeframe and have been determined eligible to receive benefits for the initial month and the subsequent month, shall receive the application month's prorated allotment and the next full month's allotment at the same time.
- Households applying for initial benefits after the fifteenth (15<sup>th</sup>) of the month for which verification has been postponed shall have the second month's benefits and the prorated allotment available on the seventh (7<sup>th</sup>) calendar day. The household must provide all postponed verification before the third month's benefits can be issued.
- D. Households not initially screened as requiring expedited service, but subsequently determined to be entitled to such service, shall be entitled to the expedited processing timeframes from the date such a determination was made.
- E. In those instances where the application was completed at an SSA office, the expedited processing time standards shall begin on the date the local office received the Food Assistance application or the date that an individual was released from an institution if that household applied for SSI and Food Assistance prior to the release from an institution.
- F. If Program benefits are reduced, suspended, or cancelled in accordance with Section 4.904.4, households eligible for expedited service shall receive expedited service in accordance with the following procedures:
1. Those households that receive expedited service in the month(s) in which reductions are in effect and are determined to be eligible shall be issued allotments that are reduced in accordance with the reduction in effect. These reduced allotments shall be made available to the households within the timeframes specified in this section.
  2. Those households that receive expedited service in month(s) in which suspensions are in effect and are determined to be eligible shall have benefits issued to them within the timeframes specified in this section. However, if the suspension is still in effect at the time issuance is to be made, the issuance shall be postponed until the suspension is ended.
  3. Households eligible to receive expedited processing and who apply for Program benefits during months in which cancellations are in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be five (5) calendar days or the end of the month of application, whichever date is later. All other rules pertaining to expedited service contained in this section shall be applicable to these cases.

**4.205.11 Special Provisions for Expedite Service**

- A. Households requesting, but not entitled to, expedited service shall have their applications processed according to normal processing standards as outlined in Section 4.205.2.
- B. The local office shall use the following procedures for expediting service:

1. Prior to certification, the identity of the applicant shall be verified through a collateral contact, electronic information provided by the Colorado Department of Revenue, Division of Motor Vehicles (DMV) or by readily available documentary evidence.

Refer to Section 4.505.1 for acceptable sources of identification verification.

2. Prior to certification of expedited benefits, all reasonable efforts shall be made to verify residency, income, or lack thereof, and other factors required in Section 4.502 "through collateral contacts or readily available documentary evidence. However, verification shall be postponed if it cannot be obtained in sufficient time to meet the expedited processing standards. If verification required in Section 4.502 or verification of questionable information is postponed, the household shall be certified for expedited benefits, if determined eligible, for the month of application or, for those households applying after the fifteenth (15<sup>th</sup>) of the month, the month of application and the subsequent month.
  - a. Except for migrant households applying after the fifteenth (15<sup>th</sup>) of a month, when a household is certified for expedited benefits for an initial month of application and the subsequent month and verification is postponed, a request for verification form shall be annotated to indicate what verification is required in order for further benefits to be issued.
  - b. When households that apply for benefits on or before the fifteenth (15<sup>th</sup>) of the month provide the required postponed verification, the local office shall issue the second month's benefits within five working days from receipt of the verification or the first of the second month, whichever is later.

Households that apply after the fifteenth (15<sup>th</sup>) of the month and provide the postponed verification shall be issued the third month's benefits within five working days from receipt of verification, or the first of the third month, whichever is later.

Except for migrant households needing out-of-state verification, when the postponed verification is not completed within thirty (30) calendar days from the date of application, the local office shall terminate the household's participation on the thirtieth (30<sup>th</sup>) calendar day without providing a notice of adverse action.

- c. Migrants shall be entitled to a postponement of out-of-state verification only once each season. If a migrant household requesting expedited service has already received this exception during the current season, the local office shall grant a postponement of out-of-state verification only for the initial month's issuance and not for the second (2<sup>nd</sup>) month's issuance. Migrant households eligible for expedited service and applying after the fifteenth (15<sup>th</sup>) of a month which are assigned certification periods of longer than one month shall be issued a request for verification notifying them that they shall provide postponed verification from sources within the state before a second month's benefits are issued and shall provide all verification from out-of-state sources before being issued benefits for the third month. The notice shall also advise the household that if verification results in changes in the household's eligibility or level of benefits, such changes shall be acted on without providing an advance notice of adverse action.
- C. There is no limit to the number of times a household can be certified under expedited procedures, as long as prior to each expedited certification, the household either completes the verification requirements that were postponed at the last expedited certification or the household was certified under normal processing standards since the last expedited certification.

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**4.205.2 Normal Processing Standards**

- A. The county local office shall process applications as expeditiously as possible and provide eligible households a written notification of their eligibility. The applicant household must receive a Notice of Action form, which will indicate the household's period of eligibility and Food Assistance allotment. Eligible households shall be provided an opportunity to obtain benefits as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. Except for applications filed at an SSA office, an application shall be considered filed the day a local office in the correct county receives a signed application containing the applicant's name, address, and signature. The application filing date for applications submitted at an SSA office is outlined in Section 4.202.31, C; the expedited processing time frames for such applications shall begin the day a local office in the correct county receives the application (see Section 4.202.3, D). Residents of institutions who apply prior to the release from the institution shall have the application date based on the date of release from the institution.

Households found to be ineligible shall be sent a Notice of Action form denying the household as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. Applicant households that refuse to cooperate in completing the application process shall be denied at the time of refusal. For a determination of refusal to be made, the household must refuse to take actions that are required to complete the application process.

- B. In cases where verification is incomplete, the local office shall provide the household with a statement of required verification on the state-prescribed notice form and offer to assist the household in obtaining the required verification. The office shall allow the household ten (10) calendar days to provide the missing verifications, unless the household missed the first appointment. If the household misses the first appointment and the interview cannot otherwise be rescheduled until after the twentieth (20<sup>th</sup>) day but before the thirtieth (30<sup>th</sup>) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30<sup>th</sup>) day. A household can be found ineligible or eligible for the month of application and for the following month based on one (1) application, if sufficient information for such determination is available. The state-prescribed notice form shall reflect specific months of eligibility and ineligibility.
- C. Applications are valid for a period of sixty (60) calendar days. Households reapplying for benefits following a determination of ineligibility more than sixty (60) calendar days from the date of the original application must submit a new application.
- D. In those instances where the application was completed at an SSA office, the local office shall make an eligibility determination and issue Food Assistance benefits to eligible SSI households within thirty (30) calendar days following the date the application was received by the SSA. Applications shall be considered filed for normal processing purposes when the signed application is received by SSA.

**4.205.3 Delays in Processing Beyond Thirty (30) Days**

If the local office does not determine a household's eligibility and provide an opportunity to participate within thirty (30) calendar days following the date the application was filed, the office shall determine whether the delay was caused by failure to act on the part of the household or on the part of the local office. The following shall be used to determine causes of delay beyond thirty (30) calendar days in the application process:

- A. If a household has failed to complete a Food Assistance application form even though the local office offered to assist the client in its completion, the household shall be at fault. If the local office failed to offer assistance to the household, the local office is at fault. If the local office offered the household assistance in completing the application but the household failed to cooperate or failed to complete the application process, the local office shall document in the case record its attempt to assist the household.
- B. If a nonexempt household member failed to register for work even though the local office informed the household of the work requirements, the household shall be at fault unless paragraph D of this section applies. If the local office did not give the client at least ten (10) calendar days to supply information, the local office is at fault.
- C. If requested verification is missing even though the local office offered to provide assistance and a written notice of needed verification was provided and the household was allowed ten (10) calendar days to supply necessary verification, the household shall be considered at fault unless paragraph D of this section applies. If the local office did not request necessary verification through a written notice, or assist the client as required by these regulations, or give the client time to provide information, then the local office is at fault.
- D. If the household failed to appear for the first (1<sup>st</sup>) interview, failed to schedule a second (2<sup>nd</sup>) interview and/or requested to postpone the subsequent interview until after the thirtieth (30<sup>th</sup>) day following the date of application, the delay shall be the household's fault.
- E. If the household missed both scheduled interviews and requests another interview, the delay shall be the fault of the household.
- F. If the local office failed to notify the household to schedule a second interview or failed to schedule a second interview within the thirty (30) calendar days following the date the application was filed or failed to request verification or other necessary action at the interview, the local office is at fault.

#### **4.205.31 Delays Caused by the Household**

Any time the household requests a postponement which delays the thirty (30) calendar day processing, it shall be a household fault. If, by the thirtieth (30<sup>th</sup>) day, the local office cannot take further action on an application because the household has failed to take the required action requested by the local office, the household shall lose its entitlement to benefits for the month of application and shall be sent a notice of action form on the thirtieth day. However, the local office shall give the household an additional thirty calendar days to take the required action requested by the local office after the notice of denial is sent.

The local office shall reopen the case, without requiring a new application, if the household takes the necessary action within sixty (60) calendar days following the date the application was filed. Any changes in the household situation must be taken into account for determining eligibility. If the household is found to be eligible during the second thirty (30) day period and still within the second (2<sup>nd</sup>) calendar month, the local office shall prorate benefits from the date verification/documentation is provided only for the month following the month of application. If the delay is beyond the second calendar month, but within the sixty day period, the benefits will be prorated for the third (3<sup>rd</sup>) calendar month from the date that action is taken.

**4.205.32 Delays Caused by the Food Assistance Office**

Delays that are the fault of the local office include, but are not limited to, those cases in which the office has failed to take any of the actions listed in Section 4.205.3. Whenever a delay in the initial thirty (30) day period is the fault of the local office, the local office shall take immediate corrective action to complete the application process. The local office shall not deny the application if the local office caused the delay, but shall instead notify the household if there is any action the household must take to complete the application process.

Benefits retroactive to the month of application and prorated for an initial month of application in accordance with Section 4.207.2 shall be provided to the household if it is found to be eligible during the second thirty (30) day period. If the household is found to be ineligible, the application shall be denied and the household shall be sent a notice of action form when the eligibility determination is made.

**4.205.4 Delays in Processing Beyond Sixty (60) Days**

- A. If the local office is at fault for not completing the application process by the end of the second thirty (30) day period, and the case record is otherwise complete, the office shall continue to process the original application until an eligibility determination is made. If the household is found to be eligible, and the local office was also at fault for the delay in the initial thirty (30) days, benefits retroactive to the month of application shall be provided to the household. However, if the delay during the initial thirty days was the household's fault, benefits shall only be provided back to the month following the month of application (see Section 4.207.2).
- B. If the local office is at fault for not completing the application by the end of the second thirty (30) day period, but the case record is insufficiently complete to make an eligibility determination, the office shall deny the case and request the household to file a new application, if desired.
- C. If found eligible during the sixty (60) calendar-day period, benefits to the household would be calculated from the month of application, provided the local office was also at fault for the delay in the initial thirty (30) day period. Benefits would be calculated from the month following the month of application if the household was at fault for the initial delay. The benefits would be prorated if action was taken after the thirty day time frame but still within the second month. If the household is at fault and action is not taken until the third calendar month following the month of application, the benefits will be provided only for the third calendar month. If the action is taken after the 1<sup>st</sup> day in the third calendar month but within the sixty day period, the benefits will be prorated from the date the household takes the required action for the third month.
- D. If the household is at fault for not completing the application process by the end of the second thirty (30) day period, the application shall be denied and a new application required if the household wishes to participate. The household shall not be entitled to any lost benefits even if the delay in the initial thirty day period was the fault of the local office.

**4.206 CATEGORIES OF ELIGIBILITY**

- A. Beginning with the benefit month of March 2011, expanded categorical eligibility rules shall be used to determine eligibility for Food Assistance benefits. During the application process, the local office shall determine if all members of the household making an application for Food Assistance are eligible under expanded categorical eligibility rules. Households that do not qualify under expanded categorical eligibility rules as outlined in Section 4.206, C, 1, a, shall have their eligibility determined using either basic categorical eligibility or standard eligibility Food Assistance rules.

B. Food Assistance households that are applying for or receiving benefits from other assistance programs in addition to Food Assistance are still required to meet the resource limits and follow the reporting and verification requirements of the other program. Requests for information and verification to determine eligibility for other programs shall not affect or delay the determination of Food Assistance eligibility.

C. Eligibility

1. Expanded Categorical Eligibility (ECE)

In order to be considered eligible for expanded categorical eligibility, households must receive a non-cash Temporary Assistance to Needy Families/Maintenance of Effort (TANF/MOE) funded service. Households shall receive information about a service that promotes TANF Purpose Four (4): "Encouraging the formation and maintenance of two-parent families", through language provided on the application, recertification application, the periodic report form, and/or the statement of facts. The inclusion of this language on such forms means that all applicant households are initially considered under expanded categorical eligibility rules unless ineligible for ECE as outlined in sub-point b, below.

a. Households having their eligibility reviewed under expanded categorical eligibility rules must meet one of the following criteria:

- 1) Households that include a member who is elderly or is a person with a disability must have a combined gross income amount at or below two hundred percent (200%) of the federal poverty level in order to be considered an expanded categorically eligible household. These households must have a net income amount at or below one hundred percent (100%) of the federal poverty level applicable to the household size, after appropriate deductions.
- 2) Households that do not include a member who is elderly or a person with a disability must have a combined gross income amount at or below one hundred thirty percent (130%) of the federal poverty level in order to be considered an expanded categorically eligible household. These households must have a net income amount at or below one hundred percent (100%) of the federal poverty level applicable to the household size, after appropriate deductions.

b. A household's eligibility cannot be determined using expanded categorical eligibility rules if, at the time of application:

- 1) Any member is disqualified for an Intentional Program Violation;
- 2) Any member is disqualified for a fraud conviction, such as:
  - a) The individual has been found by a federal, state, or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives; or,
  - b) The individual has been convicted by federal, state, or local court of having trafficked benefits for an aggregate amount of five hundred dollars (\$500) or more.
- 3) Any member is a fleeing felon or parole/probation violator as outlined in Section 4.304.4, B, C, and D;



- 4) Any member has been convicted of a drug-related felony where Food Assistance benefits were used to purchase drugs;
  - 5) The household includes a member who is elderly or is a person with a disability and the combined gross income of the household exceeds two hundred percent (200%) of the federal poverty level applicable to the household size;
  - 6) The household includes a member who has an active family preservation case and the combined gross income exceeds one hundred thirty percent (130%) of the federal poverty level applicable to the household size.
- c. A household may still be eligible for expanded categorical eligibility if, at the time of application, it includes any of the following ineligible members:
- 1) An ineligible non-citizen;
  - 2) An ineligible student;
  - 3) A member who is ineligible due to failure to comply with an Employment First Program or workfare requirement as defined in Section 4.310.6.
  - 4) A member disqualified due to not providing his/her Social Security Number.
- d. All households found eligible under expanded categorical eligibility shall not be subject to a resource limit and shall not have their resources verified;
- e. To be eligible under expanded categorical eligibility, all households must meet the non-financial criteria set out in Section 4.300;
- f. Households that are ineligible for expanded categorical eligibility shall have eligibility considered under basic categorical eligibility (BCE) rules if the household meets one of the following criteria:
- 1) The household contains a member who is elderly and/or is a person with a disability and the household's combined gross income exceeds two hundred percent (200%) of the Federal poverty level;
  - 2) The household includes a member who is elderly, and the spouse of such individual, living with others, who is unable to purchase and prepare meals, as described in Section 4.304, B, 4;
  - 3) The household contains a member who has an active family preservation case, and the household's combined gross income exceeds one hundred thirty percent (130%) of the federal poverty level;
  - 4) The household contains a member who is a fleeing felon or parole/probation violator.
- g. Households that contain a member who has an active intentional Program violation or fraud conviction shall only have eligibility determined under standard eligibility rules.

- h. Households that have a gross income exceeding one hundred thirty percent (130%) of the federal poverty level or net income exceeding one hundred percent (100%) federal poverty level will be denied under Food Assistance expanded categorical eligibility rules unless the household's eligibility can be further determined as per these regulations.

2. Basic Categorical Eligibility (BCE)

- a. Basic categorically eligible households are:

- 1) Households in which all members receive, or are authorized to receive, Supplemental Security Income (SSI) or benefits from the Colorado Works Program, Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB) or a combination of these benefits. The Colorado Works, SSI, OAP, and/or AB program(s) need only to authorize benefits for participants in order for the household to be considered for basic categorical eligibility. Individuals who are authorized to receive a benefit from one or more of these programs, but who are not paid such benefits because the grant is less than a minimum benefit or the benefits are suspended or are being recouped, are still considered eligible under basic categorical eligibility rules.

Households not receiving, or authorized to receive, Temporary Assistance for Needy Families (TANF) Title IV-A or SSI benefits, who are entitled to Medicaid only, shall not be considered SSI or Title IV-A participants.

- 2) A household in which at least one (1) member receives services from the Family Preservation Program. This determination must be documented in the case record.

- b. Households eligible under basic categorical eligibility have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. This includes:

- 1) Net income;
- 2) Gross income;
- 3) Resources;
- 4) Residency;
- 5) Social Security Number;
- 6) Sponsored non-citizen information.

- c. A household cannot be considered under basic categorical eligibility rules if, at the time of application:

- 1) Any member is disqualified for an Intentional Program Violation of the Food Assistance Program.
- 2) Any member is disqualified for a fraud conviction such as:

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- a) The individual has been found by federal, state, or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives; or,
  - b) The individual has been convicted by federal, state, or local court of having trafficked benefits for an aggregate amount of five hundred dollars (\$500) or more.
- 3) The head of household is disqualified for failure to comply with an Employment First Program or workfare requirement as defined in Section 4.310.6.
  - 4) The household is ineligible due to one (1) member being a striker as determined by the provisions outlined in Section 4.307.
  - 5) Any member of the household knowingly transferred resources for the purpose of qualifying or attempting to qualify for the Program.
- d. A household may still be eligible for basic categorical eligibility if, at the time of application, it contains any of the following ineligible members:
    - 1) An ineligible non-citizen;
    - 2) An ineligible student;
    - 3) A fleeing felon or parole/probation violator as outlined in Section 4.304.4, B, C, and D.
  - e. Households that are ineligible for Food Assistance benefits under basic categorical eligibility rules shall have eligibility determined under standard eligibility rules.
3. Standard Eligibility
- a. Standard eligibility rules shall only be applied to the following households:
    - 1) Households that include a member who is serving a disqualification for an IPV or a fraud conviction.
    - 2) Households found ineligible under expanded and basic categorical eligibility rules that include a member who is elderly or a person with a disability in which the gross income of the household exceeds two hundred percent (200%) of the federal poverty level
    - 3) Households determined ineligible under basic categorical eligibility rules that include a member who is a fleeing felon or a parole/probation violator as outlined in Section 4.304.4, B, C, and D.
  - b. Households having their eligibility reviewed under standard eligibility rules must meet one of the following criteria:

- 1) Households that include a member who is elderly or a person with a disability must have a net income level at or below one hundred percent (100%) of the federal poverty level after all applicable deductions. The household must have resources below the limit prescribed in Section 4.408.
  - 2) Households that do not include a member who is elderly or a person with a disability must have a combined gross income at or below one hundred thirty percent (130%) of the federal poverty level. After all applicable deductions, the net income level must be at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408.
- c. To be eligible under standard eligibility rules, households must meet the non-financial criteria set out in Section 4.300.
  - d. Households, as defined in Section 4.304, that are found ineligible under standard eligibility rules shall be ineligible for the Food Assistance Program.

#### **4.207 AUTHORIZING BENEFITS**

##### **4.207.1 Newly-Certified and Ongoing Households**

- A. All households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month. The date on which a household receives its initial allotment after certification need not be the date that the household must receive any subsequent allotments.
- B. All newly-certified households shall be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. Households eligible for expedited service shall be given an opportunity to participate no later than seven (7) calendar days following the date the application was filed. Day one (1) is the first calendar day after the application is received by a local office in the correct county. An opportunity to participate consists of providing households with an active EBT card and PIN, posting benefits to the household's EBT account, and making benefits available for spending.

Local offices utilizing a mailing system shall mail EBT cards and PINS, if applicable, in time to ensure that the benefits can be spent before the thirty (30) day standard if the EBT card or PIN is mailed on the twenty-ninth (29<sup>th</sup>) or thirtieth (30<sup>th</sup>) day. Local offices that issue EBT cards by mail shall, at a minimum, use first class mail to send EBT cards to households.

- C. Households that apply for initial month's benefits after the fifteenth (15<sup>th</sup>) day of the month, that fulfill eligibility requirements, and are determined eligible to receive benefits for the initial month of application and the next subsequent month, shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. Expedited households applying for initial benefits after the fifteenth (15<sup>th</sup>) of the month for which verification has been postponed shall be entitled to a combined first (1<sup>st</sup>) and second (2<sup>nd</sup>) months' benefits in the same timeframes as above. The postponed verification shall be provided prior to the third calendar month or the application shall be denied.
- D. An eligible household shall have an opportunity to receive its benefits prior to the end of the period of intended use. The period of intended use is defined as the month in which benefits are issued. For households certified after the twentieth (20<sup>th</sup>) of the month, the period of intended use is the balance of the month for which benefits are authorized through the last day of the following month.

**4.207.2 Initial Month Allotment Prorating**

- A. A household's benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. A household applying on the thirty-first (31<sup>st</sup>) of a month shall be treated as though it applied on the thirtieth (30<sup>th</sup>) of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and Food Assistance prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.
- B. The only exception to the proration policy shall be migrant and seasonal farm worker households who are in the job stream and the break in participation does not exceed thirty (30) days. These households are entitled to a full month allotment.
- C. The state automated system will utilize the exact number of days in the calendar month to determine the proration of benefits. The following formula shall be used to determine the amount of prorated benefits:
1. Number of days in month plus one;
  2. Subtract the date of application;
  3. Multiply by the full month's benefits the household is eligible to receive;
  4. Divide by the number of days in the application month.
- D. If the calculation of benefits for an initial month yields an allotment of less than ten dollars (\$10) for the household, no benefits shall be issued to the household for the initial month. Except during an initial month, only one- and two- person households are eligible to receive the minimum monthly allotment.

Except for households that are eligible under basic categorical eligibility, households with three or more members who are entitled to zero benefits shall have the Food Assistance application denied. This provision does not apply if zero benefits are due to the pro-ration requirements or due to the initial month's allotment being less than ten dollars (\$10).

For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the county department shall certify the household for a certification period beginning with the month of application.

**4.207.3 Benefit Allotment [Em. eff. 10/1/15; permanent eff. 1/1/16]**

- A. After eligibility has been established, the monthly Food Assistance benefit allotment will be determined. The state automated system will compute the household's allotment. The following formula shall be used to determine a household's benefit allotment.
1. Multiply the net monthly income by thirty percent (30%).
  2. Round the product up to the next whole dollar if it ends in one (1) through ninety-nine (99) cents.

3. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in E. below.
- B. Except for an initial month, if the allotment for a one- or two-person household is less than ten dollars (\$10), round the allotment up to the minimum benefit allowed for one- or two-person household. If the calculation of benefits for an initial month is less than ten dollars (\$10), then no benefits shall be issued to the household for the initial month.
  - C. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

<b>Household Size</b>	<b>Maximum Monthly Allotment Effective October 1, 2015</b>
1	\$ 194
2	\$ 357
3	\$ 511
4	\$ 649
5	\$ 771
6	\$ 925
7	\$1,022
8	\$1,169
Each Additional Person	+\$ 146

<b>Household Size</b>	<b>Minimum Monthly Allotment Effective October 1, 2015</b>
1-2	\$16

**4.208 CERTIFICATION PERIODS**

- A. Certification periods shall conform to calendar months. Households shall be assigned the longest certification period possible based on the predictability of the household's anticipated income and other circumstances. At the expiration of each certification period, entitlement to Food Assistance benefits ends. Further eligibility shall only be established on a newly completed application for redetermination, an interview if one has not been completed within the last twelve months, except for households certified for twenty-four months, and verification as required by Section 4.502. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. The State-prescribed Notice of Action form provided to the applicant household shall indicate the period of certification if the household is determined to be eligible for benefits.
- B. The eligibility worker shall use the guidelines given in Section 4.208.1 in determining the appropriate period of eligibility. Upon approval at the time of recertification, a household need not be assigned the same certification period as formerly, but should be assigned a period of time based on a new review of the household's circumstances.
- C. Certification periods may not be shortened for households unless the agency receives verified information prior to certification that the household will become ineligible for Food Assistance benefits during the certification period.

- D. At the time of certification, the local office shall notify the household of what changes the household is required to report during the certification period. The household shall also be notified that those changes which are required to be reported during the certification period as specified in Section 4.603 must be reported to the local office no later than the tenth (10<sup>th</sup>) of the month following the month in which the change occurred. A household shall report changes in person, by phone, mail, fax, or other electronic device.
- E. A delinquent PA redetermination shall not delay the Food Assistance recertification beyond the date of the household's Food Assistance certification period ending date. The household must be sent a Notice of Expiration form in accordance with Section 4.209.

**4.208.1 Certification Period Guidelines**

Households will be assigned a three (3)-month, six (6)-month or twenty-four (24) month certification period as follows:

- A. Three (3)-Month Certification Period
  - 1. Households that reside in an ABAWD county and contain an ABAWD, which is an individual between the ages of eighteen (18) and fifty (50) without a physical or mental disability, who is not pregnant and who lives in a food assistance household with no one under the age of eighteen (18), shall be given a three-month certification period, unless the ABAWD is exempt from work registration requirements in accordance with Section 4.310.3.
  - 2. Households with three month certification periods are not considered a simplified reporting household and, as such, must report changes in accordance with Section 4.603.
  - 3. Households eligible for a certification period of three (3) months or less shall have their certification periods increased by one (1) month if the certification process is not completed until after the fifteenth (15<sup>th</sup>) day of the month of application and the household circumstances warrant the longer certification period.
- B. Twenty-Four (24) Month Certification Period
  - 1. A twenty-four month certification period shall be assigned to households that contain only members who are elderly and/or have a disability and have no earned income, as defined in Section 4.403 at the time of certification.
  - 2. Households certified with a twenty-four month certification period are considered a simplified reporting household and, as such, are required to report changes in accordance with Section 4.603.
  - 3. Households that are assigned a twenty-four month certification period must complete a periodic report form at the twelfth (12<sup>th</sup>) month interval to report any changes that have occurred or to report that no changes have occurred since the most recent certification. The form shall be returned or the case will be closed following the notice of adverse action period. The notice will state the reason for ending the certification period and that the certification period will end following the adverse action period.
- C. Six (6) Month Certification Period

1. Households not assigned a three month or twenty-four month certification period as outlined in subsections A and B of this section shall be assigned a six month certification period.
2. Households assigned a six month certification period are considered a simplified reporting household and, as such, are required to report changes in accordance with Section 4.603.

**4.208.2 Classification of Households as Public Assistance (PA) or Non-Public Assistance (Non-PA)**

**A. Public Assistance (PA) Households**

Public Assistance households are those Food Assistance households that contain only persons who receive the following:

1. Colorado Works Basic Cash Assistance grant or any type of TANF payment or services under the Colorado Works Program. The household will be considered a PA household if one (1) member received cash assistance or services, but the entire household benefits from the receipt of this cash or services, such as when one (1) individual in a household is authorized for family preservation; or,
2. A State Grant (OAP-A, OAP-B, AND/AB); or,
3. Colorado Supplement to the SSI Grant

**B. Non-public assistance (Non-PA) Households**

All other households are classified as non-public assistance households.

Any household that contains at least one member who does not receive a Public Assistance benefit, as listed in Subsection A, above, will be classified as Non-PA. County General Assistance (GA), SSI with no Colorado Supplemental payment, and medical-only programs are not considered Public Assistance benefits.

**4.209 RECERTIFICATION PROCESS REQUIREMENTS**

- A.** In order to enable timely receipt of an application for recertification, the local office shall provide each household with a notice that its certification is about to expire. Benefits will not be continued beyond the end of the certification period unless the household is recertified.

A notice of expiration, as prescribed by the State Department, shall be used by offices to advise households that their certification period is ending and that a new application must be filed. The notice of expiration form shall contain at a minimum:

1. The ending date of the current certification and the consequences of failing to comply with the notice of expiration;
2. The telephone number the household must call to schedule an interview;
3. The office location;
4. Notice that the household must attend any scheduled interview on or after the date the application is timely filed;



5. The date the application must be received by the local office in order to avoid a break in the normal issuance cycle;
  6. Notice that the household is responsible for:
    - a. Completing the processing steps of the interview;
    - b. Rescheduling any missed interview; and,
    - c. Providing all required verification in order to receive uninterrupted benefits.
  7. That the household has ten (10) calendar days to submit missing verification after such verification is requested;
  8. The right to request an application and have the application accepted as long as it is signed by a responsible household member or authorized representative and contains a legible name and address;
  9. The household's right to file the application by mail, through an authorized representative, electronically, by facsimile, or in person;
  10. A statement of the household's right to request a fair hearing; and,
  11. A statement that SSI households may reapply at the Social Security office instead of the local office.
- B. A household unable to come into the certification office shall be advised of options available, such as the use of an authorized representative or mailing of an application with subsequent telephone interview or home certification. In the case of a household consisting entirely of SSI participants, a face-to-face interview shall be waived in accordance with Section 4.204.1.
- C. A household shall receive the notice of expiration not less than thirty (30) calendar days and not more than sixty (60) calendar days prior to expiration of its current certification period. If mailed, the notice shall be sent for the same timely receipt, allowing two (2) extra days for delivery delay.

All households that file on or before the fifteenth (15<sup>th</sup>) of the last month of their certification period will have timely reapplied. Notices which are mailed must specify a date that allows at least two (2) days mail time and still gives the household fifteen (15) calendar days to respond. Households that submit an application for recertification by the date specified on their notice of expiration shall be considered to have timely reapplied to prevent an interruption in Food Assistance benefits.

- D. The local office shall conduct an interview with an adult member of the household or its authorized representative a minimum of once every twelve (12) months for households certified for six (6) months or less. The local office may choose not to interview the household at each recertification provided the household has completed an interview within the previous twelve (12) months.

The local office shall schedule the interview so that the household has at least ten (10) calendar days to provide verification before the certification period ends. If an interview is required and the household fails to attend the scheduled interview, the local office can mail the household a notice of missed interview and a notice of denial at the same time.

The local office may schedule an interview prior to the last month of the certification period or prior to the date the application is timely filed, but the household cannot be denied for failing or refusing to appear for such an interview. Rather, the local office shall send notice to the household in order to reschedule an appointment for an interview on or after the date the application is timely filed.

- E. The recertification process must elicit from the household sufficient information that, when combined with information in the case record, will ensure an accurate determination of eligibility. Information from the household shall be verified in accordance with Section 4.500. The local office shall provide the household with a notice of required verification and the date by which the verification must be provided.

#### **4.209.1 Recertification Processing Standards and Timeframes**

##### **A. Timely Applications for Recertifications**

- 1. Households that file an application for recertification on or before the fifteenth (15<sup>th</sup>) of the last month of their certification period will have timely reapplied. A timely application for recertification shall be approved or denied prior to the end of the household's current certification period and shall provide eligible households with an opportunity to obtain their benefits by their normal issuance day of the month following the expiration of their certification period.
- 2. Households which have timely reapplied, but because of local office error are not determined eligible in sufficient time to permit normal issuance to the household in the following month, shall receive an immediate opportunity to participate upon being determined eligible. Such households shall be entitled to participate and receive a full month's allotment for the month following the expiration of the certification period.

##### **B. Applications for Recertification That are not Timely**

- 1. Households which file an application for recertification anytime between the sixteenth (16<sup>th</sup>) and the last day of the last month of the certification period shall not be considered as having timely reapplied. For households that have not timely reapplied, but have been found eligible, benefits may be delayed past the household's normal issuance day. The household shall be notified of approval or denial on a notice of action form within thirty (30) calendar days of when the application for recertification was submitted to the local office.
- 2. If a household files an application form within thirty (30) calendar days after the end of the certification period, the application shall be considered as an application for recertification; however, the application shall be processed as an initial application in accordance with Section 4.201, C, and shall have the allotment for the initial month of application prorated from the day of application to the end of the month, unless the local office was at fault for the delay. For applications received within thirty (30) calendar days after the expiration of the certification period, verification requirements shall remain consistent with the verification requirements for applications which were filed prior to the expiration of the certification period as outlined at Section 4.502, B.

- C. If an application for recertification is denied for a failure of the household to take a required action, the local office shall reopen the case if the required action is taken by the end of the certification period and provide benefits for the first month of the new certification period.

If the household takes the required action after the end of the certification period, but within the next thirty (30) calendar days, the local office shall reopen the case and provide benefits retroactive to the date that the action was taken by the household.

- D. A household shall lose its right to uninterrupted benefits if one of the following occurs after the fifteenth (15<sup>th</sup>) day of the last month of the household's certification period:
1. A household fails to timely submit an application for recertification in accordance with Section 4.209.1, A; or,
  2. A household timely files an application for recertification but fails to appear for a scheduled interview; or,
  3. A household fails to submit all necessary verification by the date specified on the request for such verification. The request for verification shall allow the household no less than ten (10) days to provide the verification to prevent an interruption in benefits.

If the household is eligible after providing such verification(s), the county/district shall provide benefits within thirty (30) calendar days after the application was filed. If the local office is unable to provide benefits within thirty (30) calendar days due to the time allowed for providing verification, the office shall provide benefits within five (5) calendar days after the household supplies the missing verification. Households that refuse to cooperate in providing required information or taking the required actions to determine eligibility shall be denied.

#### **4.209.11 SSI and Food Assistance Joint Processing**

SSI/Food Assistance jointly-processed households which have received a Food Assistance Notice of Expiration shall be entitled to make a timely application for Food Assistance recertification at the SSA office as specified below:

- A. In SSA offices where Section 4.202.33 is in effect, the outstationed worker shall accept the application and interview the participant, and the local office shall process the application.
- B. In SSA offices where Section 4.202.33 is not in effect, SSA shall accept the application of a pure SSI household and forward the completed application and any available verification to the designated local office. Where SSA accepts and refers the application in such situations, the household shall not be required to appear at a second office interview, although the local office may contact the client to clarify any questionable information if necessary.

#### **4.210 PERIODIC REPORTING REQUIREMENTS**

- A. A household consisting solely of members who are persons with a disability and/or members who are elderly with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four month certification period are considered simplified reporting households and are required to report changes at the twelve (12) month interim reporting period and at redetermination.

- B. A periodic report form shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the change report form is not submitted to the local office by the last day of the twelfth (12<sup>th</sup>) month of the certification period, the Food Assistance case shall be terminated effective the first day of the thirteenth (13<sup>th</sup>) month and a termination letter shall be mailed to the household. If the household submits a periodic report form or a change report form for any other public assistance program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be reinstated without proration.
- C. The local office must act on all changes reported by those households filing a periodic report. If the household files a complete report that results in reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two (2) business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction.

#### **4.300 NON-FINANCIAL ELIGIBILITY CRITERIA**

Non-financial criteria for eligibility shall apply to all households (including those receiving public assistance) and shall be considered prospectively for the issuance month based on the eligibility worker's anticipation of circumstances at the time of application and when changes are made known to the local office. Non-financial criteria shall consist of:

- A. Identity of applicant;
- B. Residency;
- C. Social Security Number;
- D. Citizenship and non-citizenship status;
- E. Household composition, including student and striker eligibility;
- F. Work registration and employment requirements.

#### **4.301 IDENTITY OF APPLICANT**

The identity of the person submitting an application shall be verified. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. Identity shall also be verified as a condition of expedited service (see Section 4.502, A, 1). See Section 4.505.1 for acceptable sources of identity verification.

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#### 4.302 SOCIAL SECURITY NUMBER REQUIREMENT

##### A. General Requirements

1. As a condition of Food Assistance eligibility, each member of a household participating in or applying for participation in the Food Assistance Program shall provide a Social Security Number (SSN), or proof that an application for a Social Security Number has been submitted to the Social Security Administration. The local office shall not require any household member to submit a Social Security card or other official documents as a means of verifying a Social Security Number. Household members who provide a SSN shall not be denied benefits for failure or inability to present a Social Security card or other official documentation. If individuals have more than one Social Security Number, all numbers shall be required.
2. The local office shall explain that a member is not required to provide a Social Security Number (SSN), but the failure to provide one shall result in disqualification of the individual(s) for whom the number is not provided. The member who does not provide a SSN shall still be required to provide other eligibility information such as income and resources that will affect eligibility of other members. The local office shall advise individuals that any SSN that is provided voluntarily will be used in the same manner as SSNs of eligible household members. The SSNs will be matched against federal and state databases to verify information. SSNs will be used for the initial application matching for duplicate participation.
3. If the household is being certified under the expedited service provisions, it shall provide a SSN or application for SSN for each person in the household, except for a newborn child, before the first (1<sup>st</sup>) full month of participation.
4. If the household member required to provide a SSN either refuses to supply his/her SSN at the time of application or fails to provide the local office with a form or letter as proof of application for a SSN without good cause, he or she shall be ineligible to participate in the Food Assistance Program. The disqualification applies to the individual(s) who refused to cooperate with the application process to obtain the SSN and not the entire household. See Section 4.411.1 for how income and resources of the disqualified individual are counted toward the household. The household member(s) disqualified may become eligible by providing the local office with a Social Security Number, or by providing verification that that an application for a SSN has been submitted to the SSA.

##### B. Individuals and Newborns Without a Social Security Number

1. Those household members who do not have the required Social Security Number(s) shall obtain proof of application for a SSN prior to being certified as a member of the household, unless the member is a newborn child. The applicant/recipient shall be instructed to obtain from the SSA proof that he or she has completed an application for a Social Security Number and that the SSA has received that application. A specifically addressed letter from the SSA verifying that application for a SSN has been made is also acceptable proof of application for a Social Security Number. The applicant/recipient shall be instructed to return the completed form as soon as possible to the eligibility worker. A copy of the form shall be maintained in the case record.
  - a. If the household is unable to provide proof of application for an SSN for a newborn, the household shall provide the SSN or proof of application at its next recertification within six (6) months following the baby's birth. The local office shall determine if the good cause provisions are applicable at the recertification.

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- b. If a participating household's benefits are reduced or terminated within the certification period because one or more of its members required to provide a SSN is disqualified for failure to meet the SSN requirement, the local office shall issue a Notice of Adverse Action form. The notice shall inform the household that the non-cooperating individual(s) without a SSN is being disqualified, and show the current eligibility and benefit level of the remaining members, as well as a statement that the disqualified member(s) may end disqualification by providing a Social Security number.
2. Household members who provide the eligibility worker with a copy of a form or a letter from SSA, or who demonstrate good cause for not providing the proof from SSA (e.g., difficulty in obtaining birth certificates) shall be allowed to continue to participate in the Food Assistance Program as follows:
    - a. When an SSA form or letter is received by the local office or good cause for not providing proof is demonstrated, the household member in need of a SSN shall be allowed to participate so long as the household is not at fault for not providing proof of application with the SSA.
    - b. If the required SSNs are provided by the household, or it is demonstrated that good cause exists for not having applied for a SSN, the household member(s) without a SSN(s) shall remain eligible to participate. If the local office determines that the household is at fault for not having proof of application for the SSN(s), the member(s) without proof of application shall be disqualified and income shall be handled in accordance with Section 4.411.1.
- C. Determining Good Cause for Not Providing a Social Security Number
1. In determining good cause, the local office shall consider information received from the household member and/or the Social Security Administration. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply the Social Security Administration with the necessary information shall be considered good cause. If the household member can show good cause why an application has not been completed in a timely manner, that person shall be allowed to participate until good cause is no longer applicable or until the household's next recertification. If the household member(s) applying for a Social Security Number has been unable to obtain the documents required by Social Security Administration, the eligibility worker should assist the individual(s) in obtaining these documents.
  2. If an individual refuses to provide a Social Security Number based on a sincere religious objection, all members of the household may participate in the Program, if otherwise eligible. In these situations, the local office may check with the Social Security Administration to see if the household members already have SSNs, and may use any existing SSNs for verification and matching purposes without further notice to the household.
- D. Verification
- See Section 4.505.2 regarding how to verify a SSN.
- 4.303 RESIDENCY REQUIREMENT**
- A. Applicants shall live in the county or district in which they make application for the Program unless the local office has made arrangements to allow particular households to file an application in a nearby specified county/district office.

- B. Individuals may not participate in more than one household in any one (1) month unless they are a resident of a shelter for battered women and children, nor may a household participate in more than one (1) county or district in any month unless all household members are residents of a shelter for battered women and children.

Households on Indian reservations participating in the Commodity Food Distribution Program for a particular period shall not be allowed to participate in the Food Assistance Program during the same period. Participation shall be limited to participation in the Commodity Program or the Food Assistance Program.

- C. Applicants who maintain a residence in the county or district for any purpose other than a vacation, regardless of the length of time they have resided in the county or district, shall be considered eligible for the Program, provided other eligibility requirements are met.
- D. Applicants who reside in a county, without residing in a permanent dwelling nor having a fixed mailing address, shall be considered eligible for the Program, provided other eligibility requirements are met. Migrant campsites satisfy the residency requirement, as do shelters for the homeless. Homeless persons as defined in Section 4.304.41 satisfy the residency requirement as long as dual participation in any month of eligibility is not allowed.
- E. In no instance shall there be a durational residency requirement imposed upon the applicant. Intent to permanently remain in the state shall not be a condition of eligibility.
- F. The application contains spaces for both a physical address and a mailing address. If the household has a mailing address that is different than the household's physical address, the certification worker should ensure that both addresses are given. For households residing in a permanent dwelling, a mailing address only, such as post office box or rural route, will not be sufficient, as it does not indicate the household resides in the county. In such cases, information should be given that can identify the location of the home. An exception to the requirement for physical location may be granted for residents of shelters for battered women and children and those that lack a permanent dwelling.
- E. See Section 4.803.3 for the disqualification penalties that can be imposed upon an individual for misrepresenting his/her identity and/or residency to receive duplicate benefits.

#### **4.304 DETERMINING HOUSEHOLD COMPOSITION**

- A. All applications shall be submitted on behalf of a household. Some groups of individuals living together are required to be included in the same Food Assistance household in accordance with Section 4.304.1.
- B. A household may be composed of any of the following individuals or groups of individuals:
1. An individual living alone.
  2. An individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from the others.
  3. A group of individuals living together who customarily purchase and prepare food together for home consumption.

4. An individual who is sixty (60) years of age or older, and the spouse of such individual, living with others, who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act or suffers from a non-disease-related, severe, permanent disability. However, in order for such a person to be eligible, the income (all nonexempt earned and unearned income) of the other members (excluding the person who is disabled and his or her spouse) with whom the individual resides cannot exceed one hundred sixty-five percent (165%) of the federal poverty level according to household size as provided in Section 4.401.1, C.

**4.304.1 Persons Ineligible for Separate Household Status**

Separate household status shall not be granted to the following, except as noted:

- A. Children twenty-one (21) years of age and under, who live with at least one (1) natural parent, adoptive parent, or stepparent, shall not be considered a separate household from the natural, adoptive, or stepparent, even if they purchase and prepare meals separately.  
  
If a child lives in the same home with both parents, both parents, regardless of their marital status, shall be included in the household, even if one (1) parent does not request assistance or declares that he/she purchases and prepares his/her meals separately from the other parent and child.
- B. Children, excluding foster children, who are under eighteen (18) years of age who purchase and prepare meals separately but live under the parental control of an adult household member who is not the natural parent, adoptive parent, or stepparent, cannot be separate households. A child is considered to be under parental control if he or she is financially dependent on an adult member of the household, unless the State of Colorado defines the child as an adult or an emancipated minor.
- C. A spouse of a member of a household shall not be a separate household.
  1. Spouses refer to:
    - a. Persons who are defined as married to each other under state law. Same-sex spouses must be considered married if the marriage is recognized by the state in which the marriage was celebrated; or,
    - b. Persons who are living together, are free to marry, and are representing themselves as husband and wife to relatives, friends, neighbors and trades people.
  2. Spouses who are legally separated are eligible for separate household status, unless paragraph A of this section applies.
  3. For purposes of the Food Assistance Program, partners in a same-sex marriage are not considered spouses, unless married in a state that recognizes the marriage. If, in a same-sex relationship the spouses are not considered married as specified in C, 1, of this section, and there is a child living in the home but only one (1) of the parents is the biological parent to the child, the non-biological parent does not have to be considered part of the household if the non-biological parent is not the natural parent or adoptive parent to the child and purchases and prepares meals separately from the rest of the household.



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**4.304.2 Shared Living Arrangements**

- A. In instances when two (2) households request Food Assistance for the same child, the child shall be considered a member of the household that provides the majority of the child's monthly meals.

If only one (1) household is applying for or requesting Food Assistance benefits for a child, then determining a majority of meals shall not be a factor when determining household composition.

- B. If two (2) households request assistance for the same child and both households provide an equal number of meals to the child, and the households cannot agree on who should receive Food Assistance benefits for the child for the duration of the certification period, then the household that applies for Food Assistance benefits for the child first shall be able to receive benefits for the child.
- C. In instances when an applicant or ongoing household requests benefits for a child who is already receiving Food Assistance in another household, the household who provides the child with the majority of meals shall be eligible to receive benefits for the child (see Section 4.505.4).
- D. Changes in household composition shall be handled in accordance with Section 4.604.

**4.304.3 Non-Household Members**

The following individuals residing with a household shall not be considered household members in determining the household's eligibility or allotment, unless otherwise stated:

- A. Roomers

Roomers are individuals to whom a household furnishes lodging, but not meals, for compensation. Roomers, who are otherwise eligible, may participate in the program as separate households.

- B. Ineligible Student

Any person who is: 1) at least eighteen (18) and not yet fifty (50) years of age, 2) physically and mentally fit, and 3) enrolled at least half time in an institution of higher education, unless he/she meets the eligibility criteria specified in Section 4.306.1.

- C. Live-in Attendant

Individuals who reside with a household to provide medical, housekeeping, child care, or other similar personal services. Persons who are otherwise eligible may participate in the Program as separate households.

- D. Boarders

Individuals residing with others and paying reasonable compensation to others for lodging and meals. Boarders are not eligible to participate in the Food Assistance Program as a separate household.

1. Boarders shall not be considered members of a participant or applicant household, unless the household requests that they be considered as members. If the boarder is not considered a household member, the income and resources of the boarder shall not be considered available to the household. However, the amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the household. If the household requests that the boarder be considered a household member, the boarder's income and resources shall be considered available to the household.

2. Individuals for whom foster care payments are intended are to be treated as boarders. If the household requests to include those individuals as household members, the foster care payments received by the household will be included as unearned income.

If foster care payments are received and the individuals are treated as boarders, then the foster care payments shall be handled as self-employment income (see Section 4.403.2). The foster care payments will be disregarded as an expense of doing business.

3. Boarder status shall not be granted to the following persons:

a. Children under eighteen (18) years of age under the parental control of a member of the household. The parental control provision does not apply to foster care children under eighteen (18) years of age.

b. Children twenty-one (21) years of age and younger living with their natural, adoptive, or stepparent.

c. The spouse of a member of the household.

d. A person paying less than a reasonable monthly payment for meals. Such a person will be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from his/her payments for meals, only the amount paid for meals will be considered in determining if reasonable compensation is being paid for meals. Persons who only work in exchange for meals or make payments to a third party on the household's behalf in exchange for meals would not be classified as boarders.

A reasonable monthly payment shall be either of the following:

1) Boarders, whose board arrangement is for more than two (2) meals per day, shall pay an amount which equals or exceeds the maximum Food Assistance allotment for the number of persons in the boarder household.

2) Boarders, whose board arrangement is for two (2) meals or fewer per day, shall pay an amount which equals or exceeds two-thirds of the maximum allotment for the number of persons in the boarder household.

**4.304.4 Persons Disqualified or Ineligible to Participate in the Food Assistance Program**

A. Disqualified individuals shall not be allowed to participate in the Program as separate households. "Disqualified individuals" are individuals disqualified for:

1. Intentional Program violation/fraud;

2. Failure to either provide or obtain a Social Security Number;

3. Being an ineligible non-citizen as defined in Section 4.305.12;
  4. Failure to comply with work requirements; or,
  5. Being an able-bodied adult without dependents (ABAWD) who has been disqualified after receiving three (3) months of Food Assistance benefits within a period of thirty-six (36) months.
- B. Individuals who are fleeing to avoid prosecution for a felony under a state or federal law are ineligible to participate in the Food Assistance Program.
- C. Individuals convicted of a crime that is classified as a felony under state or federal law and who are fleeing to avoid custody or confinement for the felony are also ineligible to participate in the Food Assistance Program.
- D. Individuals who are currently violating a condition of probation or parole imposed under a federal or state law are ineligible to participate in the Food Assistance Program.
- E. Residents of commercial and noncommercial boarding houses and institutions are not eligible to participate in the Program unless exempt in Section 4.304.41.
1. The household of the proprietor of a boarding house may participate in the Program separate and apart from the residents of the boarding house if that household meets all of the eligibility requirements for Program participation.
  2. An institution is a place which has not been authorized by FNS to accept Food Assistance benefits but which provides its residents with the majority of their daily meals as a part of its normal services. Residents of a halfway house for persons with a disability are considered to be residents of an institution if they are provided meals as part of their regular service.
  3. Students who purchase meal plans through an institution of higher education shall be considered residents of an institution if the meal plan provides the student more than fifty percent (50%) of his/her meals, unless the individual is otherwise exempt from the institution provisions as provided in Section 4.304.41.

**4.304.41 Exemptions from the Boarding House and Institution Prohibitions**

- A. An individual who is a resident of federally subsidized housing for elderly persons under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act. A person who is elderly is defined as a member of a household who is sixty (60) years of age or older.
- B. Narcotic addicts or alcoholics and their children, who, for purposes of regular participation in a drug or alcoholic treatment and rehabilitation program, reside at a facility or treatment center (see Section 4.309.3).
- C. Residents of a public or private nonprofit group living arrangement facility, who are blind or disabled recipients who meet the definition of blind or disabled under the Food and Nutrition Act of 2008, as described below. The details for certification of a group living situation are contained in Section 4.309.4.
1. A person who is disabled is defined as a member of a household who:

- a. Receives Supplemental Security Income benefits under Title XVI of the Social Security Act, or the Colorado Supplement, or Aid to the Needy and Disabled-Supplemental Security Income- Colorado Supplement (AND-SSI-CS), or Aid to the Blind-Supplemental Security Income-Colorado Supplement (AB-SSI-CS); or disability or blindness payments under Title I, II, X, or IXV of the Social Security Act;
  - b. Is a veteran with a service-connected disability rated or paid as a total disability under Title 38 of the United States Code or is a veteran receiving a pension for a non-service connected disability;
  - c. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the Code;
  - d. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;
  - e. Is a surviving spouse or child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. "Entitled", as used in this definition, refers to those veterans' surviving spouses and children who are receiving the compensation or benefits or have been approved for such benefits but are not receiving them.
  - f. Is a person who has a disability considered permanent under Section 221(i) of the Social Security Act (SSA) and receives a federal, state, or local public disability retirement pension;
  - g. Is a person who receives an annuity for disability from the Railroad Retirement Board who is considered disabled by the SSA or who qualifies for Medicare as determined by the Railroad Retirement Board;
  - h. Is a recipient of interim assistance benefits pending the receipt of the Supplemental Security Income (SSI), disability-related medical assistance under the Title XIX of the Social Security Act, or disability-based state assistance benefits provided that the eligibility to receive these benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act.
2. Verification
- a. For Item 1, a, above, the household shall provide proof that the person with a disability is receiving benefits under Title I, II, X, XIV, or XVI of the Social Security Act.
  - b. For Item 1, b, above, the household shall provide a statement from the VA that the disability is rated or paid as total.
  - c. For Items 1, c and d, above, proof of receipt of VA Disability Benefits is sufficient verification.

- d. For Items 1, e and f, above, unless the disability is obvious to the agency (based upon SSA's current list of disabilities considered permanent), a statement from a physician or a licensed certified psychologist is required stating such a basis.
  - e. For Item 1, g, above, the household shall provide proof that the individual receives a disability annuity from the Railroad Retirement Board and has been determined to qualify for Medicare.
  - f. For Item 1, h, above, the household shall provide proof that the individual receives interim assistance benefits pending the receipt of SSI or disability-related medical assistance under Title XIX of the Social Security Act or disability-based state general assistance benefits (AND or AB). The local office shall verify that the eligibility to receive the state general assistance, interim assistance, or medical assistance benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act, as amended, (codified at 42 USC 1381-1383f). The Act(s) do not include any later amendments to or editions of the incorporated material. Copies of federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, CO 80203; or a state publications depository.
- D. Women or women and their children who are temporarily residing in a public or private nonprofit shelter for battered women and children (see Section 4.309.2 .)
- E. Residents of public or private nonprofit shelters for homeless persons.

A homeless individual is an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

- 1. A supervised shelter which provides temporary accommodations; or,
- 2. A temporary residence for individuals intended to be institutionalized; or,
- 3. A temporary accommodation in the residence of another individual; the household will only be considered homeless if the accommodation is no more than ninety (90) days; or,
- 4. A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings.

#### **4.305 CITIZENSHIP AND NON-CITIZENSHIP STATUS**

Citizens of the United States are potentially eligible for participation in the Food Assistance Program, provided they meet other eligibility requirements. Most non-citizens must be in a qualified alien status and meet one (1) additional condition to be eligible for participation in the Program. Some classes of non-citizens are eligible for participation without having to meet an additional condition.

- A. Citizens and Non-Citizen Nationals
- 1. The following individuals are considered United States citizens:
    - a. A person born in the United States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands or the Mariana Islands,
    - b. A person who has become a citizen through the naturalization process,

- c. A person born outside of the United States to at least one (1) U.S. citizen parent,
  - d. A child under eighteen (18) years of age adopted or born outside the U.S. with a parent who is a U. S. citizen, who has been admitted as a lawful permanent resident, and is in the legal and physical custody of a parent who is a U.S. citizen.
2. Although not considered U.S. citizens, non-citizen nationals enjoy the same potential eligibility for Food Assistance benefits as U.S. citizens. Non-citizen nationals are those individuals born in an outlying possession of the United States (either American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals.

**B. Non-Citizens**

Non-citizens in a qualified alien status and certain groups of non-citizens who are not in a qualified alien status are eligible for participation under certain conditions.

Some non-citizens in a qualified alien status must also meet an additional condition, as outlined in Section 4.305, B, 3, to be eligible for participation. Each of the following categories of eligible non-citizen status stands alone for the purposes of determining eligibility. If eligibility expires under one (1) eligible status, the local office shall determine if eligibility exists under another status.

**1. Non-Citizens in a Qualified Alien Status**

The following classes of non-citizens, based on the immigration status of an individual, are defined as a qualified status. The non-citizen shall be qualified as listed below at the time the non-citizen applies for, receives, or attempts to receive Food Assistance benefits.

A non-citizen under the age of eighteen (18) that is in a qualified alien status, as outlined in paragraphs A and B of this subsection, shall be eligible for participation in the program without having to meet an additional requirement. Once the non-citizen turns eighteen (18), the eligibility of the non-citizen shall be reviewed.

- a. A non-citizen in one (1) of the following qualified alien statuses is not required to meet an additional condition to be eligible for participation in the Program and is eligible for participation indefinitely from the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status.
  - 1) A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act (INA), which is codified throughout Title 8 of the United States Code. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.
  - 2) Victims of trafficking, under the Trafficking Victims Protection Act of 2000, as amended, certified by the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). This person shall have a certification letter.

- a) ORR issues a letter of eligibility for adults and children under the age of eighteen (18). A trafficked minor shall have either an interim assistance letter or an eligibility letter from ORR to be eligible for Food Assistance. The local office shall accept these letters in place of Department of Homeland Security documentation.
  - b) Certification letters and eligibility letters do not expire; however, interim assistance letters that are provided to children are valid for ninety (90) calendar days from the effective date of the letter. ORR may extend the interim eligibility an additional thirty (30) calendar days. Children with an interim assistance letter can only receive Food Assistance benefits until the expiration of the time period established in the interim letter.
  - c) The local office can verify the status of these individuals through SAVE.
- 3) Asylees granted asylum under Section 208 of the INA, which is codified throughout Title 8 of the United States Code. The U.S. Code does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.
  - 4) A non-citizen whose deportation is being withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under Section 241(b)(3) of the INA.
  - 5) Cuban or Haitian entrants under Section 501(e) of the Refugee Education Assistance Act of 1980 (retroactive to August 22, 1996).
  - 6) Retroactive to August 22, 1996, Amerasians under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.
  - 7) Iraqi and Afghan Special Immigrants (SIV)  
  
Special immigrant status under Section 101(A)(27) of the INA may be granted to Iraqi and Afghan nationals who have worked on behalf of the U.S. Government in Iraq or Afghanistan. The Department Of Defense Appropriations Act of 2010 (DODAA), P.L. 111-118, Section 8120 enacted on December 19, 2009, provides that SIVs are eligible for all benefits to the same extent and the same period of time as refugees.
- b. Non-citizens in one (1) of the following qualified alien statuses are required to meet an additional condition (see Section 4.305, B, 3) to be eligible for participation in the Program.
    - 1) Lawfully Admitted for Permanent Residence (LPRs) under the Immigration and Nationality Act (INA). LPRs are holders of Green Cards.

If a non-citizen is in a qualified alien status as outlined in paragraph a. of this section and later adjusts to LPR status, the non-citizen does not have to meet an additional condition to be eligible for participation and shall remain eligible based on the previous qualified alien status.

- 2) Paroled into the United States under Section 212(d)(5) of the INA for at least one (1) year.
- 3) Granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980.
- 4) A non-citizen who has been battered or subjected to extreme cruelty in the U.S. by a family member with whom the non-citizen resides, such as by a spouse, a parent, or a member of the spouse or parent's family. This qualified alien status also extends to a non-citizen whose child has been battered or subjected to battery or cruelty or to a non-citizen child whose parent has been battered.

To establish eligibility, the local office shall determine that the non-citizen has satisfied three (3) requirements. Spouses and children who have applied for or have been granted protection under the Violence Against Women Act will meet these requirements.

- a) The battered non-citizen(s) shall show that he/he has an approved or pending petition which makes a prima facie case for immigration status in one (1) of the following categories:
    - i) Form I-130, petition for alien relative, filed by their spouse or the child's parent;
    - ii) Form I-130 petition as a widow(er) of a U.S. citizen;
    - iii) Self-petition under the Violence Against Women Act (including those filed by a parent on behalf of an abused child); or,
    - iv) An application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.
  - b) There is substantial connection between the battery or extreme cruelty and the need for Food Assistance benefits; and
  - c) The battered non-citizen, child, or parent no longer resides in the same home as the abuser.
2. Eligible Non-Citizens Not in a Qualified Alien Status:

The following classes of non-citizens are not defined as having a qualified alien status, but are potentially eligible for participation in the Food Assistance Program without having to meet an additional condition (see Section 4.305, B, 3). All other classes of non-citizens that are not in a qualified alien status are not eligible for participation in the Program.

- a. Certain American Indians Born Abroad



American Indians born abroad in Canada living in the U.S. under Section 289 of the INA or non-citizen members of a federally-recognized Indian tribe under Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(B)(E) who are recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians.

This provision was intended to cover Native Americans who are entitled to cross the U.S. border between Canada and/or Mexico. It was intended to include, among others, the St. Regis Band of the Mohawk in New York State, the MicMac in Maine, the Abanaki in Vermont, and the Kickapoo in Texas.

**b. Hmong or Highland Laotian Tribal Members**

An individual lawfully residing in the U.S. who was a member of a Hmong or Highland Laotian tribe that rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (August 5, 1964 – May 7, 1975). This category includes:

- 1) The spouse or un-remarried surviving spouse of such Hmong or Highland Laotian who is deceased; and/or,
- 2) An unmarried dependent child of such individual who is under the age of eighteen (18) or, if a full-time student, under the age of twenty-two (22);
- 3) An unmarried child under the age of eighteen (18) or, if a full-time student, under the age of twenty-two (22) of a deceased Hmong or Highland Laotian provided the child was dependent upon him or her at the time of his or her death; or,
- 4) An unmarried disabled child age eighteen (18) or older if the child had a disability and was dependent on the person prior to the child's eighteenth (18<sup>th</sup>) birthday. For purposes of this paragraph, "child" means the legally adopted or biological child of the person described in this section as a Hmong or Highland Laotian tribe member.

**3. Additional Conditions**

Non-citizens in a qualified alien status as outlined in subsection 4.305, B, 1, are required to meet one additional condition in order to be eligible for participation in the Program. At the time the non-citizen applies for Food Assistance, he or she need only satisfy one of the following conditions to be eligible for Food Assistance:

**a. Five (5) Years of Residence**

The non-citizen has lived in the U.S. in a qualified alien status for five (5) years. The five (5) year waiting period begins on the date the non-citizen obtains status as a qualified alien or enters the U.S. in a qualifying status.

b. Forty (40) Qualifying Work Quarters

A person shall have satisfied this additional condition if he or she is lawfully admitted for permanent residence while already possessing credit for forty (40) qualifying work quarters as defined under Title II of the Social Security Act. In some cases, an applicant may have work from employment that is not covered by Title II of the Social Security Act, but which is countable toward the forty (40) quarters test, and there are also cases in which SSA records do not show current year's earnings. Such quarters are still countable for the forty (40) quarter test, but the individual non-citizen shall be responsible for providing evidence needed to verify the quarters.

1) The sum of work quarters can include:

- a) Quarters the non-citizen worked;
- b) Quarters credited from the work of a parent of such a non-citizen while the non-citizen was under eighteen (18), which includes quarters worked before the non-citizen was born or adopted; or
- c) Quarters credited from the work of the non-citizen's spouse. Quarters are only creditable to the non-citizen for work performed by his or her spouse if the couple is still legally married, or if the spouse becomes deceased while married to the non-citizen, and the work being credited to the non-citizen was performed after the marriage began.

If a couple divorces prior to determination of Food Assistance eligibility, a spouse may not get credit for quarters of their spouse. However, if the local office determines eligibility of a non-citizen based on the quarters of the spouse, and then the couple divorces, the non-citizen's eligibility continues until the next re-certification. At that time, the local office shall determine the non-citizen's eligibility without crediting the non-citizen with the former spouse's quarters of coverage.

2) The sum of work quarters cannot include:

- a) Quarters in which not enough income was earned to qualify, or,
- b) Quarters earned after December 31, 1996, cannot be counted if the non-citizen, during the quarter, received Food Assistance or any other federal means-tested public benefits, such as Medicaid, SSI, TANF, or state Children's Health Insurance Program.

c. Children Under Eighteen (18)

A non-citizen under eighteen (18) years of age in a qualified alien status who lawfully resides in the U.S. When the non-citizen turns eighteen (18), non-citizen eligibility shall be reviewed.

- d. Blind or Disabled

A non-citizen who is blind or a person with a disability if the non-citizen is receiving benefits or assistance for their condition regardless of entry date.
- e. Elderly born on or before August 22, 1931 who lawfully resided in the U.S. on August 22, 1996.
- f. Military Connection
  - 1) Qualified aliens with a military connection, including an individual who is lawfully residing in a state and is on active duty, other than training, in the military, excluding national guard; or,
  - 2) An honorably discharged veteran, as defined in Section 101 of Title 38, U.S.C, whose discharge is not because of immigration status, who fulfills the minimum active-duty service requirements. This includes an individual who died in active military duty, naval or air service. This provision extends to the spouse, un-remarried surviving spouse, and unmarried dependent children. A discharge “under honorable conditions,” which is not the same as an honorable discharge, does not meet this requirement.
  - 3) The definition of “veteran” shall also include:
    - a) An individual who served before July 1, 1946, in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts; or,
    - b) An individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, or the spouse of such a person; or,
    - c) The spouse of a veteran who served at least twenty-four (24) months in the Armed Forces. This includes the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. The U.S. Code does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203, or state publications depository; or,
    - d) An unmarried dependent child of a veteran who is under the age of eighteen (18) or, if a full-time student, under the age of twenty-two (22); or,

- e) Unmarried dependent child of a deceased veteran provided such child was dependent upon the veteran at the time of the veteran's death; or an unmarried disabled child age eighteen (18) or older if the child was disabled and dependent upon the deceased veteran prior to the child's eighteenth (18<sup>th</sup>) birthday. For purposes of this provision, "child" means the legally adopted or biological child of the veteran.

**4.305.1 Non-Citizens Ineligible for Participation in the Program**

The following non-citizens are not eligible to participate in the Food Assistance Program as a member of any household.

- A. Non-citizens who are lawfully present in the U.S. but not in a qualified status, such as students and H-1B Visa workers;
- B. Undocumented non-citizens (e.g., individuals who entered the country as temporary residents and overstayed their visas or who entered without a visa) are not eligible for Food Assistance benefits;
- C. Non-citizen visitors;
- D. Tourists;
- E. Diplomats;
- F. Students who enter the U.S. temporarily with no intention of abandoning their residence in a foreign country;
- G. Individuals granted temporary protection status (TPS), unless in some other qualifying alien status;
- H. Citizens of nations under Compact of Free Association agreements (Palau, Micronesia, and the Marshall Islands) who have been admitted under those agreements are not qualified aliens. These individuals may otherwise reside, work, and study in the U.S.; and,
- I. Individuals with U Visas, including minor children under the age of eighteen (18), are ineligible for Food Assistance as they have temporary status and are not considered qualified aliens. However, if the individual adjusts to qualified alien status, such as LPR or battered immigrant status, then the individual's non-citizen eligibility shall be reviewed under the new status.

**4.305.2 Households Containing a Sponsored Non-Citizen Member**

- A. The provisions of this section apply only to those non-citizens for whom a sponsor has executed an affidavit of support (INS Form I-864 or I-864A) on behalf of the non-citizen pursuant to Section 213A of the Immigration and Nationality Act (INA) on or after December 19, 1997. Prior to this time, affidavits of supports, known as I-134s, were not legally binding; therefore, the sponsor could not be legally compelled to support the non-citizen based on an affidavit of support signed prior to December 19, 1997.
- B. Definition of a Sponsor
  - 1. Sponsored non-citizens are those non-citizens lawfully admitted for permanent residence into the United States who have been sponsored by an individual for entry into the country.

2. A sponsor is a person who executed an affidavit(s) of support (INS Form I-864 or I-864A) or another form deemed legally binding by the Department of Homeland Security on behalf of a non-citizen as a condition of the non-citizen's entry or admission to the United States as a permanent resident. Date of entry or admission means the date established by the Immigration and Naturalization Service (INS) as the date the sponsored non-citizen was admitted for permanent residence.
- C. Only when a sponsored non-citizen is an eligible non-citizen will the local office consider the income and resources of the sponsor and sponsor's spouse available to the household. For purposes of determining eligibility and benefit level of a household of which an eligible sponsored non-citizen is a member, the local office shall deem the income and resources of the sponsor and the sponsor's spouse, if he or she executed INS Form I-864 or I-864A, as the unearned income and resources of the sponsored non-citizen.
- D. Calculating Sponsor Income
1. The total gross income and resources of a sponsor and sponsor's spouse shall be considered as unearned income and resources of a sponsored non-citizen for a period until the person's citizenship is obtained; or until the non-citizen has worked or can receive credit for forty (40) work quarters under Title II of the Social Security Act; or the sponsor dies.  
  
The spouse's income and resources shall be counted even if the sponsor and spouse were married after the signing of the agreement.
  2. The monthly income of the sponsor and the sponsor's spouse to be considered toward the non-citizen shall be the total monthly earned and unearned income of the sponsor and spouse at the time the household containing the sponsored non-citizen member applies for or is recertified for Program participation and shall be calculated as follows:
    - a. Reduced by an amount equal to twenty percent (20%) of the earned income of the sponsor and the sponsor's spouse; and,
    - b. An amount equal to the Food Assistance Program's monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes; and,
    - c. If a sponsored non-citizen can demonstrate to the local office's satisfaction that his or her sponsor is the sponsor of other non-citizens, the local office shall divide the deemed income and resources of the sponsor and the sponsor's spouse by the number of such sponsored non-citizens.
  3. If the sponsored non-citizen has already reported gross income information on his/her sponsor in compliance with the sponsored non-citizen rules of another state assistance program, and the local office is aware of the amounts that income amount shall be used for Food Assistance deeming purposes. However, the local office shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the non-citizen. The only reduction will be twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse and an amount equal to the Food Assistance Program's monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes.

4. Actual money paid to the non-citizen by the sponsor or the sponsor's spouse shall not be considered as income to the non-citizen unless the amount paid exceeds the amount already considered as income as above. Only the portion that actually exceeds the income already considered shall be added to that income.
  5. If the non-citizen changes sponsors during the certification period, a change shall be processed to consider the new sponsor's income and resources toward the non-citizen as soon as possible after the information is verified. The previous sponsor's income and resources shall be used until such determination; however, should any present sponsor become deceased, that sponsor's income and resources shall not be attributed to the non-citizen.
  6. Total resources of the sponsor and the sponsor's spouse shall be considered as resources to the non-citizen reduced by one thousand five hundred dollars (\$1,500). See Section 4.206 "Categories of Eligibility" regarding which households are subject to a resource limit.
- E. The counting of a sponsor's income and resource provisions do not apply to a non-citizen who is:
1. A member of his or her sponsor's Food Assistance household;
  2. Sponsored by an organization or group as opposed to an individual;
  3. Not required to have a sponsor under the Immigration and Nationality Act (INA), such as a refugee, a parolee, an asylee, or a Cuban or Haitian entrant;
  4. A non-citizen who is considered as an "indigent" non-citizen;

An indigent non-citizen is a non-citizen who has been determined to be unable to obtain food and shelter which totals to an amount exceeding one hundred thirty percent (130%) of the federal poverty level. A non-citizen who is receiving in-kind benefits that exceed the gross income level for the household size shall not be considered indigent. The non-citizen's own income plus any cash, food, housing, or other assistance provided by other individual's, including the sponsor will be counted in making this determination.

For purposes of this provision, the sum of the eligible sponsored non-citizen's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance from the sponsor and others, shall not exceed one hundred thirty percent (130%) of the poverty income guideline for the household's size. The local office shall determine the amount of income and other assistance provided in the month of application. If the non-citizen is below one hundred thirty percent (130%) of the federal poverty level, the only amount that the local office shall consider to such a non-citizen will be the amount actually provided by the sponsor for a period beginning on the date of such determination and ending twelve (12) months after such date. Each determination is renewable for additional twelve (12) month periods. The local office shall notify the U.S. attorney general of each such determination, including the names of the sponsor and the sponsored non-citizen involved.

5. A child of a battered parent is exempt from the provision of sponsorship. A battered non-citizen spouse, non-citizen parent of a battered child, or child of a battered non-citizen will not have sponsor's income and resources counted during a twelve (12) month period after the local office determines that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer. After twelve (12) months, the local office shall not deem the batterer's income and resources if the battery is recognized by a court or the INS and has a substantial connection to the need for benefits, and the non-citizen does not live with the batterer;
6. Had been sponsored but has since obtained citizenship;
7. A person whose sponsor has died; or,
8. Who has worked or can receive credit for a total of forty (40) work quarters under Title II of the Social Security Act.

**F. Verification Requirements**

The local office shall verify the following information at the time of initial application and recertification:

1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if the spouse is living with the sponsor) at the time of the non-citizen's application for Food Assistance.
2. The names (and alien registration numbers) of other non-citizens for whom the sponsor has signed an affidavit of support or similar agreement.
3. The number of dependents who are eligible to be claimed for federal income tax purposes by the sponsor and the sponsor's spouse.
4. The name, address, and phone number of the non-citizen's sponsor.
5. Any other information that is determined to be questionable and which affects household eligibility and benefit level shall be verified in accordance with Section 4.500.

**G. Awaiting Verification**

1. Until the non-citizen provides information or verification necessary to determine eligibility, the sponsored non-citizen shall be ineligible. When such verification is provided, the local office shall act on the information as a reported change in household circumstances. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible non-citizen (excluding the attributed income and resources of the non-citizen's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member as set forth in Section 4.411.1 and considered available in determining the eligibility and benefit level of the remaining household members.
2. If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, other adult members of the non-citizen's household shall be responsible for providing and/or verifying the information. If the information or verification is subsequently received, the local office shall act on the information as a reported change. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the needed information is provided and/or verified. The local office shall assist the non-citizen in obtaining verification provided the household is cooperating with the local office.

H. Sponsored Non-Citizen's Responsibility

1. During the period the sponsored non-citizen is subject to deeming, the eligible sponsored non-citizen shall be responsible for obtaining the cooperation of his/her sponsor, for providing the local office, at the time of application and/or recertification, the information and/or documentation necessary to calculate income and resources attributable to the non-citizen's household. The eligible sponsored non-citizen shall be responsible for providing the names (or other identifying factors) of other non-citizens for whom the non-citizen's sponsor has signed an agreement to support. The local office shall attribute the entire amount of income and resources to the applicant eligible sponsored non-citizen until he or she provides the information required.
2. The local office will determine how many of such non-citizens are Food Assistance Program applicants or participants and initiate appropriate proration. The eligible sponsored non-citizen shall also be responsible for reporting the required information about the sponsor and sponsor's spouse should the non-citizen obtain a different sponsor during the certification period. The eligible sponsored non-citizen shall report changes in income should the sponsor or sponsor's spouse change or lose employment or become deceased during the certification period. The local office shall act on the information as a reported change in household circumstances as set forth in Section 4.604.

**4.305.3 Reporting Undocumented Non-Citizens**

- A. The local office shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of households determine that any member of a household is ineligible to receive Food Assistance because the member is present in the United States in violation of the Immigration and Nationality Act.
- B. In determining whether the member is present in the United States in violation of the Immigration and Nationality Act, caution shall be exercised to insure that the determination is not made merely on the non-citizen's inability or unwillingness to provide documentation of non-citizen status. When a person indicates inability or unwillingness to provide documentation of non-citizen status, the local office shall not continue efforts to obtain documentation other than that necessary to obtain information on the income and resources to be made available to remaining members of the household.
- C. Because many non-citizens who are legally present in the United States are not eligible for Food Assistance, eligibility workers are cautioned that a determination that a person is an ineligible non-citizen is not equivalent to a determination that a person is an illegal non-citizen.
- D. When and if a Food Assistance eligibility worker is able, on the basis of information that becomes available to him/her in the process of reviewing a household's eligibility for Food Assistance, to determine that a member or members of that household are in fact illegal non-citizens present in the United States in violation of the immigration laws, the eligibility worker will report the determination to his or her supervisor. The report to INS, if made, shall be in writing.

This rule does not permit the reporting to INS on mere suspicion or prejudice. Firm evidence that a household is illegally in the U.S. would be required. A person known to be a non-citizen in the United States in violation of the Immigration and Nationality Act is only known to have such status when he or she is found in this country and is known to have a final order of deportation outstanding against him or her. An outstanding order of deportation is final when it is not subject to appeal because the relevant statutory appeal period of ten (10) days has expired or because there are no lawful grounds upon which an appeal may be based or because the available administrative and/or judicial appeals have been exhausted, and the order is not subject to review under the limited standards of reopening for consideration.



- E. The failure to report an illegal non-citizen to INS will not be considered a quality assurance error or assessed as an administrative deficiency.

**4.306 STUDENT ELIGIBILITY**

- A. Any person who is age eighteen (18) through forty-nine (49), physically and mentally fit, and enrolled at least half time in an institution of higher education shall not be eligible to participate in the Food Assistance Program unless the person meets at least one of the criteria listed in Section 4.306.1.

Institutions of higher education are defined as those institutions that normally require a high school diploma or equivalency certificate for a student to enroll. Post-high school education includes, but is not limited to, colleges, universities, and post-high school level technical and vocational schools.

- B. Student eligibility criteria does not apply to the following individuals:

1. Persons age seventeen (17) or under;
2. Persons age fifty (50) or over;
3. Persons who are physically or mentally unfit for employment (including students participating through or in a vocational rehabilitation program);

If mental or physical unfitness for employment is claimed and the unfitness is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits or a statement from a physician or licensed psychologist.

4. Persons enrolled less than half time;
5. Persons enrolled full time in schools and training programs that are not institutions of higher education;
6. Persons attending high school;
7. Persons participating in an on-the-job training program.

On-the-job training is defined as training in an employment environment and does not include an internship, field work, or practical experience associated with a course of higher education.

- C. The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Once a student enrolls in an institution of higher education, such enrollment shall be deemed continuous through normal periods of class attendance, vacation, and recess unless the student graduates, is suspended or expelled, drops out or does not intend to register for the next normal school term (excluding summer session). It is possible for a student to enroll prior to the beginning of the school term. However, for eligibility purposes, enrollment starts when the student starts classes.

**4.306.1 Student Eligibility Criteria**

To be eligible to participate in the Food Assistance Program, a student shall meet at least one (1) of the following criteria:

- A. The student is employed for an average of twenty (20) hours per week and is paid for such employment. The student shall be employed an average of twenty (20) hours each week, regardless of wages received.

If the student is self-employed, the student shall work an average of twenty (20) hours a week and have earnings after allowable business expenses are deducted equal to at least the federal minimum wage multiplied by twenty (20) hours.

The weekly employment of twenty (20) hours may be based on an average number of hours worked per month, so long as the student is employed for eighty (80) hours per month.

- B. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for Food Assistance. The work-study shall be approved for the school term and student shall anticipate actually working during that time. The student qualifies for this exemption the month the school term in which the work-study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break.
- C. The student is responsible for the more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12).

The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same Food Assistance household as the child. A full-time student in the same Food Assistance household with a child who is under his/her parental control may qualify if he/she does not reside with his/her spouse.

- D. The student is responsible for more than half of the physical care of a dependent household member who has reached the age of six (6) but is under the age of twelve (12) where the local office has determined that adequate child care is not available to enable the individual to attend class and satisfy the requirement of item A or item B, above.
- E. The student is receiving a Title IV-A TANF cash grant. The student's needs shall be included in the grant to be eligible under this provision. Family Preservation is not considered a TANF cash grant.
- F. The student is assigned to or placed in an institution of higher education through a program under the Workforce Investment Act (WIA), Employment First Program, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the Food Assistance Employment First Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.

Self-initiated placement during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled. This placement is considered in compliance provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption.

- G. The student is participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by an employer.

**4.307 STRIKER ELIGIBILITY**

- A. Households containing a striking member shall not be eligible for Food Assistance unless the household was eligible for the Program the day before the strike and are otherwise eligible at time of the strike. Households where the striking member was exempt from work registration the day before the strike shall not be subject to these provisions and shall be certified if otherwise eligible, unless the exemption was based on the employment.
- B. Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two (2) to the current income of the non-striking household members during the month of application. The higher income will be used in determining benefits.
- C. For Food Assistance purposes, a striker is anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Individuals will be deemed participants in a strike whether or not they personally voted for the strike.
- D. Households containing a striking member shall not be eligible for Food Assistance unless the household was eligible for the Program the day prior to the strike, and is otherwise eligible at the time of application.

**4.307.1 Households Not Affected by the Striker Provisions**

- A. Employees whose work place is closed by an employer (i.e., lockout),
- B. Employees unable to work as a result of other striking employees (e.g., a paper strike closes operations at a printing company; therefore, pressmen are out of work),
- C. Employees not wanting to cross a picket line due to fear of personal injury or death (this does not include persons sympathetic to the strike who refuse to cross the picket line),
- D. Persons who were exempt from work registration the day before the strike such as the caretaker of a child under six (6) years of age (other than those exempt solely on the ground that they were employed).

**4.308 VOLUNTARY QUIT**

- A. No individual who quit his or her most recent job without good cause or reduces work effort and, after the reduction, is working less than thirty (30) hours each week, without good cause, or earning less than the federal minimum wage multiplied by thirty (30) hours, shall be eligible for participation in the Food Assistance Program. At the time of application, the eligibility technician shall explain to the applicant the potential penalties if a household member quits his or her job or reduced hours or wages without good cause or if another member joins the household if that individual has voluntarily quit employment.

B. When a household files an application, or when a participating household reports the loss of a source of income or reduction in hours, the local office shall determine whether any household member voluntarily quit or reduced his or her hours or income. Benefits shall not be delayed beyond the processing standards as specified in Section 4.205.2 pending the outcome of this determination. A sanction shall be imposed if the quit or reduction in hours or wages occurred within sixty (60) calendar days prior to the date of application or anytime thereafter, and the quit or reduction was without good cause. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have voluntarily quit his or her job without good cause. If an individual quits a job, secures new employment at comparable wages or hours, and, through no fault of his or her own loses the new job, the earlier quit shall not be a basis for disqualification.

C. In the case of an applicant household, the local office shall determine whether any currently unemployed household member who is required to register for work or was exempt from registration for being employed has voluntarily quit his or her most recent job within the last sixty (60) days. If the local office learns that a household has lost a source of income after the date of application but before the household is certified, the local office shall determine whether a voluntary quit occurred.

The nonexempt individual who quit or reduced work hours will be ineligible to participate for the sanction period if the household is determined eligible for the Food Assistance Program. The individual will be required to comply with Employment First following the sanction period unless the individual becomes exempt from work requirements.

D. In the case of the participating household, the local office shall determine whether any household member voluntarily quit his or her job while participating in the Program. If a household is already participating when a quit that occurred prior to certification is discovered, the household shall be regarded as a participating household.

E. Upon a determination that the individual voluntarily quit employment, reduced work hours below thirty (30) hours, or reduced wages to the point at which the person is earning less than the federal minimum wage multiplied by thirty (30) hours, the local office shall determine if the voluntary quit was with good cause.

If an individual voluntarily quits or reduces work hours/wages without good cause, the individual will be disqualified in the same manner as individuals failing to comply with work registration or Employment First requirements (See Section 4.310.6).

F. If the local office determines that the individual voluntarily quit his or her job or reduced his or her work hours without good cause while participating in the Food Assistance Program, the local office shall provide the household with a Notice of Adverse Action within ten (10) calendar days after the determination of a voluntary quit is made. The notice shall contain the particular act of noncompliance, the proposed period of disqualification, the action to be taken at the end of the disqualification and shall specify that the individual may be included in the household after the disqualification period if the individual meets other work requirements.

G. Individuals have the right to a fair hearing to appeal a disqualification due to a determination that the individual quit his or her job without good cause or reduced his or her work hours without good cause. If a participating household requests a fair hearing and the local office determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered.

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**4.308.1 Good Cause for Quitting or Reducing Work Hours**

Upon a determination that the individual voluntarily quit employment, the local office shall determine if there was good cause which shall include, but not be limited to, any of the following:

- A. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;
- B. Work demands or conditions that render continued employment unreasonable such as working without being paid on schedule;
- C. Acceptance by the individual of employment; or enrollment of at least half-time in any recognized school, training program, or institution of higher education, that requires the individual to leave employment;
- D. Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program, or institution of higher education in another county or political sub-division which requires the household to move and thereby requires the individual to leave employment;
- E. Resignations by persons under the age of sixty (60) that are recognized by the employer as retirement;
- F. Resignation from employment that does not meet suitable criteria specified in Section 4.310.51;
- G. Because of circumstances beyond the control of the individual, accepted full time employment subsequently either does not materialize or results in employment of less than thirty (30) hours a week or weekly earnings of less than the federal minimum wage multiplied by thirty (30) hours;
- H. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work, even though employment at the new site has not actually begun;
- I. Illness of the head of household;
- J. Illness of another household member requiring the presence of the head of household;
- K. A household emergency;
- L. The unavailability of transportation; or,
- M. Employer demands a reduction in participant's work effort or salary through no fault of the employee.

**4.309 HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES**

The following sections explain the application of Food Assistance criteria and certification procedures to the eligibility determinations for households with special circumstances pertaining to:

- A. Dining Facilities and Homeless Meal Providers;
- B. Shelters for Battered Women and Children;
- C. Drug and Alcohol Treatment and Rehabilitation Centers;

D. Residents of Group Living Arrangements.

**4.309.1 Dining Facilities and Homeless Meal Providers**

Households with special circumstances, such as being disabled, elderly, or center residents, may be authorized to use Food Assistance benefits to buy food from authorized communal dining facilities, meals on wheels, drug or alcohol treatment and rehabilitation centers, and shelters for battered women and children.

Homeless households may also use Food Assistance benefits to purchase prepared meals from approved restaurants. Homeless Food Assistance households may use food benefits for meals prepared for and served by an authorized provider (for example, soup kitchen or temporary shelter) that feeds homeless persons.

**4.309.2 Shelters for Battered Women and Children**

There are no restrictions on how long a center shall be in operation or on the number of residents served by the shelter. The local office shall determine a shelter's status as a shelter for battered women and children and shall document the basis for their determination. The rules within this subsection apply specifically to centers which provide meals to their residents. Centers which do not provide meals are not to be considered institutions and their residents' eligibility will be determined using the standard rules for eligibility.

**4.309.21 Residents of Shelters for Battered Women and Children**

Women or women with their children who are temporarily residing in a shelter for battered women and children (which serves over fifty percent (50%) of their meals) shall be considered exempt from the prohibition against residents of institutions.

- A. They shall be allowed to apply and be considered for eligibility as individual (parent/child) units, rather than considered as part of a household consisting of all shelter residents.
- B. Since leaving a shelter may pose a hazard to many of these women and children, the local office shall make provisions to interview these persons over the telephone, if the client feels it is necessary.
- C. In many instances battered women and their children who were previously certified in the household of an abuser may not have access to their allotment. Therefore, these individuals shall be allowed to participate in one (1) additional project area and/or household so long as one of the two households with which they are participating contains the individual who abused them. These persons may receive an additional allotment only once in a month.
- D. The local office should act promptly to reflect the changes in household composition and shall act on the change to reduce or terminate benefits to the applicant's former household as appropriate in accordance with Section 4.604.
- E. Shelter residents who apply as separate households shall be certified solely on the basis of their income and resources and the expenses for which they are responsible. They shall be certified without regard to the income, resources, and/or expenses of their former household. Jointly held resources shall be considered inaccessible to the household if access to such resources is dependent upon the agreement of a joint owner who still resides in the former household.

**4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers**

- A. Residents of publicly operated community mental health centers or private non-profit organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in the Food Assistance Program.
- B. The drug or alcohol treatment or rehabilitation center shall be approved by the Colorado Department of Public Health and Environment, before its residents are eligible for Food Assistance participation. The Department of Public Health and Environment will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction.

Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer, is certified by the Department of Public Health and Environment, and such proof may be provided in the form of a license or an approval letter issued to the center by that agency, or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.).

Children of the residents in a drug and alcohol treatment center who live with their parents in the treatment center will qualify for Food Assistance. Meals served to the children are eligible for purchase with Food Assistance.

- C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in the Food Assistance Program. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households.
- D. Residents may be receiving public assistance or SSI benefits, or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven calendar days following the date the application was filed.
- E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their Food Assistance benefits to purchase food prepared for or served to the individual during the course of such program provided the program has been authorized by FNS for such purposes.

**4.309.31 Responsibilities of the Center**

Drug or alcohol treatment and rehabilitation centers will be responsible for the following:

- A. Each treatment and rehabilitation center shall provide the certification office with a certified list of currently participating residents and their children residing with them in the center. The certification office shall require the list on a monthly or semimonthly basis. In addition, the certification office shall conduct periodic, random, onsite visits to the center to ensure the accuracy of the listings and that the local office's records are consistent and up-to-date. The frequency of periodic visits is left to the discretion of the local office but once each year is recommended.
- B. The treatment center shall notify the certification office if households participating in the program while residing at the center experience any of the following:

1. Changes in the source of income or amount of gross monthly income of more than twenty-five dollars (\$25);
  2. Acquisition of A nonexempt vehicle; or,
  3. Acquisition of additional liquid resources that increase the household's resource value to at least two thousand dollars (\$2,000).
- C. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the household has left the center.

The treatment center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf. If benefits have been issued and any portion have been spent on his/her behalf and the resident leaves prior to the sixteenth (16<sup>th</sup>) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16<sup>th</sup>), and benefits have already been used, the resident shall not receive any benefits. The center shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the center.

- D. The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the organization or institution shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf.
- E. The organization or institution may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state office when it has reason to believe that an organization or institution is misusing Food Assistance benefits in its possession. However, no action shall be taken against the organization or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered as a result of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.

#### **4.309.4 Residents of Group Living Arrangements**

- A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person shall be blind or disabled as defined in Section 4.304.41. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents, and is certified as a group living arrangement by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services under Section 1616(e) of the Social Security Act. FNS may also certify under standards determined by the USDA that are comparable to standards implemented the state under 1616(e) of the Social Security Act (codified at 42 USC). The federal laws do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.



- B. Residents of group living arrangements may elect to participate in the Food Assistance Program. Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement, or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for Food Assistance on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs.
1. If residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. The group living arrangement may either receive and spend the allotment on food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the allotment on his/her own behalf.
  2. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement.
- C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other Food Assistance households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued.
- D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other Food Assistance households, and resident households shall be afforded the same rights all other Food Assistance households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.

**4.309.41 Responsibilities of Group Living Arrangements**

- A. Each group living arrangement shall provide the local office with a list of currently participating residents. The local office shall require the list on either a monthly or semimonthly basis and the list shall be signed by a responsible center official attesting to the validity of the list. In addition, the local office shall conduct periodic random onsite visits to ensure the accuracy of the list and that the local office's records are consistent and up to date.
- B. If the resident has applied on his/her own behalf, the household is responsible for reporting changes to the local office in accordance with Section 4.603. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the local office of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.
- C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement prior to the sixteenth (16<sup>th</sup>) day of the month, the facility shall provide the household with its EBT card and one-half of its monthly benefit allotment. If the household leaves after the sixteenth (16<sup>th</sup>) of the month and the benefits have already been issued and used, the household does not receive any benefits.

If a group of residents has been certified as one household and has returned the benefits to the facility to use, the departing residents shall be given a pro rata share of one-half of the household's monthly benefit allotment if leaving prior to the sixteenth (16<sup>th</sup>) day of the month. Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative.

The group living arrangement shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the group living arrangement.

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

- C. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the facility shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household.
- D. The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at a central location as part of the group living arrangement services or if meals are prepared at a central location for delivery to the individual residents. If residents purchase and/or prepare food for individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's Food Assistance benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/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.

#### **4.309.42 Disqualification of the Group Living Arrangements**

A group living arrangement facility authorized by FNS may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The local office shall promptly notify the Colorado Department of Human Services, Division of Food and Energy Assistance, when it has reason to believe that a facility is misusing benefits. However, the local office shall take no action prior to FNS action against the facility. The local office shall establish a claim for over-issuances of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered during an investigation or hearing procedure for redemption violations.

If the facility loses its authorization from FNS to accept Food Assistance benefits, or is no longer certified by the Colorado Department of Public Health and Environment as a group living arrangement, residents using the facility as an authorized representative shall no longer be able to participate. The residents are not entitled to a Notice of Adverse Action, but shall receive a written notice explaining the termination and when it shall become effective.

Residents applying on their own behalf shall still be able to participate, if otherwise eligible.

#### **4.310 WORK REGISTRATION**

The Food and Nutrition Act of 2008, as amended, requires that all members of eligible households, who have attained the age of sixteen (16) and have not yet reached their sixtieth (60<sup>th</sup>) birthday, shall register for work, participate in an employment and training program as required, accept suitable employment, and provide sufficient information to allow the agency to determine the employment status or the job availability of the individual, unless exempt as noted below. This requirement shall include a person not working because of a strike or lockout at his/her usual place of employment.

Compliance with the work registration requirement is a prerequisite to certification. The requirement cannot be waived, and benefits may not be granted conditionally prior to registration of all household members who are required to do so.

Work registration shall be accomplished through the completion of the Food Assistance application in Employment First counties all household members between the ages of sixteen (16) and sixty (60), except the persons described in the following sections, at the time of application and once every twelve (12) months. The work registration form shall be signed by the member required to register or by another adult household member.

##### **4.310.1 Work Registration and Referral to Employment First in Employment First Counties**

“Work registration” means completion of the Food Assistance application and, in an Employment First county, referral to an Employment First Unit. The local office shall complete an appointment form for all household members not exempt from work registration under Section 4.310.3.

In Employment First counties, the Food Assistance eligibility technician shall provide the written notice of referral to each work-registered household member, send a copy to the Employment First Unit, and retain a copy of the referral in the case record.

Upon determination that the person should be referred to an Employment First Unit, the local office shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failing to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to work registration and at recertification.

Individuals who are not determined exempt from work registration shall be referred to Employment First at the application interview. Food Assistance applicants may volunteer for Employment First services prior to the application interview. Exempt recipients may volunteer at any time.

Employment First may exempt individuals for whom they determine participation in an Employment First component is impractical. Reasons for such exemption include lack of job readiness, remoteness from work opportunities (remoteness shall mean a one-way commute of more than one hour), or lack of transportation, medical or family problems, such as a lack of child care, migrant or seasonal farm work status, or other reasons as Employment First determines limit practicability.

Job-attached persons (e.g., those on temporary layoff or those expecting to return to work within sixty (60) days shall be exempt from referral to Employment First for sixty (60) calendar days at which time the local office shall review the job-attached status.

Reasons for exemption should be reviewed at recertification or more frequently if a change affecting the exempt status occurs, and shall be documented in the case record.

Any resident or non-resident participant in a drug or alcohol center's treatment and rehabilitation program is exempt from the work registration requirement. This exemption is not meant to discourage participants in such a program from seeking and accepting employment on their own.

**4.310.11 Work Registration in Non-Employment First Counties**

Fulfillment of the work registration requirement in non-employment first counties shall occur when an applicant household completes and signs a Food Assistance application.

**4.310.2 Work Requirements for Ages Eighteen (18) through Forty-Nine (49) Years**

- A. No individual shall be eligible to participate in the Food Assistance Program as a member of any household if, during the preceding thirty-six (36) month period, the individual received Food Assistance benefits for not less than three (3) months (consecutively or not) during which time the individual:
1. Was not employed twenty (20) hours or more each week, averaged monthly; or,
  2. Did not participate in and comply with the requirements of a work program for twenty (20) hours or more each week; or,
  3. Did not participate in and comply with Section 20 Workfare program of the Food and Nutrition Act of 2008 (codified at 7 USC sec. 2011 et seq.).
- B. A work program is defined as:
1. A program of employment and training operated or supervised by the Employment First program other than a job search program or a job search training program;
  2. A program under the Workforce Investment Act (WIA);
  3. A program under Section 236 of the Trade Act of 1974 (19 USC 2296, "Trade Adjustment Assistance");
  4. Workfare under Section 20 of the Food Stamp Act, as amended.
- C. The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are:
1. Under eighteen (18) or fifty (50) years of age or older;
  2. Medically certified as physically or mentally unfit for employment;
  3. A parent or other member of a household with responsibility for a dependent child under the age of eighteen (18);
  4. Pregnant;
  5. Exempt from work registration under the exemptions listed in Section 4.310.3;
  6. Exempt under a waiver approved by the USDA, FNS. Counties may request such a waiver through the Food Assistance Programs Division (FAPD). FAPD will also consult with Employment First and submit requests for counties or areas that the State Department considers as meeting this requirement. All affected counties will be notified by written correspondence.

The waiver from these requirements can be requested when the area has an unemployment rate of ten percent (10%) or the area does not have a sufficient number of jobs to provide employment for the individuals.

**D. Regaining Eligibility**

1. An individual who is denied eligibility under this provision can regain eligibility if in a thirty (30) calendar day period, the individual is employed eighty (80) or more hours, participates in and complies with the requirements of a work program for eighty (80) or more hours as determined by Employment First, or participates and complies with Section 20 Workfare.
2. The individual will be reinstated the month following the month of compliance if otherwise eligible and will continue to be eligible as long as compliance with these requirements continues or the individual becomes exempt.
3. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the county department. The individual can only have this provision apply for a single three-month period in any thirty-six (36) month period.

**4.310.3 Exemptions from Work Registration**

**A. Persons Under Age Eighteen (18)**

A person age sixteen (16) or seventeen (17) who is not the head of a household is exempt. A sixteen (16) or seventeen (17) year-old head of household who is attending school, or enrolled in an employment training program on at least a half-time basis is exempt from work registration.

**B. Persons Caring for Children and Incapacitated Household Members**

The able-bodied parent or other household member who is responsible for the care of a dependent child under the age of six (6) or an incapacitated person is exempt from work registration.

If the child reaches his or her sixth (6<sup>th</sup>) birthday within a certification period, the individual responsible for care of the child shall register for work at the next scheduled certification, unless the individual qualifies for another exemption.

**C. Physically or Mentally Unfit for Employment**

Persons physically or mentally unfit for employment are exempt from work registration. If physical or mental unfitness is claimed and is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed psychologist. Individuals who are eighteen (18) years of age through forty-nine (49) years of age, who are subject to work requirements as set out in Section 4.310.2 shall provide a medical certification of disability.

D. Eligible Students

Eligible students are those enrolled at least half-time, as defined by the educational facility, in any recognized school or training program, and those in an institution of higher education who have met the eligibility conditions in Section 4.306 are exempt from work registration. Eligible students shall remain exempt from work registration during normal periods of class attendance, vacation, and recess.

Persons who are not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to register for the next normal school term (other than summer), shall not be considered students for the purpose of qualifying for this exemption.

E. Employed and Self-Employed

Employed or self-employed individuals who are working a minimum of thirty (30) hours per week or receiving weekly earnings at least equal to the federal minimum wage multiplied by thirty (30) hours are exempt from work registration. This shall include migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days.

Persons working in Action programs (including VISTA) are exempt from work registration if they work at least thirty (30) hours per week even if compensation is not consistent with prevailing community wage, since an employer-employee relationship can be documented. Those engaged in volunteer work or hobby activity cannot be considered gainfully employed unless the income is consistent with thirty (30) hours employment as herein defined, regardless of the time spent in such endeavor.

F. Unemployment Compensation Benefits

A person applying for or receiving Unemployment Insurance Benefits (UIB) shall be exempt from work registration requirements. The local office shall verify application for or receipt of UIB, if questionable. A person who has been denied UIB and who is appealing the decision is exempt.

G. Drug/Alcohol Rehabilitation

Regular participants in drug or alcohol treatment or rehabilitation programs are exempt from work registration.

H. Title IV-A/IV-F Requirements

Persons subject to and complying with any work requirement under Title IV of the Social Security Act (codified at 42 USC 607-687) are exempt from work registration requirements. The Act does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.

I. Colorado Refugee Services Program (CRSP) Registrants

Any registrant for the Colorado Refugee Services Program is exempt from work registration requirements as CRSP work registration requirements satisfy the requirements of the Food Assistance Program.

**J. SSI and Food Assistance Jointly Processed Applicants**

Members of households who are applying for SSI and Food Assistance shall have the requirement for work registration waived until:

1. They are determined eligible for SSI and thereby become exempt from work registration; or,
2. They are determined ineligible for SSI and where applicable, a determination of their work registration status is then made by the local office through recertification procedures.

**4.310.31 Verification and Documentation of Work Registration Exemption**

In all cases, the specific reason for each person exempted from work registration and necessary supporting verification shall be clearly documented in the case record. Whenever any question of the propriety of the exemption from the work registration requirement arises, the head of the household and the household member shall cooperate in furnishing evidence to support the contention of exemption. Failure to cooperate in furnishing such evidence will result in the member being required to register.

**4.310.4 Changes in Exemption Status**

- A. Persons losing exemption status due to any change in circumstances that is subject to the reporting requirements in Section 4.603 (such as a loss of employment that also results in a loss in income or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring) shall register for employment when the change is reported through completion of a work registration form or an affidavit.
- B. Persons losing exemption status due to changes that are not subject to such reporting requirements shall register for employment at recertification.
- C. Persons who are no longer work registered for Title IV-A/IV-F or UIB shall register for employment, unless otherwise exempt. The local office shall provide the household with a work registration form when the change is reported.

**4.310.5 Requirements of Work Registrants**

Persons work-registered by the local office shall:

- A. Participate in Employment First including reporting for all appointments and classes and meeting all other program requirements as detailed in the participation contract.
- B. Provide Employment First with sufficient information to allow Employment First to determine the employment status or job availability of the individual.
- C. Report to an employer in an appropriate manner and be prepared to accept an offer of suitable employment.

**4.310.51 Suitability of Work**

No employment offered will be considered suitable for any registrant if:

- A. The wages offered are less than the higher of:
  1. The applicable federal or State minimum wage.

2. Eighty percent (80%) of the federal minimum wage if neither the federal or State minimum wage is applicable.
- B. The employment offered is on a piece-rate and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wage specified above.
- C. The registrant, as a condition of employment, is required to join, resign from, or refrain from joining any legitimate labor organization.
- D. The work offered is at a site subject to a strike or a lockout at the time of the offer unless the strike has been enjoined under the Labor Management Relations or the Railway Labor Act.

**4.310.52 Registrant Proof of Unsuitability**

Any employment offered a particular registrant shall be considered suitable unless the registrant can demonstrate that, or the local office becomes aware that:

- A. The degree of risk to health and safety is unreasonable.
- B. He/she is physically or mentally unfit to perform the employment as established by documentary medical evidence or reliable information obtained from other sources.
- C. The employment offered is not in his/her major field experience unless, after a period of thirty (30) calendar days from registration, job opportunities in his/her major field have not been offered.
- D. The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds two (2) hours per day, not including the transporting of a child to and from a child care facility.

Nor shall employment be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site.

- E. The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

**4.310.6 Disqualification Period for Employment First**

- A. If the local office determines that an individual has refused to register for work or failed without good cause to comply with Employment First requirements, that individual shall be ineligible to participate in the Food Assistance Program and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed.
  1. The first (1<sup>st</sup>) time an individual refuses to comply with work registration or fails without good cause to comply with Employment First, the individual shall remain ineligible until the later of the date the individual becomes eligible by complying with requirement or the date that is one (1) month after the date the individual became ineligible.
  2. The second (2<sup>nd</sup>) time an individual becomes ineligible, the individual shall remain ineligible until the later of the date the individual becomes eligible by complying with requirements or the date that is three (3) months after the date the individual became ineligible.



3. The third (3<sup>rd</sup>) or subsequent time that an individual becomes ineligible, the individual shall remain ineligible until the later of the date the individual becomes eligible by complying with requirements or the date that is six (6) months after the date the individual became ineligible.
- B. Ineligibility shall continue either until the member complies with the requirement or becomes exempt (other than by Title IV-A/IV-F, Colorado Refugee Services Program (CRSP) registration or UIB application). If an individual has served the disqualification, but the case has the certification expire during the disqualification period, the nonexempt individual will be eligible at the later of the date of the application or the date of compliance with Employment First.
  - C. The disqualification period shall begin the month following the expiration of the Notice of Adverse Action, unless a fair hearing is requested. The member may stop the disqualification if the member becomes exempt from these requirements during the disqualification period. The disqualified member shall continue to be disqualified for noncompliance but may resume participation after the disqualification period (if otherwise eligible) by becoming exempt from work registration or complying with the appropriate work requirement. A disqualified member will be added back into the household after the disqualification period is over if the individual has complied with Employment First or has become exempt.
  - D. The action to add the ineligible member shall be handled as a reported change.
  - E. The Employment First Program shall determine when an individual has refused or failed to comply with an Employment and Training requirement.
  - F. The local office and Employment First shall consider the facts and circumstances, including information submitted by the household member involved to determine whether good cause for the noncompliance exists. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation.
    1. If good cause does not exist, Employment First can initiate the Notice of Adverse Action, advising the household member of the pertinent Employment First requirements and the consequences of failing to comply. The household member shall be informed of the actions necessary for compliance and the date by which compliance shall be achieved to avoid disqualification. To avoid disqualification, the member shall perform a verifiable act of compliance as established by Employment First. Verbal commitment by the household member is not sufficient, unless the household member is prevented from complying by circumstances beyond the household member's control.
    2. If Employment First advises the local office of noncompliance with work requirements and requests that the local office issue the Notice of Adverse Action (NOAA) (See Section 4.608), the local office shall issue the NOAA. Both the NOAA and the disqualification may be cancelled if Employment First verifies that compliance was achieved before the NOAA was issued or before the period of adverse action expires.
    3. The NOAA shall be issued within fifteen (15) calendar days from the date of non-compliance.

**4.310.61 Failure to Comply with Title IV-A/IV-F Components, Colorado Refugee Services Program (CRSP) Job Search, or Unemployment Insurance Benefits Work Requirements**

A household containing a member who was exempt from Food Assistance work registration and Employment First requirements because he or she was registered for work under Title IV-A/IVF, CRSP, or was a registrant for unemployment insurance, and who fails to comply with a comparable Title IV-A/IVF, a comparable CRSP, or a comparable unemployment insurance job search requirement, shall be treated as though the member had failed to comply with Food Assistance employment and training requirements.

**4.310.7 Right to a Fair Hearing**

Each individual has a right to appeal a denial, reduction, or termination of benefits due to a determination of non-exempt status or failure to comply with Employment First. The individual may also appeal action by Employment First or the local office determining exemption status, the type of requirements imposed, or refusal to make a finding of good cause.

If a fair hearing is requested, the individuals shall be allowed to examine their Employment First case file at a reasonable time before the fair hearing. Confidential information (which may include test results) should be protected from release. However, information withheld from the individual may not be used by either party at the hearing. A representative of Employment First shall receive sufficient advance notice to be available for questioning either in person or by phone. The results of the fair hearing shall be binding on the local office.

**4.310.8 Food Assistance Employment First Components**

County Employment First components shall correspond to components contained in the state Food Assistance Employment and Training Program plan. County components may consist of direct or support activities which expand the abilities of Food Assistance applicants and recipients to obtain meaningful employment and educational programs or activities to improve basic skills or improve employability. Educational components shall not make a participant subject to student provisions when Employment First requires the attendance to improve employability.

**4.310.81 Period of Participation**

An applicant for Food Assistance may be required to participate in any component from the time of application. The certification office shall not delay determination of eligibility nor issuing benefits during this period.

The length of participation in an Employment First component and the number of components to which a Food Assistance Employment First participant may be referred shall be determined by the State Department or the local Employment First program. In no event may the time spent collectively in an Employment First work component, as described in the state Employment First plan, exceed the number of hours equal to that household's allotment, for that month, divided by the federal minimum wage. The total hours of participation in an Employment First non-work component together with any hours worked in a workfare program or hours worked for compensation (cash or in kind) may not exceed one hundred twenty (120) hours each month for any household member.

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**4.310.82 Participant Reimbursement**

Employment First shall reimburse participants in a component for the actual costs of transportation or other costs (excluding dependent care) necessary and directly related to participation in that Employment First component. This reimbursement shall be based either on actual costs incurred and verified to Employment First or an allowance based on estimated costs associated with participation. Participants who report to Employment First that they are unable to incur a cost necessary for participation, and are, therefore, unable to participate, may be determined by Employment First to have good cause for non-participation or the participant may be assigned to a different component.

A participant is not entitled to the dependent care reimbursement if a member of the participant's Food Assistance household provides the dependent care services. Employment First must verify the participant's need for dependent care and the cost of the dependent care prior to the issuance of the reimbursement. The verification must include the name and address of the dependent care provider, the costs and the hours of service, for example, five (5) hours each day, five (5) days each week for two (2) weeks. A participant may not be reimbursed for dependent care services beyond that which is required for participation in the Employment First program. In lieu of providing reimbursements for dependent care expense, Employment First may arrange for dependent care through providers by the use of purchase of service contracts, by providing vouchers to the household or by other means. Dependent care provided or arranged by Employment First shall meet all applicable standards of state and local law, including requirements designed to ensure basic health and safety protection, such as fire safety and licensure.

A participant may refuse available appropriate dependent care as provided or arranged by Employment First if the participant can arrange other dependent care or can show that such refusal will not prevent or interfere with participation in the Employment First program. Allowable dependent care expenses that exceed the reimbursement shall be considered in determining a dependent care deduction when calculating net income for eligibility.

Employment First shall inform all mandatory Employment First participants that they may be exempted from participation if their monthly expenses that are reasonably necessary and directly related to participation in the Employment First program exceed the allowable reimbursement amount. Persons for whom allowable monthly expenses in a component exceed the total of the reimbursement for dependent care and other costs shall not be required to participate in that component. These individuals shall be placed, if possible, in another suitable component in which the individual's monthly expenses would not exceed the allowable reimbursable amount paid by Employment First. If a suitable component is not available, these individuals shall be exempted from participation until a suitable component is available or the individual's circumstances change and his/her monthly expenses do not exceed the total of the allowable reimbursable amounts.

Individuals exempted because their monthly expenses exceed the reimbursable amount may volunteer to participate in the Employment First program. Volunteers must be informed that their allowable expenses in excess of the reimbursable amount will not be reimbursed.

**4.310.9 Requirements for County Participation in the Food Assistance Employment and Training Program**

In Colorado, the employment and training program under the Food and Nutrition Act of 2008, as amended, is called Employment First. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment. All counties shall operate an Employment First program unless they can demonstrate their county has a ten percent (10%) unemployment rate or there is an insufficient number of jobs available.

A county department wishing to or required to administer an Employment First program shall submit a start-up plan in a format prescribed by the State Department to the Colorado Department of Human Services, Food and Energy Division, Employment First Program, for approval. Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection.

An annual Employment First Plan of Operation is required for a county to maintain Employment and Training status. The annual plan will be submitted in a format prescribed by the state. Operation of an Employment First program is contingent on approval of the county plan of operation.

A county department may enter into a contractual agreement for all or any part of the Employment First program service delivery. These contractual agreements shall be reviewed by the State Department for adherence to program requirements before implementation. The only exception is that the Section 20 workfare, Colorado Workfare, may only be operated by a public or private non-profit agency. Employment First funds shall not be used to supplant funds used for existing services and activities that promote the purpose of any component.

Every Employment First program shall monitor participants who work at least twenty (20) hours a week, averaged monthly, but who do not yet work thirty (30) hours a week or earn wages equal to at least thirty (30) hours a week multiplied by the prevailing federal minimum wage.

- A. A county shall also provide each non-exempt eighteen (18) to fifty (50) year old work registrant who is not working at least twenty (20) hours a week, a Section 20 workfare program, or other component or combination of components that equal a minimum of twenty (20) hours of participation weekly. Allowable components include the following:
1. Educational programs or activities to improve basic skills and literacy or otherwise improve employability, including, but not limited to, General Equivalency Degree (GED), adult basic education, English as a Second Language, vocational training, and employability training.
  2. Community service program participation.
  3. A program designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment.
  4. A program under the Workforce Investment Act (WIA).
  5. A program under Section 236 of the Trade Act of 1974.
  6. A county may also provide those individuals who are exempt from the eighteen (18) to fifty (50) year old work requirements in Section 4.310.2 with a job seeking skills component approved by the state office.
- B. The local Employment First provider shall:
1. Schedule the first appointment with Employment First within fourteen (14) calendar days from the date referred from the local office;
  2. Enter required information from the work registration form into the Employment First automated system for each person referred from the local office to the Employment First;
  3. Create a case file for each individual referred by the local office to Employment First;

4. Complete an assessment as prescribed by the state office and provide appropriate service for each referred, non-exempt participant who reports to Employment First;
5. Complete a participant contract for each individual enrolled in an Employment First activity;
6. Notify the local office of the determination of non-compliance without good cause;
7. Compile data and submit required reports within prescribed timeframes;
8. Coordinate program operations with the state Employment First staff;
9. Ensure that participants receive the appropriate reimbursement for participation;
10. Utilize required forms as prescribed or approved by the state;
11. Attend scheduled Employment First program meetings and training as required;
12. Ensure that all funds expended are allowable program costs;
13. Ensure program services are not suspended for longer than fourteen (14) consecutive days for any reason;
14. At a minimum, maintain monthly contact with each Employment First participant; and,
15. Verify all reported employment.

#### **4.310.2 Colorado Workfare Program**

All counties with an Employment First program can operate a Section 20 Workfare program. In Colorado, Section 20 Workfare is called the Colorado Workfare program. Only a public or private non-profit agency can be designated as the operating agency for Workfare. The operating agency is responsible for administering Workfare in accordance with state regulations and policy. An annual plan of operation shall be submitted to the Employment First Workfare office by the operating agency.

The operating agency is defined as the organization that has been identified in the plan as being responsible for establishing and monitoring job sites, interviewing and assessing eligible recipients, assigning eligible recipients to appropriate job sites, monitoring participant compliance and making the initial determination of good cause for household noncompliance.

Workfare job slots may only be located in public or private, nonprofit agencies. There shall be a written agreement between the Workfare Program and any separate job site sponsors. One copy of the agreement shall be forwarded to the state Employment First office.

Files shall be maintained that record all activity by workfare participants. At a minimum, these records shall contain household identification information, job sites and hours assigned, hours completed, copies of all communication with the participant and all communications with the job site sponsor. These files may become part of the participant's file, but shall be maintained as a separate section. All files shall be kept accessible for a minimum of three (3) years from the date of referral.

Under the workfare program, nonexempt Food Assistance recipients may be required to perform work in a public service capacity as a condition of eligibility to receive the Food Assistance benefit allotment to which their household is normally entitled. Household members subject to the work registration requirements shall also be subject to the workfare requirements in those counties that operate a workfare program.

In addition, those Food Assistance recipients exempt from work registration requirements due to being subject to the work requirements under Title IV-A/IV-F of the Social Security Act shall be subject to workfare if they are currently participating less than twenty (20) hours a week in Title IV-A/IV-F and do not have a child under six (6) years of age. Such participation shall be outlined in the Title IV-A/IV-F employability plan.

Those recipients exempt from work registration requirements due to the application for or receipt of unemployment compensation shall be subject to Section 20 workfare requirements.

Those recipients exempt from work registration requirements due to being a parent or other household member responsible for the care of a dependent child under the age of six (6) shall be subject to workfare requirements once the child reaches the age of six. If the child has his/her sixth (6<sup>th</sup>) birthday within a certification period, the individual responsible for the care shall be subject to the workfare requirements as part of the next scheduled recertification process, unless otherwise exempt.

#### **4.310.21 Referral to Employment First/Workfare**

The local office shall provide the Food Assistance Workfare Counselor with the case name, case number, names of workfare-eligible household members, address, certification period, and the amount of the allotment the household is receiving. Any part-time work by a member shall also be indicated.

The Food Assistance Workfare Counselor shall notify any workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.

No participant shall be required to accept an offer of workfare employment if such employment fails to meet the criteria established in Sections 4.310.51 and 4.310.52.

The Food Assistance Workfare Counselor shall ensure that all persons employed in workfare jobs receive job-related benefits to the same extent as similar non-workfare employees. These benefits are related to the actual work being performed, such as worker's compensation, and not to employment by a particular agency, such as health benefits.

All persons employed in workfare jobs shall have working conditions provided other employees similarly employed. The provision of Section 2(a) (3) of the Service Contract Act of 1965 (Public Law No. 89-286 and codified at 41 USC 351, et seq.) relating to health and safety conditions shall apply to the workfare program. The Act does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.

Workfare participants shall not replace or prevent employment of an individual not participating in the workfare program. Vacancies, due to hiring freezes, terminations or layoffs, shall not be filled by a workfare participant unless it can be demonstrated that such vacancies are a result of insufficient funds to sustain former staff levels.

Workfare jobs shall not infringe on the promotional opportunities available to regular employees. Workfare jobs shall not be related in any way to political activities.

#### **4.310.22 Period of Participation**

An individual initially certified for Food Assistance may be required to look for work for a period of thirty (30) calendar days before the individual is assigned to a workfare job site.

The maximum total number of hours of work required of a household each month in the workfare program shall be determined by dividing the household's Food Assistance allotment by the federal minimum wage. Fractions of hours of obligation shall be rounded down. The household's hours of obligation for any given month may not be carried over into another month except when the household wishes to end a disqualification due to noncompliance.

No workfare participant shall be required to work more than eight (8) hours a day. A participant may volunteer to work additional hours beyond those required by his/her workfare obligation. Food Assistance recipients not placed by the Title IV-A/IV-F (TANF/Colorado Works) program may be required to work up to, but not to exceed, thirty (30) hours a week. Participants placed in Workfare by the Title IV-A/IV-F program shall meet the hours required by that program.

#### **4.310.23 Participant Reimbursement**

The workfare program shall reimburse or provide allowances to participants for actual costs of transportation or other costs as determined necessary by the workfare counselor and directly related to participation. This reimbursement shall be based on actual costs incurred and verified to the Workfare Counselor.

Reimbursable costs may include the cost of personal items or equipment required for the performance of work if these items are also purchased by regular employees. The costs of meals away from home shall not be reimbursed. Dependent care costs that are reimbursed may not be claimed as expenses in calculating the household benefits.

#### **4.310.24 Disqualification for Failure to Comply with a Workfare Assignment**

The Workfare Counselor shall notify the local office of noncompliance with workfare by providing a description of the particular act of noncompliance committed. The determination of failure to comply with the workfare program is handled in the same manner as with the Employment First determination. The sanction process for Title IV-A/IV-F employment program participants shall be governed by Title IV-A/IV-F rules and IS the responsibility of the Title IV-A/IV-F case manager.

The local office and the Workfare Counselor shall consider the facts and circumstances, including information submitted by the household member involved and the employer, to determine whether good cause for the noncompliance exists. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of that member, a household emergency, the unavailability of transportation, conflict due to compliance with Unemployment Insurance or Title IV-A/IV-F requirements.

Good cause includes a household that moves out of the area of the workfare project. In addition, instances where cost of transportation and other costs have exceeded twenty five dollars (\$25) per month and are not being reimbursed will also be considered good cause.

Within ten (10) calendar days of the determination of noncompliance with a workfare assignment without good cause, the local office shall provide the participant with a Notice of Adverse Action. Such notice shall contain the particular act of noncompliance committed, the proposed period of disqualification, and shall specify that the individual may reapply at the end of the disqualification period and that participation may resume if the disqualified household member is determined eligible. The notice shall also specify the terms and conditions on which disqualification can be ended.

The disqualification period for noncompliance with Workfare shall be handled in the same manner as the disqualification for failure to work register or noncompliance with Employment First (see Section 4.310.6).

The disqualification period shall begin with the first (1<sup>st</sup>) month following the expiration of the adverse notice period, or following a fair hearing if requested, in which the household would normally have received benefits. A household member shall not be required to perform work at a job site when the household is no longer receiving benefits unless the household has chosen to meet the conditions for ending disqualification. Until the disqualification is actually invoked, the household, if otherwise eligible, will continue to have a workfare obligation.

Voluntary participants in workfare shall not be disqualified for failure to comply.

Following the end of the disqualification period for noncompliance with the workfare provisions, an individual may resume participation in the Food Assistance Program if the individual complies and is determined eligible or becomes exempt from these requirements.

If an over-issuance is discovered for a month or months in which a participant has already performed a workfare or work component requirement, the local office shall follow claim recovery procedures specified below.

- A. If a person who performed the work is still subject to a work obligation, the local office shall determine how many extra hours were worked because of the improper benefit. The participant should be credited that number of hours toward future work obligations.
- B. If a workfare or work component requirement does not continue, the local office shall determine whether the over-issuance was the result of an Intentional Program Violation (IPV), an Inadvertent Household Error (IHE) or an agency error. For an IPV, a claim should be established for the entire amount of the over-issuance. If the over-issuance was caused by an IHE or agency error, the local office shall determine whether the number of hours worked in workfare are more than the number which could have been assigned had the proper benefit level been used in calculating the number of hours to work. A claim shall be established for the amount of the over-issuance not "worked off," if any. If the hours worked equal the amount of hours calculated by dividing the over-issuance by the federal minimum wage, no claim shall be established. No credit for future work requirements shall be given.

#### **4.310.25 Right to a Fair Hearing**

Each individual has a right to appeal a denial, reduction, or termination of benefits due to a determination of non-exempt status or failure to comply with workfare. The individual may also appeal action by the Workfare Program or local office determining exemption status, the type of requirements imposed, or refusal to make a finding of good cause.

If a fair hearing is requested, the individual shall be allowed to examine its workfare case file at a reasonable time before the fair hearing. Confidential information (which may include test results) should be protected from release. However, information withheld from the member may not be used by either party at the hearing. A representative of the workfare program shall receive sufficient advance notice to be available for questioning either in person or by phone. The results of the fair hearing shall be binding on the local office.

#### **4.400 FINANCIAL ELIGIBILITY CRITERIA**

Financial criteria for eligibility shall apply to all households, except for those eligible under basic categorical eligibility, in regards to net and gross income tests. Income shall be considered prospectively for the issuance month based on the eligibility worker's determination of the household's reasonably anticipated monthly income, and for households eligible under standard eligibility as outlined in Section 4.206 the value of its resources is considered.



#### **4.401 INCOME ELIGIBILITY STANDARDS**

Participation in the Program shall be limited to those households whose incomes are determined to be a substantially limiting factor.

The gross and net income standards of eligibility shall be based on the federal income poverty levels established as provided in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and as stated in Section 273.9(A) of the Code of Federal Regulations; no later editions or amendments are incorporated. Copies of these regulations are available for inspection during normal working hours by contacting: Colorado Department of Human Services, Director, Food Assistance Programs Division, 1575 Sherman Street, Denver, Colorado 80203; or any state publications depository.

The gross and net income standards are located in Sections 4.401.1 and 4.401.2.

- A. Income eligibility is determined based on the composition of the household. A household shall meet the gross and net income eligibility standards as outlined below:
1. Expanded categorically eligible households, as defined in Section 4.206, that do not include a member who is elderly and/or a person with a disability, shall have gross income at or below one hundred thirty percent (130%) of the federal poverty level and have a net income at or below one hundred percent (100%) of the federal poverty level.  
  
Households that do include a member who is elderly and/or a person with a disability shall have gross income at or below two hundred percent (200%) of the federal poverty level and have net income at or below one hundred percent (100%) of the federal poverty level.
  2. Basic categorically eligible households shall be deemed as having met gross and net income limits.
  3. Households which are not considered expanded or basic categorically eligible and instead subject to standard eligibility rules shall meet income eligibility standards as follows:
    - a. Households that do not include a member who is elderly or a person with a disability shall have gross income at or below one hundred thirty percent (130%) of the federal poverty level and have a net income at or below one hundred percent (100%) of the federal poverty level.
    - b. Households that do include a member who is elderly or a person with a disability shall have a net income at or below one hundred percent (100%) of the federal poverty level.
  4. For household members who are persons that are elderly and/or have a disability, who are unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act, or a non-disease related, severe, permanent disability, may be considered, together with his or her spouse if the spouse is living in the same home, a separate household from the others with whom the individual lives. The combined income of the others with whom the individual who is elderly and disabled resides (excluding the income of individual who is elderly and disabled and his or her spouse) must not exceed one hundred sixty five percent (165%) of the poverty level. See Sections 4.401.1 and 4.401.2 for the gross and net income levels for 165% of the federal poverty level.

- B. Ineligible students and household members who are ineligible due to citizenship status, intentional program violation, failure to cooperate with work programs, or failure to provide or apply for a Social Security Number, shall be excluded when determining the household size and the appropriate income eligibility maximum and/or level of benefits.
- C. When a certified household has person who is elderly or a person with a disability move into or out of the household, or has a member who becomes sixty (60) years old or begins to receive SSI, disability payments, or veterans benefits, or otherwise becomes classified as a person who is elderly or a person with a disability as defined in Section 4.304.41 a reportable change shall be acted upon within ten (10) calendar days from the day the local office is notified. If the change is not one that the household is required to report, and it is unknown to the local office, the net income eligibility standard will be applied at the time of recertification.

**4.401.1 Gross Income Eligibility Determination [Em. eff. 10/1/15; permanent eff. 1/1/16]**

A household, except those eligible under basic categorical eligibility, that does not include a member who is elderly or a person with a disability, as defined in Section 4.304.41, may be eligible if its monthly non-exempt earned and unearned income does not exceed the gross income level. Except for households that are eligible under basic categorical eligibility, households without person who is elderly and/or a person with a disability shall be ineligible for Food Assistance if its monthly income, after deducting any legally obligated child support payments and no other deductions, exceeds the gross income level. In such cases, there is no computation to consider deductions. Instead, a Notice of Action form is completed to deny the household.

- A. The gross income level for households that do not include a member who is elderly and/or a person with a disability is one hundred thirty percent (130%) of the federal poverty level.
- B. The gross income level for households eligible under expanded categorical eligibility that include a member who is elderly or a person with a disability is two hundred percent (200%) of the federal poverty level. If the household exceeds 200% of the federal poverty level, the household shall be reviewed under basic categorical eligibility rules and/or standard eligibility rules as outlined in Section 4.206. If the household is eligible under standard eligibility rules, the household shall only be subject to the net income level of one hundred percent (100%) of the federal poverty level.

**C. Gross Income Levels**

Effective October 1, 2015, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

<b>Household Size</b>	<b>130% Gross Income Level</b>	<b>200% Gross Income Level</b>	<b>165% Gross Income Level</b>
1	\$1,276	\$1,962	\$1,619
2	\$1,726	\$2,656	\$2,191
3	\$2,177	\$3,350	\$2,763
4	\$2,628	\$4,042	\$3,335
5	\$3,078	\$4,736	\$3,907
6	\$3,529	\$5,430	\$4,479
7	\$3,980	\$6,122	\$5,051
8	\$4,430	\$6,816	\$5,623
Each additional person	+ 451	+ \$ 694	+ \$ 572

**4.401.2 Net Income Eligibility Determination [Em. eff. 10/1/15; permanent eff. 1/1/16]**

- A. All households, except those who are eligible under basic categorical eligibility, whose income does not exceed the gross income level as outlined in this section shall have their eligibility for benefits computed allowing the earned income, standard, dependent care, medical, and shelter deductions, as appropriate. The household shall be eligible only if its monthly gross income, less the allowable Food Assistance deductions, is below the maximum net eligibility level for their household size. A household that exceeds the net eligibility level must be denied, except for households eligible under basic categorical eligibility rules.
- B. A household that is ineligible for either expanded or basic categorical eligibility shall be eligible for Food Assistance benefits if its monthly nonexempt earned and unearned income, less all applicable deductions, including the earned income, standard, medical, dependent care, and unlimited excess shelter deduction, does not exceed the maximum net income level.
- C. If a household contains a member who is fifty-nine (59) years old on the date of application, but who will become sixty (60) years of age before the end of the month of application, the local office shall determine the household's eligibility as if the person is sixty (60) years of age.
- D. Net Income Levels

Effective October 1, 2015, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

<b>Household Size</b>	<b>100% Net Income Level</b>
1	\$ 981
2	\$1,328
3	\$1,675
4	\$2,021
5	\$2,368
6	\$2,715
7	\$3,061
8	\$3,408
Each additional member	+ \$ 347

**4.402 HOUSEHOLD INCOME ELIGIBILITY**

- A. Determining Income
  - 1. Income eligibility shall be determined prospectively based on the eligibility worker's anticipation of income at the time of application and when changes are made known to the local office. See Section 4.603.1 for rules concerning anticipating income. Income shall be determined as it is anticipated to be received unless the income is averaged over the certification period in accordance with Section 4.402.2.
  - 2. When determining if a household is eligible under gross and/or net income limits, households shall have income converted to a monthly amount by using a conversion as specified below. When a full month's income is anticipated any cents in the gross weekly or biweekly earnings shall be used in converting income to a monthly amount.

Monthly income amounts shall be rounded to the nearest dollar amounts. Each monthly income figure that ends in 1 through 49 cents is rounded down, and each monthly income figure that ends in 50 through 99 cents is rounded to the next dollar.

Pay Frequency	Conversion
Weekly	Multiply Weekly Average by 4.333333.
Bi-Weekly (Every Two Weeks)	Multiply Bi-Weekly Average by 2.166666.
Semi-Monthly (Twice a Month)	Multiply Semi-Monthly Average by 2.
Every Other Month	Multiply Average by 0.5.
Quarterly	Multiply Average by 0.333333.
Twice a Year	Multiply Average by 0.166666.
Annual	Multiply Average by .083.

3. Household income shall mean all earned and unearned income received or anticipated to be received by household members from whatever source, unless specifically exempted for Food Assistance eligibility and budgeting purposes, per Section 4.405. Income of household members, including the amount of the disqualified person's income attributed to the household, shall be counted as income in the month received or the month it becomes available, unless the income is averaged over the certification period. See Section 4.411 for additional information.

B. Variations in Date of Pay

1. Regular ongoing earned income that is received early or late by a household due to a holiday, a weekend, or pay dates being changed will have income counted based on the regular pay schedule instead of the actual date of pay.
2. Households receiving monthly benefits such as public assistance or social security payments shall not have their monthly income varied merely because mailing cycles resulted in two (2) payments in one month and none in the next month.
3. Households containing a member of the Armed Services of the United States shall not have their monthly income varied merely because the first day of the month falls on a holiday or weekend which resulted in two (2) payments in the month and none in the subsequent month.

C. Wage Data

1. With respect to income or resource information originating with the Internal Revenue Service (IRS) and provided through the income and eligibility verification system (IEVS), as well as wage data obtained through the DOLE or IEVS, the local office must verify such information from another source and must verify applicant/participant access to that income/resource. The local office may not take adverse action on such information until independent verification is obtained, or until the applicant has been found to have failed to cooperate in providing the required verification. The information must also be verified prior to establishing a claim for an over-issuance of benefits.
2. Income considered verified upon receipt as outlined in Section 4.504.6 shall be considered verified once it is known to the agency. If the household declares that the information is not accurate, the household shall be given an opportunity to provide verification in order to resolve the discrepancy.

**4.402.1 Prospective Budgeting**

- A. Prospective budgeting is the process of computing a household's allotment based on anticipated income and circumstances during the issuance month. All Food Assistance households and all situations require prospective budgeting determinations, including public assistance households under the Title IVA (Temporary Assistance to Needy Families/Colorado Works) Program.
- B. If the date of receipt or the amount of any anticipated income is uncertain, such as a new job or a PA application, that portion of income shall not be considered. Only the portion of income which can be anticipated with reasonable certainty concerning the amount and month in which monies will be received shall be counted as income.

If a household is certified using anticipated income and the county department subsequently receives documentation verifying a lower amount of income, the change in income shall take effect the month following the month the change is considered reported. If the documentation verifies a higher amount of income, but the income does not cause the household to exceed 130% of the federal poverty level, the change in income shall not cause a decrease in benefits until recertification or periodic report for simplified reporting households, but may cause a decrease in benefits for non-simplified reporting households (see Section 4.604, D).

- C. Income received within the past thirty (30) days may be used as an indication of the income that will be received in the issuance month unless changes in income have occurred or can be anticipated which require proper adjustment. Income used to determine prospective eligibility shall be representative of the household's current circumstances.

If the verified income does not provide an accurate indication of anticipated income, a longer period of past time may be used if it will provide a more accurate indication of anticipated income. If a household's income fluctuates seasonally, it may be appropriate to use the last season rather than the last thirty (30) days, although precaution must be taken to account for possible fluctuations or new circumstances. Except for eligible strikers, no household shall have the amount of any past income automatically attributed to it.

- D. In cases where the receipt of income for households is reasonably certain but the monthly amount is expected to fluctuate, the household may qualify to have its income averaged to obtain a monthly amount (refer to Section 4.402.2.)

**4.402.2 Averaging Income**

To obtain a household's average monthly income, income intended to cover a specific period of time is divided by the number of months the income is intended to cover.

- A. Income shall be averaged for:
  - 1. Households who derive their annual income from self-employment. These households shall have their income annualized over a twelve (12) month period even if the income is received within a shorter period of time.
  - 2. Households who derive their annual income from contract income shall have that income averaged over a twelve (12) month period. (This requirement is not applied to income from a contract received on an hourly or piecework basis.)
  - 3. Households receiving educational income as defined in Section 4.404, D. The income is prorated over the period of time it was intended to cover.

4. Other households not previously mentioned, such as migrant or seasonal workers, may elect to have their fluctuating income averaged over the period of time the income is intended to cover.

Self-employment income, contract income, and fluctuating income intended to cover a specific period of time shall not be averaged or annualized for migrant households that are destitute of income as defined in Section 4.406.

- B. The types of households listed above shall have their self-employment income, contract income, or educational monies annualized or prorated, and added to other household income to determine monthly Food Assistance income.
- C. To average income prospectively, the eligibility worker shall use the household's anticipation of income, considering fluctuations, to obtain a monthly average amount for the period of certification. The number of months used to arrive at the average income need not be the same as the number of months in the certification period, such as the known income from two (2) previous months may be averaged and projected for each month of a certification period that is longer than two (2) months. Refer to Section 4.403.11 for more information on computing self-employment income.

Fluctuating income that has been averaged may be adjusted if verification of a change in circumstances is received.

#### **4.403 COUNTABLE EARNED INCOME**

The following shall be considered as earned income.

- A. Wages and Salaries
  1. All payments for services as an employee, including garnishments, or money payments legally obligated to the employee and diverted to a third party for the employee's household expenses. Countable income from employment received by students in institutions of higher education while participating in state work-study programs or a fellowship with a work requirement shall be considered as earned income. The portion of state work study income used for tuition, mandatory fees, or any portion specifically earmarked by the institution for education expenses is excluded as income. The balance, if any, is treated as earned income. The twenty percent (20%) earned income deduction is allowed after educational expenses have been deducted.
  2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving Food Assistance when he or she joined VISTA. If the client was not receiving Food Assistance when he or she joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period of time where a household or individual missed a full month of benefits, excluding instances where the lapse in benefits is due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1.

3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer.

When an advance on wages is subsequently repaid from current wages, only the amount of wages received is considered as income. The amount of repayment is disregarded, even if the wage earner was not a Food Assistance participant at the time of the advance.

4. Payment for sick leave, vacation pay, and bonus pay shall be considered as earned income, if the person was still employed while receiving the pay.

**B. Training Allowances**

1. Payments from vocational and rehabilitation programs recognized by federal, state, or local governments, such as the Job Opportunities and Basic Skills (JOBS) Program, to the extent they are not a reimbursement except for allowances paid under the Workforce Investment Act (WIA).
2. Earned income will include earnings to individuals who are participating in the on-the-job training under Section 204(5), Title II, of the Workforce Investment Act (WIA). This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member. Earnings include monies paid by the Workforce Investment Act (WIA) and monies paid by an employer.

**C. Title I Monies**

Payments received under Title I (VISTA-University Year of Action) of the Domestic Volunteer Service Act of 1973 shall be considered earned income and subject to the earned income deduction, excluding payments made to those households specified in Section 4.405.2.

**D. Income of Strikers**

Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two to the current income of the non-striking household members during the month of application.

**E. Self-Employment**

The method of ascertaining the self-employment income to be considered for Food Assistance purposes is often difficult and the guidelines set forth in Sections 4.403.1–4.403.12 are meant to clarify and aid the process.

In determining gross self-employment income, all income received by the self-employment household must be considered. Self-employment income includes:

1. Monies received from rental or lease of self-employment property. Rental property shall be considered a self-employment enterprise. However, the income will be considered as earned income only if the household member (or disqualified person) actively manages the property at least an average of twenty (20) hours per week.

2. Monies received from the sale of capital goods, services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains.

The term "capital gains", as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self-employment enterprise; or securities, real estate, or other real property held as an investment for a set period of time. For Food Assistance purposes, the total amount received from the sale of capital goods shall be counted as income to the household.

3. Income from roomers/boarders (see paragraph G below).

**F. Owners of Limited Liability Corporations (LLC) and S-Corporations**

For Food Assistance Program purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be treated as regular earned income, not self-employment income.

Although income received from these corporations is not considered self-employment, the income as reported on the LLC or S-Corporation owner's individual form 1040, shall be counted in determining the household's eligibility and benefit level. Income verified on the 1040 would then be annualized. In the case of a new business, anticipated income shall be used to determine financial eligibility until a tax form is available.

**G. Boarder Income**

The income of boarders shall include all direct payments to the household for room and meals, including contributions to the household for shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household. See Section 4.403.2 regarding calculating income from a boarder.

**4.403.1 Self-Employment**

See Section 4.403, E, for a description of what is considered self-employment income.

- A. Self-employment is defined as a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered, and assumes the necessary business risks and expenses connected with the operation of the business.

Households in which one or more members are engaged in an enterprise for gain either as an independent contractor, franchise holder, or owner-operator must be considered as self-employed, provided that the members are actively engaged in the enterprise on a day-to-day basis. In instances where the members hire or contract for another person or firm to handle the day-to-day activities of such enterprise, the members will have self-employment income but will not be considered as self-employed for purposes of work registration. The self-employed individual need not own one hundred percent (100%) of the company to be considered self-employed.

All financial and non-financial eligibility criteria shall apply to self-employment households.



- B. The receipt of income from self-employment, which may constitute all or only a portion of the income of the household, does not automatically exempt the members from the work registration requirement. This determination will be made based on the assessment of the eligibility technician and the household's declaration that the self-employment enterprise requires thirty (30) hours of work per week or averages annually thirty (30) hours per week.

#### **4.403.11 Determining Monthly Income from Self-Employment**

The amount of income considered from self-employment in the month of application shall be the gross amount of anticipated income plus capital gains less anticipated costs of doing business.

- A. To determine average income from self-employment, the worker first must determine the gross amount of income, actual or anticipated, including capital gains, for the period of time over which the self-employment income is being considered. The allowable costs of producing the self-employment income are excluded and the net income divided by the number of months over which the income is intended to cover. For federal income tax purposes, only fifty percent (50%) of the proceeds from the sale of capital goods is taxed. Therefore, if income tax forms are used to determine household income, the eligibility technician must be aware that the full amount of the capital gains is counted as income.
- B. Allowable costs of doing business include, but are not limited to: identifiable costs of labor; stock; raw materials; seed; fertilizer; payments on the principal of the purchase price of income producing real estate; capital assets, equipment, machinery and other durable goods; interest paid to purchase income-producing property; insurance premiums; taxes paid on income-producing property; and, other similar items that are necessary costs of doing business.
- C. The following shall not be allowed as a deduction for business costs:
1. Any amount that exceeds the payment a household receives from a boarder for lodging and meals is not allowable as a cost of doing business.
  2. Any amount claimed as a net loss sustained in any prior period.
  3. Federal, state, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as meals). These expenses are accounted for by the earned income deduction. However, any taxes paid by the business for employees (such as the business share of social security taxes) are allowed as a business deduction.
- D. Anticipating Capital Gains and Other Self-Employment Income

When self-employment income is calculated on an anticipated basis, any capital gains that the household anticipates receiving in the next twelve (12) months, beginning with the date the application is filed, are added and divided by twelve (12). This amount is used in successive certification periods over the next twelve months unless a change occurs. A new average monthly amount must be calculated over this twelve month period if the anticipated amount of capital gains changes. The anticipated monthly amount of capital gains and the anticipated monthly self-employment income then are added and the anticipated cost of producing the income deducted. The cost is calculated by anticipating the monthly allowable costs of producing the self-employment income.

The monthly net self-employment income will be added to any other earned and unearned income received by the household to determine eligibility of self-employed Food Assistance applicants.

For those households with self-employment income which is not annualized, the eligibility worker shall anticipate income. Any anticipated proceeds from the sale of capital gains shall be used as income in the month the proceeds are anticipated to be received.

**4.403.12 Averaging Self-Employment Income**

Self-employment income must be averaged over the period for which the income is intended to cover, as outlined below:

**A. Self-Employment as Primary Annual Support**

When a household receives its annual support from self-employment income, such income is to be averaged over twelve (12) months to determine the household's average monthly income from this source. This policy applies even if the income is received in only a short period of time or the household receives income from other sources in addition to the self-employment income.

However, if the averaged, annualized amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the worker must calculate the self-employment income on anticipated earnings and not on the basis of prior income.

**B. Self-Employment as Partial Support**

Households may receive income from self-employment that represents only a part of their annual income. Such self-employment income must be averaged over the self-employment months rather than over a twelve (12) month period.

**C. Self-Employment Income Received Monthly**

Self-employment income received on a monthly basis and representing a household's annual support normally will be averaged over twelve (12) months. If the monthly average does not accurately reflect the household's actual financial situation because of a substantial increase or decrease in business, the worker must calculate self-employment income based on the household's anticipated earnings.

**D. Self-Employment Income from a New Source**

Income from a self-employment enterprise that has been in business less than a year is to be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

**E. Self-Employment Income of a Farmer**

1. If after deducting all allowable business expenses from gross income received from self-employment as a farmer, the costs of producing the income exceed the income derived, such losses shall be offset against other income received by the household. Steps to take in offsetting the loss shall be as noted below. The net losses shall be prorated over the period intended and the monthly prorated amount deducted from other monthly income.
2. For purposes of applying this rule, an individual shall be considered a self-employed farmer if he/she receives or expects to receive gross annual income of one thousand dollars (\$1,000) or more from the farm enterprise. In addition, the following steps shall be taken when determining eligibility and benefits levels of the self-employed farmer.

- a. The monthly prorated loss shall be deducted first from any other "self-employment" income.
- b. Any remaining loss will then be deducted from other earned income into the household. This total shall be the figure from which the earned income deduction shall be calculated.
- c. Finally, any other income shall be added, and this total shall be the amount used to compare the household's gross income to income eligibility standards for the appropriate-sized household.

**4.403.2 Boarder Income**

Persons paying a reasonable amount for room and board shall be excluded from the household when determining the household's eligibility and benefit level. The income of households owning and operating a commercial boarding house shall be handled as described in Section 4.403.11. For all other households, payments from the boarder shall be treated as self-employment income and the household's eligibility determined as follows:

- A. The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household for shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household.
- B. After determining the income received from the boarders, the local office shall exclude that portion of the boarder payment which is the cost of doing business. The cost of doing business shall be equal to either of the following costs, provided that the amount allowed as a cost of doing business shall not exceed the payment the household received from the boarder for lodging and meals.
  1. The value of the maximum allotment for the household size that is equal to the number of boarders;
  2. The actual documented cost of providing room and meals if the actual cost exceeds the appropriate maximum allotment. If actual costs are used, only separate and identifiable costs of providing room and meals to boarders shall be allowed as a cost of doing business; or,
  3. If the boarder income received is from foster care payments, the entire amount of the payment will be disregarded as a cost of doing business.
- C. The monthly net income (after subtracting costs of doing business) from self-employment shall be added to other monthly earned income and the twenty percent (20%) earned income deduction shall be applied to the total dollar amount. If the cents in the total are one (1) through forty-nine (49), the total is rounded down to the lower dollar, if the cents are fifty (50) through ninety-nine (99), the total is rounded to the next higher dollar.
- D. Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction. However, the shelter costs shall not include any shelter expenses paid directly by the boarder to a third party, such as to the landlord or the utility company.

**4.403.3 School Employee Income**

The provisions of this section are intended to apply primarily to teachers and other school employees.

- A. Households with members who receive income other than that which is paid on an hourly piece-work basis from employment under a contract which is renewable on an annual basis will have such income averaged over a twelve (12) month period to determine household eligibility.
- B. Such members will be considered to be receiving compensation for an entire year, even though predetermined non-work periods are involved or actual compensation is scheduled for payment during work periods only. The renewal process may involve a signing of a new contract each year, be automatically renewable, or, as in cases of school tenure, rehire rights may be implied and thus preclude the use of a written contract altogether. The fact that such a contract is in effect for an entire year does not necessarily mean that the contract will stipulate work every month of the year. Rather, there may be certain predictable non-work periods or vacations, such as the summer break between school years.
- C. Income from such a contract will be considered as compensation for a full year, regardless of the frequency of compensation as stipulated in the terms of the contract, as determined at the convenience of the employer, or as determined at the wish of the employee.
- D. The annual income household members receive from contractual employment described above shall be averaged over a twelve (12) month period to determine the member's average monthly income. To determine household eligibility all other monthly income from other household members will be added to this average monthly income.

**4.404 COUNTABLE UNEARNED INCOME**

Unearned income shall include, but not be limited to, the following:

A. Assistance Payments

Payment from federal or federally aided public assistance programs, such as Supplemental Security Income (SSI), or Colorado Works/Temporary Assistance to Needy Families (TANF)/Title IV-A, or other assistance programs based on need, including payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves. Payments identified as energy assistance would be excluded in accordance with Section 4.405.2.

Foster care payments for children or adults will only be included as income when the individual for whom the payment is intended is included as a member of the household (see Section 4.304.3).

B. Retirement and Disability Payments

Payments from annuities; pensions; retirement; veterans or disability benefits; workmen's or unemployment compensation; old age, survivors, or Social Security benefits; and strike benefits.

C. Support and Alimony Payments

Support and alimony payments made directly to the household from non-household members for normal living expenses.

D. Educational Monies

1. Money that is legally obligated or otherwise payable to a household member for education, which includes the amount from scholarships, educational grants, fellowships, deferred payment loans for education, veteran's educational benefits, and any other money received specifically for education expenses, less the amount that is made available for excludable expenses, shall be considered as unearned income. The portion of state work study income used for tuition, mandatory fees, or any portion specifically earmarked by the institution for education expenses is excluded as income. The balance, if any, is treated as earned income, and the twenty percent (20%) earned income deducted is allowed after educational expenses have been deduction.
2. Tuition, mandatory fees, books, supplies, transportation, dependent care, and miscellaneous personal expenses (other than normal living expenses) are allowable exclusions from educational income.
3. Educational monies are prorated over the period they are intended to cover and are countable beginning with the month in which they are received (see Section 4.405.1).
4. Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits, and the like that are provided to a third party on behalf of the household for living expenses such as rent or mortgage, personal clothing or food eaten at home shall be treated as money payable directly to the household and not excluded as a vendor payment.

E. Rental Income

Rental income is total income, less the cost of doing business, from rental property in which a household member (or disqualified individual) is not actively managing the property an average of at least twenty (20) hours a week (see Section 4.403.1).

F. Income of Non-Citizen Sponsors

Income of non-citizen sponsors shall be considered as unearned income to households containing sponsored non-citizens. Refer to Section 4.305.4 for specific instructions.

G. Vacation Pay, Sick Pay, and Bonus Pay

If vacation pay, sick pay, or bonus pay is received in installment payments after a person has terminated employment, it is considered unearned income. If the pay is received in a lump sum, it shall be considered as a resource in the month received.

H. Gifts

Gifts from nonprofit organizations that exceed three hundred dollars (\$300) in a quarter or gifts from other sources of any amount, if they can be anticipated, and are not exempt as income under Section 4.405.

I. Other Gain or Benefits

Dividends, interest, royalties, and all other nonexempt direct money payments from any source that can be construed to be a gain or benefit.

Monies withdrawn from trust funds are income in the month received. Dividends that the household has the option of either receiving as income or reinvesting in the trust must be considered as income in the month they are available to the household.

#### **4.405 EXEMPT INCOME**

Income from certain sources will be excluded for Food Assistance eligibility purposes under mandate of law. Only the following will not be considered as income:

**A. Irregular Income**

Any income in the certification period that is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty dollars (\$30) in three (3) months.

**B. Monies Intended for Non-Household Members**

Monies received and used for the care and maintenance of a third-party beneficiary who is not a household member. If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member shall be excluded. If the non-household member's portion cannot be readily identified, the payment shall be evenly prorated among the intended beneficiaries and the exclusion applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

**C. Earnings of Children**

The earned income of children who are under eighteen (18) years of age, who are members of the household and are students at least half-time in elementary school, high school, or classes to obtain a General Equivalency Diploma (GED), will be considered exempt income.

The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded.

If the student becomes eighteen (18) years of age in the month of application, the income shall be excluded for the month of application and counted the following month. If the student turns eighteen (18) during the certification period, the income shall be excluded until the month following the month the student becomes eighteen (18) years of age.

Individuals are considered children for purposes of this provision if they are under eighteen (18) years of age, live with their natural parent, adoptive parent or stepparent, or are under the parental control of another household member other than a parent.

**D. Recoupments**

The following recoupments or repayments from any nonexempt income source shall be exempt as income as follows:

1. Monies withheld from an assistance payment, earned income, or monies received from any nonexempt income source that is voluntarily or involuntarily returned to repay a prior overpayment received from that income source. Only the net income received from these sources shall be considered countable income. However, monies withheld from a federal, state, or local means-tested program (such as Title IV-A, State Old Age Pension), for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements, shall not be exempted as income, and the gross income received from these sources shall be considered countable income. See Section 4.705 for specific instructions.
2. Child support payments received by Title IV-A participants that the household must transfer to the agency administering Title IV-D of the Social Security Act, in order to maintain their Title IV-A eligibility.

E. Court Ordered Child Support Payable to Other Parties

Income which is diverted from a household by a court order to pay a child support payment to or for a non-household member is deducted from income for the household making the payment (see Section 4.407.5).

F. Non-recurring Lump Sum Payments

Money received in the form of non-recurring lump sum payments, includes, but is not limited to, income tax refunds, rebates, or credits; retroactive lump-sum Social Security, SSI, public assistance, railroad retirement benefits or other payments; or retroactive lump-sum insurance settlements; or any money an inmate receives upon release from prison, including earnings from work performed while incarcerated and accumulated over the length of the incarceration.

State and county diversion payments under Colorado Works shall be excluded as a non-recurring lump sum payment if the payment does not cover more than one hundred twenty (120) days of expenses and is not expected to occur again in a twelve (12) month period.

Non-recurring lump sum payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other federal laws. Any funds remaining in subsequent months shall be considered a resource.

Beginning December 17, 2010, Federal income tax refunds must be disregarded as a resource for twelve (12) months from the date of receipt by the client. These refunds are also excluded as income in the month received.

G. Loans

1. All loans from private individuals as well as commercial institutions shall not be considered as income, except educational loans for which payment is deferred until completion of education. An educational loan on which repayment must begin within sixty (60) days after receipt of the loan shall not be considered as a deferred repayment loan.
2. Monies received from a Reverse Annuity Mortgage (RAM) loan program should be treated as a loan and excluded from income. These loans meet the accepted definition of a loan since there is a verifiable agreement to repay with interest.

See Section 4.405.1 for information about financial assistance.

H. In-Kind Benefits

An in-kind benefit is any gain or benefit received by the household that is not in the form of money such as meals, clothing, public housing, or produce from a garden.

In-kind payments which would normally be excluded as income but are converted in whole or in part to a direct cash payment under the approval of a federally authorized demonstration project (including demonstration projects created by a waiver of the provisions of federal law) shall be excluded from income.

I. Vendor Payments

Vendor payments are money payments that are not payable directly to a household, but are paid to a third party for a household expense. A payment made on behalf of a household shall be considered a vendor payment whenever a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. Vendor payments are excludable as follows:

1. Such payments include subsidies paid to the households and legally obligated to the landlord, rent or mortgage payments made directly to landlords or mortgagees by the Department of Housing and Urban Development (HUD), or payments by a government agency to a child care institution to provide day care for a household member are also excluded as vendor payments.
2. Monies that are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third party for household expense, shall be counted as income and not excluded as a vendor payment. The distinction is whether the person or organization making the payment on behalf of a household is using funds that otherwise would need to be paid to the household.
3. Any emergency Public Assistance (PA) or General Assistance (GA) payment that is provided to a third party on behalf of the migrant or seasonal farm worker household, while the household is in the job stream, shall be excluded as income and considered as a vendor payment. These payments would normally be considered as income since the payment is legally obligated to the household.
4. Wages earned by a household member that are garnished or diverted by an employer, and paid to a third party for a household's expenses, such as rent, shall be considered as income. However, if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages, this rent payment shall be excluded as a vendor payment. In addition, if the employer provides housing to an employee, the value of the housing shall not be counted as income.
5. Assistance provided to a third party on behalf of a household by the state or local program shall be considered money payable directly to the household if the assistance is provided in lieu of:
  - a. A regular benefit payable to the household for living expenses under a program funded under Part A of the Social Security Act; or,
  - b. A benefit payable to the household for housing expenses under a state or local general assistance program or other assistance program comparable to general assistance.



6. Assistance payments made to a third party for medical, child care, or emergency/special assistance would be excluded as a vendor payment. Assistance payments provided by a state or local housing authority would also be excluded as income.
7. Energy assistance payments, other than for the Low-Income Energy Assistance Program (LEAP) or a one-time payment under federal or state law for weatherization or to repair/replace an inoperative furnace or other heating or cooling device, that are made under a state or local program shall be counted as income. The exclusion will still apply if a down payment is made and is followed by a final payment upon completion of work. If a state law prohibits the household from receiving a cash payment under state or local general assistance (or comparable program), the assistance would be excluded. This applies to either an energy assistance payment or other type of payment. Energy assistance payments for an expense paid on behalf of the household under a state law shall be considered an out-of-pocket expense incurred and paid by the household.

Energy assistance payments made under Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.) is included as income. The Act does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.

8. Vendor payments which would normally be excluded as income but are converted in whole or in part to a direct cash payment under the approval of a federally authorized demonstration project (including demonstration projects created by a waiver of the provisions of federal law) shall be excluded from income.
9. Monies from alimony or a court-ordered child support payment which are required by a court order (or other legally binding agreement) to be paid to a third party rather than to the household shall be excluded from income as a vendor payment, even if the household agrees to the arrangement.
10. Payments in excess of the amount specified in a court order (or other legally binding agreement) which are paid to a third party in addition to a court-ordered vendor payment shall also be treated as a vendor payment.

J. Reimbursements

1. Reimbursement for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household shall not be considered income.

To be excluded, the reimbursement must be provided specifically and used for an identified expense, other than normal living expenses, and used for the purpose intended. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are not exempt.

2. No portion of benefits provided under Title IV-A of the Social Security Act, to the extent such benefit is attributed to an adjustment for work related or child care expenses, except for payment or reimbursement for such expenses made under an education, employment, or training program initiated under such Title after September 18, 1988, shall be considered exempt under this provision.

3. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses unless the provider or the household indicates the amount is excessive.
4. Types of reimbursement for expenses include:
  - a. Reimbursement or flat allowances for job or training related expenses, such as travel, per diem, uniforms, and transportation to and from the job or training site including migrant travel.
  - b. Reimbursements for out of pocket expenses of volunteers incurred in the course of their work.
  - c. Medical or dependent care reimbursements.
  - d. Reimbursements received by households to pay for services provided by Title XX of the Social Security Act.
  - e. Reimbursements made to the household for expenses necessary for participation in an education component under the Employment First program.

**K. Verification**

Documentation of exempt income may explain a household's ability to maintain itself. Verification of exempt income is necessary only if the income is questionable. For example, when it is questionable that money received is a loan, a simple statement signed by both parties must be obtained which states that the money is a loan and that a repayment is being made or will be made.

If the household receives payments on a regular basis from the same source but claims that payments are loans, it may be required that the provider of the loan sign an affidavit stating that repayments are being made or will be made in accordance with an established repayment schedule.

**4.405.1 Loans and Reimbursements to Students**

All education assistance on which payment is deferred, including grants, scholarships, fellowships, work-study, veteran's educational benefits, and others that are awarded to a household member who is enrolled at a recognized institution of post-secondary education, at a school for persons with disabilities, in a vocational education program, in a vocational or technical school, or in a program that provides for completion of a secondary school diploma, or obtaining the equivalent of a secondary school diploma, will be allowed the following exclusions from consideration as income.

**A. Educational Assistance Excluded from Income**

All student financial assistance received under Title IV (including assistance funded in whole or in part under Title IV) or Part E of Title XIII of the Higher Education Act or under the Bureau of Indian Affairs student assistance programs pursuant to section 479B and section 1345(c) of Public Law No. 102-325 and educational assistance received by a student under section 507 of the Carl D. Perkins Vocational and Applied Technology Education Act, Amendments of 1990, Public Law No. 101-392.

**B. Educational Assistance Not Excluded from Income**

The following is the procedure for handling educational assistance that is not excluded. These provisions apply to federal, state, local, and private educational assistance received by a student, and educational assistance provided directly to the student's school or parent or guardian:

1. The local office shall first exclude the amount of assistance identified (earmarked) by the institution, school, program, or other grantor as made available for the specific costs of:

- a. Tuition and mandatory school fees

The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved. Thus, the exclusion of mandatory fees is no longer restricted to only those fees charged to all students or charged to all students within a certain curriculum. The local office shall use its judgment when applying the related provision to assure that expenses are truly incurred as a result of the pursuit of the student's course of study.

- b. Origination fees and insurance premiums on loans.

- c. Books and supplies.

- d. Transportation costs related to attendance, including car repairs, loan payments, bus, plane or train fares, and normal commuting costs. Expenses may be estimated on a per mile basis.

- e. Miscellaneous personal expenses.

Costs must be related to attendance. Amounts earmarked for normal living expenses such as, but not limited to, clothing, food, rent, room and board, or personal hygiene items shall not be excluded. Local offices should determine if the costs are related to attendance.

2. In situations where the institution, school, program, or other grantor has earmarked educational assistance or the allowable costs involved, but such earmarking identifies multiple sources of educational assistance and multiple expenses without specifically identifying which educational source is made available for which expense, the worker shall exclude the total amount of earmarked allowable costs from the total non-excluded educational income provided. The allowable costs shall not be excluded from each individual educational source unless clearly earmarked in that manner.

3. Non-Earmarked Expenses

If the institution, school, program, or other grantor does not earmark amounts for the allowable expenses of tuition, mandatory fees, books, supplies, dependent care, transportation, or miscellaneous personal expenses, an exclusion from educational income shall be granted for allowable educational expenses verified by the student as being used for such allowable expenses.

When the amounts earmarked by the institution, school, program, or other grantor are less than the student actually used for the allowable expense involved, an exclusion shall be allowed for amounts used over the earmarked amounts.

4. Students attending post-secondary school less than half-time are entitled to the exclusion of tuition and fees. Students must be attending at least half-time to have all allowable expenses excluded.
5. Calculation of Income
  - a. Where a student receives more than one source of educational income that is not totally excluded, all of the student's non-excluded educational income, except for non-excluded work-study income, shall first be totaled. Allowable expenses based on earmark and use shall be totaled and subtracted from this amount. If the non-work-study income is not enough to cover the allowable expenses, any allowable expense not covered shall be excluded from the work-study income before the twenty percent (20%) earned income deduction is computed.
  - b. Amounts of an allowable expense to be excluded based on use are those incurred or anticipated for the period the educational income is intended to cover regardless of when the educational income is actually received. The first month that educational income would be counted is the month in which it is received although it is still prorated over the period it is intended to cover. If a student uses other income sources for allowable educational expenses in months before the educational income is received, the expense shall be excluded from educational income when the educational income is received.
  - c. Where state work-study income is received monthly in relation to costs of attendance that are usually incurred on a less frequent basis, the worker shall anticipate the work-study income for the appropriate quarter, semester, or year, exclude the allowable costs, and prorate the remaining amount over the quarter, semester, or year.
  - d. The twenty percent (20%) earned income deduction shall be applied to state work-study income and income from a fellowship with a work requirement remaining after the allowable exclusions are made.
  - e. An individual's total education income exclusions cannot exceed that individual's total educational income.
  - f. Amounts excluded from educational assistance for dependent care cost shall not be deducted from income as an expense. Dependent care costs incurred that exceed the amount earmarked and excluded from educational assistance shall be used as a deduction from income.

#### **4.405.2 Income Excluded by Other Federal Statutes**

The following government payments are received for a specific purpose and are excluded as income by federal law. Federal regulations and laws have been incorporated below. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.

##### **A. General**

1. P.L. No. 89-642, Section 11(b) of the Child Nutrition Act of 1966, as amended, excludes the value of assistance to children under this Act.

2. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, (P.L. No. 91-646, Section 216).
3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113).

Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving Food Assistancess or public assistance at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving public assistance or Food Assistance at the time they joined VISTA shall have these volunteer payments included as earned income.

4. P.L. No. 101-610, Section 17(d), 11/16/90, National and Community Service Act (NCSA) of 1990, as amended, provides that Section 142(b) of the JTPA applies to projects conducted under Title I of the NCSA as if such projects were conducted under the JTPA. Title I includes three Acts:
  - a. Serve-America: the Community Service, Schools and Service-Learning Act of 1990, as amended.
  - b. American Conservation and Youth Service Corps Act of 1990, as amended.
  - c. National and Community Service Act, as amended.

There are approximately forty-seven (47) different NCSA programs and they vary by state. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program. The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a one thousand dollar (\$1,000) post-service educational award. The National and Community Service Trust Act of 1993 (P.L. No. 103-82, 9/23/93) amended the National and Community Services Act of 1990, but did not change the exclusion.

5. P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for Food Assistance purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

Payments made to homeless people with funds from Federal Emergency Management Assistance (FEMA) to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision.

6. Payments, allowances and earnings under the Workforce Investment Act (WIA) are excluded as income. Earnings paid for on-the-job training are still counted for the Food Assistance Program. On-the-job training payments for members under nineteen (19) years of age who are participating in WIA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income.

7. P.L. No. 99-425, Section(e), the Low-Income Home Energy Assistance Act, 1986. Payments or allowances made under any federal laws for the purpose of energy assistance.

P.L. No. 104-193 states that any payment or allowances made for the purpose of providing energy assistance under a federal law other than Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.), or a one-time payment, or allowance made under federal or state law for the cost of weatherization, or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device is excluded from income.

8. Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and under the Title IV of the Comprehensive Employment and Training Act Amendments of 1978 (P.L. No. 95-524).

9. P.L. No. 100-175, Section 166, Older Americans Act, 11/29/87. Funds received by persons fifty five (55) years of age and older under the Senior Community Service Employment Program under Title V of the Older Americans Act are excluded from income.

State agencies and eight organizations receive funding under Title V. The eight organizations are: Green Thumb, National Council on Aging, National Council of Senior Citizens, American Association of Retired Persons, U.S. Forest Service, National Urban League, National Council on Black Aging.

10. Payments in cash donations, based upon need, from one or more private, nonprofit charitable organizations, but not exceeding three hundred dollars (\$300) in the aggregate per fiscal quarter (P.L. No. 100-232).

11. The portion of a military retirement payment, which goes to an ex-spouse under a divorce decree property settlement, is not counted as income to the retiree. (P.L. No. 97-252, Uniform Service Former Spouse Protection Act.) These payments are excluded as vendor payments.

12. Military combat payments received by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from the household income for the duration of the member's deployment as long as the additional payment was not received immediately prior to serving in a combat zone.
13. Mandatory deductions from military pay for education purposes while the individual is enlisted.  
  
(P.L. No. 99-576, Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Section 303(a) (1), 8/7/86.) Section 216 of P.L. No. 99-576 authorizes stipends for participation in study of Vietnam-Era veterans' psychological problems which are not excluded from income.
14. Payments to U.S. citizens of Japanese ancestry and resident Japanese non-citizens of up to twenty thousand dollars (\$20,000) each and payments to certain eligible Aleuts of up to twelve thousand dollars (\$12,000) each (P.L. No. 100-383, Civil Liberties Act of 1988).
15. Emergency assistance payments made by a state or local agency for migrants or seasonal farm-workers in the job stream (P.L. No. 100-387).
16. Benefits received from the special supplemental food program for women, infants and children (WIC), including benefits that can be exchanged for food at farmers' markets or part of a WIC demonstration project (P.L. No. 92-443). This payment is excluded as an in-kind benefit (P.L. No. 100-435, Section 501, 9/19/88, amended Child Nutrition Act).
17. P.L. No. 100-485, Section 301, the Family Support Act, 10/31/88 which amended Section 402(g)(1)(E) of the Social Security Act. The value of any child care payments made under Title IV-A of the Social Security Act, including transitional child care payments, are excluded from income.
18. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income retroactive to January 1, 1989. The disabled veteran will receive yearly payments. Survivors of deceased disabled veterans will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company.  
  
P.L. No. 101-239, 12/19/89, the Omnibus Budget Reconciliation Act of 1989, Section 10405, also excludes payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) from income in determining eligibility or the amount of benefits under the Food Assistance Program.  
  
P.L. No. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law.
19. P.L. No. 101-508, Section 5801, which amended Section 402(i) of the Social Security Act, 11/5/90. At-risk block grant child care payments made under section 5801 are excluded from being counted as income for Food Assistance purposes and no deduction may be allowed for any expense covered by such payments.

20. P.L. No. 101-508, 11/5/90, the Omnibus Budget Reconciliation Act of 1990, Title XI Revenue Provisions, Section 11111, Modifications of Earned Income Tax Credit, subsection (b) provides that any earned income tax credit shall not be treated as income. This provision is effective with taxable years beginning after December 31, 1990.
21. Any payment made to an Employment First participant for costs that are reasonably necessary and directly related to participation in the Employment First Program. These costs include, but are not limited to, dependent care costs, transportation, other expenses related to work, training or education, such as uniforms, personal safety items, or other necessary equipment, and books or training manuals. These costs shall not include the cost of meals away from home. Also, the value of any dependent care services provided for or arranged by the Employment First Unit is excluded.
22. Amounts necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act (P.L. No. 102-237). This money may be spent in accordance with an approved PASS or deposited into a PASS savings account for future use.
23. Any money received from the Radiation Exposure Compensation Trust Fund pursuant to P.L. No. 101-426 as amended by P.L. No. 101-510.
24. P.L. No. 102-586, signed 11/4/92, Section 8, amended the Child Care and Development Block Grant Act Amendments of 1992 by adding a new Section 658S to exclude the value of any child care provided or arranged, or any amount received as payment for such care or reimbursement for costs incurred for such care from income for purposes of any other federal or federally assisted program that bases eligibility, or the amount of benefits, on need.
25. P.L. No. 101-625, Section 22(i), Cranston-Gonzales National Affordable Housing Act, 11/28/90, 42 U.S.C.S. 1437t(i), provides that no service provided to a public housing resident under this section (Family Investment Centers) may be treated as income for purposes of any other program or provision of state or federal law.

This exclusion applies to services such as child care employment training and counseling, literacy training, computer skills training, assistance in the attainment of certificates of high school equivalency, and other services. The exclusion does not apply to wages or stipends.

P.L. No. 101-625, Section 522(i)(4), excludes most increases in the earned income of a family residing in certain housing while participating in HUD demonstration projects authorized by P.L. No. 101-625. Demonstration projects are authorized by P.L. No. 101-625 for Chicago, Illinois, and three other locations. The affected offices will be contacted individually regarding these projects.

26. P.L. No. 103-286, Section 1(a), 8/1/94, Section 1(a), provides in part that payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any federal or federally assisted program which provides benefits or services based, in whole or in part, on need.
27. P.L. No. 103-322, Section 230202, 9/13/94, Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provides in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay:



- a. Such crime victim compensation program shall not pay that compensation.
- b. The other program shall make its payments without regard to the existence of the crime victim compensation program.

Based on this language, payments received under this Program must be excluded from income for Food Assistance purposes.

28. P.L. No. 104-204, 9/25/96, requires that allowances paid under this law to children of Vietnam veterans who were born with spina bifida be excluded from income.

B. American Indian or Alaska Native

Usually a law will specify payments to members of a tribe or band, and the law will apply to the members enrolled in the tribe or band wherever they live. The individuals should have documentation showing where the payments originate.

1. P.L. No. 92-203, section 29, dated 1/2/76, the Alaska Native Claims Settlement Act, and Section 15 of P.L. No. 100-241, 2/3/88, the Alaska Native Claims Settlement Act Amendments of 1987 - All compensation, including cash, stock, partnership interest, land, interest in land, and other benefits, received under this Act are excluded.
2. P.L. No. 93-134, the Judgment Award Authorization Act, as amended by P.L. No. 97-458, Section 1407, 11/12/83 and P.L. No. 98-64, 8/2/83, the Per Capita Distribution Act. P.L. No. 97-458 required the exclusion of per capita Payments under the Indian Judgment Fund Act (judgment awards) of two thousand dollars (\$2,000) or less from income. The exclusion applies to each payment made to each individual. P.L. No. 98-64 extended the exclusion to cover per capita payments from funds which are held in trust by the Secretary of Interior (trust fund distributions).  
  
P.L. No. 93-134, the Indian Tribal Judgment Fund Use or Distribution Act, Section 8, 10/19/73, as amended by P.L. No. 103-66, Section 13736, 10/7/93, provides that interest of individual Indians in trust or restricted lands up to two thousand dollars (\$2,000) per year received by individual Indians that is derived from such interests shall not be considered income in determining eligibility for assistance under the Social Security Act or any other federal or federally assisted program. The two thousand dollar (\$2,000) limit is based on calendar years from January through December.
3. P.L. No. 93-531, section 22 - Relocation assistance payments to members of the Navajo and Hopi Tribes are excluded from income and resources.
4. P.L. No. 94-114, section 6, 10/17/75 - Income derived from certain sub-marginal land held in trust for certain Indian tribes is excluded from income. The tribes that shall benefit are:
  - a. Bad River Band of the Lake Superior Tribe of Chippewa
  - b. Indians of Wisconsin
  - c. Blackfeet Tribe
  - d. Cherokee Nation of Oklahoma
  - e. Cheyenne River Sioux Tribe

- f. Crow Creek Sioux Tribe
  - g. Lower Brule Sioux Tribe
  - h. Devils Lake Sioux Tribe
  - i. Fort Belknap Indian Community
  - j. Assiniboine and Sioux Tribes
  - k. Lac Courte Oreilles Band of Lake Superior Chippewa Indians
  - l. Keweenaw Bay Indian Community
  - m. Minnesota Chippewa Tribe
  - n. Navajo Tribe
  - o. Oglala Sioux Tribe
  - p. Rosebud Sioux Tribe
  - q. Shoshone-Bannock Tribes
  - r. Standing Rock Sioux Tribe
5. P.L. No. 94-189, Section 6, 12/31/75 - Funds distributed per capita to the Sac and Fox Indians or held in trust are excluded from income. The funds are divided between members of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa. The judgments were awarded in Indian Claims Commission dockets numbered 219, 153, 135, 158, 231, 83, and 95.
  6. P.L. No. 94-540 - Payments from the disposition of funds to the Grand River Band of Ottawa Indians are excluded from income.
  7. P.L. No. 95-433, section 2 - Indian Claims Commission payments made pursuant to this Public Law to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation are excluded from income.
  8. P.L. No. 96-420, section 9(c), 10/10/80, Maine Indian Claims Settlement Act of 1980 - Payments made to the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet are excluded from income.
  9. P.L. No. 97-403 - Payments to the Turtle Mountain Band of Chippewas, Arizona, are excluded from income.
  10. P.L. No. 97-408 - Payments to the Blackfeet, Grosventre, and Assiniboine tribes, Montana, and the Papago, Arizona, are excluded from income.
  11. P.L. No. 98-123, Section 3, 10/13/83 - Funds distributed to members of the Red Lake Band of Chippewa Indians are excluded from income. Funds were awarded in docket number 15-72 of the United States Court of Claims.

12. P.L. No. 98-124, Section 5 - Per capita and interest payments made to members of the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana, under this Act are excluded from income. Funds were awarded in docket 10-81L.
13. P.L. No. 98-500, Section 8, 10/17/84, Old Age Assistance Claims Settlement Act, provides that funds made to heirs of deceased Indians under this Act shall not be considered as income nor otherwise used to reduce or deny Food Assistance benefits except for per capita shares in excess of two thousand dollars (\$2,000). The first two thousand dollars (\$2,000) of each payment is excluded.
14. P.L. No. 99-146, Section 6(b), 11/11/85 - Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior are excluded from income. Judgments were awarded in Dockets Numbered 18-S, 18-U, 18-C, and 18-T.
  - a. Dockets 18-S and 18-U are divided among the following reservations:
    - 1) Wisconsin
    - 2) Bad River Reservation
    - 3) Lac du Flambeau Reservation
    - 4) Lac Courte Oreilles Reservation
    - 5) Sokaogon Chippewa Community
    - 6) Red Cliff Reservation
    - 7) St. Croix Reservation
    - 8) Michigan
    - 9) Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert, and Ontonagon Bands)
    - 10) Minnesota
    - 11) Fond du Lac Reservation
    - 12) Grand Portage Reservation
    - 13) Nett Lake Reservation (including Vermillion Lake and Deer Creek)
    - 14) White Earth Reservation
  - b. Under dockets 18-C and 18-T funds are given to the Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, the Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, and the St. Croix Chippewa Indians of Wisconsin.

15. P.L. No. 99-264, White Earth Reservation Land Settlement Act of 1985, 3/24/86, Section 16 excludes moneys paid from income. This exclusion involves members of the White Earth Band of Chippewa Indians in Minnesota.
16. P.L. No. 99-346, Section 6(b) (2) - Payments to the Saginaw Chippewa Indian Tribe of Michigan are excluded from income.
17. P.L. No. 99-377, Section 4(b), 8/8/86, - Funds distributed per capita to the Chippewas of the Mississippi or held in trust under this Act are excluded from income. The judgments were awarded in Docket Number 18-S. The funds are divided by reservation affiliation for the Mille Lac Reservation, Minnesota; White Earth Reservation, Minnesota; and Leech Lake Reservation, Minnesota.
18. P.L. No. 101-41, 6/21/89, the Puyallup Tribe of Indians Settlement Act of 1989, Section 10 (b) provides that nothing in this Act shall affect the eligibility of the Tribe or any of its members for any Federal program. Section 10(c) provides that none of the funds, assets, or income from the trust fund established in section 6(b) shall at any time be used as a basis for denying or reducing funds to the tribe or its members under any Federal, State, or local program. (The Puyallup Tribe is located in the State of Washington.)
19. P.L. No. 101-277, 4/30/90, funds appropriated in satisfaction of judgments awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission are excluded from income except for per capita payments in excess of two thousand dollars (\$2,000). Payments were allocated to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida.
20. P.L. No. 101-503, Section 8(b), Seneca Nation Settlement Act of 1990, dated November 3, 1990, provides that none of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income derived therefrom shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any federal program.
21. P.L. No. 103-436, 11/2/94, Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, Section 7(b) provides that payments made pursuant to the Act are totally excluded from income.

#### **4.406 HOUSEHOLDS DESTITUTE OF INCOME**

Migrant or seasonal farm worker households may be considered destitute of income upon initial certification or recertification, but only for the first month of each certification period.

- A. Migrant or seasonal farm worker households may have little or no income at the time of application even though they receive income at some time during the month of application. Such households will be considered destitute and thereby entitled to expedited application processing (see Section 4.205.1), if their only income is from a terminated and/or new source under the following circumstances:
  1. The household's only income for the month of application was received from a terminated source prior to the date of application.
    - a. Income is considered to be from a terminated source if it is normally received on a monthly or more frequent basis and is not expected to be received again from the same source during either the remainder of the month of application or the month following (i.e., migrant work ended with one grower).

- b. Income that is normally received less often than monthly is considered to be from a terminated source if it is not anticipated to be received during the month in which it would normally be received (i.e., quarterly income not received in the normal third month).
  2. The household's only income for the month of application is more than twenty-five dollars (\$25) from a new source and it will not be received by the tenth (10<sup>th</sup>) calendar day after the filing date of an application for initial certification, or by the tenth calendar day after the household's normal issuance cycle if the application is for recertification.
    - a. Income is considered to be from a new source if the income of more than twenty-five dollars (\$25) is normally received on a monthly or more frequent basis but has not been received from that source within thirty (30) calendar days prior to the filing date of application.
    - b. Income is considered to be from a new source if the income of more than twenty-five dollars (\$25) is normally received less often than monthly but was not received within the last normal interval between payments.
  3. The household's only income is a combination of that received from a terminated source prior to date of application and income of more than twenty-five dollars (\$25) received in the month of application from a new source, which will not be received by the tenth (10<sup>th</sup>) calendar day after the date of initial application, or by the tenth (10<sup>th</sup>) calendar day after the household's normal issuance cycle if application is for recertification.
- B. A migrant farm worker's source of income shall be considered to be the particular grower, and not the crew chief. A migrant who moves from one grower to another shall be considered to have moved from a terminated source to a new source.
- C. There is no limit on the number of times a household can be considered destitute of income provided that before each subsequent expedited certification, the household either has completed the verification requirements that were postponed at the last expedited certification or the household was certified under normal processing standards since the last expedited certification.

#### **4.406.1 Income Calculation When Destitute of Income**

- A. Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only that income received between the first of the month and the date of application. If it is an initial month application, the first application or an application received after the household's last certification period expired, the allotment for the initial month shall be prorated to cover days from date of application to the end of the month.
- B. If income of more than twenty-five dollars (\$25) from a new source has not been received or is not anticipated within ten (10) calendar days from the date of initial application or within ten (10) calendar days after the household's normal issuance cycle if applying for recertification, it shall be disregarded.
- C. Travel advances provided by an employer to reimburse travel costs of relocation of a new employee is exempt income and does not affect the destitute status of a household. If the travel advance is, by written contract, an advance of wages that will be subtracted from wages later earned by the employee, the money is considered as income but shall not affect the determination of whether subsequent payments from the employer are from a new source of income nor whether the household shall be considered destitute.

**4.407 DEDUCTIONS FROM INCOME**

A. Allowable deductions are subtracted from total monthly gross income to determine the household's monthly net Food Assistance income. The monthly income shall be rounded down to the lower dollar if it ends in one (1) through forty-nine (49) cents and rounded to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents before deductions are considered.

Allowable expenses will not be deductible if covered by vendor payments such as HUD, or reimbursements, such as insurance. An expense which is covered by an excluded vendor payment that has been converted to a direct cash payment under a federally authorized demonstration project shall not be deductible.

B. Households may elect to have fluctuating monthly expenses averaged over the certification period. Also, households have the option of having expenses that are billed less often than monthly averaged over the period the expense is intended to cover. Households may elect to have medical expenses averaged as described in Sections 4.407.6 and 4.407.61. Expenses that have been averaged are subject to the reporting requirements contained in Section 4.603.

C. Actual or averaged expenses that result in deductions for medical, dependent care, and shelter costs shall be anticipated. Households who expect changes cannot have their expenses averaged solely on the basis of the last several bills. Expenses that are billed on a weekly or biweekly basis shall be converted to a monthly figure utilizing the conversion outlined in Section 4.402.

D. The following subsections contain the only deductions allowed from a household's monthly income. The deductions are as follows:

1. Standard deduction
2. Earned income deduction
3. Excess shelter deduction
4. Dependent care deduction
5. Legally obligated child support expense deduction
6. Excess medical deduction

**4.407.1 Standard Deduction [Em. eff. 10/1/15; permanent eff. 1/1/16]**

A standard deduction of 8.31% of the federal poverty income guidelines for the household size will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by the Food and Nutrition Service, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction.

<b>STANDARD DEDUCTION AMOUNT</b>				
Household Size	1-3	4	5	6+
Effective October 1, 2015	\$155	\$168	\$197	\$226

**4.407.2 Earned Income Deduction**

- A. A household with earned income shall receive a deduction of twenty percent (20%) of its gross nonexempt earned income, which is been rounded down to the lower dollar if it ends in the one (1) through forty-nine (49) cents and rounded up to the next dollar amount if it ends in fifty (50) through ninety-nine (99) cents. The twenty percent (20%) deduction shall also apply to prorated income earned by the disqualified member and attributed to the household.
- B. The earned income deduction will not be applied to any portion of income earned under a work supplementation or work support program that is attributable to a federal, state, or local public assistance program.

An Inadvertent Household Error (IHE) claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction

**4.407.3 Excess Shelter Deduction [Em. eff. 10/1/15; permanent eff. 1/1/16]**

- A. Households shall receive a deduction for the allowable monthly shelter costs that are in excess of fifty percent (50%) of the household's income after all other deductions. Shelter expenses are allowed as billed to a household member or as paid or billed to a disqualified individual. Shelter costs that are paid by or billed to a person disqualified for fraud shall be allowed as a deduction for eligible members in their entirety. Shelter costs, paid or billed to a person disqualified for being an ineligible non-citizen or for failure to provide a Social Security Number shall be divided evenly among all household members and the disqualified individual. All except the disqualified person's pro rata share is counted as a shelter cost of the household.
- B. A shelter deduction cap, as specified below, applies to households that do not contain person who is elderly and/or a person with a disability as defined in Section 4.304.41. Those households containing a person who is elderly and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

<b>SHELTER DEDUCTION CAP</b>	
Effective October 1, 2015	\$504

- C. Homeless households shall be entitled to use a standard estimate of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month. The Food and Nutrition Service, USDA, has provided a current estimate of one hundred forty-three dollars (\$143) and shall update this figure annually when the shelter cap for other households is adjusted.

All homeless households that incur or reasonably expect to incur shelter costs during a month shall be eligible for the estimate unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate. If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person principle in determining if verification obtained is adequate. Homeless households that incur no shelter costs during the month shall not be eligible for the standard estimate.

- D. A household may claim both the costs of its actual residence and those for a home that is not occupied by the household because of employment or training away from home; or illness; or abandonment caused by a natural disaster or casualty loss.

For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for Food Assistance purposes; and the home must not be leased or rented during the absence of the household.

E. Allowable shelter costs shall include only the following:

1. Continuing charges for the shelter, including rent, mortgages, condo, and association fees or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.
  - a. If a homeowner has drawn money down in a reverse mortgage and now wants to make monthly payments to repay some of the amount drawn, the repayment shall be considered a charge leading to the ownership of a home, such as a loan repayment. To be deductible, the charge must be continuing. If the household expects to make monthly payments, the client's charges are considered to be continuing, and the repayments shall be allowed as a shelter cost. If the repayment is not continuing, it does not meet the requirement and the payments shall not be allowed as a shelter deduction.
  - b. Payments on loans secured by a lien placed on the property by the lending institution, such as a second mortgage or home equity loan, shall be considered a continuing charge for shelter. Payments on unsecured loans or personal loans are not considered shelter costs.
  - c. Expenses incurred to keep a pet that are billed separately from the household's rent are not allowable as shelter deductions.
2. Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.
3. Charges to repair or rebuild a home substantially damaged or destroyed due to a natural disaster such as a fire or flood. Allowable expenses are those that have not been, and will not be, reimbursed by private or public relief agencies, insurance companies, or any other source.
4. Utility costs which include charges for heating and cooking fuel; water and sewer; well installation and maintenance; septic tank installation and maintenance; garbage and trash collection fees; and, fees charged by the utility provider for initial installation of the utility.
5. A telephone allowance for one telephone or the cost of telephone service that is associated with a specific device, which includes land-line service or cellular service, including disposable cell phones, and voice over internet protocol (VOIP). Households are not allowed to deduct the cost of pay phones and of phone cards that are not associated with a specific device. One-time deposits shall not be included as shelter costs. With regard to VOIP, only the cost of VOIP is deductible; other charges such as Internet connectivity fees and monthly cable/internet fees are not deductible.



**4.407.31 Four-Tiered Mandatory Standard Utility Allowance [Em. eff. 10/1/15; permanent eff. 1/1/16]**

Effective October 1, 2008, a four tiered mandatory standard utility allowance deduction was implemented in determining a household's excess shelter deduction. Households cannot claim actual utility expenses and are only entitled to one of the four utility allowances. The four utility allowances shall be reviewed annually and adjusted each year, based on Federal approval, to reflect Colorado's cost of utilities. No utility expenses can be allowed as an income exclusion for self-employed households when a mandatory utility allowance is given to the household.

When determining expedited eligibility, the appropriate utility allowance shall be applied when establishing the household's shelter costs.

The four (4) tiers are as follows:

**A. Heating and Cooling Utility Allowance (HCUA)**

1. "Cooling costs" are defined as utility costs relating to the operation of air conditioning systems, room air conditioners, swamp coolers, or evaporative coolers. Fans are not an allowable cooling cost. A heating and cooling utility allowance (HCUA) is available only to households who:
  - a. Incur or anticipate a heating or cooling expense separate and apart from their rent or mortgage;
  - b. Received a Low-Income Energy Assistance Program (LEAP) payment within the previous twelve (12) month period, regardless of whether or not the individual is still residing at the address for which he/she received the LEAP payment;
  - c. Live in private rental housing and are billed by their landlords on the basis of individual usage or are charged a flat rate separately from their rent for heating and cooling;
  - d. Share a residence and who incur at least a portion of the heating or cooling cost; each household will be entitled to the full HCUA; or,
  - e. Live in public housing and are responsible for excess heating and/or cooling costs.
2. A Food Assistance household, which incurs or anticipates a heating or cooling expense on an irregular basis, may continue to receive the HCUA between billing periods.
3. Operation of a space heater, electric blanket, heat lamp, cooking stove and the like when used as a supplemental heating source are allowable costs when determining eligibility for the basic utility allowance (BUA), but do not qualify a household for the HCUA.
4. The HCUA standard is as follows:

Effective October 1, 2015	\$460
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**B. Basic Utility Allowance (BUA)**

1. The Basic Utility Allowance (BUA) is mandated for any households that are not entitled to the HCUA and that incur at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone.

2. If more than one assistance group shares in paying non-heating or non-cooling utility costs of the dwelling, the full BUA will be allowed for each assistance group sharing in the utility costs.
3. The BUA standard is as follows:

Effective October 1, 2015	\$290
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C. One Utility Allowance (OUA)

1. The OUA is mandated for any household that is not entitled to the HCUA or BUA but is responsible for only one (1) non-heating or one (1) non-cooling utility expense. The OUA is not allowed if the household's only utility expense is a telephone.
2. If more than one (1) assistance group shares in paying one (1) non-heating or one non-cooling utility costs of the dwelling, the full OUA will be allowed for each assistance group sharing in the utility costs.
3. The OUA standard is as follows:

Effective October 1, 2015	\$55
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D. Telephone Allowance

1. The telephone allowance is available to households whose only utility expense is for a telephone. If more than one assistance group shares in paying the telephone expense and that is the only utility expense of the dwelling, the full phone standard will be allowed for each assistance group sharing in the telephone expense.
2. The telephone allowance is as follows:

Effective October 1, 2015	\$74
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**4.407.4 Dependent Care Deduction**

Refer to Section 4.407.6 if the attendant care is for a household member who is age sixty (60) or older or who receives SSI or Social Security disability payments. The attendant costs, including meals provided, shall be considered as a medical expense.

- A. Dependent care expenses, as billed to a household member or as paid by or billed to a person disqualified for being an ineligible non-citizen or failure to provide or apply for a SSN, for the care of a child or disabled dependent shall be considered when the dependent care expenses are necessary for a household member to accept or continue employment, seek employment, or attend training or pursue education which is preparatory to employment. Dependent care expenses that are paid by or billed to the disqualified person shall be divided equally among all household members and the disqualified person. All except the disqualified member's pro rata share is considered for a deduction.

The dependent care deduction that is paid by or billed to individuals disqualified for intentional Program violation/fraud will be allowed in its entirety.

- B. The total dollar amount that the household is responsible to pay for dependent care expenses is deductible.

- C. Only direct monetary payments to an agency or a person outside of the household will be allowable. The value of in-kind benefits paid to an attendant, such as meals, is not considered for a dependent care deduction.
- D. A child care expense which is reimbursed or paid for by the JOBS program under Title IV-F of the Social Security Act or the Transitional Child Care (TCC) program shall not be a deductible expense.

**4.407.5 Child Support Expense Deduction**

- A. A household shall receive a deduction from income for legally binding child support payments made to or for non-household members. The child support deduction will be made from the household's total countable gross income and prior to any gross income test to determine eligibility. The court-ordered amount and the most recent amounts that have been paid must be verified by the household. Legally obligated child support paid by a household member under the age of eighteen (18) shall be an allowable deduction, even if the income of the child is considered exempt under Section 4.405, C.
- B. If the noncustodial parent makes child support payments to a third party non-household member (e.g., a landlord, utility company, or health insurance organization) in accordance with the support order, the payment shall be included in the child support deduction.
- C. A deduction for amounts paid toward arrearage will be allowed. Alimony payments will not be allowed as a deduction.
- D. Households with a history of three (3) or more months of paying child support shall have the support payments averaged taking into account any anticipated changes in the legal obligation and shall use that average as the household's support deduction.
- E. For households with less than a three (3) month record, the local office shall estimate the anticipated payments and use that estimate as the household's support deduction.
- F. If the household does not report and verify its monthly child support payment or a change in its legal obligation, the child support deduction shall not be allowed.
- G. Households not certified as simplified reporting are responsible to report during the certification period any change in the legal obligation to pay child support, including termination of the obligation when a child reaches an age at which child support is no longer obligated.
- H. All households are required to report a change of twenty-five dollars (\$25) or more in the amount that was allowed for the deduction at the time of recertification or periodic report.

**4.407.6 Excess Medical Deduction**

A household shall receive a deduction for total medical expenses in excess of thirty-five dollars (\$35) per month, incurred by any household member(s) who is elderly or disabled as defined in Section 4.304.41. Other household members who are not elderly or disabled, including spouses and dependents, cannot claim costs of their medical treatment and services.

- A. The following medical costs, less the cost of reimbursements from another source, are allowable:
  - 1. Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner or other qualified health professional.

2. Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the Colorado Department of Public Health and Environment.
3. Prescription drugs when prescribed by a licensed practitioner authorized under state law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional. Costs of medical supplies, sickroom equipment (including rental), or other prescribed equipment may also be allowable.
4. Health and hospitalization insurance policy premiums, Medicare premiums, and any cost-sharing expenses incurred by medical recipients.
5. Dentures, hearing aids, prosthetics, and eyeglasses prescribed by a physician skilled in eye disease or by an optometrist.
6. Securing and maintaining a service animal, such as a seeing-eye or hearing dog, including cost of food and veterinarian fees. The costs of caring for these animals may be deducted only when the animal has received special training to provide a service to the client.
7. Reasonable transportation and lodging to obtain medical treatment or services. Mileage expenses shall be calculated based on the prevailing Internal Revenue Service (IRS) mileage rate used for medical purposes.
8. Wages to an attendant, homemaker, home health aide, child care services, or a housekeeper necessary due to age, infirmity, or illness. In addition, an amount equal to the maximum allotment for one (1) person is allowed if the household furnishes the majority of the attendant's meals. The allotment shall be the one in effect at the time of certification with an appropriate adjustment at the next certification.

If attendant care costs qualify under both medical and dependent care deduction, the costs shall be allowed as a medical expense.

- B. Non-allowable medical costs include, but are not limited to:
1. Special diet expenses;
  2. Premiums for health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or policies for income maintenance such as those that continue mortgage or loan payments while the beneficiary is disabled;
  3. Medical expenses that are reimbursable by insurance or other public or private sources;
  4. Medical marijuana shall not be an allowable medical deduction; and
  5. Vitamins and supplements unless prescribed by a physician.

**4.407.61 Determining Monthly Medical Expenses**

- A. In cases when the household claims a deduction for billed medical expenses, which the household can verify will neither be paid directly nor reimbursed by an insurance company government program or private individual, a deduction for the total amount over thirty-five dollars (\$35) shall be allowed.

In cases when the household claims a deduction for billed medical expenses and the household is unable to verify whether or not any reimbursement will be received, no medical expense deduction shall be allowed until the household either receives reimbursement for all or part of the expense or is able to verify that reimbursement will not be provided. When such reimbursement is received and verified, the non-reimbursed portion of the claimed medical expense is allowed.

- B. Medical expenses carried forward from past billing periods shall not be allowed unless one of the following conditions is met:
1. The amount is being carried forward pending reimbursement information; or,
  2. The household has made arrangements to make monthly installments on the past due bills. The past due amount must be due to missed payments under a previous repayment agreement with the medical provider, and the payment plan is now being renegotiated with the provider. The negotiation of a payment plan with a collection agency will not be accepted as a renegotiated payment plan; or,
  3. Households that become categorically eligible for Food Assistance by reason of becoming a pure SSI household shall be entitled to excess medical expenses for the period for which they are authorized to receive SSI or from the date of the Food Assistance application, whichever is later. Restored benefits shall be issued if appropriate; or,
  4. Medical expenses that occur after the date an application is filed and reported at the subsequent application for redetermination or periodic report shall be considered if the medical expense has not previously been reported and allowed as a medical deduction. If at recertification the household provides previously unreported medical expenses that occurred prior to the last certification period that are past due, the county department shall review the medical expenses under provisions 1 through 3 of paragraph B of this section.
- C. Expenses incurred weekly or biweekly shall be converted to a monthly amount using exact dollars and cents and the conversion method outlined in Section 4.402, A. The excess over thirty-five dollars (\$35) per month is allowed as a monthly deduction.
- D. At the time of application and recertification, the household may elect to have one-time-only costs deducted in one month as a lump sum or averaged over the certification period to obtain a monthly amount. If the household elects to average the expenses over the certification period, the thirty-five dollar (\$35) deduction shall be taken for each month of the certification period.

When a one-time-only medical expense is reported during a certification period, the amount may be deducted in a lump sum or averaged over the remainder of the certification period. Averaging would begin the month the change would be effective. If the household elects to average the expenses over the remainder of the certification period, the thirty-five dollar (\$35) deduction shall be taken for each remaining month of the certification period.

#### **4.408 RESOURCE ELIGIBILITY STANDARDS**

- A. The local office shall consider households eligible under either expanded or basic categorical eligibility as outlined in Section 4.206 to have satisfied the resource eligibility criteria of this section. For households eligible under basic categorical eligibility, the case shall be documented to show that all household members have been approved for and/or are receiving benefits from the program that confers basic categorical eligibility.

- B. Households that do not meet expanded or basic categorical eligibility criteria shall have their non-exempt resources, as anticipated to be available in the issuance month, used to determine household eligibility. See Section 4.409 for what is considered a non-exempt resource.

For how resources of non-household members and disqualified members are handled, refer to Section 4.411.

The resources of a sponsor and spouse considered toward a non-citizen household shall be the sponsor's total resources less two thousand dollars (\$2,000). See Section 4.411.

- C. The value of liquid resources, as declared by the household, shall be utilized in the determination of expedited eligibility for all applicant households.
- D. As a result of the Food, Conservation and Energy Act of 2008, adjustments to the Food Assistance resource limit will be subject to change annually according to the Consumer Price Index. There are currently two (2) resource limits:
1. One established for households that do contain a member who is elderly and/or a person with a disability; and,
  2. Another established for households that do not contain a member who is elderly and/or a person with a disability.

An elderly member is a member who is sixty (60) years of age or older. A disabled member is defined in Section 4.304.41.

- E. The resource limits are as follows:

Effective April 1, 2011 through September 30, 2011, the resource limit for households that do contain a member who is elderly and/or a person with a disability and for households that do not contain a person who is elderly and/or a person with a disability is two thousand dollars (\$2,000).

Effective October 1, 2011, the resource limit for households that do contain a member who is elderly and/or a person with a disability is three thousand two hundred fifty dollars (\$3,250). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand dollars (\$2,000).

#### **4.408.1 Determining the Value of Resources**

The value of nonexempt household resources at the time the application is filed must be determined from applicant statements, documents, and/or from collateral contacts when household assessment is uncertain or questionable. See Section 4.409 for what is considered a non-exempt resource.

- A. Valuation of Liquid Resources

The value of liquid resources is the current redemption rate less encumbrances. For further explanation of liquid and non-liquid resources, see Section 4.409.

**B. Valuation of Non-Liquid Resources**

Except for real property, non-exempt non-liquid resources shall have a fair market value as determined from the best source available (such as, but not limited to, blue book, local dealer, or equivalent verifiable Internet web site) less verified encumbrances. If warranted, the eligibility worker should adjust the market value for poor or unusable condition of the property before assigning a resource value. The eligibility worker shall annotate the case record to show source and computation used to determine resource value.

The value of real property, such as buildings, land, or vacation property, unless exempt as income producing in accordance with Section 4.410, E, may be obtained by using the actual value reported by a county assessor or, if not reported, the current assessed valuation, accomplished in accordance with state law, and dividing the value by the appropriate percentage rate of assessment for real property to derive fair market value and subtracting the amount the household currently owes on the property.

**4.408.2 Transfer of Resources**

At the time of application, households not eligible under expanded or basic categorical eligibility rules shall be asked to provide information regarding any resources which any household member, ineligible non-citizen, or disqualified person whose resources are being considered available to the household has transferred within the three (3) month period immediately preceding the date of application. Households that have transferred resources knowingly for the purpose of qualifying or attempting to qualify for Food Assistance benefits shall be disqualified from participation in the program for up to one (1) year from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three (3) month period prior to application, or if they are transferred knowingly after the household is determined eligible for benefits.

**A. Eligibility for the program shall not be affected by the following transfers:**

1. Resources that would not otherwise affect eligibility, such as resources consisting of excluded person property such as furniture, or of money that when added to other household resources, totaled less at the time of the transfer than the allowable resource limits.
2. Resources that are sold or traded at, or near, fair market value.
3. Resources that are transferred between members of the same household including ineligible non-citizens or disqualified individuals whose resources are being considered available to the household.
4. Resources that are transferred for reasons other than qualifying or attempting to qualify for Food Assistance benefits, for example a parent placing funds into an educational trust fund described in Section 4.410, F.

**B. In the event the local office establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for Food Assistance benefits, the household shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action has expired, unless the household has requested a fair hearing and continued benefits.**

The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable resource limits.

- C. The following chart shall be used to determine the period of disqualification for transfer of resources.

<b>Amount in Excess of the Resource Limit</b>	<b>Period of Disqualification</b>
\$1 to \$249	1 month
\$250 to \$999	3 months
\$1,000 to \$2,999	6 months
\$3,000 to \$4,999	9 months
\$5,000	12 months

**4.409 COUNTABLE RESOURCES**

- A. Liquid Resources

Liquid resources are assets such as cash on hand, money in checking or savings accounts, saving certificates stocks or bonds, or lump sum payments as specified in Section 4.405, F.

- B. Non-Liquid Resources

A non-liquid resource is any tangible real property such as buildings, land, and vacation homes.

The value of non-liquid resources, unless exempt under Section 4.410 or specified under Section 4.408.1 shall be the equity value. The equity value is the fair market value minus the verified amount owed.

- C. Jointly Owned Resources

Nonexempt liquid and non-liquid resources owned jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that it does not have access to such resources. If only a portion of the resource is accessible, that portion which is available to the household is considered as a resource. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, ineligible non-citizens or disqualified individuals residing with the household shall be considered household members.

- D. Co-Mingled Resources

Exempt monies that are kept in a separate account and that are not commingled in an account with non-excluded funds shall retain their resource exclusion for an unlimited period of time. Those excluded shall retain their exemption for six (6) months from the date they are commingled. After six (6) months from the date of commingling, all funds in the commingled account shall be counted as a resource.

**4.410 EXEMPT RESOURCES**

In determining the resources for a household, the following shall be excluded from consideration.



A. Vehicles

All of a household's licensed and unlicensed automobiles, motorcycles and vehicles, including recreational vehicles and seasonal vehicles, shall be totally exempt as a resource.

B. Home and Property

The home and surrounding property, which is not separate from the home by intervening property owned by others, will be an exempt resource. Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness or un-inhabitability caused by casualty or natural disaster, if the household intends to return.

The property owned or being purchased by households that currently do not own a home and on which the household intends to build or is building a permanent home shall be exempt.

C. Prorated Income

Monies that have been prorated and considered as income for eligibility purposes will be an exempt resource. Prorated student and self-employment income is exempt as a resource as long as a portion is still being counted as income.

D. Household Goods, Personal Effects, and Retirement Accounts

1. Household goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.
2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:
  - a. Pension or traditional defined benefit plan;
  - b. 401(K) plan and simple 401(K);
  - c. 501C (18);
  - d. 403(B) plan;
  - e. 457 plan;
  - f. Federal employee thrift savings plan;
  - g. Keogh plan;
  - h. Individual Retirement Account (IRA);
  - i. Roth IRA and simple IRA;
  - j. Simplified employer plan;
  - k. Profit sharing plan; and,
  - l. Cash balance plans.

3. All tax preferred education accounts are exempt resources. The two types of tax preferred education savings accounts are:
    - a. Section 529 qualified tuition programs, which allow owners to prepay a student's education expenses or to contribute to an account to pay those expenses.
    - b. Coverdell education savings accounts and IRA type of account designed to pay a student's education expense.
  4. One bona fide pre-purchased funeral agreement per household member, which may include one burial plot per household member, shall be excluded provided that the agreement does not exceed one thousand five hundred dollars (\$1,500) in equity value; the equity value over one thousand five hundred dollars (\$1,500) is counted as a resource. If a burial plot is included in the agreement, the burial plot portion will be exempted prior to determining the equity value of the funeral agreement.
- E. Income-Producing Property, Including Vehicles
1. Any property that is producing an annual income consistent with its fair market value in the community, even if it is used only on a seasonal basis, shall be an exempt resource. Such property includes farm land and rental homes, or work related equipment, such as the tools of a tradesman or the machinery of a farmer, and vehicles which are essential to the employment or self-employment of a household member such as semi-tractor/trailer, boat, motor home, utility trailer, or seasonal or recreation vehicles used for income-producing purposes. Such property also includes livestock.
  2. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value shall be an exempt resource. The exclusion shall also apply to the value of the property sold under the installment contract, or held as security in exchange for a purchase price consistent with the fair market value of that property retained by seller.
  3. Income-producing vehicles such as, but not limited to, a taxi, tractor, fishing boat, a vehicle used for deliveries, motor home, snowmobile, or camper is an exempt resource if it annually produces income consistent with its fair market value, even if only used on a seasonal basis. The exemption will apply when the vehicle is not in use because of temporary unemployment. This exemption also applies to ineligible non-citizens or disqualified persons whose resources are being considered available to the household.
  4. Property essential to the self-employment of a household member engaged in farming (including land, machinery, equipment and supplies) shall be excluded for one (1) year from the date the household member terminates his or her self-employment from farming.
- F. Inaccessible Resources
1. Resources having a cash value which is not accessible to the household include, but are not limited to, irrevocable trust funds, property in probate, or property prohibited from sale by a creditor holding a lien, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. In such cases, the local office shall establish that the property is for sale and that the household will accept a reasonable offer.

2. Non-exempt, non-liquid resource, as defined in Section 4.408.1, B, that would have a net return of one thousand five hundred dollars (\$1,500) or less if sold, shall be considered an inaccessible resource. The equity value shall be used to determine this amount. The equity value is fair market value less verified encumbrances (amount owed).
3. Any funds in a trust or transferred to a trust, and the income produced by that trust shall be considered inaccessible to the household if:
  - a. The trust arrangement will not likely cease during the certification period, and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.
  - b. The trustee administering the funds is either a court, an institution, corporation or organization which is not under the direction or leadership of any household member; or an individual appointed by the court who has court imposed limitation placed on his/her use of funds which meet requirements of this section.
  - c. The trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member.
  - d. The funds held in irrevocable trust are either established from household's own funds and are used solely to make investments on behalf of the trust or to pay educational or medical expenses of persons named by the household creating the trust; or established from non-household funds by a non-household member.
  - e. Monies which are withdrawn from trust and dividends that are or could be received by the household shall be considered as income (see Section 4.404, I).

**G. Resources with No Significant Return**

Resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great, shall be considered inaccessible. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification of the value of a resource to be excluded shall not be required unless the Food Assistance worker determines that the information provided by the household is insufficient to permit a determination of the resource value or the worker believes that the information is questionable.

This provision regarding no significant return does not apply to negotiable financial instruments. A significant return or a significant amount of funds shall be any return/funds after estimated costs of sale or disposition and taking into account the ownership interest of the household. A significant return or a significant amount of funds is an amount that is estimated to be more than one thousand five hundred dollars (\$1,500).

**H. Resources of Battered Women in Shelters**

Residents of shelters for battered women and children may not have been able to retain access to all the resources of their former household. Therefore, in cases where access to a resource, such as jointly held bank accounts requiring both signatures, vehicles and property, is dependent upon the agreement of a person who still resides in the household where the woman was abused, the resource shall be considered inaccessible to the applicant.

I. Resources Used by Household Members

Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible non-citizen or disqualified person whose resources are being counted as part of the household's resources.

J. Government Payments

The following government payments are received for a specific purpose or services and shall be excluded as a resource for Food Assistance eligibility.

1. P.L. No. 89-642. Section 11b) of the Child Nutrition Act of 1966 excludes the value of assistance to children under this Act from resources for Food Assistance purposes.
2. Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under Youth Employment and Demonstration Act of 1977 (P.L. No. 95-93) and extended under Title IV of the Comprehensive Employment and Training Amendments of 1978 (P.L. No. 95-524). (Note: Does not include other payments under the Comprehensive Employment and Training Act (CETA) or payments under the Youth Adults Conservation Corps.)
3. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended: for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration, Section 312(d) of Disaster Relief Act of 1974.  
  
The Disaster Relief Act of 1974. P.L. No 93-288 as amended by P.L. No. 100-707, Section 105(i). the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income or resources for Food Assistance purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.
4. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. No. 91-646. section 216).
5. Benefits received from the special supplemental food program for women, infants and children (WIC) (P.L. No. 92-443). This payment is excluded as an in-kind benefit.
6. Payments or allowances made under any federal laws for the purpose of energy assistance, other than Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.), or a one-time payment or allowance made under federal or state law for the cost of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device is exempt as a resource.
7. HUD rental refund payments, made pursuant to settlement of Underwood v. Harris, are excluded in the month received and the following month.

8. Mandatory deductions from military pay for educational purposes while the participant is enlisted.  
  
(P.L. No. 99-576, Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Section 303(a) (1), 8/7/86.) Section 216 of P.L. No. 99-576 authorizes stipends for participation in study of Vietnam-Era veterans' psychological problems that are not excluded from income.
9. Payments to U.S. citizens of Japanese ancestry and resident Japanese non-citizens for up to twenty thousand dollars (\$20,000) each and payments to certain eligible Aleuts of up to twelve thousand dollars (\$12,000) each. P.L. No. 100-383. Section 105(f) (2) Civil Liberties Act of 1988.
10. P.L. No. 100-435, Section 501, 9/19/88, amended Child Nutrition Act to allow under WIC demonstration projects, benefits that may be exchanged for food at farmers' markets.
11. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from resources retroactive to January 1, 1989.  
  
The disabled veteran will receive yearly payments. Survivors of deceased disabled veterans will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company.
12. A federal earned income tax credit received either as a lump sum or as payments under Section 3507 or the Internal Revenue code for the month of receipt and the following month for the individual and that individual's spouse (P.L. No. 101-508).  
  
A federal, state, or local Earned Income Tax Credit (EITC) would be exempted for twelve (12) months from receipt for any household member if the individual receiving the EITC was participating in the Food Assistance Program when the EITC was received and participation continues for twelve (12) months. Temporary non-participation due to administrative reasons, such as a delayed recertification, shall not affect the twelfth (12th) month participation requirement (P.L. No. 103-66, Mickey Leland Childhood Hunger Relief Act of 1993).
13. Any money received from the Radiation Exposure Compensation Trust Fund, pursuant to P.L. No. 101-426 as amended by P.L. No. 101-510.
14. P.L. No. 103-286. Section 1(a), 8/1/94, Section 1(a), provides in part that payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any federal or federally assisted program which provides benefits or services based, in whole or in part, on need.
15. P.L. No. 103-322. Section 230202, 9/13/94. Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provide in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay:
  - a. Such crime victim compensation program shall not pay that compensation;

- b. The other program shall make its payments without regard to the existence of the crime victim compensation program.

Based on this language, payments received under this program must be excluded from income for Food Assistance purposes.

- 16. P.L. No. 104-204. 9/25/96, requires that allowances paid under this law to children of Vietnam veterans who were born with spina bifida be excluded from resources.
- 17. P.L. No. 111-312, 12/17/10, and The American Taxpayer Relief Act of 2012 requires that Federal income tax refunds received beginning January 1, 2010 must be disregarded as a resource for twelve (12) months from the date of receipt by the client.

#### **4.411 TREATMENT OF INCOME AND RESOURCES OF DISQUALIFIED, SANCTIONED, AND NON-HOUSEHOLD MEMBERS**

##### **4.411.1 Treatment of Income and Resources of Disqualified and/or Sanctioned Members**

- A. Individual household members may be disqualified for being ineligible non-citizens, for failure or refusal to obtain or provide a Social Security Number (SSN), for intentional Program violation/fraud, for being a fleeing felon, for failing to comply with a work requirement, or for being a sanctioned ABAWD (Able Bodied Adult Without Dependents) who has received three (3) months of Food Assistance benefits within a thirty-six (36) month period.
- B. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining members shall be determined as follows:
  - 1. Households containing members disqualified for Intentional Program Violation or fraud, or a work requirement sanction, or classified as a fleeing felon:
    - a. Income, Resources, and Deductible Expenses

The income and resources of the disqualified household member(s) shall be counted in their entirety. Resources shall only be considered if the household is required to meet the resource standard as specified in Section 4.408. The allowable earned income, standard, medical, dependent care, and shelter deductions shall be allowed in their entirety.
    - b. Eligibility and Benefit Level

The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified household member will not be included when determining the household size for comparison against any eligibility standard, which includes the gross income and net income eligibility limits or the resource eligibility limits.

See Section 4.401.1 "for the gross income eligibility limits, Section 4.401.2 for the net income eligibility limits, and Section 4.408 for the resource eligibility limits.
  - 2. Households containing members disqualified for being an ineligible non-citizen, for failure or refusal to obtain or provide a Social Security Number (SSN), or sanctioned as an able bodied adult without dependents (ABAWD) who has received three (3) months of Food Assistance benefits in a thirty six (36) month period:

a. Resources

The resources of the disqualified and/or sanctioned member(s) shall be counted in their entirety to the remaining household members if the household is required to meet the resource standard as specified in Section 4.408.

b. Income

A pro rata share of the nonexempt income of the disqualified and/or sanctioned member(s) shall be counted as income to the remaining members. This pro rata share is calculated by dividing the income evenly among the household members, including, the disqualified member. All but the disqualified member's share is counted as income to the remaining household members.

If an ineligible non-citizen is also an ineligible student and purchases and prepares food with the household, the individual's income shall be prorated under the ineligible non-citizen provisions.

c. Deductible Expenses

The earned income deduction shall apply to the prorated income earned by the disqualified and/or sanctioned member that is attributed to the household. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member shall be divided evenly among the household members, including the disqualified member. Legally obligated child support payments are deducted before prorating income. The shelter expense will be prorated except for the standard utility allowance (SUA). The full SUA will be added to the other prorated shelter components if the household qualifies for the SUA. All but the disqualified member's share is counted as a deductible expense for the remaining household members.

d. Eligibility and Benefit Level

The disqualified and/or sanctioned member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified or sanctioned household member will not be included when determining the household size for comparison against any eligibility standard, which includes the gross income, the net income eligibility limits, or the resource eligibility limits.

See Section 4.401.1 for the gross income eligibility limits, Section 4.401.2 for the net income eligibility limits, and Section 4.408 for the resource eligibility limits.

**4.411.2 Treatment of Income and Resources of Other Non-Household Members**

- A. For those non-household members that have not been disqualified, such as live-in attendants and ineligible students, the income and resources of the non-household member shall not be considered available to the household. Cash payments from the non-household member to the household will be considered as income to the household. Vendor payments, as defined in Sections 4.405, H and 4.405, I, shall be excluded as income. Except for the mandatory telephone allowance, if the household shares deductible expenses with the non-household member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expenses and only the household's pro rata share deducted.

If an ineligible non-citizen is also an ineligible student and purchases and prepares food with the household, the individual's income shall be prorated under the ineligible non-citizen provisions.

- B. When the earned income of one or more household members and the earned income of a non-household member are combined into one wage, the income of the household members shall be determined as follows:
  - 1. If the household's share can be identified, the local office shall count that portion due to the household as earned income.
  - 2. If the household's share cannot be identified, the local office shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.
- C. A person who is an ineligible student for Food Assistance purposes shall be treated as a non-household member. The other members of a household containing the ineligible student may be certified. The income and resources of the ineligible student shall not be considered available to the other household members for determining the household's income resources and deductions nor shall the student be considered in determining the household's allotment.

#### **4.500 VERIFICATION AND DOCUMENTATION**

- A. Verification is the use of documentary evidence or a contact with a third party to confirm information and to establish the accuracy of statements on the application form, redetermination form, periodic report form, change report form, or information presented during the interview.
- B. The case record shall consist of statements and documentation regarding the sources and results of verification used to determine a household's eligibility. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility worker's determination. When making a decision of ineligibility, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record.

The case record shall also contain all correspondence pertaining to fair hearings and administrative disqualification hearings.

Information to retain in the case record for fair hearings shall include, at a minimum, the household's request for a fair hearing, the scheduling notice with the hearing date and time, all decisions pertaining to the fair hearing, and any exceptions filed by the county department or the household.

Information to retain in the case record for administrative disqualification hearings (ADH) shall include, at a minimum, the notice to the individual of the alleged intentional program violation (IPV)/fraud, any notice given to the household waiving the household's right to a disqualification hearing, the scheduling notice of the disqualification hearing if the waiver is not signed and returned, all decisions issued regarding the outcome of the ADH hearing, and the disqualification notice sent to the household notifying the individual of the disqualification period.



- C. The local office shall provide each household at the time of application for initial certification, redetermination, and periodic report form with a notice that informs the household of verification requirements that the household must meet as part of the application, redetermination, or periodic report process. The notice will inform the household that the local office will assist the household in obtaining verification, provided the household is cooperating with the office. The notice shall be written in clear and simple language and shall meet bilingual requirements.
- D. The household has the primary responsibility for providing documentary evidence for required verification and to resolve questionable information. The local office shall assist the household to obtain the necessary documentation provided the household is cooperating with the local office.
- E. The household shall also be determined ineligible if it refused to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review in accordance with Section 4.903.42.

Detailed information regarding the verification of individual eligibility criteria will be found in the appropriate section below.

#### **4.501 PRUDENT PERSON PRINCIPLE**

The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment in executing his/her responsibilities.

In this regard, the prudent person principle may be applied. The term prudent person principle refers to reasonable judgments made by an individual in a given case. In making an eligibility decision, the eligibility worker should consider whether his/her judgment is reasonable, based on experience and knowledge of the program. The eligibility worker is also responsible for exercising reasonable judgment in determining if a given number of individuals applying for Food Assistance fit the Program's definition of a household, as defined in Section 4.100.

#### **4.502 VERIFICATION REQUIREMENTS AT APPLICATION, REDETERMINATION, AND PERIODIC REPORT**

##### **A. Verification Requirements at Application**

##### **1. Expedited Service Requirements**

Only verification of the identity of the applicant is required. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. No requirement for a specific document may be imposed. Client declaration of Social Security Number(s) and residency shall be accepted.

Client declaration of other household circumstances shall be accepted when determining eligibility for expedited service, and verification of any client-declared information shall be postponed in accordance with Section 4.205.11, B, and verified prior to certification as outlined below. See also Section 4.205.1.

##### **2. The following information shall be verified prior to certification:**

- a. Identity of the applicant;
- b. Household's gross nonexempt income;

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- c. Information available through IEVS, including Social Security Numbers (SSNs) for all household members;
      - d. Non-citizen status of persons identified as non-citizens on the application;
      - e. Residency, except for homeless households, or households newly arrived in the state or county for whom third-party verification cannot reasonably be obtained.
    3. The household shall be given a reasonable opportunity to submit verification of certain expenses in order to receive expense deductions. If a deductible expense must be verified and obtaining verification may delay the household's certification, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction for the claimed but unverified expense. If the expense cannot be verified within thirty (30) calendar days of the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense.
      - a. Allowable medical expenses less reimbursement;
      - b. Legally-obligated child support payments;
      - c. Dependent care expenses; and,
    4. For households eligible under basic categorical eligibility, verification is not required for resources, gross and net income limits, SSN information, sponsored non-citizen information, and residency beyond that gathered by the public assistance program that confers eligibility. For those households whose eligibility can be determined under basic categorical eligibility rules, the local office shall verify that each member receives benefits or services from the program that confers basic categorical eligibility.
    5. For households subject to an asset test, the household's written declaration of resources in excess of the resource limit is an acceptable form of verification.
  - B. Verification Requirements at Redetermination and Periodic Report
    1. Eligibility factors not verified by the Income and Eligibility Verification System (IEVS) should be verified at redetermination only if they are incomplete, inaccurate, questionable, inconsistent, or outdated and would affect a household's eligibility or benefit level. Unchanged information shall not be verified unless the information is outdated.
    2. A change in total monthly earned income of one hundred dollars (\$100) or more for each member must be verified at redetermination.
    3. At redetermination, all households shall verify the following information if the source has changed or the amount has changed by more than twenty-five dollars (\$25) since the last time they were verified:
      - a. Changes in unearned income;
      - b. Allowable medical expenses;
      - c. Legally-obligated child support;
      - d. Dependent care expenses;

- e. Verification of the above factors, is optional if information is unchanged or changes by twenty five dollars (\$25) or less.
  4. A reported Social Security Number(s) not verified at initial certification and newly obtained Social Security Numbers shall be verified through the IEVS OR SOLQ-I.
  5. For households subject to an asset test, the household's written declaration of resources in excess of the resource limit is an acceptable form of verification.
  6. If there has been a change in a deductible expense that must be verified and obtaining verification delays the household's redetermination processing, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction for the claimed but unverified expense.
- C. Verification Requirements of Reported Changes

For the verification requirements for reported changes, see Section 4.604.1.

#### **4.503 CASE DOCUMENTATION**

The case record shall consist of statements and documentation regarding the sources and results of verification used to determine eligibility and ineligibility. Such statements shall be entered into a physical case file and/or the statewide automated system. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility worker's determination. When making a decision of ineligibility, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record.

The case record shall show the names of the employers and others contacted; the dates and amounts of wage stubs and statements; the figures used to arrive at monthly gross income; the household's responsibility to pay utilities; and the method of verifying other information, including non-citizen status, if applicable.

A notation shall be made to indicate which household members completed work registration forms and the date completed.

#### **4.504 SOURCES OF VERIFICATION**

The local office shall accept any pertinent documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application, redetermination, periodic report form, or change report form. If written verification cannot be obtained, the eligibility worker shall substitute an acceptable collateral contact or a scheduled home visit. Home visits shall be used as verification only if documentation cannot be obtained and the visit is scheduled in advance with the household. Home visits are to be used on a case-by-case basis where the supplied documentation or verification is insufficient.

##### **4.504.1 Documentary Evidence**

Documentary evidence consists of written confirmation of a household's circumstances. Households may supply documentary evidence in person, through the mail, by facsimile or other electronic device, or through an authorized representative. The local office shall not require the household to present verification in person at the office.

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**4.504.2 Collateral Contacts**

- A. A collateral contact is a verbal confirmation of a household's circumstances by a person outside the household, made either in person, in writing, or by telephone. Acceptable collateral contacts include, but are not limited to: employers, landlords, social/migrant service agencies, and neighbors of the household who can be expected to provide accurate third-party verification. The name of the individual contacted, the individual's contact information, and the information provided shall be documented in the case record.
- B. Confidentiality shall be maintained when talking with collateral contacts. The local office shall disclose only the information that is absolutely necessary to get information being sought. When talking with collateral contacts, the local office shall avoid disclosing that the household has applied for Food Assistance.
- C. If the household fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility worker, the worker may select a collateral contact that can provide information that is needed.
- D. The local office shall not determine the household to be ineligible when a person outside the household fails to cooperate with a request for verification. Household members who are disqualified or in an ineligible status shall not be considered individuals outside the household.
- E. In cases in which the information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.

**4.504.3 Home Visits**

For the purposes of determining eligibility, home visits shall be used as verification only if documentary evidence cannot be obtained and the visit is scheduled in advance with the household. Home visits are to be used on a case-by-case basis where the supplied documentation or verification is insufficient.

**4.504.4 Systematic Alien Verification Entitlement (SAVE)**

The U.S. Citizenship and Immigration Service (USCIS), Systematic Alien Verification for Entitlement (SAVE) system will verify the alien status of applicant non-citizens. The use of SAVE shall be documented in the case record. The record will contain the date the primary or secondary request was submitted, along with a copy of the Form G-845 when applicable, and any response to the request for verification.

**4.504.5 Colorado Income Eligibility Verification System (IEVS)**

- A. The Colorado Income and Eligibility Verification System (IEVS) provides for the exchange of information on Food Assistance Program recipients with the Social Security Administration (SSA), Internal Revenue Service (IRS), and the Colorado Department of Labor and Employment (DOLE).
- B. At initial certification and redetermination, all applicants for Food Assistance benefits shall be notified through a written statement provided on or with the application form of the following information:
  - 1. Information available through the IEVS will be requested and verified through collateral sources when discrepancies are found by the agency.

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2. Information available through the IEVS shall be used and that such information will be used and may affect the household's eligibility and level of benefits.
- C. With respect to all household members, including any excluded household members for whom a Social Security Number (SSN) is available, the agency shall be responsible for requesting verification through the IEVS or directly from locally accessed automated information. All such information shall be requested at the first available opportunity after the date of application.
  - D. The local office shall at a minimum, prior to approval of benefits at initial application, redetermination, and periodic report, verify potential earnings or unemployment benefits through the DOLE for all applicants.
  - E. Determination of a household's eligibility and benefit level shall not be delayed past the application processing time standards if verification of information is not available nor shall determination be delayed awaiting verification from the IEVS.
  - F. The local office is required to act upon information received from IEVS within forty-five (45) calendar days of the receipt of that information, except for UIB information received from the DOLE, which must be acted upon in accordance with Section 4.604.
  - G. Some information received through the IEVS is not considered verified and is subject to independent verification by the local office. Benefits shall not be delayed pending receipt of verification from a collateral source, such as an employer, when independently verifying information received from the IEVS. Such verification of IEVS information may include contacting the household in writing informing them of the information received from the IEVS data source and requesting a response within ten (10) calendar days, or by appropriate collateral contact. The following Information received through the IEVS shall be treated as not verified and subject to independent verification by the local office:
    1. Wage data from the Colorado Department of Labor and Employment.
    2. Internal Revenue Service unearned income information.
  - H. Through the IEVS, participant SSNs will be matched with source agency records on a regular basis to identify potential earned and unearned income and resources and assets from the following sources:
    1. Social Security Administration (SSA)  
  
Information received from the Social Security Administration includes:
      - a. Wages, payments of retirement income, Title II Social Security benefits, Title XVI Social Security benefits, pensions, and federal employee earnings maintained by the SSA.
      - b. Federal retirement, survivors disability, SSI, and related information available from SSA through BENDEX (Beneficiary Data Exchange) and SDX (State Data Exchange).
    2. State Data Exchange (SDX) and Beneficiary Data Exchange (BENDEX)  
  
Death information, SSI benefit amounts, and social security benefit information may be obtained verified through SDX AND BENDEX. See Section 4.504.6, E, for what information from SSA is considered verified upon receipt.

3. Colorado Department of Labor and Employment (DOLE)
  - a. Information received from the DOLE includes wage and unemployment insurance benefits (UIB). Wage data received from the DOLE shall not be considered as verified upon receipt and shall be subject to independent verification. Unemployment information reported through the IEVS shall be verified through the DOLE or by the household. Verification of unemployment compensation insurance benefits, including beginning dates, duration of payments and amount of payments can be obtained from the Colorado Department of Labor and Employment.
  - b. The local office shall at a minimum, prior to approval of benefits at initial application, redetermination, and periodic report, verify potential earnings or unemployment benefits through the DOLE for all applicants, including ineligible and disqualified members' SSNs. With respect to all members of a participant household, the local office shall use UIB information received through the Income and Eligibility Verification System (IEVS). Participant SSNs will be matched at least monthly with the DOLE, UIB records.
4. Internal Revenue Service (IRS)

Unearned income information received from the IRS includes, but is not limited to, interest on checking and savings accounts, dividends, royalties, winnings from betting establishments, and capital gains. Unearned income information from the IRS that is reported through the IEVS shall not be considered as verified upon receipt and shall be subject to independent verification.

**4.504.6 Information Considered Verified Upon Receipt**

- A. Verified upon receipt is a term given to a state-prescribed list of specific information that comes directly from the primary source of the information and is free from question.
- B. Information that is considered verified upon receipt shall be acted upon for both simplified reporting households and non-simplified reporting households. Information considered verified upon receipt shall be acted on at the time of application, recertification, periodic report, and during a household's certification period if the information causes a change in the Food Assistance benefit amount. A household shall not be convicted of fraud for not reporting a change in information it is not required to report in accordance with Section 4.603.
- C. Information considered verified upon receipt shall be considered verified unless the office has reason to believe that the information may be inaccurate. Advance notice of adverse action shall be given when acting on information that is considered verified upon receipt, except as noted in Section 4.608.1.
- D. Administrative Error Claims may be established as a result of information considered verified upon receipt.
- E. The local office shall consider only the following information as verified upon receipt:
  1. Social Security and SSI benefit amounts obtained from SSA.

SSI and benefit amounts obtained from the SSA are considered reported and verified on the day the information is first known to the agency, either through the IEVS, SDX, BENDEX or another automated interface of information, whichever is sooner.

2. Death information received from SDX, BENDEX, or the Burial Assistance program.  
  
Death information received from SDX, BENDEX, and the Burial Assistance program is considered reported and verified on the day the information is first known to the agency, either through an IEVS notification or an automated interface of information, whichever is sooner.
3. Unemployment insurance benefits that are reported through the IEVS and obtained through the Department of Labor and Employment (DOLE).  
  
The unemployment insurance benefit (UIB) information shall be considered reported and verified on the date of the IEVS notification. Advance notice of adverse action shall be given when acting on the change in information.
4. Public Assistance (PA) benefit amounts (Colorado Works, Aid to the Needy Disabled (AND), Old Age Pension (OAP), Aid to the Blind (AB), and Colorado Supplement to SSI) obtained from the State Department.  
  
Such information shall be considered reported and verified on the day the public assistance benefit amount is authorized.
5. Information that is reported and verified to a public assistance program which results in a change to the PA benefit amount and that meets the Food Assistance regulations for verification as specified in Section 4.500.  
  
Such information shall be considered reported and verified on the day the public assistance program processes the change and authorizes the new PA benefit amount.
6. Child support income and expense amounts obtained through the Automated Child Support Enforcement System (ACSES).  
  
Such information is considered reported and verified on the day the information is reported through an automated interface with ACSES.
7. Non-compliance information obtained from Employment First (EF) agencies for failure to participate in a mandated work program.
8. Colorado intentional Program violations (IPV).
9. Information obtained from the Systematic Alien Verification for Entitlements (SAVE) system regarding non-citizen status.
10. Changes in household composition that are reported and verified and result in one or more members being removed from one Food Assistance household and added to a new or existing Food Assistance household. See Section 4.304.2 for situations that involve two households requesting assistance for the same child. Adults may be removed from the household based on self-declaration, per Section 4.604, D.  
  
Duplicate benefits shall not be issued for a particular individual when removing that individual from one Food Assistance household and adding him/her to a new Food Assistance household.
11. Changes in household composition that are reported and verified by child welfare agencies and result in a child being removed from one Food Assistance household and added to a new or existing Food Assistance household.

**4.504.61 Information Not Considered Verified Upon Receipt**

- A. Some information received from sources other than the household are not considered verified. Such information shall be subject to independent verification prior to taking adverse action to reduce, suspend, terminate, or deny a household's Food Assistance benefits during the certification period. Such information, once independently verified, shall be acted upon in accordance with Section 4.604.
- B. The following sources of information shall not be considered as verified upon receipt:
  - 1. Death information received from a source other than SDX, BENDEX, or the Burial Assistance program.
  - 2. Veterans Assistance (VA) benefit amounts obtained through the IEVS.
  - 3. Wage data obtained through the IEVS and the DOLE.
  - 4. IRS income and asset information obtained through the IEVS.
  - 5. Information regarding railroad retirement benefits obtained through the IEVS.
  - 6. Information received from the Public Assistance Reporting and Information System (PARIS).
  - 7. Prisoner information received during the certification period.
  - 8. Information received from the National Database of New Hires (NDNH).
  - 9. Social Security benefit amounts reported via an award letter given by the household.
  - 10. IPV/disqualification data from another state as reported through the disqualified recipient database.

**4.505 VERIFICATION OF NON-FINANCIAL INFORMATION**

**4.505.1 Verification of Identity**

- A. The identity of the person making an application shall be verified. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified.
- B. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact or through electronic information received from the Colorado Department of Revenue, Division of Motor Vehicles (DMV). Acceptable documentary evidence that the applicant may provide includes, but is not limited to, a driver's license, a work or school ID, an ID for health benefits or for another assistance or social services program, a voter registration card, wage stubs, or a birth certificate. No requirement for a specific type of document, such as a birth certificate or picture ID, may be imposed.
- C. When obtaining an Electronic Benefit Transfer (EBT) card, a household shall not be required to provide verification beyond what was utilized to establish identity when determining Food Assistance eligibility. This includes verification through a collateral contact.



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**4.505.2 Verification of Social Security Numbers**

- A. All Social Security Numbers (SSNs) provided by the household, including multiple SSNs issued by the SSA, shall be verified through the SSA in accordance with the Income and Eligibility Verification System (IEVS) procedures established by the State Department. SOLQ may be utilized to verify a SSN. Certification of an otherwise eligible household MEMBER shall not be delayed to verify the SSN provided by the client. Household members who provide a SSN shall not be denied benefits for failure or inability to present a social security card or other official documentation. Eligibility determinations and benefits will not be delayed to otherwise eligible households while awaiting a response from the IEVS. For basic categorically eligible participants, the local office shall accept SSNs as verified by the categorically eligible programs.
- B. When the local office receives notification through the IEVS that a participant's SSN cannot be verified or is otherwise discrepant, such as the name or number does not match SSA records, the local office shall:
1. Conduct a case record review to confirm that the SSN in the case record matches the SSN submitted to the SSA for verification. If an error occurred in the original submittal, such as digits transposed or an incorrect name submitted, the local office shall correct the error and the SSN will be resubmitted through the IEVS for verification.
  2. If no error is identified as outlined in 1, above, the local office shall advise the household in writing that a member's SSN could not be verified and instruct the household to contact the local office to resolve the discrepancy. This notice shall not constitute advance notice of adverse action.
  3. The local office shall make every effort to assist the household in resolving the discrepancy, including referral to the appropriate SSA office and assisting the household in obtaining documents available to the local office which may be required by the SSA.
  4. Should the household or participant fail or refuse to cooperate in resolving the discrepancy, the individual who's SSN cannot be verified may be disqualified as having failed to provide an SSN until such time as the household/participant cooperates, unless good cause exists. Disqualification shall be effective the month following the expiration of the notice of adverse action.

**4.505.3 Verification of Residency**

- A. Except for basic categorically eligible households, residency shall be verified prior to certification, except in unusual cases when verification cannot reasonably be accomplished, such as for homeless households, some migrant farm worker households, or households newly arrived to an area. Verification of residency should be accomplished to the extent possible when verifying other information, such as identity or income. Any documents or collateral contacts which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed.
- B. If the eligibility worker and applicant have made reasonable efforts to verify residency and it has proved impossible, the household may be certified, if otherwise eligible. If an individual's county residency cannot be verified, but the individual's Colorado residency is not questionable, then the individual shall be certified if otherwise eligible and not participating in another Food Assistance household.

- C. The client may supply the verification through driver's license, rent receipt, utility or other recently received bill, voter registration, or similar means. If the client is unable to supply documentary evidence, information may be obtained from a telephone or city directory or detailed area map. If documentary evidence is not available, a collateral contact, such as a landlord or neighbor, may provide verification. In the absence of documentary evidence or collateral contact, a scheduled home visit may be feasible.

**4.505.4 Verification of Household Composition**

- A. If questionable, the local office shall verify any factors affecting the composition of a household. The household's statement regarding food purchasing and preparation shall generally be accepted because of the difficulty of verifying such arrangements.
- B. Individuals described in Section 4.304, B, 4, declaring separate household status from others in the household shall be responsible for providing necessary income information of other household members and medical statements that the individual(s) cannot purchase and prepare their own meals if questionable and requested by the local office.
- C. A household or applicant that requests benefits for a child that is already receiving benefits in another household is responsible for verifying that they provide the child with a majority of his or her meals prior to receiving benefits for that child. When determining majority of meals for shared living arrangements, acceptable documentation includes, but is not limited to: custody arrangements, school enrollment forms, dependent care forms, a statement from each household, or any other document that can reasonably be used to determine meals.

One household's written or verbal statement regarding its provision of the majority of the meals shall not be the only verification used when the statement results in removing a child from one Food Assistance household and placing the child in another Food Assistance household. A calendar completed by the household showing how many meals it provides a child shall be considered a written statement from the household. If both households that are requesting assistance for a child each provide a verbal or written statement regarding how many meals each provide, then both households' statements shall be used as verification to determine who provides the majority of the child's meals.

**4.505.5 Verification of U.S. Citizenship**

- A. If questionable, U.S. citizenship may be verified by one of the following:
1. A U.S. birth certificate;
  2. Possession of a U.S. passport;
  3. A certificate of U.S. citizenship (INS form N-560 or N-561);
  4. A certificate of naturalization (INS form N-550 or N-570);
  5. A certificate of birth abroad of a citizen of the United States (Department of State forms FS-545 or DS-1350);
  6. Identification Cards for U.S. citizens (INS-I-179 or INS-I-197); or,
  7. Information obtained through the Colorado Vital Information System (COVIS).

- B. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the local office shall accept a signed statement from a third party having personal knowledge of the person's status and who declares, under penalty of perjury, that the member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud.

**4.505.51 Verification of Questionable Citizenship**

- A. The following guidelines shall be used in considering whether or not an applicant's statement of citizenship is questionable:
1. The claim of citizenship is inconsistent with statements made by the applicant, or with other information on the application, recertification, periodic report form, change report form, or on previous applications.
  2. The claim of citizenship is inconsistent with information received from another source.
- B. Application of the above criteria by the eligibility worker must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or American Indians shall not be targeted for special verification. The eligibility worker shall not rely on a surname, accent or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility worker rely on a lack of English speaking, reading or writing ability as grounds to question a claim to citizenship.
- C. The member whose citizenship is in question shall be ineligible to participate until proof of citizenship is obtained, except as provided in Section 4.505.6, E. Until proof of citizenship is obtained, the member whose citizenship is in question shall have his or her income, less a prorated share, and all of his or her resources considered available to any remaining household members as set forth in Section 4.411.
- D. The method used to document verification of citizenship and the result of the verification shall be included in the case record.

**4.505.6 Verification of Non-citizen Status**

- A. All applicants for Food Assistance benefits shall be notified on the application form that the non-citizen status of any household member will be subject to verification by the U.S. Citizenship and Immigration Service (USCIS) through the submission of information from the application to the USCIS. The information received from the USCIS may affect the household's eligibility and level of benefits. The application shall contain a statement signed by an adult representative from each household which attests, under penalty of perjury, to citizenship or non-citizen status of each member.
- B. The local office shall verify the eligibility status of applicant non-citizens by submitting the non-citizen registration number through the save system. The office shall use the information from USCIS save to determine eligibility for benefits. The use of SAVE shall be documented in the case record. If a non-citizen does not wish the office to verify his or her immigration status, the local office shall give the household the option of withdrawing its application or participating without that member.
- C. The USCIS Systematic Alien Verification for Entitlement (SAVE) system will verify the alien status of applicant non-citizens. The use of SAVE shall be documented in the case record. The record will contain the date that the primary or secondary request was submitted, along with a copy of the Form G-845 when applicable, and any response to the request for verification.

1. If the non-citizen status is not verified in the primary SAVE verification process, a USCIS Form G-845 will be submitted with a photocopy of the non-citizen's document to the Colorado Refugee Service Program (CRSP).
  2. If the proper USCIS documentation is not available, the non-citizen may state the reason and submit other conclusive verification. The local office shall accept other forms of documentation or corroboration from the USCIS that the non-citizen is classified pursuant to Section 207, Section 208, or Section 243(h) of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act, which is codified throughout Title 8 of the United States Code. The federal references do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.
- D. If a non-citizen is unable to provide any USCIS document, such as an INS form I-94, the local office has no authority or responsibility to contact the USCIS.
- E. The local office shall provide an applicant non-citizen up to the thirtieth (30<sup>th</sup>) calendar day following the date of application to submit acceptable documentation of their non-citizen status or at least ten (10) calendar days from the date of the local office's request for an acceptable document.
- F. A non-citizen who has been given a reasonable opportunity to submit acceptable documentation and has not done so within the normal processing time shall not be certified for benefits until acceptable documentation is available, except as provided below. However, when the local office fails to provide a non-citizen applicant with a reasonable opportunity as of the thirtieth (30<sup>th</sup>) calendar day following the date of application, the local office must provide the household with benefits back to the date of application, provided the household is otherwise eligible. A non-citizen is ineligible to participate until acceptable documentation is provided, except as provided below:
1. The local office has submitted a copy of a document provided by the household to the USCIS or other federal agency for verification that bears on the individual's eligible alien status. In such instances, the local office must certify the individual for up to six (6) months from the date of the original request for verification pending the results of the investigation. Pending such verification, the individual's benefits will not be delayed, denied, reduced or terminated based on the individual's immigration status while awaiting a response to the request for verification.
  2. The local office has submitted a request to the SSA for information regarding the number of quarters of work that can be credited to the individual; or SSA has responded that the individual has fewer than forty (40) quarters, and the individual provides documentation from the SSA that the SSA is conducting an investigation to determine if more quarters can be credited. If the SSA indicated that the number of qualifying quarters that can be credited is under investigation, the local office shall certify the individual, pending the results of the investigation, for up to six (6) months from the date of the original determination of insufficient quarters.
- G. If the office determines that the documentation presented by the household is questionable or the documents that are used to determine eligibility are not issued by the USCIS, the office will use a secondary SAVE process. The secondary verification process will also be used when primary verification is not available through SAVE.

The secondary verification process will consist of submitting a photocopy of the documentary evidence presented, with form G-845, to the U.S. Citizenship and Immigration Service.

- H. If the local office determines, after complying with the requirements of this section, that the non-citizen is not in an eligible alien status, the office shall take action, including sending proper notices to the household, to terminate, deny or reduce benefits. The household will have the opportunity to request a fair hearing prior to any adverse action taking effect, pursuant to Section 4.802, et seq.
- I. If verification of eligible non-citizen status as required by Section 4.505.51 is not provided on a timely basis, the household has the option of withdrawing its application or requesting that the eligibility of the remaining household members be determined. The income and resources of the individual whose non-citizen status is unverified shall be treated in the same manner as set forth in Section 4.411 and considered available in determining the eligibility of the remaining household members. If verification of eligible non-citizen status is subsequently received the local office shall act on the information as a reported change in household membership in accordance with timeliness standards. The non-citizen shall not be entitled to retroactive benefits.
- J. When any person in a household indicates inability or unwillingness to provide documentary evidence of non-citizen status, either for himself or any other household member, the household has the option of withdrawing its application or participating with the member in question classified as an ineligible non-citizen. In such cases the local office shall not continue efforts to obtain that documentary evidence.

#### **4.505.61 Verification of SSA Forty Work Quarters**

The Social Security Administration's Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for forty (40) qualifying quarters. If the individual does not have documentation, he/she cannot participate until verification of forty (40) quarters of work is received from either the Social Security Administration (SSA) or the individual.

If the Social Security Administration determines that its existing records do not verify that an individual claiming forty (40) credits or quarters in fact has the forty (40) credits or quarters and the individual believes the Social Security Administration records are not correct, the Social Security Administration will work with the individual to determine whether the additional credits or quarters can be established. The individual should be advised that he/she has the option of working with the Social Security Administration and that if he or she exercises this option and obtains a statement from SSA indicating that the number of credits or quarters is under review, he/she can continue to receive Food Assistance for up to six (6) additional months from the date of the original determination of insufficient quarters.

- A. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to a non-citizen if the non-citizen, parent of the non-citizen, or spouse of such non-citizen actually received any federal means-tested public benefit during the period for which such qualifying quarter of coverage is so credited.
- B. The local office must evaluate quarters of coverage and receipt of federal means-tested public benefits on a calendar year basis. The local office must first determine the number of quarters creditable in a calendar year, then identify those quarters in which the non-citizen (or the parent(s) or spouse of the non-citizen) received federal means-tested public benefits and then remove those quarters from the number of quarters of coverage earned or credited to the non-citizen in that calendar year. However, if the non-citizen earns the fortieth (40<sup>th</sup>) quarter of coverage prior to applying for Food Assistance or any other federal means-tested public benefit in that same quarter, the local office must allow that quarter toward the forty (40) qualifying quarters total.

- C. Receipt of federal means-tested public benefit shall not include the following:
1. Medical assistance under Title XIX of the Social Security Act (or any successor program to such Title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in Section 1903(v)(3) of such Act) of the non-citizen involved and are not related to an organ transplant procedure, if the non-citizen involved otherwise meets the eligibility requirement for medical assistance under the State Plan approved under such Title (other than the requirement of the receipt of aid or assistance under Title IV of such Act, supplemental security income benefits under Title XVI of such Act, or a state supplementary payment)
  2. Short-term non-cash, in-kind emergency disaster relief.
  3. Assistance or benefits under the National School Lunch Act.
  4. Assistance or benefits under the Child Nutrition Act of 1966.
  5. Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.
  6. Payments for foster care and adoption assistance under Parts B and E of Title IV of the Social Security Act for a parent or a child who would, in the absence of Subsection (q), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in Section 431 of the Social Security Act).
  7. Programs, services, or assistance (such as soup kitchens, crises counseling and intervention, and short-term shelter) specified by the U.S. Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, that:
    - a. Deliver in-kind services at the community level, including through public or private nonprofit agencies,
    - b. Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources, and,
    - c. Are necessary for the protection of life or safety.
  8. Programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965.
  9. Means-tested programs under the Elementary and Secondary Education Act of 1965.
  10. Benefits under the Head Start Act.
  11. Benefits under the Workforce Investment Act.

**4.505.62 USCIS Documentation of Lawful Non-citizen Status**

Non-citizens lawfully present in the United States will normally possess one of the following documents provided by the U.S. Citizenship and Immigration Service (USCIS). Possession of one of the following documents does not exempt a non-citizen from meeting the requirements set forth in Section 4.305.

A. I-94 Arrival/Departure Record

1. The local office shall accept the INS form I-94 as verification of non-citizen status. If the INS form I-94 does not bear any of the section annotations and the non-citizen has no other verification of non-citizen classification, the local office shall advise the non-citizen to obtain documentation from USCIS verifying the individual's non-citizen classification.
2. If the form is annotated with Sections 207, 208, 243(h), 241(b)(3), 501(e), or 584 of the Immigration and Nationality Act or if the form is annotated with any of the following terms or a combination of the following terms, refugee, parolee, paroled or asylum, the non-citizen is considered to be in a qualified alien status and eligible for Food Assistance in accordance with Section 4.305, B, 1. The section number normally appears on the front of an I-94, but may occasionally be found on the reverse.
3. The non-citizen shall also be advised at the eligibility interview that classification under Sections 207, 208, 243(h), 241(b)(3), 501(e) or 584 of the Immigration and Nationality Act shall result in eligible status for the period of seven years; that the non-citizen may be eligible if acceptable verification is obtained; and that the non-citizen may contact INS as stated previously, or otherwise obtain the necessary verification or, if the non-citizen wishes and signs a written consent, that the local office will contact the USCIS to obtain clarification of the non-citizen's status. If the non-citizen does not wish to contact the USCIS, the household shall be given the option of withdrawing its application or participating without that member.

B. Resident Non-citizen Card (I-551)

These are normally referred to as green cards. This card is usually valid indefinitely if issued before July 1990 but may contain an expiration date on the reverse side if issued to a conditional non-citizen. These cards are issued to lawful permanent resident non-citizens and contain a photograph of the non-citizen. A Resident Non-Citizen Card (I-551) issued after July 1990 is good for a period of ten (10) years.

C. Employment Authorization Card (I-688B)

One of several USCIS documents that indicate a non-citizen has been granted permission to work. Codes on the card indicate the person's immigration status. On the front of the card will be "274a" followed by other numbers and letters that refer to the section of the regulation authorizing employment. Section (a)(3) identifies refugees under Section 207, (a)(5) identifies asylees under Section 208, and (a)(10) identifies withholding of deportation under 243(h).

**4.505.7 Verification of Non-citizen Sponsorship**

A. The local office shall verify the following information at the time of initial application and recertification:

1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the non-citizen's application for Food Assistance.

2. The names and alien registration numbers of other non-citizens for whom the sponsor has signed an affidavit of support or similar agreement. The sponsor's income and resources shall be divided by the number of non-citizens he or she sponsors in accordance with Section 4.305.4, E.
  3. The number of dependents who are claimed or who could be claimed for federal income tax purposes of the sponsor and the sponsor's spouse.
  4. The name, address, and phone number of the non-citizen's sponsor.
- B. Until the non-citizen provides information or verification necessary to determine eligibility, the sponsored non-citizen shall be ineligible. When such verification is provided, the local office shall act on the information as a reported change in household circumstances.
- C. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible non-citizen, excluding the attributed income and resources of the non-citizen's sponsor and sponsor's spouse, shall be treated in the same manner as a disqualified member as set forth in Section 4.411 and considered available in determining the eligibility and benefit level of the remaining household members.

If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, other adult members of the non-citizen's household shall be responsible for providing and/or verifying the information. If the information or verification is subsequently received, the local office shall act on the information as a reported change. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the needed information is verified. The local office must assist the non-citizen in obtaining verification provided the household is cooperating with the local office.

#### **4.505.8 Verification of Disqualified Member Data**

At the time of application and when adding a new member to a Food Assistance household, the office shall verify data with the national IPV/disqualification database for all household members age eighteen (18) or older to determine if any members have an active intentional Program violation (IPV)/disqualification from another state which requires a portion, or the entirety of, the disqualification period to be served in Colorado. Application processing shall not be delayed while awaiting verification from another state.

The local office shall ensure that:

- A. Disqualifications from another state due to a drug-related felony or any other disqualification that is not pursued in Colorado due to a waiver or state statute shall not be acted upon;
- B. IPV/disqualifications from another state must be independently verified with the originating state prior to taking any action to reduce, suspend, deny, or terminate benefits, if the client is unable to attest to the accuracy of the disqualification;
- C. States shall be given twenty (20) calendar days to respond to a request for verification. If verification cannot be provided by the other state, then the disqualification shall not be acted upon. Local offices shall be given twenty (20) calendar days to respond to another state's request of obtaining verification of a Colorado IPV. If the county department cannot provide verification, then steps shall be taken to remove the IPV from the national database.
- D. Once independent verification is received, adverse action shall be granted prior to benefits being reduced, suspended, denied, or terminated; and,



E. The disqualified individual shall be provided an opportunity to appeal any adverse action.

If the local office issues benefits to an individual while awaiting verification of an IPV disqualification, the benefits issued while awaiting such verification may be claimed back if it is determined that the individual was disqualified from the program at the time the benefits were issued.

#### **4.506 VERIFICATION OF INCOME**

Monthly, gross nonexempt income shall be verified prior to initial certification, unless the household is entitled to expedited service and postponed verification for one month. Income is also verified at redetermination and periodic report when a household reports that the amount of income has changed more than twenty-five dollars (\$25) or the source of income has changed.

Refer to Section 4.504 for additional forms of acceptable income verification.

##### **A. Responsibility**

1. Applicants are primarily responsible for furnishing income verification documents, a collateral contact, or the authorization needed to secure sufficient information to allow written or verbal verification by the eligibility worker. For public assistance (PA) recipients, the PA case record will normally be used as the source of verification.
2. Means of income verification include pension award letters, check stubs, employer letters, and collateral contacts with employers, agencies or other persons having knowledge of the household's circumstances.
3. When a collateral contact designated by the household cannot be expected to provide accurate third party verification, the local office shall ask the household to designate an acceptable collateral contact, provide an alternative form of verification or substitute a home visit.
4. In some instances, however, all attempts to verify income may be unsuccessful because the person or organization has failed to cooperate with the household. A cooperating applicant shall not be denied solely because a third party refuses to provide verification. The eligibility worker shall, in consultation with the applicant or other sources, arrive at a figure to be used for certification purposes and annotate the household's case record with information used to make an eligibility determination.

##### **B. Continuing Employment**

When the applicant has continuing employment, the previous month's income is the best indication and source of verification of the amount of income the household may expect to receive. If information, such as probable salary raise, overtime pay or layoff supplied by the household or collateral contact reveals that future income will differ substantially from the previous month's income, a reasonable estimate of income shall be made based on information obtained from the household members and/or collateral contacts. The method of determining and computing income shall be fully annotated in the case record.

C. Self-Employment

Self-employment verification may consist of tax documents, self-employment ledgers maintained by the household, receipts, or other documents used for verifying and documenting the household's self-employment income and expenses. If, at the time of initial certification, a household is recently self-employed or does not have adequate documentation of the household's self-employment income and expenses, the eligibility worker shall use the best information available to determine the household's monthly income. The household shall be encouraged to keep records of income and expenses for subsequent certifications. No specific verification shall be required and the documentation provided by the household shall be accepted unless questionable. For s-corporations and limited liability corporations (LLC), see Section 4.403, F.

D. Educational Assistance

Sources of income verification are the provider of the educational monies, the school, and the student's parents or guardians. These individuals may be contacted to determine the amount of any payments made to the household. Depending on the distance involved, contact may be made by telephone, mail or personal contact. If the mail is used, it is recommended that the eligibility worker mail the request for information directly to the parent or guardian and enclose an envelope for direct reply to the certification office. If the household refuses to supply the name of a parent or other suitable collateral contact, the household may be denied participation for failure to cooperate. However, the failure of the third person contact to furnish the requested information may not be used as grounds to deny the household if verification can be supplied by the applicant or through any other acceptable means.

The student shall have the primary responsibility for obtaining and providing the local office with verification of allowable exclusions. Acceptable forms of verification may include school budget sheets, receipts, collateral contacts or other forms of reasonable verification such as prevailing public transportation rates to verify an exclusion for transportation costs. See Section 4.404, D, for allowable student expenses.

E. Verification of Terminated Employment

1. If information regarding the termination of employment is questionable, verification is necessary. The primary responsibility for providing verification rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the local office shall offer assistance.
2. Acceptable sources of verification include, but are not limited to, the previous employer, employee associations, union representatives and grievance committees and the Colorado Department of Labor and Employment (DOLE). Whenever documentary evidence is not available, a collateral contact shall be used.
3. If the household and the local office are unable to obtain verification for a questionable claim of resignation from employment due to discrimination practices or unreasonable demands by an employer because an employer cannot be located, the household shall not be denied.

F. Cases of No Reported Income

1. In addition to verifying reported income, the eligibility worker may have occasion to explore the possibility of unreported income. Prior to determining the eligibility of households who report no income or income so low as to place them at the maximum benefit level without consideration of deductible expenses, the eligibility worker must, through in-depth interviewing techniques, determine how the household maintains its existence and meets ongoing maintenance expenses. Collateral contacts with a person or persons knowing the household's circumstances are recommended. The existence of resources might be an explanation of how the household exists at the level of income reported.
2. When exploring the possibility of unreported income or how the household is meeting its expenses, the local office shall not initiate a request for verification of such information, but shall explore how the household is meeting its needs through an interview. If, at the time of recertification, the local office needs to explore the possibility of unreported income or how the household is meeting its needs, the household shall be contacted by telephone to resolve the discrepancy. If the household cannot be contacted, then the interview process outlined in Section 4.204 can be initiated.

**4.507 VERIFICATION OF EXPENSES**

A. Verification of Dependent Care

Verification of dependent and child care expenses is required to grant a deduction. Refer to Section 4.407.6 if the dependent care costs qualify as a medical deduction.

B. Verification of Shelter and Utility Costs

1. A household's declaration of its responsibility to pay shelter and utility costs, as well as the amount the household is responsible to pay, shall be considered an acceptable source of verification, unless questionable, to grant the household a deduction for the amount the household declares it is responsible for paying. Deductions for utility allowances shall be granted in accordance with Section 4.407.31.
2. Households that wish to claim shelter costs for a home that is unoccupied because of employment or training away from the home, illness or abandonment caused by a natural disaster or casualty loss must provide verification of actual utility costs if the costs would result in a deduction. These households are also responsible for providing verification of any other shelter costs if the cost is questionable and it would result in a deduction. The local office is not required to assist households in obtaining verification of this expense if the verification needs to be obtained from a source outside the county.
3. If shelter expense is questionable and verification cannot be verified within thirty (30) calendar days from the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense.
4. If the household subsequently provides the missing verification for questionable shelter costs, the information will be handled as a reported change in accordance with Section 4.604. The household shall be entitled to restoration of any lost benefits as a result of the disallowance of the expense which could not be verified within the thirty (30) day period, only if the client was not given at least ten (10) calendar days to provide verification or less than ten (10) calendar days if a necessary second interview could only be scheduled between the twentieth (20<sup>th</sup>) and thirtieth (30<sup>th</sup>) day of the processing period.

C. Verification of Medical Expenses

1. The amount of medical bills and the portion that is reimbursable shall be verified prior to initial certification. At recertification, total medical expenses shall be verified if the source has changed or the total amount has changed more than twenty-five dollars (\$25) since the last time they were verified, or the information is incomplete, inaccurate, inconsistent, or outdated. See Sections 4.407.6 and 4.407.61 for eligibility criteria for household members entitled to these deductions.
2. The household's monthly medical deduction for the certification period shall be based on the information reported and verified by the household, any anticipated changes in the household's medical expenses that can be reasonably expected to occur during the certification period based on available information about the recipient's medical condition public or private insurance coverage and current verified medical expenses. If the change cannot be reasonably anticipated, the household shall have the non-reimbursable portion of the medical expense considered at the time the amount of the expense or reimbursement is reported and verified.
3. Any time questionable information is received, such as the identity of the person incurring medical costs, verification shall be obtained.
4. If the household reports a change in its medical expenses, the local office shall verify the change and act on the change during the certification period if it will result in an increase to the household's benefit allotment. If the reported change will result in a decrease to the household's benefits, the change shall not be made effective until the start of the new certification period. If a change in medical expenses is discovered from another source other than the household, the local office cannot act on the change unless it is considered verified on receipt. The household shall not be contacted to verify a change discovered through another source. If a household fails to verify changes in medical expenses, the worker shall not make the change.
5. Households certified for twenty-four (24) months that incurred a one-time medical expense during the first twelve (12) months shall have the option of deducting the expense for one month, averaging the expense over the remainder of the first twelve (12) months of the certification period, or averaging the expense over the remainder of the certification period. One-time expenses reported after the twelfth (12<sup>th</sup>) month of the certification period will be deducted as a one-time monthly expense or averaged over the remaining months in the certification period, at the household's option.

D. Verification of Child Support Expenses

1. In order to receive a deduction, the household shall verify its legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays. The local office shall accept any document that verifies the household's legal obligation to pay child support, such as a court or administrative order or legally enforceable separation agreement.
2. The local office shall accept documentation verifying a household's actual payment of child support including, but not limited to, cancelled checks, wage withholding statements, verification of withholding from unemployment compensation and statements from the custodial parent regarding direct payments or third party payments that the noncustodial parent pays or expects to pay on behalf of the custodial parent.

3. Documents that are accepted as verification of the household's legal obligation to pay child support shall not be accepted as verification of the household's actual monthly child support payments.
4. In addition to requiring verification from the household, the local office shall be responsible for obtaining verification of the household's child support payments if the payments are made to the child support services agency. The local office shall give the household an opportunity to resolve any discrepancy between household verification and the verification received from the child support services agency. Child support income and expense information received from the automated child support system shall be considered verified upon receipt (see Section 4.504.6).
5. At recertification, the local office shall require the household to RE-verify the amount of legally obligated child support that a household member pays to a non-household member.

#### **4.600 ONGOING CASE MANAGEMENT**

When a household is certified for Food Assistance, a certification period is assigned. During the certification period, the household is required to report certain changes in its household circumstances. If a household does not report changes as required and as a result is overpaid Food Assistance benefits, the household will be held liable for repaying any benefits it was not eligible to receive in accordance with Section 4.800.

There are some changes that the household is not required to report but are considered known to the agency because the agency is made aware of those changes by the primary source of that information. See Sections 4.504.6 and 4.607 for these types of changes. The local office is required to act upon such information during the middle of the certification period. Claims may be established as a result of information considered verified upon receipt even if a household is not otherwise required to report such information.

All changes are acted on in accordance with Section 4.604.

#### **4.601 GENERAL REQUIREMENTS FOR REPORTING CHANGES**

- A. Simplified reporting households are only required to report and verify if the household's combined gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Level (FPL) for its household size.
- B. Households shall be required to report changes in household circumstances as outlined in Section 4.603 no later than ten (10) calendar days from the end of the calendar month in which the change occurred. The local office has up to ten (10) calendar days to act on the information from the date the change is considered reported, as outlined in Section 4.602.
- C. The household shall be allowed to report changes in person, by telephone, in writing, or through the online system. A toll-free number or a number on which collect calls will be accepted shall be indicated on all Change Report Forms.

Changes reported by the household by telephone or in person shall be acted upon in the same manner as those reported on the Change Report Form. If reporting by mail, households will have met the reporting requirement provided the envelope is postmarked within the required ten (10) day calendar period. Public assistance (PA) households which report a change in circumstances to the PA worker shall be considered to have reported the change for Food Assistance purposes.

- D. A Change Report Form shall be provided to newly certified households at the time of certification and recertification and each time a change is submitted using the form. Households shall be notified of the receipt of the Change Report Form at the time the household is notified of an increase or decrease in benefits resulting from the reported change or at the same time the household is notified that additional verification is necessary to process the reported change.
- E. If additional verification is required to process the reported change, the household shall be notified of the verification needed and the deadline for submitting required verification to the local office. The notice shall inform the household that the change must be verified prior to action being taken by the local office if benefits are to be increased. Households shall be advised that assistance can be obtained from the local office if the household experiences difficulty in obtaining required verification.
- F. When a change in household circumstances occurs in a non-simplified reporting household and the local office has determined that a household has refused to cooperate in providing verification necessary to determine eligibility, the household's eligibility shall be terminated following a Notice of Adverse Action. The household shall not be denied if there is any question as to whether it has merely failed to cooperate as opposed to refused to cooperate.

For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to determine eligibility when a change of more than twenty-five dollars (\$25) occurs in a non-simplified reporting household. Households experiencing difficulty in obtaining necessary verification shall be assisted by the local office either in obtaining the documentary evidence or by making a collateral contact. The local office must ensure that the household was notified of the needed verification and sufficient time was allowed to obtain the verification.

#### **4.602 WHEN CHANGES ARE CONSIDERED REPORTED**

- A. A change shall be considered to be reported as of the date the local office is notified of the change, if the required verification is received within ten (10) calendar days from the date the change is considered reported.

If verification is obtained after the ten (10) calendar day timeframe, or during the adverse action period, the office shall consider the change reported on the day the verification is received.

See Section 4.504.6 for what date is considered the change reported date for information that is considered verified upon receipt.

- B. The local office has up to ten (10) calendar days to act on a change from the date the change is considered reported.

#### **4.603 HOUSEHOLD RESPONSIBILITY TO REPORT CHANGES**

- A. Requirements for All Households

- 1. Applicant households shall report all changes related to their Food Assistance eligibility and benefits at the certification interview, including any changes that occurred between the date an application is submitted and the date of the interview. If a change is reported in an initial month and the application has not yet been processed, the local office shall act on the most current information.

2. Households are required to report changes in household circumstances in accordance with the provisions of this section, no later than ten (10) calendar days from the end of the calendar month in which the change occurred. The local office has up to ten (10) calendar days to act from the date of the change is considered reported.
  3. Households are required to report all changes in household circumstances when filing a redetermination and periodic report.
- B. Additional requirements for Simplified Reporting Households
1. All households with certification periods of six (6) months and twenty-four (24) months shall be considered simplified reporting households. At redetermination, households with six (6) month certifications are required to report all changes in household circumstances. Households with twenty-four (24) month certifications are required to report all changes in household circumstances at the twelve (12) month periodic reporting period and at redetermination (see Section 4.208.1).
  2. The only change a simplified reporting household shall be required to report during the certification period is if the household's combined gross income exceeds one hundred thirty percent (130%) of the federal poverty level, as applicable to their household size.  
  
Simplified reporting households that exceed the one hundred thirty percent (130%) federal poverty level (FPL), as applicable to their household composition, will have ten (10) calendar days from the end of the month in which the household exceeded one hundred thirty percent (130%) FPL to report the change to the local office.
  3. Households eligible to be certified with a gross income level of up to two hundred percent (200%) of the federal poverty level, as applicable to the household size, who are certified with income above one hundred thirty percent (130%) FPL shall not be required to report increases in the household's combined gross income during the certification period. See Section 4.604 for clarification on how to act in situations when a household reports this information.
  4. Households eligible to be certified with a gross income level of up to two hundred percent (200%) of the FPL, as applicable to the household size, who are certified with income below 130% FPL are required to report when the household's combined gross income exceeds one hundred thirty percent (130%) FPL applicable to the household size. After the household reports its first increase in income above one hundred thirty percent (130%) FPL, the household shall not be required to report further increases in the household's combined gross income for the remainder of the certification period.
  5. The only change a simplified reporting household must report after the interview is if the household's gross monthly income exceeds one hundred thirty percent (130%) of the FPL applicable to the household size. If a change is reported after the interview but before the application has been processed, the local office shall act on the most current information. If a change is reported after the application has been processed, then the change shall be acted upon in accordance with Section 4.604.

6. When a simplified reporting household submits a recertification or periodic report form and an interview is not conducted because one has been completed in the previous twelve month period, any changes that occur after the recertification or periodic report form was submitted are not required to be reported unless the change causes the household to exceed one hundred thirty percent (130%) FPL applicable to the household size. If an interview is scheduled with the household, then the household is required to report any changes that occur between the time the household submitted the recertification application or periodic report form and the date of the interview.
7. Upon benefit approval at initial application, redetermination and periodic change report, the household shall be provided with a notice of the gross income level that applies to its household size.

**C. Additional Requirements for Non-Simplified Reporting Households**

Non-simplified reporting households are those households that are certified for three (3) months in accordance with Section 4.208.1. Non-simplified reporting households shall be required to:

1. Report and verify changes of more than fifty dollars (\$50) in the amount of the household's gross monthly unearned income and more than one hundred dollars (\$100) in the household's gross monthly earned income; and,
2. Report and verify changes in the source of income, including loss of or quitting a job, or changing jobs if the change in employment is accompanied by a change in income; and,
3. Report all changes in household composition, such as the addition or loss of a household member, and verify if questionable; and,
4. Report and verify changes in residence and the resulting change in shelter costs; and,
5. Report and verify changes in the legal obligation to pay child support and changes in the amount legally obligated to be paid; and,
6. Changes which are required to be reported in accordance with the provisions of this section, which occur after the interview, but before the date of the notice of eligibility, shall be reported by the household within ten (10) calendar days of the date the notice was issued, and the change shall be processed in accordance with Section 4.603.

**4.604 ACTION ON REPORTED CHANGES**

Changes shall be acted on in accordance with the following guidelines:



**A. General Requirements**

Changes to a household's circumstances shall be acted on prospectively and processed within ten (10) calendar days from the date the change is considered to be reported (see Section 4.602). Changes reported by households shall be documented in the Food Assistance case record to indicate the change and the date that the change was reported. If a Change Report Form was used, the local office shall provide another Change Report Form to the household and notify the household of the receipt of the change report. If the reported change causes a change to the household's allotment, a notice of action form shall be issued to inform the household of a new basis of issuance and/or a supplemental allotment. If a supplemental allotment is to be issued, the amount of the supplemental allotment shall be the difference between the allotment the household is eligible to receive, due to the reported change, and the allotment the household actually received for the current month. The household's total monthly allotment shall be increased for all subsequent months of the certification period that are affected by the change.

**B. Changes Reported at Redetermination and Periodic Report**

The county local office shall act on all changes reported by households filing a redetermination or periodic report.

When a household reports information during the certification period that it was not required to report, the local office shall document the information in the case record. If the information is not acted upon because it would cause a reduction in benefits for a simplified reporting household, and it does not meet the criteria outlined in D below, the local office shall review the information at the time of the household's subsequent certification, or at the twelve (12) month periodic report for those households certified for twenty-four (24) months to determine if the change should be acted upon when processing the redetermination or periodic report.

**C. Changes Resulting In an Increase**

1. The county local office shall act on any change reported by the household that will increase benefits. The increased allotment shall be made no later than the first allotment issued ten (10) or more calendar days after the change is considered to be reported. Any increase in benefits resulting from a change shall take effect the month following the month the change is considered reported per Section 4.602.

Therefore, if such a change is reported after the twentieth (20<sup>th</sup>) of a month, and it is not possible to adjust the following month's allotment before the household's next normal issuance day, a supplemental allotment (in addition to the previously authorized monthly allotment) must be issued within ten (10) calendar days from the date the change was considered to be reported. A supplemental allotment shall not be issued for the month in which the change occurred.

2. Changes that result in increased Food Assistance benefits for a household must be verified by the household within ten (10) calendar days from the date the change is reported. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Changes that result in increased Food Assistance benefits for a household must be verified prior to adjusting the household's allotment.

**D. Changes Resulting in Allotment Decreases**

Changes that result in a decreased allotment shall be processed within ten (10) calendar days from the date the change is considered reported and made effective on the last day of the month in which the advance Notice of Adverse Action expires. The notice of adverse action expires eleven (11) calendar days from the date it is issued.

For simplified reporting households, the county local office shall not act on changes during the certification period that would decrease benefits, unless:

1. The head of household requests that his/her case be closed;
2. The head of household requests that any member be removed;
3. An adult member requests to be removed from the case;
4. An adult member requests that he/she and his/her children be removed from the case;
5. The agency has information about the household's circumstances considered verified upon receipt (see Section 4.504.6);
6. There has been a change in the household's public assistance grant;
7. The agency is acting on a mass change as outlined in Section 4.607; or,
8. A household eligible to be certified with a gross income level up to two hundred percent (200%) FPL as applicable to the household size, which is certified with income below one hundred thirty percent (130%) FPL has a change in income that causes the household's combined gross monthly income during the certification period to exceed one hundred thirty percent (130%) FPL. Refer to Section 4.401.1 for a description of households that are eligible to be certified with a gross income level up to two hundred percent (200%) FPL.

**E. Changes Resulting in Ineligibility**

Changes that result in the household becoming ineligible shall be processed within ten (10) calendar days from the date the change is considered reported, unless the change does not require adverse action per Section 4.608.1. Changes resulting in ineligibility shall be made effective on the last day of the month in which the Notice of Adverse Action expires. The notice of adverse action expires eleven (11) calendar days from the date it is issued. Documentation of the eligibility determination shall be noted in the case record.

Households that would otherwise become temporarily ineligible due to a periodic increase in recurring income or become ineligible due to another change that is not expected to continue in the subsequent month shall have their issuance suspended. Food assistance households may be placed in suspense for one month. Households not eligible for Food Assistance in the following issuance month must be discontinued from the Food Assistance Program. Households placed in suspense shall not receive a Food Assistance allotment for that issuance month. These households are considered to be eligible for the Food Assistance Program although receiving a zero allotment for the month the household is in suspense. If the suspended household again becomes eligible to receive an allotment after the month of suspense, the local office shall issue benefits on the household's normal issuance date. A new application shall not be required if the current certification period has not expired during the month of the suspense.

F. Changes in Household Composition

1. Changes in household composition shall be acted on prospectively for the following month when the local office is able to affect the change prior to the determination of the household's allotment for that month. Anticipated income, deductions and other financial and non-financial criteria of the new member shall be considered in the prospective determination. The anticipated income, deductions, and other financial and non-financial criteria of a removed member shall no longer be considered when determining the household's eligibility (see Section 4.304).

For changes in household composition that cause a decrease in the household's allotment, refer to D, "Changes Resulting in Allotment Decreases," above, for how to act on the change for a simplified reporting household.

2. Individuals Disqualified During the Certification Period

When an individual is disqualified during the household's certification period, the Food Assistance certification office shall determine the eligibility or ineligibility of the remaining household members based on information contained in the case record. If information in the case record is insufficient, additional information shall be obtained as needed.

- a. If a household's benefits are reduced or terminated within the certification period because one or more of its members was disqualified for intentional program violation/fraud, the local office shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member(s) is notified of his or her disqualification.
- b. If a household's benefits are reduced or terminated within the certification period because one or more of its members is disqualified for being an ineligible non-citizen, noncompliance with a work requirement, or for failure or refusal to obtain or provide a Social Security Number, the local office shall send a Notice of Adverse Action which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the disqualified member must take to end the disqualification.

G. Changes Reported During the Certification Period That the Household Is Not Required To Report

When a household reports information during the certification period that it was not required to report, the local office shall document the information in the case record. If the information is not acted upon because it would cause a reduction in a simplified reporting household's benefit allotment and it does not meet the criteria outlined in d above, the local office shall review the information at the time of the household's subsequent certification, or at the twelve (12) month periodic report for those households certified for twenty-four (24) months to determine if the change should be acted upon at that time.

H. Refusal to Cooperate

The household shall be determined ineligible if it refused to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review in accordance with Sections 4.903.4, 4.903.41, and 4.903.42.

If a simplified reporting household reports a change during the certification period that it was not required to report, the local office may request verification of the change, but if the household does not provide verification, then the case cannot be denied for failing to provide the requested information

**4.604.1 Verification of Reported Changes**

Changes that affect an allotment may require additional verification prior to taking action. If the county local office receives information about changes in a household's circumstances but cannot determine if the change will affect the household's benefits, the local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar day time period. The local office shall offer assistance in obtaining the verification if the household cannot obtain the information. The notice shall advise the household to respond by telephone or by correspondence and state the consequences of not responding to the notice.

If a non-simplified reporting household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar day timeframe, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days.

Changes which result in increased Food Assistance benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Any increase in benefits resulting from a change shall take effect the month following the month the change was verified.

If a simplified reporting household reports a change during the certification period that it was not required to report, the local office may request verification of the change, but if the household does not provide verification, then the case cannot be denied for failing to provide the requested information.

**4.605 FAILURE TO REPORT CHANGES**

If Food Assistance benefits are over-issued because a household fails to timely report changes in household circumstances or income as required, a claim shall be established and a notice of overpayment and a repayment agreement will be mailed. If the discovery is made within the certification period, the household must be given advance notice of adverse action if its benefits are to be reduced.

**4.606 HANDLING PUBLIC ASSISTANCE (PA) HOUSEHOLD CHANGES**

- A. Households that receive public assistance benefits which report a change in circumstances to the public assistance worker shall be considered to have reported the change for Food Assistance purposes. Information that is reported and verified to a public assistance (PA) program which results in a change to the PA benefit amount and that meets the Food Assistance rules for verification shall be considered verified upon receipt (see Section 4.504.6). The date the change is considered reported and verified is the date the public assistance program processes the change and authorizes the new PA benefit amount. When acting on information considered verified upon receipt, advance notice of adverse action is required, except as noted in Section 4.608.1.
- B. When there is a change in a public assistance case and the county has sufficient information to make the corresponding Food Assistance adjustment, the county shall follow the guidelines listed below.
  - 1. If the change in household circumstances requires a reduction or termination of both public assistance and Food Assistance, the following action will be required:
    - a. Send Notices of Adverse Action for both programs simultaneously with both notices bearing the same effective date.

- b. If a household requests a fair hearing any time prior to the effective date of the Notice of Adverse Action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action, unless the household specifically waives continuation of benefits. Continued benefits shall not be issued for a period beyond the end of the current certification period.
        - c. If the household appeals only a PA adverse action and is granted interim relief, Food Assistance benefits authorized prior to the adverse action shall continue or be restored. However, the household must reapply if the Food Assistance certification period expires before the hearing process is completed.
        - d. If the household does not appeal the adverse action to decrease the public assistance or Food Assistance benefits within the adverse action period, the changes shall be made in accordance with timeframes outlined in Section 4.603.
2. If the change requires a reduction or termination of public assistance and/or increases in Food Assistance, the following action will be required:
  - a. A public assistance Notice of Adverse Action shall be issued to the household and Food Assistance benefits shall not be increased until the adverse action period expires. If the household does not appeal, the increase shall be effective in accordance with Section 4.604. The time limit for taking the action to increase Food Assistance benefits shall be calculated from the date the PA Notice of Adverse Action expires. The Notice of Adverse Action expires eleven (11) calendar days from the date it is issued.
  - b. If the household requests a PA state appeal and is granted interim relief, the household is entitled only to Food Assistance benefits that were authorized immediately prior to the PA adverse action and action must be taken to correct the current basis of issuance. A Food Assistance claim must be made against the household if there was an overissuance for the period pending the appeal decision.
3. When there is a change in a PA case which results in a termination of PA but there is insufficient information to determine Food Assistance eligibility, the county shall follow the guidelines listed below:
  - a. The PA Advance Notice of Adverse Action and a verification request notice are issued simultaneously. The public assistance notice makes the action effective on the last day of the month the notice is sent (or the last day of the following month, as appropriate, to allow for the required advance notice period). The routine extension on Food Assistance notices allows the household time to reapply for benefits at the appropriate local office.

The verification request notice shall advise the household of the information that needs to be verified for the household to continue to receive Food Assistance benefits. The worker shall not take any further action until the PA Notice of Adverse Action period expires or until the household requests a fair hearing. If the household does not appeal the PA action and request a continuation of benefits, the agency may resume action on the reported change.

Depending on the response or non-response to the verification request, the worker shall adjust the household's benefits if the verification of the household circumstances are received, or issue a Notice of Adverse Action to close the household's case if the household does not respond or refuses to provide information.

- b. Households requesting a Food Assistance appeal may be entitled to continued benefits.
  - c. If the household requests only a public assistance state appeal and is granted interim relief, Food Assistance benefits authorized immediately prior to the adverse action will continue or be restored.
4. If the situation does not require a PA Notice of Adverse Action, the county local office shall take action based on the normal change reporting processing time frames and provide proper noticing as described in this section.
- C. Local offices shall ensure that there is no increase in Food Assistance benefits to households as the result of a penalty being imposed for an intentional program violation (IPV) or failure to comply with program requirements for a federal, state, or local means-tested program that distributes publicly funded benefits.

The local office shall calculate the Food Assistance allotment using the benefit amount that would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in Food Assistance benefits shall also not be affected by these provisions.

#### **4.607 MASS CHANGES**

There are certain changes that occur which are not caused by the household and which affect a mass portion of the Food Assistance caseload simultaneously. Such adjustments go into effect for all households at a specific point in time, and the local office will have full prior knowledge of the change. Such changes are generally initiated as a result of a change in state or federal regulations. When such changes occur, the local office shall be responsible for making the appropriate adjustments in the household's eligibility or allotment as directed by the State Department and noticing the client as outlined below:

- A. Federal adjustments to eligibility standards, allotments, and deductions; state adjustments to the Standard Utility Allowance; and any federal reduction, cancellation, or suspension of Food Assistance Program benefits.

These mass changes shall not require Advance Notice of Adverse Action to affected households; however, households shall be notified of such changes through the news media; posters in certification or issuance offices, or other locations frequented by participating households; or general notices mailed to participating households. Adjustments to federal standards and state adjustments to utility standards shall be implemented prospectively.

- B. Mass changes in public assistance grants, such as state-only Old Age Pension and Aid to the Needy Disabled; and Cost of Living Adjustments (COLA) and increases in federal RSDI, SSI benefits (TITLE XVI), and SSA (TITLE II).

These mass changes shall require a Notice of Adverse Action when food assistance benefits are decreased or terminated. Such notice for these mass changes shall be provided to the household as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance Notice of Adverse Action, per Section 4.608. Mass changes shall be processed prospectively for all households.

1. At a minimum, affected households shall be informed of:
  - a. The general nature of the change;
  - b. Examples of the change's effect on household's allotments;
  - c. The month in which the change will take effect;
  - d. The household's right to a fair hearing;
  - e. The household's right to receive a continuation of benefits if the following criteria are met:
    - 1) The household has not specifically waived its right to a continuation of benefits;
    - 2) The household requests a fair hearing in accordance with Section 4.802.2, and the request for a hearing is based upon improper computation of Food Assistance eligibility or benefits, or upon misapplication or misinterpretation of state rules, or federal law or regulation.
  - f. The household's liability for any over-issued benefits if the hearing decision is adverse;
  - g. General information on whom to contact for additional information.
2. Processing Mass Changes in Public Assistance (PA)

Public assistance grant cost-of-living increases and SSA/SSI cost-of-living increases are treated as mass changes in the Food Assistance Program. Mass changes shall be processed prospectively for all households. Food assistance benefits shall be recomputed and the change shall be effective in the same month as the change in the PA grant. If the local office has at least thirty (30) calendar days' advance knowledge of the amount of the public assistance adjustment, the Food Assistance benefits shall be recomputed and the change shall be effective in the same month as the change in the PA grant. In cases where the local office does not have thirty (30) calendar days' advance notice, the Food Assistance change shall be made effective no later than the month following the month in which the PA grant was changed.

**4.608 ADVANCE NOTICE OF ADVERSE ACTION**

- A. The local office shall notify a household of any change from its prior benefit level, the reason for the action and the date the action becomes effective on the Notice of Action form except as specified in Section 4.608.1. The Notice of Overpayment form is used as the Notice of Adverse Action for claims and the resulting recoupment for failure to respond.
- B. Households shall receive advance Notice of Adverse Action, giving at least ten (10) calendar days advance notice, plus one additional calendar day for mailing time, before any adverse action, such as a benefit reduction, suspension, termination or denial, becomes effective during the certification period, except as specified in Section 4.608.1.

When acting on a change in accordance with Section 4.604, if the ten (10) calendar day advance notice period, plus one additional calendar day for mailing time, can be given in the month the Notice of Adverse Action is sent, the notice shall be effective on the last day of the month the notice is sent.

If the ten (10) calendar day advance notice period, plus one calendar day for mailing, extends into the following month, the notice shall be effective on the last day of the month the notice expires. The notice of adverse action expires eleven (11) calendar days from the date it is issued. The notice shall explain the reason for the proposed action and the date the action becomes effective.

If the advance notice period ends on a weekend or holiday and a request for a fair hearing and continuation of benefits are received the business day after the weekend or holiday, the request shall be considered timely received.

For changes that result in a decreased allotment or ineligibility, the local office shall issue a notice of adverse action within ten (10) calendar days of the date the change is considered reported, which will affect the next regularly scheduled allotment after the month in which the advance Notice of Adverse Action period expires (see Section 4.602).

- C. Prior to the effective date of the Notice of Adverse Action, a participant household may request a conference with the staff of the certification office responsible for the decision to take the adverse action, or the household may file an appeal of such action.
- D. The participant household may also, prior to the effective date of the Notice of Adverse Action, either before or after the conference, appeal the proposed action. Households that timely request a hearing may be entitled to continued benefits. The eligibility worker shall explain to the household that a demand will be made for the amount of any benefits determined by the hearing officer to have been over-issued.

**4.608.1 Changes Not Requiring Advance Notice of Adverse Action**

Advance Notice of Adverse Action may be given, but is not required in the following situations:

- A. The Food Assistance Program Division initiates mass changes outlined in Section 4.607, paragraph A. Such changes must be publicized in advance. Announcements may be handed out or mailed to affected participant households.
- B. The local office determines based on reliable information that meets verification requirements that all members of a household have died.
- C. The local office determines based on reliable information that meets verification requirements that the household has moved from the project area.



- D. The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.
- E. The household's allotment varies from month to month within the certification period to take into account changes that were anticipated at the time of certification, and the household was so notified at the time of certification.
- F. The household applied for public assistance (PA) and Food Assistance jointly and has been receiving Food Assistance benefits pending the approval of the PA grant and was notified at the time of certification that Food Assistance benefits would be reduced upon approval of the PA grant.
- G. The certification office has elected to assign a longer certification period to a household certified on an expedited basis and for whom verification was postponed, as detailed in Section 4.205.1, provided the household has received prior written notice that verification may result in a reduction in benefits.
- H. As a result of the facility's loss of state or USDA/FNS authorization, the local office terminates eligibility of those residents in a drug or alcoholic treatment center or group living arrangement, who are certified with the facility acting as authorized representative.
- I. A household member is disqualified for an intentional program violation/fraud or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The noticing requirements for an intentional program violation/fraud are contained in Section 4.803.7.
- J. Converting a household from cash and/or Food Assistance repayment for claims to allotment reduction as a result of a failure to make agreed-on repayments.
- K. The household was issued a repayment agreement for a claim and failed to respond. For households participating in the program that do not respond to the repayment agreement, benefit recoupment will be initiated.
- L. A change that is reported at redetermination for a household certified for six (6) months, or at the 12-month mid-point for a household certified for twenty-four (24) months, which results in a decrease to the household's Food Assistance allotment. Such changes shall be processed in accordance with the requirements and timeframes in Sections 4.209.1, and 4.210.

#### **4.700 FOOD ASSISTANCE BENEFIT ISSUANCE**

The Colorado Electronic Benefits Transfer System (CO/EBTS) will allow electronic debiting of benefits onto an Electronic Benefit Transfer (EBT) card for certified eligible households. Every household must be informed of the issuance accommodations that are available.

Local offices must provide an adequate number of issuance locations and hours of operation to allow all eligible households to receive their Electronic Benefit Transfer (EBT) cards.

As the Food Assistance Program is a national program, food benefits issued to eligible households may be used for the purchase of eligible food in every state.

#### 4.701 PROVIDING BENEFITS TO PARTICIPANTS

- A. Local offices are responsible for the timely and accurate issuance of benefits to certified eligible households. All newly certified households, except those that are given expedited service, shall be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. Day one (1) is the first calendar day after the application is received by a local office in the household's county of residence. An opportunity to participate consists of providing households with an active EBT card and Personal Identification Number (PIN), posting benefits to the household's EBT account, and having benefits available for spending.

Local offices utilizing a mailing system must mail EBT cards and pins, if applicable, in time to assure that the benefits can be spent after they are received but before the thirty (30) day standard if the EBT card or pin is mailed on the twenty-ninth (29<sup>th</sup>) or thirtieth (30<sup>th</sup>) day. For households entitled to expedited service, the local office shall make benefits available to the household not later than the seventh (7<sup>th</sup>) calendar day following the date of application, and for mail card issuance, the EBT card shall be mailed no later than the end of the third (3<sup>rd</sup>) calendar day. Local offices that issue EBT cards by mail shall, at a minimum, use first class mail and sturdy non-forwarding envelopes or packages to send EBT cards to households, and the EBT card and PIN must be mailed separately from one another.

- B. Those households comprised of persons who are elderly or disabled who have difficulty reaching issuance offices and households which do not reside in a permanent dwelling or have a fixed mailing address, and those in remote, rural areas shall be given assistance in obtaining their EBT card. Food assistance offices shall assist these households by arranging for the mail issuance of EBT cards to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.
- C. The eligibility worker shall be sufficiently familiar with issuance operations to answer any questions the household may have about when, where, and how to access one's benefits from the EBT card.

##### 4.701.2 EBT Cards

- A. Certification units of local offices shall issue a Colorado Electronic Benefits Transfer System (CO/EBTS) debit card to each certified household. All cards shall be issued under the Social Security Number or client ID number of the household member or authorized representative who is authorized to receive the household's issuance as designated by the household.
- B. The household, or the authorized representative, shall present the household's Colorado Electronic Benefits Transfer System (CO/EBTS) debit card at issuance points, retail outlets, or meal services in order to transact the allotment authorization or when exchanging benefits for eligible food.
- C. The EBT card shall contain a space for the name and signature of the household member to whom the allotment is to be issued or for any authorized representatives designated by the household.
- D. Food assistance offices shall limit issuance of EBT cards to the time of initial certification, with replacements made only in instances when the EBT card is lost, mutilated, destroyed, or if there are changes in the person authorized to obtain benefits, or when the office determines that a new EBT card is needed. Whenever possible, the office shall collect the EBT card that it is replacing. The issuance unit must be notified of a replacement EBT card to assure that only the most recently issued EBT card is used for benefit issuance.

- E. EBT cards can be used in the following circumstances:
1. Eligible household members sixty (60) years of age or over or members who are housebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses, may use benefits to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by USDA/FNS.
  2. Eligible household members sixty (60) years of age or over and their spouses may use benefits issued to them to purchase meals prepared especially for them at communal dining facilities authorized by USDA/FNS for that purpose.
- F. EBT cards shall be kept in secure storage with access limited to authorized personnel only.

#### **4.702 RESTORATION OF LOST BENEFITS**

##### **4.702.1 Eligibility for Restoration of Lost Benefits**

- A. To be eligible for restored benefits, the household must have had its Food Assistance benefits wrongfully delayed, denied, or terminated. Delay shall mean that an eligibility determination was not accomplished within the prescribed time limits set forth in Sections 4.205, 4.209.1 or 4.210.
- B. A restoration of benefits is warranted when a household has received fewer benefits than it was eligible to receive due to:
1. An error by the local office;
  2. A court decision overturning or reversing a disqualification for intentional program violation; or,
  3. A determination by a court that the household should have received more benefits than it received during a given issuance period.
- C. In the event that a restoration is warranted according to the provisions in paragraph b of this section, benefits shall be restored for not more than twelve (12) months prior to whichever of the following occurred first:
1. The date the local office was notified, in writing or orally, by the household or by another person or agency that a household received fewer benefits than it was eligible to receive;
  2. The date the local office discovers through the normal course of business that an error occurred which lead to the loss of benefits for a specific household; or,
  3. The date the household requested a fair hearing to contest the adverse action that resulted in the loss.
- When determining the months for which a household may be entitled to restorations, month one (1) shall be the month prior to the month in which the error was discovered.
- D. If the restoration is the result of a judicial action, the amount to be restored shall be determined as follows:
1. If the judicial action is the first action the household has taken to obtain a restoration of lost benefits, then benefits shall be restored for a period of not more than twelve (12) months prior to the date the court action was initiated.

2. If the judicial action is a review of an action taken by the local office, the benefits shall be restored for a period of no more than twelve (12) months prior to the first of either:
  - a. The date the local office was notified by the household or by another person or agency in writing, or orally, of the possible loss to the household, or,
  - b. The date the household requested a fair hearing.
- E. In no case shall benefits be restored for more than twelve (12) months prior to the date the local office is notified of, or discovers, the loss. Benefits shall be restored even if the household is currently ineligible.
- F. In the event that the State orders a reduction or cancellation of benefits, those households whose allotments are reduced or cancelled as a result of the enactment of those procedures are not entitled to restoration of lost benefits unless the Secretary of Agriculture orders the State to restore reduced or cancelled benefits to affected households at a later date. If the Secretary of Agriculture directs the State to restore reduced or cancelled benefits, the local office shall work promptly to issue such benefits.

**4.702.2 Disputed Benefits**

- A. If a household does not agree with any action taken by the local office to restore lost benefits or the amount of benefits determined to have been lost, the household may request a fair hearing within ninety (90) calendar days of the notice to the household of entitlement to a restoration. If such a request is made before or during the time period for which lost benefits are being restored, the local office will continue to issue the under-issued benefits pending the decision of the fair hearing. Once a final decision is reached, the local office shall restore benefits in accordance with the decision.
- B. If the household requests a fair hearing to dispute the local office's determination that the household is not eligible for restored benefits, restored benefits for the period in question shall not be issued to the household while awaiting the final agency decision.
- C. Benefits lost more than twelve (12) months prior to the date that the local office was notified that a household received less benefits than it was eligible to receive shall not be eligible for restoration.

**4.702.3 Lost Benefits Due to Fraud Reversal**

Individuals disqualified for intentional Program violation/fraud are not entitled to a restoration of any benefits lost during the months they were disqualified unless the decision which resulted in disqualification is subsequently reversed. For each month the individual was disqualified, not to exceed twelve (12) months, 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. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored.

Participation in an administrative disqualification hearing (state or local) or referral for prosecution in which a person contests the local office's assertion that the individual committed an intentional program violation/fraud will be considered a request for restored benefits. If such a person is found to have committed intentional program violation by the State Department final agency decision and this decision is subsequently overturned by a court of law, the restoration of benefits shall be calculated for a period not to exceed twelve (12) months prior to the date of the original administrative hearing.

**4.702.4 Errors by the Social Security Administration (SSA) Office**

The local office shall restore to the household any benefits lost as the result of an error by the local office or by the Social Security Administration through joint processing. Lost benefits shall be restored in accordance with Section 4.702.1.

Benefits shall be restored back to the date of an applicant's release from a public institution if, while in the institution, the applicant jointly applied for SSI and Food Assistance, but the local office was not notified on a timely basis of the applicant's release.

**4.703 CALCULATING LOST BENEFITS**

After correcting the loss for future months and excluding those months which occurred prior to the twelve (12) month restriction outlined above at 4.702.2, C, the following method will be used to calculate the amount of benefits to be restored:

- A. If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated. If the loss was caused by an incorrect delay, denial, or termination of benefits, the month the loss initially occurred will 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 first month of the new certification period.
  - 2. If an eligible household's application was delayed, the months for which benefits may be lost shall be calculated in accordance with Section 4.702.1.
  - 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.
- B. 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, not to exceed twelve (12) months prior to the date the loss was discovered per Section 4.702.2, C.

**4.704 METHOD OF RESTORATION**

- A. Regardless of whether a household is currently eligible or ineligible, the local 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 for the next month.
- B. Whenever lost benefits are due to a household and the household's membership has changed, the local 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 local office cannot locate or determine the household which contains a majority of household members, the local office shall restore the lost benefits to the household containing the person who was the head of the household at the time the loss occurred.

- C. Each local office shall be responsible for maintaining an accounting system for documenting a household's entitlement to the restoration of lost benefits and for recording the balance of lost benefits that must be restored to the household. Each local office shall, at minimum, document how the amount to be restored was calculated and the reason lost benefits must be restored. The accounting system shall be designed to readily identify those situations where a claim against a household can be used to offset the amount to be restored.

**4.705 WHEN AN INCREASE TO FOOD ASSISTANCE BENEFITS SHOULD NOT BE ISSUED**

- A. Local offices shall ensure that there is no increase in Food Assistance benefits to households as the result of a penalty being imposed for an intentional Program violation (IPV) or for failure to comply with work requirements or for failure to comply with another program requirement for a federal, state, or local means-tested program that distributes publicly funded benefits.
- B. To determine the Food Assistance allotment when there is such a decrease, the local office shall calculate the Food Assistance allotment using the benefit amount which would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in Food Assistance benefits shall also not be affected by these provisions.

**4.706 REPLACEMENT ISSUANCES TO HOUSEHOLDS DUE TO MISFORTUNE**

- A. A household may request a replacement issuance if food purchased with program benefits was destroyed in a household misfortune, such as, but not limited to, fire or flood. Replacement issuances shall be provided in the amount of the loss to the household, not to exceed one month's allotment, unless the issuance includes restored benefits that shall be replaced up to their full value. To qualify for a replacement, the household shall report the destruction to the local office within ten (10) calendar days of the incident.

The household shall sign and return a statement or an Affidavit for Food Destroyed in Misfortune to the local office within ten (10) calendar days of the date of the report, or benefits shall not be replaced. If the tenth (10<sup>th</sup>) day falls on a weekend or holiday, and the statement or Affidavit for Food Destroyed in Misfortune is received the day after the weekend or holiday, the local office shall consider the statement or affidavit timely received.

The statement or affidavit shall:

1. Attest to the destruction of the food purchased with the household's Food Assistance benefits;
  2. State that the household is aware of the penalties for intentional misrepresentation of the facts.
- B. Upon receiving a request for replacement of Food Assistance benefits for food reported as destroyed in an individual household misfortune, the local office shall:
1. Verify the disaster through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit;
  2. Issue replacement benefits within ten (10) calendar days of the report of loss, provided a signed statement of loss or an Affidavit for Food Destroyed in Misfortune is received. If the statement of loss is received on the ninth (9<sup>th</sup>) or tenth (10<sup>th</sup>) day after the report of loss, the issuance must be replaced within two (2) business days; and,

3. Document in the case record the date and reason that a replacement has been provided.

This provision shall apply in cases of an individual household misfortune, such as a fire, as well as in natural disasters affecting more than one (1) household. No limit on the number of replacements shall be placed on food purchased with Food Assistance benefits that were subsequently destroyed in a household misfortune.

#### **4.706.1 Disaster and Replacement Allotments**

Where USDA/FNS has issued a disaster declaration of individual assistance, individuals in a household who are eligible for emergency Food Assistance benefits shall not receive both the disaster allotment and a replacement allotment.

#### **4.706.2 Replacement of EBT Cards Lost in the Mail or Stolen Prior to Receipt by the Household**

Food assistance offices shall comply with the following procedures in replacing EBT cards reported lost in the mail or stolen from the mail prior to receipt by the household.

- A. Determine if the EBT card was actually mailed, if sufficient time has elapsed for delivery or if the card was returned in the mail back to the local office.
- B. Issue a replacement EBT card and new PIN.
- C. Take other action, such as correcting the address on the master issuance file by updating the households mailing and/or home address within the automated system.

#### **4.706.3 Request for Replacement Issuances after Receipt of EBT Card**

Households cannot receive a replacement allotment of Food Assistance benefits that have been reported as stolen and used from the EBT card by someone without the household's knowledge and consent. An EBT Card received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced.

#### **4.706.4 Authorized Number of Replacement Issuances**

No limit on the number of replacements shall be placed on the replacement of benefits if the food purchased with Food Assistance benefits was destroyed in a household misfortune.

The local office shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

When a local office intends to deny or delay a replacement of Food Assistance benefits for any reason, the local office shall notify the household of the delay or denial through use of a Notice of Action form. The household shall be informed of its right to a county dispute resolution conference or state-level fair hearing to contest the denial or delay of a replacement issuance. Replacement shall not be made while the denial or delay is being appealed.

Replacement issuances shall be provided to households within ten (10) calendar days after report of loss (fifteen days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement, whichever date is later.

When a request for replacement is made late in an issuance month, the replacement will be issued in a month subsequent to the month in which the original allotment was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement.

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**4.707 FOOD ASSISTANCE ISSUANCE AND ACCOUNTABILITY**

- A. Food assistance offices shall establish issuance and accountability systems to comply with these rules and to ensure that only certified eligible households receive benefits, EBT cards are accepted, stored, and protected after delivery to receiving points, benefits are timely distributed in the correct amounts, and that benefit issuance and reconciliation are properly conducted and accurately reported.
- B. Electronic benefit issuance shall be handled through the Colorado Department of Human Services, Food Assistance Programs Division, and at designated contractor sites through the Colorado Electronic Benefit Transfer System (CO/EBTS).
- C. Food assistance offices shall assure a separation of certification functions from issuance functions and thereby provide for internal controls and prevention of fraud. Certification functions include determining eligibility for a household and ensuring that the eligibility is current and accurate. Eligibility shall be updated and maintained in the automated system. It shall be the responsibility of the certification unit to complete all necessary actions in the automated system to authorize the issuance of benefits. Data entry of case information may be completed by either the certification unit or a separate data entry unit, but not by the issuance unit.
- D. Issuance offices are responsible for the timely and accurate issuance of Food Assistance benefits to eligible participant households. An approved accountability and benefit issuance delivery system shall be established to ensure that eligibility information is data entered, that the automated system has an issuance available, and only certified households receive benefits.

**4.707.1 Security Procedures**

The electronic benefit issuance area shall be physically separated, such as, but not limited to, the cage, counter, and railing, from both participants and other employees of the office who are not responsible for benefit issuance and accountability. Persons not specifically responsible for benefit issuance accountability shall also be barred from the electronic benefit card storage area.

Food assistance offices, including contract issuers, shall take all precautions necessary to avoid acceptance, transfer, negotiation, or use of counterfeit food benefits and to avoid any unauthorized use, transfer, acquisition, alteration or possession of benefits. Electronic Benefit Transfer (EBT) cards shall be safeguarded from theft, embezzlement, loss, damage or destruction.

Issuance supervisors shall give each cashier a daily supply of blank Electronic Benefit Transfer cards from the bulk card inventory. On high volume issuance days, the cashier's supply may need to be replenished during issuance hours from an office vault. Such a vault containing bulk card inventory shall remain locked unless opened to withdraw cards. Keys and lock combinations shall be controlled and restricted to as few individuals as possible. Combinations and locks should be changed whenever an individual who has received them leaves the employ of the office.

EBT cards must be removed from public view and reach. It is required that each cashier operate from a card drawer rather than from sources on top of the counter. The EBT cards must be locked in the drawer whenever the cashier leaves the issuance area for any reason. In small offices where it is not possible for each cashier to have a separate supply of EBT cards, the number of EBT cards shall be counted whenever one cashier assumes duties of another cashier at the issuance counter, and transferred to that cashier's responsibility.

The office shall never be left unattended during hours of issuance, such as during breaks or lunch, unless the building is secured as it would be after business hours.



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**4.707.2 Security Program and Types of Prevention of Theft**

The goal of a security program is to safeguard issuance personnel, EBT cards, and other valuables. In the event of a robbery, a planned security program will prevent panic that could endanger the lives of the people in the office.

A major element in an effective security program is the designation of a security officer who would continually review office facilities and procedures to improve office security and deter loss. She/he shall acquaint fellow employees with the security measures including precautions during issuance, night security and safety of persons and EBT cards while they are in transit between the issuance office and bulk storage area.

In addition to a security officer, each office shall distribute written instructions to all employees concerning appropriate behavior in the event of a robbery attempt and procedures for reporting the theft to law authorities and the Food Assistance Programs Division.

**A. Burglary**

Bulk EBT supplies shall be stored in a secure facility, preferably a bank or courthouse vault. If possible, all EBT cards should be returned daily to the secure storage facility. If EBT cards must be kept in the issuance office overnight, the amount shall be strictly limited to a one- or two-day supply.

If EBT cards are being stored in the office overnight, doors and windows that could afford access to the building shall be secured. Doors shall be equipped with double-cylinder dead bolt locks or locks of equivalent security. Any glass in doors and windows shall be barred or otherwise protected against breakage. Doors connecting with other offices or buildings shall be locked as securely as exterior doors. All doors and windows shall be checked to make certain they are locked before closing the office.

Issuance office EBT supplies shall be kept in a safe rather than a desk or file cabinet. The safe shall be immovable and in a part of the office not visible to the outside.

**B. Robbery**

To minimize the temptation for robbery, the amount of EBT cards in the issuance office shall be limited to a one- or two-day supply. The cashier's supply shall be out of public view and issued from a cashier's drawer out of reach of clients.

The county social services director or office supervisor will inform local law enforcement officials of the issuing office operation and advise them of the maximum amounts of EBT cards handled.

If EBT cards are returned to the bank at the end of the day and/or EBT card mailings are delivered to the post office by issuance personnel, an escort shall be provided. EBT card deliveries shall not be made by only one person, especially at night.

Offices that use itinerant issuance points shall take additional precautions to protect EBT cards in transit and during issuance. An escort shall be provided to and from the itinerant point and shall be present during issuance hours.

**C. Embezzlement**

To prevent embezzlement, there shall be a division of issuance responsibilities. The supervisor must verify issuance records and resolve or document any discrepancies in daily reconciliation.

At a minimum, supervisory personnel must take a monthly physical count of all EBT cards in the bulk EBT card storage points and EBT cards in each cashier's working stock. The end-of-the-month physical inventory must be accomplished after the close of business on the last issuance day of the reporting month or prior to the opening of business on the first issuance day of the following month. The actual inventory count is reported on Form FNS-250 (EBT Card Accountability Report). The supervisor must verify the accuracy of the FNS-250 report.

#### **4.707.21 Reporting a Robbery or Burglary**

The local law enforcement agency shall be notified immediately by one of the persons who have been designated to carry out the reporting of a robbery or burglary. The Food Assistance Programs Division shall also be notified immediately and will be responsible for informing USDA/FNS.

The office shall be protected to ensure that evidence is not destroyed. Any articles touched by the robbers (papers, furniture, counter tops) should not be touched by employees or other persons until law enforcement officers arrive.

The names of persons other than employees in the office at the time of the robbery shall be obtained if they insist on leaving prior to the arrival of law enforcement officers.

Each employee shall write down all pertinent information about the robbery. They should be told it is important to record their own impressions and observations prior to any discussion of them with other employees.

After law enforcement officers have made their examinations and with their approval, an immediate reconciliation of EBT cards shall be made to determine the amount of any loss. Stolen EBT cards will be identified by serial numbers.

#### **4.707.3 EBT Requisition**

Issuance units shall maintain EBT card inventory at proper levels as determined by volume of issuance, availability of adequate storage facilities and insurance coverage. EBT card inventory levels shall not exceed a six-month supply, including EBT cards on hand and those on order.

The security of issuance offices shall be continually monitored to ensure that adequate safeguards and insurance coverage are provided for the EBT card inventory on hand.

Arrangements have been made for local issuance offices with sufficient issuance volume to receive shipments of EBT cards directly from USDA/FNS. Offices with low issuance volume will receive EBT card shipments from the Food Assistance Programs Division storage vault by fully insured registered mail.

It is advised that offices that receive direct shipments should check EBT cards after monthly reconciliation and order EBT cards according to USDA/FNS instructions. USDA/FNS will assess the reasonableness of EBT card requisitions based on prior inventory change. The requisitioning office will be notified prior to any adjustment made to requisitions.

Those offices which receive their EBT card supply from the Food Assistance Programs Division storage vault shall requisition EBT cards in accordance with the instructions submitted from the Food Assistance Programs Division. The instructions will advise of procedures for ordering from the contractual provider.

#### **4.707.4 Designated Personnel and Receiving Locations**

- A. Food assistance offices ordering EBT cards shall designate at least two persons who are authorized to receive EBT cards. The Food Assistance Programs Division shall be notified by letter of the following:

1. Names of authorized personnel;
2. Complete address of EBT card receiving location;
3. Hours in which EBT card delivery will be accepted.

**B. Verification of Shipments**

Issuance offices and bulk storage points shall promptly verify and acknowledge, in writing the contents of EBT card shipments received and shall be responsive for the control and storage of EBT cards. Cartons of blank EBT cards are usually numbered consecutively, and serial numbers should be verified on receipt of shipment. The receiving agent shall assure that the indicated number of cartons is received before signing the receipt form.

**C. Receipt of EBT Cards from USDA, Food and Nutrition Service**

When a shipment of EBT cards is received from USDA/FNS, an original and three copies of Form FNS 261 (Advice of Shipment) are mailed to the consignee. If the shipment is in order, the receiving agent shall complete Form FNS 261. If the shipment is not in order, immediately notify the Food Assistance Programs Division. The receiving agent will then be instructed to annotate Form FNS 261, describing the EBT card discrepancy or damaged condition of the EBT cards. Form FNS 261 must be signed, dated and submitted in the normal manner.

**D. Receipt of EBT Cards from the State Office**

When a shipment is received from the Food Assistance Programs Division, Form FNS 300 (Advice of Transfer) is mailed to the consignee in the original and three copies. If the shipment is in order, the original and all copies of Form FNS-300 are signed and dated by the receiving agent. If the shipment is not in order, immediately notify the Food Assistance Programs Division

**4.707.5 Inventory Records**

A record of all EBT card shipments shall be maintained by the issuance supervisor on Form FS 13 (EBT Card Inventory Record). There must be a separate Form FS-13 for each EBT card in the bulk inventory, listed by serial number. Form FS 13 shall be annotated as EBT cards are withdrawn in numerical sequence and assigned to the cashiers for daily issuance.

Each cashier shall maintain a daily inventory of his/her EBT card supply on Form FS 10. The cashier's end of the day inventory is verified by actual count of EBT cards on hand.

Supervisory personnel shall verify all EBT cards in bulk inventory (FS-13) and cashier's supply (FS-10) by an actual physical count of EBT cards on the last day of the issuance month for accurate entry on Form FNS-250 (EBT Card Accountability Report).

**A. Shortage/Overage of EBT Cards in Shipment**

Prior to issuance, each carton and box of EBT cards shall be examined. When there is a shortage or overage of EBT cards, Form FNS-471 must be completed and signed by two witnesses. In the case of a shortage, show the amount of shortage on Line 13 of Form FNS-250 as credits. In the case of an overage, show the amount on Line 9 of Form FNS-250 (Shipments Received from USDA/FCS) regardless of where shipment originated.

**B. Improperly Manufactured or Mutilated EBT Cards in Shipment**

If EBT cards are improperly manufactured or mutilated, Form FNS-471 shall be completed. The EBT cards are cancelled immediately and destroyed at the end of the month in accordance with Section 4.708.5.

If one or more boxes of EBT cards were improperly manufactured, local offices shall contact the Food Assistance Programs Division. The Division will contact USDA/FNS on the instructions for disposition of the destructible EBT cards. EBT cards must be destroyed within thirty (30) calendar days from the close of the month in which the EBT cards were received. For disposition of mutilated EBT cards returned by participants, refer to Section 4.708.5.

**C. Out-of-Sequence EBT Card Serial Numbers**

There will be occasional instances where an EBT card will be substituted for an EBT card damaged in manufacturing. Out-of-sequence serial numbered EBT cards in the box present no problem as long as the correct number of EBT cards are contained in the box, and shall be issued in the normal manner.

**4.707.6 Benefit Issuance Locations and Storage Facilities**

A. Issuance locations shall be established by every local office to accomplish the issuance of EBT cards to certified Food Assistance households.

B. The Food Assistance Program in the Food and Energy Assistance Division shall be notified of all issuance locations and EBT card shipment receiving points created, changed, or terminated at least thirty (30) calendar days prior to effective date of action.

C. Whenever an issuance office or bulk storage point is terminated, the Food Assistance Programs Division will complete a closeout accountability audit within thirty (30) calendar days of the termination. The findings of the audit shall be forwarded to USDA/FNS immediately. The Food Assistance Programs Division shall perform an actual count of EBT cards on hand and transfer the inventory to another issuance office or bulk storage point preferably within the same project area. The actual inventory and transfer shall be properly documented and reported on Form FNS-250.

D. At least thirty (30) calendar days prior to closure of an issuance location, Food Assistance Program participants shall be notified of the impending closure. Notification shall include alternative issuance locations and information concerning available public transportation. A notice of closure shall also be prominently displayed in the issuance office. All necessary action shall be taken to maintain participant service without interruption.

E. The transfer of EBT cards between project areas is allowed only in emergency situations and only when authorized by the Food Assistance Programs Division. The transferring office initiates Form FNS-300, retains copy 4 and forwards all other parts to the receiving office with EBT card shipment. On verification of shipment, Form FNS-300 is dated and signed by the receiving office and copy 3 is returned to the transferring office. The counties involved in "transferring out" and "transferring in" must properly document the transaction on Form FNS-250 submitted at the end of the month.

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**4.707.61 Contracting or Delegating Issuance Responsibilities**

Local assistance offices may legally contract with other parties such as banks, savings and loan associations, the U.S. Postal Service, community action and migrant service agencies, and other commercial businesses, the responsibility of issuance and storage of EBT cards. Contractors may be permitted to subcontract assigned issuance responsibilities with the approval of the local office.

Any delegation of issuance and EBT card security must clearly delineate the responsibilities of both parties. Local offices remain responsible regardless of any agreements to the contrary for ensuring that assigned duties are carried out in accordance with the regulations. Local offices are still liable to USDA/FNS for all losses of EBT cards regardless of the actual responsibility for duties.

If an issuance office/agent or bulk storage point is being closed for noncompliance with contractual agreements, the local assistance office shall perform weekly reconciliation until alternative issuance or storage points are obtained.

**4.707.7 Monitoring of EBT Card Issuers**

The Food Assistance Programs Division shall conduct an onsite review of each EBT card issuer and bulk storage point at least once every three (3) years. All offices or units of an EBT card issuer are subject to this review requirement. The Food Assistance Programs Division shall base each review on the specific activities performed by each EBT card issuer or bulk storage point. A physical inventory of EBT cards shall be taken at each location, and count compared with perpetual inventory records and the monthly reports of the EBT card issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office.

**4.707.8 Division of Issuance Responsibilities**

Over-the-counter and mail issuance responsibilities shall be divided between a cashier and another issuance employee.

- A. It is not always feasible for the duties of the cashier to be performed by separate employees because of a low issuance volume at an issuance location. Therefore, any county that can justify deviation from the requirement, and is willing to assume the additional risk, may obtain permission for one-person issuance through written request to the Food Assistance Programs Division (refer to Section 4.707).
- B. If mail issuance functions are performed by only one person, a second-party review shall be necessary to verify EBT card inventory each day and reconcile the number of certified households who were issued EBT cards and the number of mailings prepared on a biweekly basis.
- C. Cashier Responsibility
  - 1. The cashier requests Form FS-5 (Identification Card) from the over-the-counter participant and compares the names on EBT card with the household names or authorized representative. For mail issuance the participant does not present an ID card for comparison.
  - 2. When satisfied with the identification of the participant (not necessary for mail issuance) the cashier shall issue the EBT card and, enter the issuance information and authorized allotment on the issuance log. The cashier shall also post Form FS-52 (Daily Issuance Log) or Form FS-11 (Daily Tally Sheet of Individual Transactions) if either is used by the issuance office to record household participation.

3. The cashier may enter any remarks, (such as serial numbers) concerning EBT cards to be issued on either Form FS-52 or Form FS-11. For the over-the-counter issuances the cashier shall also obtain the participant's signature on Form FS-52 (Daily Issuance Log) and compare the signature with that on the ID card to assure that the signatures agree. For mail issuance, there is no participant signature required. The cashier shall enter the date that the EBT card is mailed on Form FS-52 or Form FS-11.

#### **4.707.81 Issuance of EBT Cards**

The cashier shall use Form FS-10 (Daily Report of Books Issued) each issuance day to record his/her beginning EBT card inventory to show the amount of EBT cards received to replenish the cashier's card stock supply, to show returns to inventory, and to enter total amount of EBT cards on hand by physical count at the end of the issuance-day. The cashier's actual issuance totals must be reconciled with Form FS-52, Form FS-11 or other authorizing documents each issuance day.

#### **4.707.82 Issuance Reconciliation**

EBT cards shall be maintained in a secure location with access limited to authorized personnel. The issuance supervisor shall establish proper tracking and accounting methods to replenish each cashier's EBT card stock supply as needed.

In all issuance systems, EBT card issuers shall reconcile their issuance daily using daily tally sheets, cashiers' daily reports, tapes or printouts.

The daily total of issuances is recorded for printouts by the automated system, and shall also be reconciled with the cashiers' daily total of actual issuance of EBT cards determined by physical count. Any unresolved discrepancy must be verified daily and on the cashiers' Form FS-10.

#### **4.707.83 Issuance Record Retention and Forms Security**

The local office shall maintain issuance and reconciliation records for a period of three (3) years from the month of origination. This period may be extended with the written approval of USDA/FNS. Issuance and reconciliation records shall include, at a minimum, reports regarding Notices of Action, Notices of Change, and inventory record. Forms FNS-250, FNS-259, FNS-46 and substantiating documents, cashiers' daily reports, cashiers' daily tally sheets, master issuance files, the records for issuance for each month and any rosters or lists produced by the automated system. In lieu of the records themselves, easily retrievable microfilm, microfiche, or computer tapes that contain the required information may be maintained.

#### **4.707.84 Control of Issuance Documents**

Food assistance offices shall control all issuance documents that establish household eligibility while the documents are transferred and processed within the local office. The office shall use numbers, batching, inventory control tags, or similar controls from the point of initial receipt through the issuance and reconciliation process. All Notices of Action that initiate or terminate the Master Issuance file and blank EBT cards shall have access limited to authorized personnel.

#### **4.707.9 Issuance Methods**

The issuance office may mail EBT cards to all eligible households or establish over-the-counter issuance with optional mail issuance at the request of the household. Certified households must be issue EBT cards by the end of the month, except when benefits are suspended, cancelled or reduced.

If benefits have been suspended, and the local office receives a directive to resume issuance of benefits, the issuance of mailed or over-the-counter EBT cards will be staggered through the end of the month or over a five-day period following the resumption of issuance. This could result in benefits being issued after the end of the month in which the suspension occurred.

**4.707.91 Mail Issuance**

**A. Exclusive Mail Issuance**

Food assistance offices which rely exclusively on mail issuance shall ensure that participants receive allotments on a timely basis and eligible households, either destitute of income or with no income, receive expedited issuance in accordance with Sections 4.205 and 4.701.

**B. Optional Mail Issuance**

When over-the-counter and mail issuance are offered, a household must request mail issuance.

**C. Prevention of Mail Issuance Losses**

All EBT cards shall be mailed as first class mail, in sturdy non-forwarding envelopes.

**D. Liability for EBT Cards Lost in the Mail**

USDA/FCS will assume financial liability for all property issued EBT cards lost in the mail except losses in excess of three tenths of a percent (.3%) of the state total quarterly mail issuance loss. Each county office that has a mail loss during a quarter will be assessed a percentage of the state total penalty when a penalty is assessed against the state by the USDA/FNS.

**E. Food Assistance Mail Issuance Report**

Form FNS-259 reports shall be submitted by local offices for each unit using a mail issuance system. Food assistance offices shall submit Form FNS-259 reports so that they are received by the fifteenth (15<sup>th</sup>) day following the end of each month.

**4.708 INVENTORY VERIFICATION**

The issuance supervisor is responsible for taking a physical count of EBT cards on hand after the last issuance day of the month. There must be an actual count of all EBT cards in bulk storage facilities and in each cashier's working card stock in order to validate EBT card inventories reported on Form FS-13 and Form FNS-250.

**4.708.1 EBT Card Responsibility and Liability**

County offices shall be liable to USDA/FNS for the face value of EBT card loss that occur as a result of thefts, embezzlements, cashier error, unless the investigation was reported directly to USDA/FNS prior to the loss and unexplained causes. The county offices shall not be liable for the value of EBT cards issued for those duplicate issuances in the correct amount that are the result of authorized replacement issuances.

**4.708.2 Inventory Reporting to Food Assistance Programs Division**

Form FNS-250 (EBT Card Accountability Report) shall be executed monthly by EBT card issuers and bulk storage points, and shall be signed by the EBT card issuer or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief.

FNS-250 is an automated report available through automated system and needs to be data entered by the 15th of the month. Supporting documentation to Form FNS-250 (EBT Card Accountability Report) shall be submitted to the Food Assistance Programs Division which will verify the monthly report. Documentation shall consist of documents supporting EBT card shipments (FNS-261), EBT card transfers (FNS-300), and destruction of EBT cards (FNS-135 and FNS-471).

#### **4.708.3 State Monthly EBT Card Accountability**

The Food Assistance Programs Division shall establish an accounting system to review Form FNS-250 completed by all county offices and determine the propriety and reasonableness of EBT card inventories, issuance activities and reconciliation records. All records of EBT card requisition, EBT card receipt, returned mail EBT card issuances, replacements of EBT cards lost in the mail or improperly manufactured or mutilated as well as the supporting remarks and documentation for monthly over-issuance and under-issuance shall be used by the Division to assure the accuracy of monthly reports.

#### **4.708.4 Issuance Reconciliation Reporting**

Form FNS-46 (Issuance Reconciliation Report) shall be submitted by each local office operating an issuance system. The report shall be prepared at the level where the actual reconciliation of the record-for-issuance and master file occurs.

Food assistance offices shall identify and report the number and value of all issuances that do not reconcile with the record-for-issuance and master issuance file.

In addition to the above requirement, local offices will continue to reconcile inventory levels against issuances each month on Form FNS-250 (Food Assistance Accountability Report) and attach Form FNS-259 (Food Assistance Mail Issuance Report) for reconciliation.

#### **4.708.5 Destruction of Unusable EBT Cards Returned by Households**

Unusable EBT cards shall be destroyed by the county office provided that the destruction is accomplished by burning, shredding or tearing and two (2) persons witness the EBT card destruction.

Form FNS-471 (EBT Card and Destruction Report) shall be completed and signed by the required witnesses and mailed to the Food Assistance Programs Division.

Form FNS-135 (Affidavit for Return or Exchange of EBT Cards) completed for the return of unusable EBT cards by clients or for claims payments and Form FNS-471 completed on destruction of unusable EBT cards improperly manufactured or mutilated in shipments are supporting documents for necessary EBT card destruction.

County offices must report the destruction of improperly manufactured or mutilated EBT cards on Form FNS-471 (EBT Card and Destruction Report) and submit it with Form FNS-250 for the appropriate month. For EBT cards received from recipients, the original copy of Form FNS-135 must be attached to a copy of Form FNS-471 and retained in the office for future review and audit purposes. The destruction of EBT cards received from claims collections that are the result of payment of household claims must be reported on Form FNS-471.

Form FNS-135 will act as a receipt on exchange of unusable EBT cards returned by clients or returned for claim payments.



**4.708.6 Undeliverable or Returned EBT Cards**

County offices shall exercise the following security and controls for EBT cards that are undeliverable or returned during the valid issuance period. Forms FNS-471 and FNS-135 shall be completed by the office as appropriate.

EBT cards shall be returned to inventory and noted as such on the issuance log and Form FNS-250.

**4.708.7 EBT Cards Returned Because of Involuntary Termination or Death**

EBT Cards will be accounted for on Form FNS-135 (Affidavit for Return or Exchange of Food Coupons) and destroyed under procedures pertaining to Form FNS-471 (EBT Card and Destruction Report). A copy of Form FNS-135 will be retained in the household's case file for audit purposes.

**4.708.8 State EBT Card Issuance and Participation Reporting**

The Food Assistance Programs Division shall make estimations with data from the automated system Benefit Issuance and Participation Estimates.

**4.709 COLORADO ELECTRONIC BENEFIT TRANSFER SYSTEM AND PROCESSING**

All issuance systems shall maintain a composite of data for all certified households and provide complete information on participating households for review sampling purposes, statistical summary and reporting requirements. The automated system is a direct-access system that allows online issuance access to the Master Issuance File. The automated system provides for online issuance system.

Colorado Electronic Benefit Transfer System (CO/EBTS) will provide access through the use of a plastic debit card to recipients of Food Assistance and public assistance programs. The overall rules for CO/EBTS are in the Special Projects rule manual, Section 12.100, et seq. (12 CCR 2512-2).

Eligibility determinations in the automated system will be processed nightly to make Food Assistance benefits available the following day for initial certification. Ongoing cases will have benefits posted during a ten (10) calendar day cycle with the Social Security Number (SSN) as the basis. The ending number of the SSN will indicate the date for the posting of benefits. An SSN ending with one (1) will be posted on the first day of the month, two (2) on the second day of the month, etc. A SSN ending with zero (0) will be posted on the tenth (10<sup>th</sup>) day of the month.

**4.709.1 Card/PIN Issuance Accountability**

- A. The county department of social/human services will establish procedures for issuance of CO/EBTS debit cards and Personal Identification Numbers (PINs). The household will be issued a debit card within seven (7) calendar days from the date of application for expedited cases and within thirty (30) calendar days for non-expedited cases.
- B. The county department of social/human services shall maintain debit cards on site at its primary location and satellite offices. The EBTS contractor will provide counties with an initial supply of sequentially numbered cards with pre-embossed primary account numbers. Local offices must reorder cards to ensure an adequate supply at all times. The cards will be secured and accounted for through appropriate inventory and distribution forms.
- C. The household PIN will be issued through encryption devices supplied by the Colorado Department of Human Services, Food Assistance Programs Division.

**4.709.2 EBT Card Replacement**

- A. CO/EBTS debit cards for eligible recipients will be replaced when reported lost, stolen, or non-functioning. Replacement of cards will occur within three (3) business days of notification by the recipient.
- B. County departments of social/human services may have replacement cards over the counter or through a transmission to the CO/EBTS contractor requesting mail issuance. County departments shall not charge a fee if the replacement is issued by mail or the original card is inoperable due to no fault of the cardholder. County departments shall not charge a fee if the client is being recertified, and if, during the period of non-participation, the client has destroyed, lost, or damaged the original card.
- C. County departments shall not collect replacement fees by debiting a recipient's Food Assistance account.

**4.800 CLAIMS, APPEAL PROCESS, AND FRAUD**

Pursuant to Section 15(d) of the Food Stamp Act, benefits are an obligation of the United States within the meaning of 18 United States Code (USC) 8. The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedure, Relative to Counterfeiting, Misuse and Alteration of Obligations of the United States" are applicable to Food Assistance benefits. Copies of the U.S. Code are available for public inspection by contacting the Food Assistance Director during regular business hours at the Colorado Department of Human Services, Food Assistance Program, 1575 Sherman Street, Denver, Colorado 80203; or at a state publications depository library. No later editions or amendments are incorporated.

Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of food assistance benefits may subject an individual, partnership, corporation, or other legal entity to prosecution.

**4.801 CLAIMS AGAINST HOUSEHOLDS**

A claim shall be established, in accordance with the provisions of this section, when a household is over-issued benefits. An over-issuance means the amount by which Food Assistance benefits issued to a household exceeds the amount the household was eligible to receive.

**4.801.1 Classification of Claims**

Claims shall be classified as follows:

- A. "Agency Error Claims" - A claim shall be handled as an agency error claim if the over-issuance is caused by an error on the part of the local office. Instances that may result in an agency error claim include, but are not limited to, the following:
  - 1. The local office failed to take prompt action on a change reported by the household;
  - 2. The local office incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
  - 3. The local office continued to provide a household Food Assistance benefits after its certification period expired without a redetermination of eligibility in accordance with Sections 4.209 and 4.209.1.

4. The local office failed to provide a household a reduced level of Food Assistance benefits when its public assistance grant changed.
- B. “Inadvertent Household Error Claims” - A claim shall be handled as an inadvertent household error claim if the over-issuance was caused by a misunderstanding or unintentional error on the part of the household. Instances that may result in an inadvertent household error claim include, but are not limited to, the following:
1. The household unintentionally failed to provide the local office with correct or complete information.
  2. The household unintentionally failed to report changes in its household circumstances.
  3. The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.
  4. The household was receiving Food Assistance solely because of basic categorical eligibility and the household was subsequently determined ineligible for Colorado Works or Supplemental Security Income (SSI) during the time that the benefits were being received. The claim must be based on a change in net income and/or household size.
  5. The Social Security Administration failed to take action that resulted in the household's basic categorical eligibility and improper receipt of SSI. The claim must be based on change in net income and/or household size.
- C. “Intentional Program Violation/Fraud Claims” - A claim shall be handled as an intentional program violation/fraud claim only if:
1. An administrative disqualification hearing official or a court of appropriate jurisdiction has found a household member has committed intentional program violation or fraud; or,
  2. A signed waiver of intentional program violation is received; or,
  3. A signed disqualification consent agreement has been obtained.
- Prior to a waiver or consent agreement being signed or the determination of intentional program violation/fraud, the claim against the household shall be handled as an inadvertent household error claim.

**4.801.2 Establishing Claims Against Households [Rev. eff. 1/1/16]**

- A. Establishing a Claim
1. The local office shall establish claims in accordance with the thresholds outlined below.
    - a. For participating households, the county department shall not establish a claim for overpayment due to Administrative Error (AE) or Inadvertent Household Error (IHE), except in the following circumstances:
      - 1) When the amount of the claim is greater than \$200; or,
      - 2) When the overpayment is identified through a federal or state level quality control review; or,

- 3) When the inadvertent household error claim is being pursued as an intentional program violation, except that if the inadvertent household error claim does not result in an IPV, collection shall not be pursued.
- b. For households not participating in the food assistance program, the county department shall not establish a claim for overpayment except in the following circumstances:
- 1) When the amount of the claim is greater than \$400; or,
  - 2) When the amount of the claim is due to an inadvertent household error and is greater than \$200; or,
  - 3) When the overpayment is identified through a federal or state level quality control review.

An administrative error claim shall not be established for a period more than twelve (12) months from the date the local office was notified, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive, excluding over-issuances identified through a federal or state quality control review.

An over-issuance of benefits identified through a federal or state quality control review shall be established, regardless of the amount and length of the over payment.

2. Claims shall be established for benefits that are trafficked. The trafficking of benefits means:
- a. The buying, selling, stealing, or otherwise effecting an exchange of Food Assistance benefits issued and accessed via Electronic Benefit Transfer cards, card numbers and personal identification numbers (PINS), or by manual voucher and signature for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; or,
  - b. The exchange of Food Assistance benefits or EBT cards for firearms, ammunition, explosives, or controlled substances; or,
  - c. A Food Assistance participant, including the participant's designated authorized representative, who knowingly transfers Food Assistance benefit to another who does not, or does not intend to, use the Food Assistance benefits for the Food Assistance household for whom the Food Assistance benefits were intended; or,
  - d. The reselling of food that was purchased with Food Assistance benefits for cash; or,
  - e. Obtaining a cash deposit when returning water or other containers that were purchased with Food Assistance benefits. Purchasing water containers is an eligible food item that can be paid for with Food Assistance benefits; however, when the container is returned, the deposit should be returned to the client's EBT card and not given to the client in cash; or,

- f. Attempting to buy, sell, steal or otherwise affect an exchange of Food Assistance benefits and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINS), or by manual voucher and signatures or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.
  3. Claims shall be established against the following individuals:
    - a. All adult household members age eighteen (18) years of age or older at the time the over-issuance occurred, even if one or more of the adult household members are participating in another Food Assistance household at the time the claim is established;
    - b. A person connected to the household, such as an authorized representative, who actually traffics or otherwise causes an over-issuance to occur.
- B. Time Frame to Establish a Claim

Local offices shall establish all claims before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered.

1. The discovery date for AE claims is the date that the local office was notified, in writing or orally, or discovered through the normal course of business that an agency error occurred that caused the household to receive more benefits than it was entitled to receive.
2. The discovery date for IHE and IPV non-trafficking claims shall be the date that verification used to calculate the over-issuance is obtained.
3. The discovery date for claims resulting from trafficking is the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.

#### **4.801.3 Calculating the Amount of a Claim [Rev. eff. 1/1/16]**

A. Compromising Claims

If the full amount or remaining amount of an administrative error or inadvertent household error claim cannot be liquidated in three (3) years, the local office may compromise the claim by reducing it to an amount that will allow the household to pay the claim in three (3) years. Intentional program violation claims shall not be compromised, unless specified in a court decision. The local office may use the full amount of the claim, including any amount compromised, to offset lost benefits. Decisions regarding compromises shall be documented in the case record.

A payment plan on a claim that has been compromised may be renegotiated if necessary. Claims that are already reduced by either an administrative or district court order are considered compromised claims, and thus are not eligible for additional compromise.

Local offices shall review the circumstances of a household that requests a compromise and determine if a compromise would be appropriate. Local offices do not have the option of refusing to consider compromising claims. Local offices cannot institute a policy of never compromising claims.

Claims should be compromised if the household demonstrates need, such as the inability to repay the claim within three (3) years, or if the household proves that financial, physical, or mental hardship would exist if forced to pay the full amount of the original claim. Some circumstances include, but are not limited to medical hardships, high shelter costs, loan payments, and other extraordinary expenses. A compromise based on hardship may be applied to a Food Assistance case whether or not the household is still receiving Food Assistance benefits.

Consideration should be given to the future earning potential of the household over the next three (3) years to pay back the claim based on age, disability, and other household factors.

B. Claims Resulting from Trafficking

The value of claims resulting from trafficking related offenses is the value of the trafficked benefits as determined by the individual's admission, through adjudication, or the documentation that forms the basis for the trafficking determination. Documentation could include such items as notarized statements or printouts from the Electronic Benefit Transfer (EBT) systems.

C. Agency Error and Inadvertent Household Error Claims

1. If the household received a larger allotment than it was entitled to receive, the local office shall establish a claim against the household that is equal to the difference between the allotment that the household received and the actual allotment it should have received, in accordance with the thresholds outlined in Section 4.801.2, A. Benefits authorized under Colorado Electronic Benefits Transfer System (CO/EBTS) shall be used to calculate the claim.

After calculating the amount of a claim and establishing claims in accordance with the thresholds outlined in Section 4.801.2, A, the local office may offset the amount of the claim against any amounts which have not yet been restored to the household. See Section 4.702. Expungements and any return of benefits that occur shall be used to offset the amount of the claim.

2. The claim may also be offset against restored benefits owed to:
  - a. Any household that contains a member who was an adult member of the original household;
  - b. Any household that contains an authorized representative that caused the overpayment or trafficking.
  - c. In no circumstance, may the local office collect more than the amount of the claim.
3. The Food Assistance office shall calculate the amount of an agency error or inadvertent household error claim back to the month the over-issuance occurred. However, in no event shall the amount of the administrative error claim be calculated for any period prior to one (1) year from the date the local office was notified, in writing or orally, or discovered through the normal course of business, that an error occurred which led to the household receiving more benefits than it was entitled to receive. All other claims shall be established for a period no greater than six years from the date the agency discovered the overpayment. See Section 4.801.2, B, for when a claim is considered discovered. .

4. For households eligible under basic categorical eligibility, a claim shall only be determined when it can be computed on the basis of changed household net income and/or household size. A claim shall not be established if there was not a change in net income and/or household size.

If a household receives both Temporary Assistance for Needy Families (TANF) and Food Assistance and mis-reports information to TANF in accordance with the TANF reporting requirements, and the mis-report of information to TANF resulted in the household being over paid TANF or ineligible for TANF, any resulting Food Assistance claim should be based on the actual TANF issued.

5. The correct allotment shall be calculated using the same methods applied to an actual certification. The twenty percent (20%) earned income deduction shall not be applied to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim; therefore, any portion of the claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction. The actual circumstances of the household shall be used to calculate the claim. In instances when a claim is caused by the household's failure to report information as required, the amount of the claim is based on the allotment difference from what the household actually received compared to what the household would have received if the household would have reported the information as required. For example, if a simplified reporting household did not report income at initial application as required, the income used to calculate the overpayment would be the income that the household actually received in the month of application, as this would have been used to determine the household's ongoing monthly amount. Actual income received each subsequent month is not required to calculate each month of the claim, as any fluctuation in monthly income that was received by the household after the initial month of application was not required to be reported by the household. If the household failed to report a change in household circumstances that would have resulted in an increase in benefits during the time period of the claim, the local office shall act on the change in information as of the date the change was reported to the local office in accordance with Section 4.602.
6. In cases involving reported changes, the local office shall establish the claim for each month in which the error would have affected the household's Food Assistance allotment.
  - a. In cases involving household failure to report a change in circumstances within the required timeframes, the first (1st) month affected by the household's failure to report shall be the first (1st) month in which the change would have been effective had it been timely reported. However, in no event shall the determination of the first (1st) month in which the change would have been effective be any later than two (2) months from the month in which the change occurred. For purposes of calculating the claim, the local office shall assume that the change would have been reported properly and timely acted upon by the local office.
  - b. If the household timely reported a change but the local office failed to act on the change within the required timeframes, the first (1st) month affected by the local office's failure to act shall be the first (1st) month the office would have made the change effective had it acted timely. If a Notice of Adverse Action was required, the local office shall assume, for the purpose of calculating the claim, that the Notice of Adverse Action period described within Section 4.608 would have expired without the household requesting a fair hearing.

D. Intentional Program Violation Claims

1. Prior to a waiver or consent agreement being signed or the determination of intentional program violation/fraud, the claim being pursued as an intentional program violation claim shall be pursued as an inadvertent household error claim. Thresholds prescribed in Section 4.801.2, A, do not apply to IPV/fraud claims.
2. For each month that a household received an over-issuance due to an act of intentional program violation/fraud, the local office shall determine the correct amount of Food Assistance benefits, if any, the household was entitled to receive. The amount of the intentional program violation/fraud claim shall be calculated back to the month the intentional program violation occurred. However, in no event shall the amount of the claim be calculated for any period prior to six (6) years from the date the intentional program violation was discovered. If the household member is determined to have intentionally failed to report a change in its household's circumstances, the claim shall be established for each month in which the failure to report would have affected the household's Food Assistance allotment.
3. Once the amount of the intentional program violation/fraud claim is established, the local office shall offset the claim against any amount of lost benefits that have not yet been restored to the household.

E. Court Actions

In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office should request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and individual.

**4.801.4 Collecting Payments on Claims [Rev. eff. 1/1/16]**

A. Claim Liability

1. Liable Individuals

All adult household members age eighteen (18) years or older at the time the over-issuance occurred, sponsors, or other persons, such as an authorized representative who actually trafficked or otherwise caused an overpayment or trafficking to occur, that are connected with the household shall be jointly and severally liable for the value of any over-issuance of benefits to the household.

2. Initiating Collection Action

- a. Local offices shall initiate collection action against any and all of the adult members or persons connected to the household at the time an over-issuance occurred. Under no circumstances shall the office collect more than the amount of the claim.
- b. The local office may pursue collection action against any household that has a member that was connected to the household that received or created an over-issuance.



- c. The local office shall initiate collection action for an unpaid or partially paid IPV claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. Collection action shall be initiated unless the household has already repaid the over-issuance as a result of an inadvertent household error demand letter or the local office has documentation that shows the household cannot be located.
- d. Local offices can suspend or terminate collection activity in accordance with Sections 4.801.42 and 4.801.43.

**B. Postponing Collection Action**

Collection action on inadvertent household error claims may be postponed in cases where an over-issuance is being referred to an administrative disqualification hearing or a court of appropriate jurisdiction, and the local office determines that collection action will prejudice the case.

For cases in which the household is appealing an agency error or inadvertent household error claim, collection action shall be suspended pending a final decision (see Section 4.801.42). A household's appeal may include, but not be limited to, the establishment of the claim, the amount of the claim, and/or the household's liability to repay the claim.

**C. Notifying a Household of a Claim**

**1. Notice of Over-Issuance and Repayment Agreement**

Local offices shall initiate collection action on agency error and inadvertent household error claims by sending the household a State-prescribed written demand letter for the over-issuance. The letter shall inform the household of its rights and responsibilities concerning repayment of the claim as well as providing information on the availability of free legal services. All households that owe a claim shall be sent a demand letter. If the claim or the amount of the claim was not established at a fair hearing, the state agency must provide the household with a one-time notice of adverse action.

If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household.

**2. Calculation of Claim**

The local office shall mail the household an explanation of how the claim was calculated, showing each individual month and the cause for the claim. The State-prescribed form shall be used to determine and calculate the amount of the claim and to notify the household of the calculation. The form shall be mailed on a schedule that coincides with the mailing of the automated demand letter.

**D. Negotiating Payment Plans**

Households participating in the program are subject to allotment reduction in accordance with Section 4.801.41, B, unless the claim is being collected at a higher amount.

If a household is not participating in the program, then the local office shall negotiate a payment schedule with the household, as outlined in this section, for repayment of any amounts of the claim not repaid through a lump sum payment.

If a household is subject to allotment reduction, then a repayment agreement is not necessary unless the household wants to make voluntary payments in addition to the allotment reduction or elects to make monthly payments in amount greater than what would be repaid through allotment reduction.

1. Establishing a Payment Plan

The local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment or through allotment reduction. Payments shall be accepted in regular installments. The household may use Food Assistance benefits as full or partial payment of any installment. The local office shall ensure that the negotiated amount of any payment schedule to be repaid each month through installment payments is not less than the amount that could be recovered through an allotment reduction. 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 local office and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changes enough to warrant such action.

2. Household's Failure to Respond to the Repayment Agreement

- a. If the household against which collection action has been initiated for repayment of an inadvertent household or agency error or intentional program violation claim is currently participating in the program and does not respond to the written demand letter within ten (10) calendar days of the date the notice is mailed, benefit allotment reduction shall begin with the first (1st) allotment issued ten (10) calendar days from the date given to respond without further notice. A household that does not pay the claim amount in full by the deadline will have allotment reduction begin with the next allotment issued.
- b. If the household is not participating in the program when collection action for claim is initiated or if collection action has been initiated for repayment of a claim and no response is made to the first (1st) demand letter, additional demand letters shall be sent at reasonable intervals, such as thirty (30) calendar days apart. The demand letters shall be sent until the household responds by paying or agreeing to pay the claim, until the criteria for suspending collection has been met or until the local office initiates either collection actions.
- c. If the household responds by requesting renegotiation of the amount of its repayment schedule within ten (10) calendar days from the date the notice is mailed but the local office believes that the household's economic circumstances have not changed enough to warrant the requested settlement, allotment reductions may be invoked.

3. Household's Failure to Pay in Accordance with Payment Plan

- a. If the household fails to make a payment in accordance with the established repayment schedule either by making a payment of a lesser amount or by making no payment, the local office shall send the household a notice that:
  - 1) Explains that no payment or an insufficient payment was received;

- 2) Informs the household that it may contact the local office to discuss renegotiation of the payment schedule;
  - 3) Informs the household that unless the overdue payments are made or the local office is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which a claim has been established shall be reduced.
- b. If the household responds to the notice, the local office shall take one of the following actions as appropriate:
- 1) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, the local office shall permit the household to do so, but shall also require the household to sign a new repayment agreement;
  - 2) If the household requests renegotiation and the local office concurs with the request, the local office shall negotiate a new payment schedule.

E. Determining Delinquency

1. Claims shall be considered delinquent under the following circumstances:
  - a. If a claim has not been paid by the due date on the demand letter or a satisfactory payment arrangement has not been made. The claim shall remain delinquent until payment is received in full, an allotment reduction is invoked, or a new repayment schedule is negotiated. The date of delinquency for such claims is the due date on the initial demand letter.
  - b. If a satisfactory payment arrangement has been made for a claim and payment has not been received by the due date specified in the established repayment schedule, the date of delinquency for such claims is the due date of the missed installment payment, unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial demand letter. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or once the local office resumes or re-negotiates the repayment schedule.
  - c. For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one (1) which is past due more than one hundred eighty (180) calendar days.
2. Claims shall not be considered delinquent under the following circumstances:
  - a. If another Food Assistance claim for the same household is currently being paid, either through an installment agreement or an allotment reduction, and the local office expects to begin collection on the claim once the prior claim(s) is settled;
  - b. If collection is coordinated through the court system and the local office has limited control over collection action;
  - c. If a household timely requests a fair hearing on the existence or amount of the claim and the local office suspends collection action pending a final agency decision. A claim awaiting a fair hearing decision shall not be considered delinquent (see Section 4.801.42).

If the hearing officer determines that a claim does in fact exist against the household, the household shall be sent another demand letter. Delinquency shall be based on the due date of this subsequent demand letter and not on the initial pre-hearing demand letter sent to the household. If the hearing officer determines that a claim does not exist, the claim is deleted shall be terminated and all collection activity ceased (see Section 4.801.43).

**F. Joint Collections Received for a Combination Food Assistance and Public Assistance Claim**

An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the Food Assistance and other program claims, and the debtor does not specify to which program to apply the payment. The local office shall ensure that unspecified joint collections are pro-rated among the programs involved. When an unspecified joint collection is received for a combined public assistance and Food Assistance claim, each program shall receive its pro-rated share of the amount collected.

**4.801.41 Methods of Collecting Payment on Claims [Rev. eff. 1/1/16]**

The local office shall collect claims through one of the following methods:

**A. Lump Sum**

The local office shall collect payments for total or partial payments of a claim in one lump sum if the household is financially able to pay the claim; however, the household shall not be required to liquidate all of its resources to make this repayment. If the household requests to make a lump sum cash and/or food benefit payment as full or partial payment of the claim, the local office shall accept this method of payment.

**B. Food Assistance Allotment Reduction**

1. The local office shall collect payments for claims from households currently participating in the Program by reducing the household's Food Assistance allotment. For claims where there is a court-ordered judgment for repayment, allotment reduction shall not occur. Prior to reduction, the local office shall inform the household of:

- a. The appropriate formula for determining the amount of Food Assistance to be recovered each month; and,
- b. The amount of Food Assistance the local office expects will be recovered each month; and,
- c. The availability of other methods of repayment.

2. The household's allotment will be reduced based on the recoupment amounts for each type of claim, unless a payment schedule has been negotiated with the household. One- and two-person households receiving a minimum allotment, which is eight percent (8%) of the maximum allotment for a one-person household, shall be reduced to a lower benefit level in accordance with Section 4.801.41, C, 2.

The local office may collect on a claim by invoking benefit allotment reduction on two (2) separate households for the same claim. However, the local office is not required to perform this simultaneous reduction.

3. The amount of Food Assistance to be recovered each month through allotment reduction shall be determined as follows:

- a. For agency error claims and inadvertent household error claims, the amount of Food Assistance to be recovered each month from a household shall either be ten percent (10%) of the household's monthly allotment or ten dollars (\$10) each month, whichever is greater.
    - b. For intentional program violation/fraud claims, the amount of Food Assistance benefit reduction shall either be twenty percent (20%) of the household's monthly allotment or twenty dollars (\$20) per month, whichever is greater. If the household is receiving the minimum allotment, the allotment reduction will be ten percent (10%) or ten dollars (\$10), whichever is greater.
  4. Benefits authorized for an initial month will not be reduced to offset a claim. Ongoing benefits will be recouped based on the above criteria.
- C. Benefits From an EBT Account
  1. A household may pay all or a portion of the claim by using benefits from its EBT account. The office shall obtain written permission from the household to deduct benefits from the EBT account to pay a claim. The written agreement shall be obtained prior to removing benefits from the EBT account and shall include:
    - a. A statement that this collection activity is strictly voluntary;
    - b. The amount of the payment;
    - c. The frequency of the payments (i.e., whether monthly or one (1) time);
    - d. The length of the agreement;
    - e. A statement that the household may revoke this agreement at any time.
  2. If the household provides oral permission, the local office can make a one-time deduction from an active EBT account for a one (1)-time reduction. The county shall provide the household with a written receipt within ten (10) business days. The receipt shall contain the information used for an active EBT account and indicate that this is a one-time reduction.
  3. When a local office pursues payment on a claim by applying Food Assistance benefits from the household's stale EBT account, prior written notice shall be given to the household of the existing stale EBT account that may be applied to an outstanding claim. The county shall notify the household that the benefits will be applied to the claim unless the household objects to this offset. The household must be given ten (10) calendar days to object before the benefits can be applied as a payment to the claim. A stale EBT account means an account that has benefits but has not been accessed for at least three (3) consecutive calendar months.
- D. Offset Against Taxpayer's State Income Tax Refund
  1. In accordance with Sections 26-2-133, C.R.S. and 39-21-108, C.R.S., the state and county departments may recover overpayments of public assistance benefits through the offset (intercept) of a taxpayer's state income tax refund. Rent rebates are subject to the offset procedure. This method may be used to recover overpayments that have been:
    - a. Determined by final agency action, or,

- b. Ordered by a court as restitution, or,
- c. Reduced to judgment.

2. Pre-Offset Notice

Prior to certifying the taxpayer's name and other information to the Department of Revenue, the Colorado Department of Human Services shall notify the taxpayer in writing at his or her last known address that the state intends to use the tax refund offset to recover the overpayment. The pre-offset notice shall include the name of the local office claiming the overpayment, a reference to Food Assistance as the source of the overpayment, and the current balance owed.

3. Household Objection to Pre-Offset Notice

The taxpayer is entitled to object to the offset by filing a request for a local-level conference or state-level hearing within thirty (30) calendar days from the date that the state department mails its pre-offset notice to the taxpayer. In all other respects, the procedures applicable to such hearings shall be those that are stated in Section 4.802.6. At the hearing on the offset, the county department or Administrative Law Judge shall not consider whether an overpayment has occurred, but may consider, if raised by the taxpayer in his or her request for a hearing, whether:

- a. The taxpayer was properly notified of the overpayment;
- b. The taxpayer is the person who owes the overpayment;
- c. The amount of the overpayment has been paid or is incorrect;
- d. The debt created by the overpayment has been discharged through bankruptcy;
- e. Other special circumstances exist as described in Section 4.801.42.

E. Federal Treasury Offset Program (TOP)

The Treasury Offset Program, including the Federal Salary Offset Program (FSOP), is a mandatory government-wide delinquent debt matching and payment offset system in which the Colorado Food Assistance Program participates.

The Treasury Offset Program allows collection of delinquent debts by intercepting any allowable payment from the federal government. Federal payments eligible for offset include federal income tax refunds, federal employee salary, federal retirement payments (including military), contractor or vendor payments, and federal benefits such Social Security and railroad retirement.

1. Claims Submitted for Offset

- a. A delinquent claim may be submitted to the USDA, Food and Nutrition Service (FNS) for the Treasury Offset Program (TOP). In order to submit a claim to the Federal Treasury Offset Program, the claim must be determined to be past due and legally enforceable. To determine that a claim is past due and legally enforceable, it must be determined that notification and collection attempts have taken place.
- b. For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred eighty (180) calendar days.

- c. A claim is not considered delinquent if a fair hearing is pending concerning the claim; or the claim has either been discharged by bankruptcy or is subject to the automatic stay of the bankruptcy; or the claim is not considered delinquent as described within Section 4.801.4, E, 2.

2. Processing Fee

TOP, including the Federal Salary Offset Program (FSOP), is authorized to apply a processing fee each time a successful offset for collection occurs. Federal payroll offices participating in the TOP process may add another separate processing fee. The delinquent Food Assistance debtor is responsible for the fee each time it is applied. A TOP offset taken in error and later refunded will have the processing fee refunded, except for partially refunded offsets.

3. Notifying a Household of the Treasury Offset Program

At the time delinquent debts are sent to be certified to the FNS for the intercept by the Federal Treasury Offset Program, all delinquent debts for each individual are sent at one time. Prior to a claim being certified to the Food and Nutrition Service as a debt owed the local office, the individual shall be mailed an offset notice. The notice shall provide the following information:

- a. The local office has documentation that the individual identified with his or her Social Security Number (SSN) is liable for the specified unpaid balance of the claim; and,
- b. The individual has been notified about the claim and prior collection efforts have been made. The claim is past due and legally enforceable. All adults are liable for the overpayment of Food Assistance if they were household members when the Food Assistance benefits were over-issued. False statements concerning such liability may subject individuals to legal action (see Section 4.801.4, A); and,
- c. Debts over one hundred eighty (180) days delinquent to be referred to the Treasury for an administrative offset. The local office intends to refer the claim within sixty (60) days of the date of the notice unless the individual makes other repayment arrangements acceptable to the local office; and,
- d. Instructions on how to pay the claim, including the name, address, and telephone number of a person in the county who can discuss the claim and the intended offset with the individual; and,
- e. The individual is entitled to request a review of the debt's eligibility for referral to TOP. Individual review requests must be honored, regardless of whether they are received after the deadline requested. Claims that are currently under review will not be referred for the tax intercept.
- f. The notice shall include all claims for the household that are to be certified to TOP.

4. The individual may document any legitimate reason that the claim is not past due or legally enforceable.

5. The individual should contact the local office if he or she believes that a bankruptcy proceeding prevents collection of the claim or if the claim has been discharged in bankruptcy.

6. In some circumstances, the married individual may want to contact IRS before filing his/her income tax return. This is true if the individual is filing a joint return and his or her spouse is not responsible for the Food Assistance claim, and has income and withholding and/or estimated federal income tax payments. In such cases, the spouse may receive his or her portion of any joint return based on procedures prescribed by the IRS.
7. A federal employee may have his or her net disposable pay subject to garnishment under the offset. The Treasury may garnish up to fifteen percent (15%) of the net disposable pay. A federal employee may petition for a hearing only at the federal level to dispute the existence or the amount of the claim. The hearing occurs after the review period at the state-level and the subsequent submission to the Treasury as a valid offset.
8. The Office of Appeals within the Colorado Department of Human Services will review the proposed offset. The Office of Appeals shall find that the claim is past due and legally enforceable unless the household can provide documentation to show:
  - a. The claim is not delinquent or was already paid, and the individual provides proof of payment.
  - b. The individual is not the person that is liable for the claim.
  - c. A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the individual or his or her spouse, or that the claim was discharged by a bankruptcy proceeding.
  - d. There is some other reason that the claim is not delinquent or is not legally enforceable.
9. The decision by the Office of Appeals will be issued by means of written findings regarding the review. The written findings shall include notice to the individual who requested the review regarding the following:
  - a. If the Office of Appeals determines that the claim is past due and legally enforceable:
    - 1) The individual shall be notified that the claim will continue to be referred for the offset; and,
    - 2) The individual is entitled to have the Food and Nutrition Service (FNS) review the Office of Appeal's decision. FNS must receive a request to do so within thirty (30) calendar days after the date of the state agency's notice of review decision. A request for FNS review shall include the individual's SSN. The notice shall also provide the address of the regional office including the phrase "Tax Offset Review" in the address.
  - b. If the Office of Appeals determines that the claim is not past due or legally enforceable, it shall notify the individual and the local office that the claim will not be referred for the offset.
  - c. While the Office of Appeals or FNS is conducting a review of the debt, the debt is not eligible for the referral to TOP.



F. Pursuing Other Collection Activities

1. Local offices may pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of an agency error or inadvertent household error claim. In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office may request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and individual.
2. Other collection actions that the local office may pursue include the use of a collection agent, civil action, or criminal filing.
3. If the local office chooses to pursue other collection actions and the household pays the claim, payments shall be submitted to the Colorado Department of Human Services as required by Section 4.801.8. The local office's retention of recoveries shall be based on the actual amount collected from the household through such collections actions.
4. The local office shall not use other, involuntary collection methods against individuals in a household that is already having its benefit reduced.

**4.801.42 Criteria for Suspending Collection Action [Rev. eff. 1/1/16]**

The provisions within this section apply to Agency Error (AE) claims, Inadvertent Household Error (IHE) claims, and intentional Program violation (IPV) claims, unless otherwise stated.

- A. The local office shall document the reason for suspending collection action. Suspended claims may be reactivated to offset a restoration of lost benefits or to pursue collection should collection action become feasible.
- B. Collection action on a claim shall be suspended only under the following circumstances:
  1. A claim may be suspended if no collection action was initiated because of one of the following conditions:
    - a. The local office has documentation that shows the household cannot be located; or,
    - b. A court decision postpones collection activity for a period of time.
  2. If collection action was initiated and at least one (1) demand letter was sent, further collection action against an agency error claim or an inadvertent household error claim for a non-participating household may be suspended when:
    - a. The household cannot be located.
    - b. The cost of further collection action is likely to exceed the amount that can be recovered.
    - c. The household is determined to be financially unable to pay the claim.
    - d. If the local office can document that an individual found guilty of intentional program violation/fraud cannot be located, collection action shall be suspended.

3. Collection action may be suspended on any claim for a non-participating household after six (6) months of no response. The local office should be alert to other methods of pursuit of the claim (see Section 4.801.41, F).

**4.801.43 Criteria for Terminating Collection Action [Rev. eff. 1/1/16]**

The provisions within this section apply to Agency Error (AE) claims, Inadvertent Household Error (IHE) claims, and intentional Program violation (IPV) claims.

- A. A terminated claim is a claim in which all collection activity has ceased. A terminated claim is no longer considered a receivable subject for continued state and federal agency collection and reporting requirements, unless otherwise stated.

Voluntary payments from a household on a terminated claim do not reactivate the claim but shall be accepted by the local office, but it does not reactivate the claim. A terminated claim shall not be reactivated to pursue collection.

- B. Collection action on a claim shall be terminated only in the following situations:

1. A claim may be determined uncollectible after collection action has been suspended for three (3) years. Prior to terminating such a claim, the local office may submit the claim for state or federal offset or pursue other collection actions. A terminated claim may be reactivated to offset restoration of lost benefits.
2. A claim may be terminated if it has been delinquent for a period of three (3) years. Prior to terminating such claim, the local office may submit the claim for state or federal offset or pursue other collection actions.
3. A claim shall be terminated if found to be invalid by an administrative fair hearing decision or a court determination.
4. A claim shall be terminated if all adult members are deceased and the agency is not pursuing collection from the estate.
5. A claim that is twenty-five dollars (\$25) or less and delinquent for ninety (90) calendar days may be terminated.

**4.801.5 Claims Discharged Through Bankruptcy**

Local offices shall act on behalf of, and as an agent of, FNS in any bankruptcy proceedings against bankrupt households owing Food Assistance claims. Local offices shall possess any rights, priorities, liens, and privileges and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, local offices shall have the power and authority to file objections to discharge proof of claims, exceptions to discharge, petition for revocation of discharge, and any other documents, motions, or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to the Food Assistance Programs Division as provided in Section 4.801.8.

**4.801.6 Interstate Claims Collection**

In cases where a household moves out of the state, the local office that last handled the case involving a claim may initiate or continue collection action against the household for any over-issuance that occurred while the household was under that local office's jurisdiction. Counties may transfer a claim to another state or Colorado county department if the other state or Colorado county department accepts the transfer.

Counties are not obligated to accept the transfer of a claim from another state or Colorado county department, but have the option of accepting the claim and pursuing collection on that claim. Counties that accept the transfer of a claim shall pursue collection activities and retain appropriate incentives for the collection.

**4.801.7 County Retention of Recoveries**

Counties may retain twenty percent (20%) of collections from inadvertent household error claims and thirty-five percent (35%) of collections from intentional Program violation/fraud claims. The total amount of collections from agency error claims is retained by the USDA, Food and Nutrition Service.

**4.801.8 Submission of Claim Payment Activity to USDA, FNS**

The FS-209 Report (Status of Claims against Households) is an automated report and is run quarterly. The report is utilized to reflect all claims activities during a quarter and reflects all the payments made during the quarter. Food Assistance benefits received as a claim payment shall be recorded in the automated system and any corrections that need to be made to payments are made through the automated system.

The report is available for review from the first of the month immediately following the end of the quarter and continues to be available through the last working day of the quarter. A consolidated final report is available to be printed by local offices following the last working day of the quarter.

This FS-209 report is run quarterly even if the local office has not collected any payments or other claims activities. The local office shall not be required to submit Form FS-209 if the material on the automated system FS-209 is accurate and complete for that local office.

**4.802 APPEAL PROCESS**

Any household that is aggrieved by any action of the local office affecting the household's participation in the Program may appeal by requesting a local-level dispute resolution conference and/or a state-level fair hearing.

The right of a household to a local-level dispute resolution conference and state-level hearing is primarily to ensure that a proposed eligibility determination or action is valid; to protect the person against an erroneous action concerning benefits; and to ensure reasonable promptness of local office action. The individual may choose to request a local-level dispute resolution conference or bypass the dispute resolution process and appeal directly to the Colorado Department of Personnel and Administration, Office of Administrative Courts (OAC), for a state-level fair hearing.

The Office of Administrative Courts may deny fair hearings to those households that are disputing a mass change, as outlined in Section 4.607 or the fact that a statewide reduction, cancellation, or suspension was ordered per the provisions contained within Section 4.904.4. In such instances, the OAC is not required to hold a fair hearing unless the request is based on the household's belief that the rules were misapplied.

**4.802.1 Time Period for Requesting an Appeal**

- A. A household shall be allowed to request a local-level dispute resolution conference or state-level fair hearing on the following:
  - 1. Any action by the local office.

2. A loss of benefits that occurred in the previous ninety (90) calendar days. Such Food Assistance action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days but less than a year prior to the request.
  3. At any time during a certification period a household may request a fair hearing to dispute its current level of benefits.
- B. An aggrieved household shall be advised that the use of a local-level dispute resolution conference is optional, and it shall in no way delay or replace the state-level fair hearing process. If the household does not want a local-level dispute resolution conference but desires to have the disputed matter considered only at a state-level hearing, this fact should be indicated in the case record. In these cases the request for an appeal shall be forwarded to the Office of Administrative Courts.

**4.802.2 Continuation of Benefits Pending Final Agency Decision**

A. Eligibility for Continuation of Benefits

1. If a household requests a state-level fair hearing or local-level dispute resolution conference any time prior to the effective date of the Notice of Adverse Action and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action unless the household specifically waives continuation of benefits.

Households which were not given a ten (10) day advance notice period plus one (1) additional day for mailing time prior to the effective date of the Notice of Adverse Action shall be given ten (10) calendar days after the date the notice is mailed to appeal and receive continued benefits unless the household specifically waives continuation of benefits.

2. If a request for an appeal is not made within the times specified above, benefits shall be reduced or terminated as provided in the Notice of Adverse Action. However, if the household established that its failure to make the request within the established timeframe was for good cause, the local office shall reinstate the household's benefits on the basis authorized immediately prior to the Notice of Adverse Action, unless the household indicates it has waived continuation of benefits.
3. When benefits are reduced or terminated as a result of a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that Food Assistance eligibility or benefits were improperly computed or that federal regulations or state rules were misapplied or misinterpreted by the local office.
4. Households appealing a decision based on information reported as part of the redetermination process are not eligible for continued benefits. The benefit allotment that a household is certified to receive shall not be issued beyond the end of the household's assigned certification period without a new determination of eligibility. The household's benefit allotment beginning with the new certification period shall be based on the new review of eligibility.

B. Household's Requirement to Request a Continuation of Benefits

If the letter or form requesting an appeal does not positively indicate that the household has waived continuation of benefits, the local office shall assume that continuation of benefits is desired, and the benefits shall be issued accordingly.

C. Establishing a Claim on Benefits That Were Continued

If the local office action is upheld by the hearing decision, a claim shall be established against the household for all over-issuances. This includes over-issuances due to the household receiving a continuation of benefits that the household was determined not eligible to receive. Such claims shall be classified as an inadvertent household error claim (see Section 4.801.1).

D. The certification office shall promptly inform the household in writing if the benefits are reduced or terminated pending the final agency decision. Once benefits are continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the final agency decision unless:

1. The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the local office.
2. The Administrative Law Judge (ALJ) 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 local office improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid.
3. A change affecting the household's eligibility or basis of issuance occurs while the final agency decision is pending and the household fails to request a hearing after the subsequent Notice of Adverse Action.
4. A mass change affecting the household's eligibility or basis of issuance occurs while the final agency decision is pending. During the fair hearing period, the local office shall adjust allotments to take into account reported changes, information considered verified upon receipt, and mass changes, but not the factors on which the fair hearing is based.

**4.802.21 Households Disputing Restoration of Lost Benefits**

- A. The household has the right to appeal through the fair hearing process if the household disagrees with any action taken to grant or restore lost benefits (see Section 4.702.2).
- B. If the local office has determined that a household is entitled to restoration of lost benefits but the household is appealing some action in calculating or restoring the lost benefits, the household shall receive the lost benefits as determined by the local office, pending the hearing results. Once a final agency decision is reached, the local office shall comply with that decision.
- C. To be eligible for restored benefits, the household shall have had its Food Assistance benefits wrongfully delayed, denied, or terminated. The term denial shall include the situation where, through certification office error, the net income was larger than required under proper determination, and because of this improperly set net income, the household was unable to get the proper allotment. Delay shall mean that eligibility determination was not accomplished within the prescribed time limits set forth in Section 4.205.2.

**4.802.3 Rights During an Appeal**

- A. A household is entitled to the following:
  1. Be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or s/he may represent her/himself at the conference.

2. Adequate opportunity to examine the case file and all documents and records used by the local office in making its decision and all documents and records that are 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 file including the application form and documents of verification used by the local office to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge; or the nature or status of pending criminal prosecutions; or confidential informants; or privileged communications between the county department and its attorney is protected from disclosure.

If requested by the household or its representative, the local office shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing nor affect the hearing officer's decision.

3. Present new information or documentation to support reversal or modification of the proposed adverse action.

B. The household, its representative, and the local office shall be entitled to:

1. Present the case or have it presented by a legal counsel or other person.
2. Bring witnesses.
3. Advance arguments without undue interference.
4. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
5. Submit evidence to establish all pertinent facts and circumstances in the case.

#### **4.802.4 Local Office Responsibility During an Appeal**

- A. Upon request, the local office shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. If the individual making the request communicates in a language other than English, the local office is required to provide bilingual staff or an interpreter who can effectively translate between the client's language and English. The local office shall ensure that the hearing procedures are verbally explained in that language, upon request. The local office shall also help a household with its hearing process. Households shall be advised of any legal services available that can provide representation at the hearing.
- B. The local office shall expedite hearing requests from households, such as migrant farm workers, that plan to move from the jurisdiction of the hearing officer before the hearing decision would normally be reached. Hearing requests from these households shall be processed faster than others, if necessary, to enable them to receive a decision before they leave the area.

**4.802.5 Local-Level Dispute Resolution Conferences**

- A. The local office, prior to taking action to deny, terminate, reduce, or recover Food Assistance benefits, shall, at a minimum, provide the household an opportunity for a dispute resolution conference. The individual may choose to bypass the dispute resolution process and appeal directly to the office of administrative courts for a state-level fair hearing.
- B. If the household requests a conference, the certification office shall arrange such a conference to attempt to resolve the disputed action. The participant household may be represented by legal counsel or have other persons present to aid the household in the conference.
- C. Failure of the applicant or participant to request a local conference within the prior notice period or failure to appear at the time of the scheduled conference without making a timely request for postponement shall constitute abandonment of the right to a conference, unless the applicant/participant can show good cause for his/her failure to appear. "Good cause" includes, but is not limited to:
  - 1. Death or incapacity of an applicant or participant, or a member of his or her immediate family, or the representative;
  - 2. Any other health or medical condition of an emergency nature;
  - 3. Other circumstances beyond the control of the applicant or participant, and which would prevent a reasonable person from making a timely request for a conference or postponement of a scheduled conference.
- D. The local office may consolidate the Food Assistance conference with disputes regarding other assistance payments programs, the Colorado Works Program, or disputes concerning Medicaid eligibility, if the facts are similar and consolidation will facilitate resolution of all disputes.

**4.802.51 Management of Local-Level Dispute Resolution Conference**

**A. General Requirements**

The local-level dispute resolution conference shall be conducted on an informal basis. Every effort shall be made to ensure that the applicant or participant household understands the local office's specific reasons for the proposed action and the applicable state department's rules. The local office shall have available at the conference all pertinent documents and records in the case file relevant to the specific action in dispute.

**B. Scheduling a Conference**

- 1. To the extent possible, the local-level dispute resolution conference shall be scheduled and conducted within the prior notice period. If the local office cannot conduct the conference within this period, for whatever reason, the adverse action in dispute shall be delayed until a conference can be held, unless the household waives continuation of benefits.
- 2. If a conference is requested to attempt to resolve a contested denial of expedited service pursuant to Section 4.205.1, it shall be scheduled within two (2) working days of the receipt of the request for a conference unless the household requests that the conference be held later. Prior notice is not required.

3. The local office shall provide reasonable notice to the household of the scheduled time and location for the conference, or the time of the scheduled telephone conference. Notice shall be in writing; however, verbal notice may be given to facilitate the dispute resolution process.

**C. Location**

The local dispute resolution conference shall be held in the county department or agency where the proposed decision is pending and before a person who was not directly involved in the initial determination of the action in question. The local-level conference may be conducted either in person or by telephone. If a telephonic conference is requested, it shall be agreed upon by the applicant or participant. In the event the household does not speak English or is visually or hearing impaired, an interpreter or translator shall be provided by the local office.

**D. County Representatives**

The individual who initiated the action in dispute shall not conduct the local-level dispute resolution conference. The county, agency caseworker, or other person who initiated the action in dispute shall attend the local-level conference and present the factual basis for the disputed action. The person designated to conduct the conference shall be in a position which, based on knowledge, experience, and training, would enable him or her to determine if the proposed action is valid.

**E. Joint Dispute Resolution Processes**

Two (2) or more county departments may establish a joint dispute resolution process. If two or more counties establish a joint process, the location of the conference need not be held in the county or agency taking the action, but the conference location shall be convenient to the applicant or participant.

**F. Notice of Dispute Resolution Conference Decision**

1. If the additional information presented in the conference proves that the adverse action is not warranted, the case record shall be documented and the Notice of Adverse Action cancelled.
2. At the conclusion of the conference, the person presiding shall reduce to writing the agreement entered into by the parties. Such agreement shall be signed by the parties and/or their representatives and shall be binding upon the parties. A copy of the written decision shall immediately be provided to the applicant or participant and/or his or her representative. The local office shall also forward a copy of the decision to the Colorado Department of Human Services, Food Assistance Program, within five (5) working days of the hearing, regardless of whether or not the client was in agreement with the outcome.
3. In the event the dispute is not resolved, the person presiding shall prepare a written statement indicating that the dispute was not resolved. The decision shall include:
  - a. A statement explaining the applicant or participant's right to request a state-level fair hearing;
  - b. The time limit for requesting a state-level hearing; and,



- c. If appropriate, a statement that the household's previous benefit amount will continue pending a final state decision in accordance with Section 4.802.2, if appealed to the state within ten (10) calendar days from the date of the conference decision.

**4.802.6 State-Level Fair Hearings**

**4.802.61 Management of State-Level Hearings**

**A. Scheduling**

1. The Office of Administrative Courts shall arrange the time, date, and place of the state-level hearing so that the hearing is accessible to the household. At least ten (10) calendar days prior to the hearing, advance written notice shall be provided to all parties involved to permit adequate preparation of the case. The household, however, may request less advanced notice to expedite the scheduling of the hearing. The notice shall:
  - a. Advise the household or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing.
  - b. Specify that the household's hearing request will be dismissed if the household or its representative fails to appear for the hearing without good cause.
  - c. Include a copy of the information outlining the state agency's fair hearing procedures.
  - d. Explain that the household may examine the case file prior to the hearing.
2. Hearing requests for households that plan to move from the area, such as migrant farm workers, shall be processed faster than others, if necessary, to enable them to receive a decision and any appropriate restoration of benefits before they leave the area.
3. The Administrative Law Judge may respond to a series of individual requests for hearings by conducting a single group hearing. The Office of Administrative Courts may consolidate only cases where individual issues of fact are not disputed and where related issues of state and/or federal law, regulation, or policy are the sole issues being raised. In all group hearings, the regulations governing individual hearings shall be followed. Each individual household shall be permitted to present its own case or have its case presented by a representative.

**B. Hearings Conducted by Phone**

The hearing may be conducted by telephone using conference call techniques unless one of the parties objects to this method. If a hearing is held by telephone using conference call techniques, the rules of procedure (including a recording of the hearing) shall be the same as a face-to-face hearing.

**C. Attendance**

The hearing shall be attended by a representative of the local office and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The ALJ shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

D. Hearing Authority

The Administrative Law Judge (ALJ) is an impartial state-level official who is also the hearing authority with the authority to render an initial administrative decision in a hearing. The ALJ shall:

1. Administer all oaths or affirmations as required by the State;
2. Ensure all relevant issues are considered;
3. Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;
4. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;
5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the local office;
6. Provide a hearing record, and prepare and file an initial hearing decision with the Colorado Department of Human Services which shall serve each party with a copy of the initial decision.

**4.802.62 Hearing Denials or Dismissals**

A. The Office of Administrative Courts (OAC) shall not deny or dismiss a request for a hearing unless:

1. The request is not received within the time period specified in Section 4.802.1.
2. The request is withdrawn in writing by the household or its representative; or,
3. The household or its representative fails, without good cause, to appear at the scheduled hearing.

B. The ALJ shall not enter a default against any party for failure to file a written answer to the notice of hearing, but shall base the initial decision upon the evidence presented at the hearing.

C. When the Administrative Law Judge dismisses an appeal for reasons other than failure to appear, the decision of the Administrative Law Judge (ALJ) shall be an initial decision, which shall not be implemented pending review by the Office of Appeals and entry of an agency decision.

D. When an appellant fails to appear at a duly scheduled hearing, having been given proper notice, and without having given timely advance notice to the ALJ of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned, and an order of dismissal shall be entered by the ALJ and served upon the parties by the Office of Administrative Courts. The order of dismissal for failure to appear shall not be implemented pending review by the Office of Appeals and entry of a final agency decision.

The appellant, however, shall be afforded a period of ten (10) calendar days from the date the order of dismissal was mailed, during which the appellant may explain in a letter to the Administrative Law Judge the reason for his or her failure to appear. If the ALJ then finds that there was acceptable good cause for the appellant not appearing, the ALJ shall vacate the order dismissing the appeal and reschedule another hearing date.

If the appellant does not submit a letter seeking to show good cause within a period of ten (10) calendar days, the order of dismissal shall be filed with the Office of Appeals of the State Department. The Office of Appeals shall confirm the dismissal of the appeal by an agency decision, which shall be served upon the parties and the interested Division of the State Department. Within three (3) working days after the effective date of the decision, the local office shall implement necessary actions to provide benefits in the correct amount, to terminate benefits, to recover benefits incorrectly paid, and/or other appropriate actions in accordance with the rules.

If the appellant submits a letter seeking to show good cause and the Administrative Law Judge finds that the stated facts do not constitute good cause, he/she shall enter an initial decision confirming the dismissal. The appellant may file exceptions to the initial decision pursuant to the provisions outlined at Section 4.802.63, D.

**4.802.63 State-Level Hearing Decisions**

- A. Decisions of the Administrative Law Judge (ALJ) shall not run counter to Federal law, State Department rule, or state statute, and shall be based on the hearing record.

The exclusive record for an initial decision by the ALJ shall constitute the verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceedings. This record shall be retained in accordance with normal retention periods. This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

- B. Following the conclusion of the state hearing, the Administrative Law Judge (ALJ) shall promptly prepare and issue an initial decision and file it with the Colorado Department of Human Services, Office of Appeals.

- C. Initial Decision

1. The Office of Administrative Courts shall render an initial decision within twenty (20) calendar days of the hearing date. However, if the head of the household or his representative requests a delay in the proceedings, the time limit for action on the decision may be extended for as many days as the hearing is delayed, up to thirty (30) calendar days.
2. The initial decision shall make an initial determination whether the county or State Department or its agent acted in accordance with, and/or properly interpreted, the rules of the State Department. The Administrative Law Judge may determine whether statutes were properly interpreted and applied only when no implementing State rules exist. The Administrative Law Judge has no jurisdiction or authority to determine issues of constitutionality or legality of departmental rules.
3. The initial decision shall advise the household that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.
4. The Office of Appeals shall promptly serve the initial decision upon each party by first class mail and shall transmit a copy of the decision to the Divisions of the State Department that administer the program(s) pertinent to the appeal.
5. The initial decision by the ALJ shall summarize the facts of the case, specify the reasons for the initial decision, and identify the supporting evidence and the pertinent rule.

6. The Office of Appeals of the State Department, as the designee of the Executive Director, shall review the initial decision of the Administrative Law Judge and shall enter a final agency decision affirming, modifying, reversing, or remanding the initial decision. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision.

While review of the initial decision is pending before the Office of Appeals, the record on review, including any transcript or tape of testimony filed with the Office of Appeals, shall be available for examination by any party at the Office of Appeals during regular business hours.

**D. Exceptions to the Initial Decision**

1. Any party seeking an agency decision which reverses, modifies or remands the initial decision of the Administrative Law Judge shall file exceptions to the decision with the Office of Appeals within fifteen (15) calendar days - plus three (3) calendar days for mailing - from the date the initial decision is mailed to the parties. Exceptions shall state specific grounds for reversal, modification or remand of the initial decision.
2. If the party asserts that the Administrative Law Judge's findings of fact are not supported by the weight of the evidence, the party shall simultaneously with or prior to the filing of exceptions request the Office of Administrative Courts to cause a transcript of all or a portion of the hearing to be prepared and filed with the Office of Appeals. The exceptions shall state that a transcript has been requested, if applicable. Within five (5) calendar days of the request for transcript, the party requesting it shall advance the cost to the transcriber designated by the Office of Administrative Courts unless the transcriber waives the prior payment.

A party who is unable because of indigence to pay the cost of a transcript may file a written request, which need not be sworn, with the Office of Appeals for permission to submit a copy of the hearing tape instead of the transcript. If submission of a tape is permitted, the party filing exceptions shall promptly request a copy of the tape from the Office of Administrative Courts and deliver it to the Office of Appeals. Payment in advance shall be required for the preparation of a copy of the tape.

3. If the exceptions do not challenge the findings of fact, but instead assert only that the Administrative Law Judge improperly interpreted or applied State rules or relevant statutes, the party filing exceptions is not required to provide a transcript or tape to the Office of Appeals.
4. The Office of Appeals shall serve a copy of the exceptions on each party by first class mail. Each party shall be limited to ten (10) calendar days from the date exceptions are mailed to the parties in which to file a written response to such exceptions. The Office of Appeals shall not permit oral argument.
5. The Office of Appeals shall not consider evidence that was not part of the record before the Administrative Law Judge. However, the case may be remanded to the Administrative Law Judge for rehearing if a party establishes in its exceptions that material evidence has been discovered which the party could not with reasonable diligence have produced at the hearing.

6. The Division(s) of the State Department responsible for administering the program(s) relevant to the appeal may file exceptions to the initial decision, or respond to exceptions filed by a party, even though the Division has not previously appeared as a party to the appeal. The Division's exceptions or responses shall be filed in compliance with the requirements of Section 4.802.63, D, 1, above. Exceptions filed by a Division that did not appear as a party at the hearing shall be treated as requesting review of the initial decision upon the State Department's own motion.

**E. Final Agency Decisions**

1. The Office of Appeals shall enter a final agency decision resolving the appeal within sixty (60) calendar days after the hearing was requested.
2. In the absence of exceptions filed by any party or by a Division of the State Department, the Office of Appeals shall review the initial decision and may review the hearing file of the Administrative Law Judge and/or the taped testimony of witnesses before entering a final agency decision. Review by the Office of Appeals shall determine whether the decision properly interprets and applies the rules of the State Department or relevant statutes and whether the findings of fact and conclusions of law support the decision. If a party or Division of the State Department objects to the agency decision entered upon review by the Office of Appeals, the party or Division may seek reconsideration pursuant to Section 4.802.63, F.
3. The Office of Appeals shall mail copies of the final agency decision to all parties by first class mail.
4. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the agency decision.

**F. Motion for Reconsideration of a Final Agency Decision**

1. A motion for reconsideration of a final agency decision may be granted by the Office of Appeals for the following reasons:
  - a. Upon a showing of good cause for failure to file exceptions to the initial decision within the fifteen (15) calendar day period allowed by Section 4.802.63, D, 1; or,
  - b. Upon a showing that the agency decision is based upon a clear or plain error of fact or law. An error of law means failure by the Office of Appeals to follow a rule, statute, or court decision that controls the outcome of the appeal.
2. No motion for reconsideration shall be granted unless it is filed in writing with the Office of Appeals within fifteen (15) calendar days of the date that the agency decision is mailed to the parties. The motion shall state specific grounds for reconsideration of the agency decision.
3. The Office of Appeals shall mail a copy of the motion for reconsideration to each party of record and to the appropriate Division of the State Department.

**G. Acting on Decisions**

1. Initial decisions shall not be implemented pending review by the Office of Appeals and entry of a final agency decision.

2. The state or county department shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision, even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court.
3. If the State Department rules that the household had its Food Assistance benefits wrongfully delayed, denied or terminated, the local office shall provide retroactive benefits. If the State Department decides that benefits were over-issued previous to and during the pendency of the determination of final agency action, a claim for over-issued benefits will be prepared.
4. Final agency decisions which result in an increase in household benefits shall be reflected in the benefit allotment within ten (10) days of the receipt of the decision, even if the local office is obligated to provide a supplementary allotment or otherwise provide the household with the opportunity to obtain the allotment outside of the normal cycle. However, the local office may take longer than ten (10) days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within sixty (60) days from the household's request for the hearing.
5. Final agency decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the decision, unless the decision is stayed by the Office of Appeals upon a showing of irreparable harm.

**4.803 INTENTIONAL PROGRAM VIOLATIONS AND FRAUD [Rev. eff. 1/1/16]**

- A. Local offices shall be responsible for investigating any case of alleged intentional program violation/fraud and insuring that appropriate cases are acted upon either through administrative hearings; by referral to a court of appropriate jurisdiction; by obtaining a waiver of administrative hearing; or by obtaining a signed disqualification consent agreement.
- B. Local offices are encouraged to refer for prosecution under state fraud statutes those individuals suspected of committing fraud, particularly if large amounts of benefits are suspected of being fraudulently obtained or the individual is suspected of committing more than one (1) fraudulent act. The local office shall confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.

Local offices are also encouraged to enter into prosecution agreements with their district court. Agreements should include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the court for accepting cases for prosecution, such as a minimum amount of over-issuance that resulted from the intentional program violation.

- C. Administrative disqualification procedures or referral for prosecution should be initiated by the local office anytime it has sufficient documentary evidence to substantiate that an individual has committed one or more acts of intentional program violation/fraud as defined in Section 4.803.2. If administrative disqualification procedures or referral for prosecution is not initiated for a case involving an over-issuance caused by a suspected act of intentional program violation/fraud, an inadvertent household error claim shall be established against the household.
- D. In cases where the determination of fraud is reversed by a court of appropriate jurisdiction or by a final agency decision, the local office shall reinstate the individual in the Program if the household is otherwise eligible. The local office shall restore any benefits that were lost as a result of the disqualification in accordance with the procedures specified in Section 4.702.

- E. The local office shall inform the household in writing of disqualification penalties for intentional program violation each time it applies for Program benefits. The penalty warning will appear in clear, boldface lettering on the Food Assistance application forms and shall serve as notification to the household.

**4.803.1 Documenting and Reporting IPV/Fraud to the State Department**

Local offices shall enter into the automated system individuals disqualified for intentional program violation/fraud prior to the second (2nd) to the last working day of the month. In addition, local offices shall prepare quarterly a form FS-36A, Investigation/Intentional Program Violation/Fraud Report. The completed report shall be due fifteen (15) calendar days after the end of the quarter to the State Department.

**4.803.2 Determination of an Intentional Program Violation/Fraud [Rev. eff. 1/1/16]**

- A. An intentional program violation shall be established only if an administrative disqualification hearing official or a court of appropriate jurisdiction has found a household member has committed an intentional program violation or fraud or if a signed waiver of administrative hearing or a signed disqualification consent agreement has been obtained.
- B. For purposes of determining, through administrative disqualification hearings, whether or not a person has committed an intentional program violation, the determination shall be based upon whether the person intentionally:
1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or,
  2. Committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, these Food Assistance Program rules, Federal Food Assistance Program regulations, or any state statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of Food Assistance benefits, authorization cards or reusable documents as part of an automated benefit delivery system access device.
- “Intentionally” means a false representation of a material fact with knowledge of that falsity, or omission of a material fact with knowledge of that omission.
- C. The determination of intentional program violation shall be based upon clear and convincing evidence that demonstrates that the household member(s) committed and intended to commit intentional program violation as defined in B, above. “Clear and convincing” means evidence which is stronger than a “preponderance of evidence” and which is unmistakable and free from serious or substantial doubt.
- D. The same act of intentional program violation repeated over a period of time shall not be separated so that separate disqualification periods can be imposed.
- E. The burden of proving intentional program violation is with the local office.
- F. Disqualification periods shall be imposed based on the following:
1. Administrative Disqualification Hearing (ADH)

If an IPV/fraud is determined through an ADH, the individual must be notified in writing once it is determined that he/she is to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification.

2. Waiver of an Administrative Disqualification Hearing

If an IPV/fraud is determined through the client signing a waiver of an administrative disqualification hearing form, then the period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification.

3. Court Decisions

If an individual is determined through a court to be disqualified for an IPV/fraud, but the date for initiating the disqualification period is not specified, the county department shall initiate the disqualification period for currently eligible individuals within forty five (45) calendar days of the date the disqualification was ordered. Any other court imposed disqualification shall begin within forty five (45) calendar days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud.

4. Disqualification Consent Agreements

Unless contrary to the court order, the period of disqualification shall begin within forty-five (45) calendar days from the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies the date for initiating the disqualification period, the state agency shall disqualify the household member in accordance with the court order.

**4.803.3 Time Period and Types of Disqualifications [Rev. eff. 1/1/16]**

A. Intentional Program Violations

Individuals who have waived a hearing for intentional program violation or who have been found to have committed an intentional program violation through a local-level or state administrative intentional program violation decision shall be ineligible to participate in the Food Assistance Program for twelve (12) months for the first (1st) intentional program violation; twenty-four (24) months for the second (2nd) intentional program violation; and permanently for the third (3rd) intentional program violation/fraud.

B. Receiving Duplicate Benefits

Individuals who misrepresent their identity or residency to receive duplicate benefits shall be ineligible to participate in the Food Assistance Program for a period of ten (10) years. Receiving duplicate benefits is considered an attempt to receive or the receipt of more than one original allotment of benefits during a calendar month. A permanent disqualification for a third (3rd) offense would override the disqualification period for duplicate benefits.

C. Trafficking Benefits

1. The penalties for trafficking Food Assistance benefits are outlined in Section 26-2-306(2), C.R.S.
2. An individual convicted through a court of law of trafficking in Food Assistance of five hundred dollars (\$500) or more will be disqualified permanently.



- D. An individual found guilty of purchasing controlled substances, as defined in Section 18-18-102 (5), C.R.S., with Food Assistance benefits will be disqualified for twenty-four (24) months on the first (1st) conviction by a court of law and permanently disqualified on a second (2nd) conviction by a court of law. The disqualification periods shall apply also to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substance only if the conviction is directly related to the misuse of Food Assistance benefits. An individual shall not be ineligible due to a drug conviction unless misuse of Food Assistance benefits is part of the court findings.
- E. An individual found guilty of trading or purchasing firearms, ammunition, or explosives with Food Assistance benefits will be permanently disqualified on the first (1st) conviction by a court of law. An individual will be disqualified for controlled substances and firearms, if the court finds that the individual has engaged in the activity, even in the cases of deferred adjudication.

**4.803.4 Pursuing Disqualifications for IPV/Fraud [Rev. eff. 1/1/16]**

- A. The provisions of these rules concerned with state-level fair hearings at Sections 4.802.6 and at 4.802.3 are also applicable for state and local administrative disqualification hearings.
- B. Whenever the local office has accumulated evidence to substantiate that a person has committed one or more acts of intentional program violation as defined above, the establishment of an intentional program violation shall be determined via:
  - 1. An administrative disqualification hearing; or,
  - 2. A signed waiver of administrative hearing; or,
  - 3. For cases referred to a court of appropriate jurisdiction, through a signed disqualification consent agreement for plea bargained cases or cases of deferred adjudication.

The local office may conduct a local-level administrative disqualification hearing for intentional Program violation or may use the Office of Administrative Courts of the Colorado Department of Personnel and Administration to conduct a state-level administrative disqualification hearing. The local office may also initiate court action by referring an intentional program violation under state fraud statutes to a court of appropriate jurisdiction.

- C. If the local office determines that there is evidence to substantiate that a person has committed intentional program violation, the local office shall, prior to initiating an administrative disqualification hearing, allow that person the opportunity to waive his or her right to an administrative disqualification hearing or, for cases referred to a court of appropriate jurisdiction, to sign a disqualification consent agreement for plea bargained cases or cases of deferred adjudication. However, prior to providing the request for waiver, there shall be a review of the evidence against the household member by a staff member who was not involved in the investigation of the household and who has a thorough enough understanding of Food Assistance policy to ensure that policy is being correctly applied and that the evidence meets the "clear and convincing" criteria (see Section 4.803.2, C) necessary to warrant the pursuit of an intentional program violation.
- D. An administrative disqualification hearing may be initiated regardless of the current eligibility of the individual charged. An administrative hearing should be initiated under the following circumstances:
  - 1. Whenever the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system; or,

2. In cases that were previously referred for prosecution and were declined by appropriate legal authority; or ,
  3. In previously referred cases where no action was taken within a reasonable period of time and which were formally withdrawn by the local office.
- E. Administrative hearings shall not be requested against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.
- F. To request a state or local-level administrative hearing for intentional program violation, the local office shall submit a request to the Colorado Department of Personnel and Administration, Office of Administrative Courts. To request a local-level administrative hearing, the local office shall submit a request to the local-level hearing officer. When initiating an administrative disqualification hearing for intentional program violation/fraud, the Notice of Hearing form shall be sent to the household member at least thirty (30) calendar days in advance of the scheduled local hearing. At the time of the hearing, the local office will have the opportunity to present the full body of evidence.
- G. The Department of General Support Services, Division of Administrative Hearings, may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same or related circumstances and the household receives prior notice that the hearings will be combined. The amount of the claim will be contained on the notice of confirmation. If the intentional program violation hearings and fair hearings are combined, the Office of Administrative Courts (OAC) will follow the timeliness standards for conducting intentional program violation hearings. If the hearings are combined for the purpose of settling the amount of the claim and determining whether or not intentional program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, OAC shall, upon request of the household, allow the household to waive the thirty (30) day advance notice period required in Section 4.803.43 when the intentional program violation hearing and fair hearing are combined.

**4.803.41 Waiver of Administrative Disqualification Hearing [Rev. eff. 1/1/16]**

- A. Households mailed a request for waiver of the administrative disqualification hearing shall be provided a copy of the statement of rights. The household shall be notified that it has fifteen (15) days from the date the waiver of administrative disqualification hearing was dated and mailed to respond by returning a completed waiver.
- B. The completion of the waiver of the administrative disqualification hearing for intentional program violation is voluntary and the local office shall not require its completion nor by its actions appear to require the completion of the waiver.
- C. If the household member suspected of intentional program violation signs the waiver of the administrative disqualification hearing and returns the waiver to the local office within fifteen (15) days from the date it is dated and mailed by the local office, that person and the head of household shall be provided with a notice of disqualification for waived hearing of intentional program violation
- D. The disqualification shall begin with the first (1st) month following the month the notice of disqualification is received by the household member.

- E. No further administrative appeal procedure exists after an individual voluntarily waives his/her right to an administrative disqualification hearing for intentional program violation. The disqualification penalty cannot be changed by a subsequent fair hearing decision. However, the household member is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.
- F. If the waiver is not returned, the local offices that conduct local-level administrative disqualification hearings shall, within five (5) working days after the deadline for receipt of the waiver of administrative hearing, mail to the household a Notice of Intentional Program Violation Hearing together with a copy of the hearing procedure.

**4.803.42 Scheduling an Administrative Disqualification Hearing for IPV**

- A. The time and place of the state or local-level administrative disqualification hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional program violation.  
  
The state-level hearing may be conducted by telephone using conference call techniques unless one of the parties objects to this method. If a hearing is held by telephone, the rules of procedure, including recording of the hearing, shall be the same as a face-to-face hearing. The household member charged with intentional program violation has the right to request a face-to-face hearing at any time, including up to and during the telephonic hearing, but not once the telephonic hearing is concluded.
- B. Persons that have been charged with intentional program violation and notified that a local-level administrative disqualification hearing has been scheduled have the right to request that their case be heard by a state-level Administrative Law Judge in the Office of Administrative Courts within (10) calendar days of being notified of a local-level hearing. If a state-level hearing is requested, the local office shall forward the request to the Office of Administrative Courts no later than three (3) working days from receipt of the request. No local-level administrative disqualification hearing shall be held if the accused requests a state-level hearing within these specified guidelines.
- C. If the household member or representative cannot be located or fails to appear at a hearing initiated by the local office without good cause, the hearing shall be conducted without the household member represented. However, the household member may subsequently appeal a disqualification from a decision on the basis of not being notified in accordance with Section 4.803.43. If the household provides a statement of non-receipt and the county or the office of administrative courts cannot document receipt of the notice, a re-hearing of the evidence shall be scheduled and the previous decision shall no longer be valid. If the household member is not represented, the hearing official shall carefully consider the evidence and determine if the individual intended to commit an act of intentional program violation.
- D. If the household member is found to have committed intentional program violation but the State Department or a local hearing official later determines that the household member or representative had good cause for not appearing at a hearing initiated by the local office, the previous decision shall no longer remain valid and the Office of Administrative Courts or local-level hearing officer shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member who has received notice has a period of ten (10) calendar days from the date of the hearing to present reasons indicating a good cause for failure to appear. A hearing official shall enter the good cause into the record.

**4.803.43 Notifying a Household of an IPV Administrative Disqualification Hearing [Rev. eff. 1/1/16]**

- A. The Administrative Law Judge or local-level hearing officer shall provide written notice to the household member suspected of intentional program violation at least thirty (30) calendar days in advance of the date an administrative disqualification hearing initiated by the local office has been scheduled.
- B. The notice shall be mailed Certified Mail, Return Receipt Requested, or by first class mail or the notice may be served on the individual by any other reliable method, such as personal delivery by a Food Assistance worker or other employee, affidavit of service, Federal Express, etc. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing. The notice shall contain at a minimum:
1. The date, time, and place of the hearing;
  2. The charge(s) against the household member;
  3. A summary of the evidence and how and where the evidence can be examined;
  4. A warning that the decision will be based solely on information provided by the local office if the household member fails to appear at the hearing;
  5. A statement that the household member or representative will have ten (10) calendar days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
  6. A warning that the disqualification penalties for fraud under the Food Assistance Program that could be imposed and a statement of which penalty the hearing officer believes is applicable to the case scheduled for hearing. The disqualification penalties for fraud are as follows:
    - a. Twelve month disqualification for the first (1<sup>st</sup>) violation, twenty-four month disqualification for the second (2<sup>nd</sup>) violation, and permanently for the third (3<sup>rd</sup>) violation, except as provided for in paragraphs b, c, d, and e, of this section;
    - b. Individuals found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously shall be ineligible to participate in the Program for a period of ten (10) years, except if the client has received his/her 3<sup>rd</sup> violation. In such cases, the individual shall be disqualified permanently.
    - c. Individuals found by a federal, state or local court to have used or received benefits in a transaction involving the sale of a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)) shall be ineligible to participate in the program:
      - 1) For a period of twenty four months upon the first occasion of such violation; and,
      - 2) Permanently upon the second occasion of such violation.

Copies of the Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended, is available for inspection during normal business hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository library. No further amendments or editions are incorporated.

- d. Individuals found by a federal, state or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.
  - e. An individual convicted by a federal, state or local court of having trafficked benefits for an aggregate amount of five hundred dollars (\$500) or more shall be permanently ineligible to participate in the program upon the first occasion of such violation.
  - f. The penalties in paragraphs c and d of this section shall also apply in cases of deferred adjudication as described in Section 4.804, where the court makes a finding that the individual engaged in the conduct described in paragraph c and d, of this section.
  - g. If a court fails to impose a disqualification or a disqualification period for any intentional program violation, the state agency shall impose the appropriate disqualification penalty specified within this section, unless it is contrary to the court order.
- 7. A statement of which penalty the hearing officer believes is applicable to the case scheduled for the hearing. See Section 4.803.3 for the types of disqualifications and appropriate penalties associated with intentional program violations.
  - 8. A statement that the hearing does not preclude the state or federal government from prosecuting the household member for fraud in a civil or criminal court action or from collecting the over-issuance.
  - 9. The name and telephone number of the agency that the individual can call to obtain free legal advice.
  - 10. For county departments conducting local-level ADH, the notice shall inform the client that he/she may request to have a state-level ADH rather than a local-level ADH.
- C. A copy of the local-level hearing procedures, and the demand letter for over-issuance (if not sent previously) shall be attached to the thirty (30) day advance notice for the local-level hearing. The Administrative Law Judge shall provide a copy of the state hearing procedures with the thirty (30) day advance notice.
  - D. The Administrative Law Judge shall not enter a default against the household member for failure to file a written answer to the notice of hearing but shall base the initial decision upon the evidence introduced at the hearing.

**4.803.44 Participation While Awaiting an Administrative Disqualification Hearing**

A pending state or local-level administrative disqualification hearing shall not affect the individual's or the household's right to be certified and to participate in the program. Since the local office cannot disqualify a household member for intentional program violation until it obtains a signed waiver of administrative hearing or until the local hearing official or State Department finds that the individual has committed intentional program violation, the local office shall determine eligibility and benefit level of the household in the same manner it would be determined for any other household.

- A. If the action for which the household member is suspected of intentional program violation does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances.
- B. The household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply.
- C. The local office shall also reduce or terminate the household's benefits if the local office has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional program violation and resultant hearing) and the household fails to request a fair hearing after receipt of a Notice of Adverse Action.

**4.803.45 Administrative Disqualification Hearing Procedures**

- A. At the administrative disqualification hearing, the Administrative Law Judge (ALJ) or local hearing officer shall advise the household member or representative that he or she may refuse to answer questions during the hearing.
- B. A hearing decision and notification to the parties shall occur within ninety (90) calendar days from the date the household member is notified in writing that a state or local-level hearing requested by the local office has been scheduled.
- C. Following the conclusion of the hearing at the state-level, the ALJ shall prepare and issue an initial decision that shall contain a determination of whether the county or State Department acted in accordance with, and properly interpreted the rules and regulations of the State Department. For the purpose of the decision, material issues of law shall be defined. The ALJ has no jurisdiction or authority to determine issues of constitutionality or legality of departmental rules or regulations. This decision is prepared and filed with the Colorado Department of Human Services for service to each party.

In the case of a hearing before the Administrative Law Judge (ALJ), this determination shall be an initial decision to be reviewed by the Office of Appeals pursuant to Section 4.802.63, D. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. The initial decision shall advise the household that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.

- D. A local-level hearing officer shall meet the ninety (90) calendar day timeframe, issue the decision to the client, and forward a copy to the Colorado Department of Human Services, Food Assistance Division.

- E. The household member or his/her representative is entitled to a postponement of up to thirty (30) calendar days if the request for postponement is made at least ten (10) calendar days prior to the scheduled hearing date, unless good cause can be shown for failure to request postponement within the required timeframe. If the hearing is postponed, the above limits shall be extended for as many days as the hearing is postponed.
- F. The local office shall make the hearing procedures in this staff manual available to any interested party.
- G. A verbatim transcript or recording of testimony and exhibits shall be made. This transcript or recording together with all papers and requests filed in the proceeding shall be retained by the local office for a period of three (3) years from the initiation of the action and shall be available to the household or its representatives during business hours for copying and inspection.

**4.803.5 Local-Level IPV Hearings [Rev. eff. 1/1/16]**

**A. Local-Level Hearing Official**

- 1. The individual who acts as a local-level hearing officer for the local office shall meet the following requirements:
  - a. He/she shall be an impartial individual who does not have a personal stake or involvement in the case;
  - b. He/she cannot have been directly involved in the initial determination of the action which is being contested and was not the immediate supervisor of the eligibility worker who initiated the intentional program violation action;
  - c. The individual shall be:
    - 1. An employee of the county; or
    - 2. An individual under contract with the county; or,
    - 3. An employee of another public agency, statutory board or other legal entity designated by the county to conduct hearings.
- 2. The individual who acts as a local-level hearing officer is required to carefully consider the evidence and determine, based on clear and convincing evidence, if the individual intended to commit an intentional program violation as outlined in Section 4.803.2.

**B. Notice of Local-Level Hearing Decision**

- 1. If the local-level administrative disqualification hearing finds the household member did not commit an intentional program violation, the local-level hearing officer shall provide a written notice that informs the household, the local office, and the State Food Assistance Programs Division of the decision.
- 2. The decision shall contain the reasons for the hearing officer's decision and a response to client presented arguments and identify the evidence presented by both client and the local office.

3. If a local-level hearing officer determines that an intentional program violation occurred, the household shall be notified in accordance with Section 4.803.7, and accompanying the decision shall be an Appeal Request for the household to appeal the decision to a state-level administrative disqualification hearing.
4. If mailed, the notice shall be sent by either first class mail or certified mail (return receipt requested), or the notice may be served on the individual(s) by any other reliable method. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing.
5. A copy of the local-level hearing decision shall be forwarded to the State Food Assistance Programs Division for review at the same time the decision is mailed to the client.

**C. Appeal of Local-Level Decision**

1. The household may appeal the decision of the local-level administrative disqualification hearing to the Office of Administrative Courts. An appeal must be received by the local office or by the Office of Administrative Courts within fifteen (15) calendar days of the date of household receipt of the local-level decision. The household shall be allowed to participate as described in Section 4.803.44.
2. If the household member appeals a local-level hearing to a state-level hearing, the Office of Administrative Courts shall provide a written notice to that household member at least ten (10) calendar days in advance of the scheduled hearing. The ten (10) calendar day advance notice shall contain at a minimum:
  - a. The date, time, and place of the hearing.
  - b. A statement that the Office of Administrative Courts will dismiss the hearing request and the household member will be disqualified in accordance with the local hearing decision if the household member or its representative fails to appear for the hearing without good cause.
  - c. A statement that the hearing does not preclude civil or criminal prosecution, or from collecting the over-issuance.
  - d. A listing of the household members' rights.
  - e. A copy of the Office of Administrative Courts hearing procedures shall be attached to the ten (10) calendar day advance notice.
3. If the household member fails to appear for the administrative disqualification hearing appeal, the Office of Administrative Courts (OAC) shall dismiss the hearing request. The Administrative Law Judge shall promptly serve copies of the order on the household member and the local office. The order shall inform the household member that he/she will continue to be disqualified in accordance with the local-level hearing decision. The household member will be afforded a ten (10) calendar day period from the date the order of dismissal was mailed to explain in a letter to the OAC the reason for failing to appear. If the OAC determines that the household member or its representative has good cause for not appearing, the Administrative Law Judge shall reschedule another hearing date.



If the appellant does not submit a letter seeking to show good cause within the ten (10) calendar day period, the order of dismissal shall be filed with the Office of Appeals of the State Department. The Office of Appeals shall confirm the dismissal of the appeal by an agency decision, which shall be served on the parties and the interested Division of the State Department. Within three (3) working days after the effective date of the decision, the local office shall implement necessary actions to provide benefits in the correct amount, to terminate benefits, to recover benefits incorrectly paid, and/or other appropriate actions in accordance with the rules. If the appellant submits a letter seeking to show good cause and the Administrative Law Judge (ALJ) finds that the stated facts do not constitute good cause, the ALJ shall enter an initial decision confirming the dismissal. The appellant may file exceptions to the initial decision pursuant to Section 4.802.63, D.

**4.803.6 State-Level Administrative Disqualification Hearing**

A. Initial Decisions

1. The State Administrative Law Judge (ALJ) will forward the initial decision to the Colorado Department of Human Services, Office of Appeals. The Office of Appeals shall promptly serve a copy of the initial decision upon each party by first class mail.
2. Any party, or the Divisions of the State Department responsible for administering programs relevant to the appeal, if seeking an agency decision which reverses, modifies or remands the initial decision, may file exceptions to the initial decision as set forth in Section 4.802.63, D. The parties and the Division may also request reconsideration of the agency decision pursuant to Section 4.802.63, F.

B. Final Decisions

1. The Office of Appeals shall review the initial decision of the Administrative Law Judge and shall enter a final agency decision affirming, modifying, reversing, or remanding the initial decision, pursuant to Section 4.802.63, E.
2. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third (3rd) day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the agency decision.
3. The state or county department shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court.
4. If the household member has committed intentional program violation, that member shall be disqualified in accordance with the disqualification periods specified in Section 4.803.3. The same act of intentional program violation shall not be separated so that separate penalties can be imposed.

**4.803.7 Notification of Final Administrative Disqualification Hearing Decision [Rev. eff. 1/1/16]**

Once the local-level hearing decision or a final state-level decision has been made, written notice, prior to disqualification, will be provided to the household member, to the local office, and to the state Food Assistance office containing:

- A. The decision.
- B. The reason for the decision including pertinent regulations and a response to client presented arguments.
- C. The disqualification period, including the date the disqualification will take effect. For local-level hearing decisions, the decision shall notify the individual that the disqualification period will take effect, unless a state-level hearing is requested. If the individual is no longer participating, the notice shall inform him/her that the period of disqualification shall take effect in accordance with Section 4.803.2, F.
- D. For local-level administrative hearings, if the household member is not satisfied with the decision given in a local-level administrative disqualification hearing (see Section 4.803.5, C), he/she may request a hearing through the Office of Administrative Courts.
- E. For state-level administrative hearings, if the household member is not satisfied with the final state agency decision of a state-level administrative hearing, he/she may seek judicial review pursuant to Section 24-4-106, C.R.S.

**4.804 COURT ACTION**

- A. Local offices are encouraged to refer for prosecution under state fraud statutes those individuals suspected of committing fraud, particularly if large amounts of benefits are suspected of being fraudulently obtained or the individual is suspected of committing more than one (1) fraudulent act. The local office shall confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.
- B. An individual must be found guilty of fraud through criminal court in order for the local office to impose a disqualification penalty. However, when a determination of guilt is not obtained because of a case involving court-deferred adjudication or plea-bargaining, a disqualification penalty may be imposed if a signed consent agreement is obtained from the individual.
- C. A summary or copy of a referral for prosecution shall, together with the date of the referral, be forwarded to the State Food Assistance Division.
- D. Local offices shall disqualify an individual found guilty of fraud or the length of time specified by the court. If the court fails to impose a disqualification period, the local office shall impose an appropriate disqualification in accordance with Section 4.803.3, unless imposing a disqualification would be contrary to the court order.
- E. If disqualification is ordered but a date for initiating the disqualification period is not specified, the local office shall initiate the disqualification period for individuals within forty-five (45) calendar days from the date the disqualification was ordered. Any other court-imposed disqualification shall begin within forty-five (45) calendar days from the date the court found an individual guilty of civil or criminal misrepresentation or fraud.
- F. Once a disqualification period has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household.
- G. If the court finds that the individual committed fraud, the county shall mail to the household, prior to the disqualification whenever possible, a notice informing the household of the disqualification and the date the disqualification will take effect, and shall advise the remaining household members of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired.

**4.804.1 Disqualification Consent Agreement [Rev. eff. 1/1/16]**

**A. Criteria for Consent Agreement**

If county prosecutors pursue a consent agreement, the agreement shall provide the household advance notification of the consequences of consenting to the disqualification. The consent agreement shall contain the following:

1. A statement for the accused individual to sign that he or she understands the consequences of consenting to disqualification.
2. A signature block for the accused individual.
3. A statement that the head of household must also sign the consent agreement if the accused individual is not the head of household.
4. A signature block for the head of household.
5. 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.
6. A warning that the disqualification penalties for fraud under the Food Assistance Program that could be imposed and a statement of which penalty the hearing office believes is applicable to the case scheduled for the hearing. See Section 4.803.2, F, for the fraud disqualification penalties.
7. 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.

**B. Imposing Disqualifications When Consent Agreements are Obtained**

1. If the household member suspected of fraud signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification periods specified in Section 4.803.2, F, unless contrary to the court order.
2. Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the over-issuance that resulted from the disqualified member's suspected fraudulent act, regardless of its eligibility for Program benefits.

**C. Notification to Household of Disqualification**

1. If the household member suspected of fraud signs the disqualification consent agreement, the local office shall provide written notice to the household member. The notice shall be provided prior to disqualification. The notice shall inform the household member of the disqualification and the date the disqualification will take effect.

2. The local office shall also provide to the remaining household members, if any, the allotment they will receive during the period of disqualification or notice that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in Section 4.411.1.

#### **4.900 ADMINISTRATIVE PROCEDURES**

##### **4.901 ADMINISTRATION OF THE FOOD ASSISTANCE PROGRAM**

- A. The Food Assistance Program shall be administered in every county of the State in accordance with the Colorado Human Services Code and these rules.
- B. The program shall be administered by the county departments of social/human services unless the State Department enters into a written agreement with a particular county to have a State-administered program in that county. As a condition for receiving grant-in-aid from the State for public assistance and welfare activities, each county must bear the proportion of the total administrative and program costs for all assistance payments and social services activities as required by Section 26-1-122, C.R.S.
- C. County departments of social/human services shall comply with all requirements concerning security and case processing for the automated system.
- D. Counties shall receive approval from the Colorado Department of Human Services, Food Assistance Programs Division, prior to using any county-developed forms in the administration of the Program.

##### **4.901.1 Compliance with State Department**

If a county does not comply with the rules of the State Department that govern the administration of the program, which require the establishment of a Food Assistance Program in each county and the payment of the county's share of the cost of the program, the State Department may do one or more of the following:

- A. Utilize the remedies described in Section 26-1-109(4) (a-e), C.R.S..
- B. Recover all or part of the county share of the cost of the Food Assistance Program by reducing any other grant-in-aid to the county for public assistance or welfare purposes by a corresponding amount.
- C. If the county does not comply, judicial enforcement of the order may be pursued under Section 24-4-106(3) C.R.S.
- D. Take any other appropriate action to enforce compliance with the rules governing the Food Assistance Program.

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## **4.902 COUNTY ADMINISTRATION REQUIREMENTS**

### **4.902.1 County Food Assistance Office**

Local offices shall ensure that adequate locations and hours of operation exist to meet the needs of Food Assistance applicants and participants in their areas. Each location shall have ample availability for parking and shall be accessible to persons with disabilities. Hours of operation shall be sufficient to ensure the timely processing of applications and issuance of Electronic Benefits Transfer (EBT) cards according to existing guidelines. Counties must establish procedures for the operation of the local office that best serve households within that county. The county shall establish procedures to assist households with special needs including, but not limited to, households containing persons who are elderly or persons who are disabled, households in rural areas with low-income members, homeless households, households containing adult members who are not proficient in English, and households containing working persons.

A household must apply for the Food Assistance Program in its county of residence. A county that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then transfer the case to the correct county once the final eligibility decision is made. If a household is determined eligible for participation, it may request and be designated to receive food benefits from an issuance office that is more accessible. It is possible for an issuance unit in one county office to determine eligibility, authorize food benefits and issue EBT cards to an eligible household that resides in another county in Colorado.

Counties may also transfer certification and/or EBT card issuance duties for those households only receiving Food Assistance that live closer to the local office in a neighboring county than the county of residence.

### **4.902.2 Phone Directory Listings**

- A. Each local office telephone number available to the public shall be listed under each of the following two alphabetical listings:
  - 1. Food assistance certification and issuance office, street address, phone number. If there are separate certification and issuance offices in the county, they may be listed in this manner: County office (certification only) or (issuance only), street address, phone number.
  - 2. (Name of the county) Department of Human/Social Services, county office (certification only) or (issuance only), street address, phone number.
- B. Each local office shall provide a toll free number or a number where collect calls will be accepted for households outside the local calling area.
- C. The listings above are not to restrict any other listings that may be provided within the telephone directory, but only to standardize the availability of the Food Assistance Program to the public.

**4.902.3 Certification Personnel and Facilities Requirements**

- A. County employees assigned to certify households for participation in the Food Assistance Program shall be employed in accordance with the current standards for a merit system personnel administration that is guided by a set of six broad merit principles outlined in the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended. The principles cover recruiting, compensation, training, retention, equal employment opportunity and guidance on political activity. Only such qualified employees shall conduct the interview of applicant households and determine household eligibility or ineligibility and the level of benefits. Copies of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended, is available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository library. No further amendments or editions are incorporated.
- B. Every county department must utilize an appropriate amount of the staff allocated to that county department and utilize effective and efficient practices in administering its Food Assistance Program. Facilities must, within available state legislative appropriations and federal and required county matching funds, be of adequate size and layout to assure the privacy necessary to allow workers to conduct confidential interviews and perform other office duties efficiently and effectively.

**4.902.31 Bilingual Staff, Interpreter, and Translator Requirements**

- A. County departments determined by the State Department to have a significant population of non-English speaking households or households with adult members not fluent in English, shall provide sufficient bilingual staff and/or translators for the timely processing of applications. County staff shall be trained and familiar with these procedures.
- B. During those periods when there is a significant influx of seasonal or migrant farmworkers, local offices shall provide sufficient bilingual staff and/or translators for timely processing of such applicants.
- C. If translators or interpreters are utilized, the certification office shall ensure that the translators or interpreters are readily available to assist in pre-screening applicants for expedited processing standards and completing the interview, and other activities necessary to determine the eligibility of the applicant household. The certification office shall not require the applicant to provide a translator or interpreter, or to in any way imply that an interpreter is required, as a condition for being pre-screened or interviewed by the certification office, nor shall the local office postpone or in any way delay the pre-screening process or appointments because of the unavailability of bilingual staff or translators/interpreters.

**4.902.32 Restrictions on Staff**

- A. Volunteers or other personnel who do not meet the criteria outlined in Section 4.902.3 may not be allowed to interview or certify households, but may be used for pre-screening, assistance in completion of applications and obtaining verifications to support statements made on the application, and the transportation of participants. In certain situations, volunteers may act as authorized representatives for households unable to come to the certification office.
- B. Volunteers may also be used as translators or interpreters when necessary to pre-screen applicants and to complete the face-to-face interview. If volunteers are utilized, the local office shall ensure that volunteers are available, as necessary, for timely processing of applications. Such volunteers utilized to pre-screen applicants or to translate/interpret during the face-to-face interview shall be instructed as to confidentiality requirements.

- C. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by applicant households if, under normal circumstances, they could be expected to be the best verification source. An eligibility worker who is the spouse of a striker is not considered party to a strike, but shall not certify his or her own household.

The facilities of persons or organizations who are parties to a strike or lockout may not be used in the certification process or as a site for certification interviews.

#### **4.902.4 Supervisory Responsibilities**

Supervisory personnel shall review a random sample of current Food Assistance determinations (certifications, denials, and terminations) to determine the correctness of eligibility determinations accomplished. A record of the cases reviewed must be kept for management evaluation/audit purposes. The county must be able to demonstrate to the satisfaction of the State Food Assistance Program that the frequency and scope of the reviews are adequate enough to ensure the integrity of both the program and recipients. Additionally, the county must demonstrate a consistent process for tracking error trends, correcting case records timely, and providing eligibility technicians an opportunity to improve their program knowledge.

#### **4.902.5 Retention of Records**

Each local office shall retain all program records in an orderly fashion for audit and review purposes for no less than three (3) years from the month of origin of each record. In addition:

- A. The agency shall retain fiscal records and accountable documents for three (3) years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the federal government have been liquidated. Administrative closure means that the state agency has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include, but are not limited to, claims and documentation of lost benefits.
- B. Case records relating to intentional program violation disqualifications and related notices to the household shall be retained indefinitely until the local office obtains reliable information that the individual who was disqualified has died or until information is received from the national disqualified recipient database system that all records associated with a particular individual, including the disqualified recipient database record, may be permanently removed from the database because of the individual's eightieth (80<sup>th</sup>) birthday.

### **4.903 STATE ADMINISTRATION RESPONSIBILITIES**

#### **4.903.1 Information Available to the Public**

- A. Federal regulations, federal procedures embodied in Food and Nutrition Service (FNS) notices and policy memos, the Food Assistance rules, and State Plans of Operation (including specific planning documents such as corrective action plans) shall be available upon request for examination by members of the public during office hours at the State office. Copies of materials are available to recipient organizations, action centers, and other individuals for a minimal printing charge.
- B. The Food Assistance rules shall be available for examination upon request at each local office within each county. They are also available online through the Secretary of State's official publication of State Agency rules in the Code of Colorado Regulations, accessible at: <https://www.sos.state.co.us/CCR/Welcome.do>.

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**4.903.2 Reporting Lawsuits**

FNS regulations require prompt notification from the State Department of any lawsuits involving the administration of the Food Assistance Program.

As all county Food Assistance Programs are administered under the supervision of the State Department, it is mandatory that all legal proceedings involving the Food Assistance Program be brought to the attention of the State Office immediately for notification to the United States Department of Agriculture, Food and Nutrition Service (USDA, FNS).

**4.903.3 Management Evaluations**

The Colorado Department of Human Services is responsible for the supervising of the administration of the Food Assistance Program. To ensure compliance with program requirements, the State Office is responsible for conducting Management Evaluation (ME) reviews to measure compliance with the provisions of these rules. The objectives of the ME review system are to:

- A. Provide a systematic method of monitoring and assessing program operations in the counties;
- B. Provide a basis for counties to improve and strengthen program operations by identifying and correcting deficiencies;
- C. Provide a continuing flow of information between the counties, the State Department, and FNS to develop solutions to problems in Program policy and procedures; and,
- D. Provide a review of target program areas as identified by USDA, FNS.

**4.903.31 Frequency of Reviews**

The State Office shall conduct an ME review of all Food Assistance Program operations:

- A. At least once annually on each large county containing more than seven thousand (7,000) participating households;
- B. At least once every two (2) years on each medium county containing two hundred and fifty (250) to seven thousand (7,000) participating households; and,
- C. At least once every three (3) years on each small county containing less than two hundred and fifty (250) participating households.

The State Office may conduct Management Evaluation reviews on an alternative schedule with the written approval of the USDA, FNS. The State Office may also perform reviews of specific county offices or program elements. The USDA, FNS or the State Office, may identify the need of a special review, or the county department may request a special review.

Reviews will generally include all aspects of program administration in the large counties. The reviews may be more limited in scope in the medium and small counties. The USDA, FNS, generally identifies target program areas that it requires for review each fiscal year.

The State Office will complete the Management Evaluation report for all counties that are reviewed. The Colorado Department of Human Services, Food Assistance Program, will be responsible for monitoring the county responses to any finding.



The county shall be responsible for submitting any factual corrections to the management evaluation review within fifteen (15) calendar days, and shall submit a final plan to correct all other cited deficiencies within thirty (30) calendar days of receiving the review. The response shall include specific actions, persons responsible for implementation, and date for completion. When the review identifies ongoing problems in critical areas, the county response shall also include a method for monitoring implementation of the plan and reporting progress to the State Office on at least a quarterly basis.

#### **4.903.32 Compliance Action for Management Evaluation Reviews**

The State Office is the designated entity responsible for ensuring that corrective action is taken at the state and/or county level on the deficiencies found by the Management Evaluation (ME) Reviews.

The State may impose fiscal sanctions on counties that do not make good-faith efforts to address ongoing problems in critical areas. Fiscal sanctions may be imposed in accordance with Section 4.901.1, which requires local offices to operate the program in accordance with state rules.

#### **4.903.4 Quality Assurance Reviews**

Quality assurance reviews are conducted during the annual federal quality assurance review period, which is the twelve (12) month period from October 1 of each calendar year through September 30 of the following calendar year. A statistically random sample of households is selected from two (2) different categories: households that were participating in the Food Assistance Program (active cases) and households for which participation was suspended, denied, or terminated (negative cases).

A. Quality Assurance reviews are federally mandated to provide:

1. A systematic method of measuring the validity of the Food Assistance Program caseload;
2. A basis for determining error rates;
3. A timely and continuous flow of information on which to base corrective action at all levels of administration; and,
4. A basis for establishing liability for errors that exceed the federal error rate target and the State's eligibility for an increased share of federal administrative funding and/or federal high performance bonuses.

B. Reviews are conducted on:

1. Active cases to determine if the household is eligible and, if eligible, whether the household is receiving the correct Food Assistance benefits.
2. Negative cases to determine if households that were suspended, denied, or terminated were, in fact, not eligible to participate in the Food Assistance Program and that the household received an accurate, timely notice. For initial applications, the notice shall be considered timely if the household is notified of the negative action within the application processing timeframes outlined in Section 4.205.2. For recertification applications, the notice shall be considered timely if the household is notified of the negative action in accordance with the processing timeframes outlined in Section 4.209.1. When notifying a household of a change in its benefits, the notice shall be considered timely if the household is notified of the negative action in accordance with the timeframes outlined in Section 4.608.

C. Definitions

1. An “active case” means a household that was certified prior to or during the sample month and issued Food Assistance Program benefits for the sample month. The review of an active case includes: a household case record review, a field investigation, an error analysis, and the reporting of review findings.
2. A “negative case” means a household which was denied certification to receive Food Assistance Program benefits in the sample month or which had its participation in the Food Assistance Program suspended, denied, or terminated effective for the sample month. The review of a negative case includes:
  - a. A household case record review;
  - b. An error analysis;
  - c. Client notification; and,
  - d. The reporting of review findings.

**4.903.41 Quality Assurance (QA) Review Procedures**

- A. Each month a random sample of active and negative cases is selected for Quality Assurance review. Sampling of both active and negative cases is accomplished through the master file from the automated system.
- B. Case records for the monthly selected sample may be reviewed by Quality Assurance in the local office, or the local office may be requested to forward the case records to the appropriate State Quality Assurance office for review prior to field reviews and verification of eligibility factors. Local offices shall make case records available for review no later than seven (7) business days from the date that the request is received by the local office.
- C. When the local office receives a request for one or more cases for Quality Assurance review, the following steps shall be taken in preparing the case record:
  1. All documents and notes supporting eligibility decisions and/or basis of issuance related to the case and actions taken by the local office that apply to the sample/review month shall be included in the case record.
  2. Accomplishment of the objectives of Quality Assurance depends upon successful operation of all aspects of the sampling system, including the elimination of bias. In order to prevent bias, the local office shall not take any action that might alter the findings or misrepresent the household’s circumstance including, but not limited to:
    - a. Making changes that would affect eligibility and payment;
    - b. Adding or removing documentation/verification from the official case record; or,
    - c. Contacting the household sampled, the QA reviewer, or making collateral contacts to obtain additional information in an attempt to clarify the household’s circumstances, obtain statements or coerce the household into saying or doing anything that might alter the findings or misrepresent the household’s circumstances for the review month.

- D. These provisions do not apply to routine case management such as acting on reported changes, completing a recertification, or issuing a notice of expiration.

**4.903.42 Refusal to Cooperate with Quality Assurance Review**

Households selected for review are required to cooperate with federal and state Quality Assurance review processes.

Households that refuse to cooperate in a Quality Assurance review shall be declared ineligible for Food Assistance Program benefits. The State Quality Assurance reviewer shall notify the local office of the household's refusal to cooperate in the review process, including each individual who refused, on the State-prescribed Quality Assurance reporting form(s), and the local office shall document the refusal to cooperate in the statewide automated system.

- A. Within ten (10) calendar days from the date of receipt of Quality Assurance's notification of the household's refusal to cooperate, the local office shall take action to disqualify or terminate the entire household from participation in the Food Assistance Program and each household member who refused to cooperate shall be entered into the automated system to initiate a period of ineligibility. The period of ineligibility is as follows:
1. For refusal to cooperate with a State Quality Assurance review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus one hundred twenty five (125) days, and shall expire on February 2 of that federal fiscal year.
  2. For refusal to cooperate with a Federal Quality Assurance review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus nine (9) months, and shall expire on June 30 of that federal fiscal year.
- B. If a member or members who refused to cooperate with a Quality Assurance review leaves the household, the ineligibility period shall follow the household member(s) who refused to cooperate.
- If a household is disqualified or terminated for refusal to cooperate with a Quality Assurance review, the household may reapply. The household cannot be determined eligible until it cooperates with the Quality Assurance review and provides verification of all eligibility factors.
- C. If a household which has refused to cooperate with a State Quality Assurance review reapplies more than one hundred twenty five (125) days after the end of the annual federal Quality Assurance review period, or refused to cooperate with a federal review and reapplies more than nine (9) months from the end of the annual Federal Quality Assurance review period, the household shall not be determined ineligible for its refusal to cooperate and is required to provide verification of all eligibility factors before it can be approved for benefits.

**4.903.43 Quality Assurance Findings and Required Responses**

Quality Assurance shall notify local offices on State-prescribed forms of the review findings for each sampled active and negative case. Brief descriptions of the review findings shall be given with references to applicable rule sections.

- A. When the review findings document no error and/or only other observations have been noted, a response is not required by the local office; however, any observation that affects the payment accuracy must be corrected and a claim or restoration established in accordance with Sections 4.801.2 and 4.702. The report of review findings shall be retained in the case record.

- B. When the review findings document that an error resulted in ineligibility over-issuance, under-issuance, or an incorrect negative action, the local office shall respond to the review findings by completing the State-prescribed form documenting the corrective action taken or rebutting the amount or finding of error. The response shall be forwarded to the State Food Assistance Program Division within ten (10) calendar days from receipt of the Quality Assurance review finding notification.
- C. Upon receiving the local office's response to the Quality Assurance review findings, the State Office shall review the action taken by the local office and either concur with the Quality Assurance findings; concur with the local office rebuttal; or concur/disagree with the corrective action taken by the local office.
1. The local office shall be notified of the final Quality Assurance review findings.
  2. Upon receipt of final notification of the findings results, the county must take corrective action to terminate ineligible households within ten (10) calendar days, restore lost benefits, or establish a claim in accordance with Sections 4.801.2 and 4.702.

#### **4.903.44 Federal Quality Assurance Reviews**

For purposes of validating the State's Quality Assurance findings, the FNS Federal Regional Office will conduct a sub-sample re-review of the State's sample. As part of this re-review process, the Federal Regional Office will conduct case record reviews to the extent necessary to determine the accuracy of the State's Quality Assurance findings. The FNS Regional Office may request case records and/or verify any aspects of the State's Quality Assurance findings. The local offices shall forward case records in their entirety as outlined in Section 4.903.41 that are selected to be sub-sampled by Federal Quality Assurance to the Regional Office within ten (10) calendar days of the request.

### **4.904 FEDERAL ADMINISTRATION AND RESPONSIBILITIES**

#### **4.904.1 Federal Sanctions**

If FNS determines that there has been negligence or fraud involved in the certification of applicant households on the part of the state or local office, the State agency shall, on demand, following exhaustion of its appellate rights, pay to FNS, a sum equal to the amount of benefits issued as a result of such negligence or fraud. FNS claims against state agencies may be a result of financial losses involved in the acceptance, storage, and issuance of benefits, charges of negligence, and disallowance of federal funds for state agency failure of operation. The provisions for determining and establishing a claim against state agencies or the disallowance of federal funds are outlined within Section 3 of Title 7, Part 276, Chapter II, Sub-chapter C, Code of Federal Regulations, as of February 5, 2014; no later amendments or editions of this section are incorporated. Copies of these federal laws are available from the Colorado Department of Human Services, Food Assistance Program, 1575 Sherman Street, Denver, Colorado 80203. If county administration has resulted in the FNS finding of negligence or fraud, a claim for the amount of loss will subsequently be made against the responsible Food Assistance agency.

#### **4.904.2 Civil Rights Reviews Retailer Authorization**

The FNS field office located in the Denver area conducts statewide civil rights reviews of local offices. Both state and local offices shall ensure that all staff responsible for the administration, issuance, review, and eligibility determination of the Food Assistance Program are knowledgeable about civil rights procedures and able to assist program recipients with the filing of civil rights complaints. These procedures must be reviewed with staff annually.

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**4.904.3           Retailer Authorization**

The Food and Nutrition Service (FNS) field office is responsible for authorizing retailers to accept Food Assistance benefits and enforcing retailer compliance of Program rules.

Retailers must be authorized by USDA, FNS to be eligible to accept Food Assistance benefits for eligible food purchases.

All FNS-authorized retailers must comply with USDA, FNS regulations regarding acceptance and deposit of Food Assistance benefits.

**4.904.4           Program Reduction, Suspension, or Cancellation**

The Food and Nutrition Act of 2008 directs the Secretary of Agriculture to reduce, suspend, or cancel Food Assistance benefits if it is necessary to keep Program spending within the limits set by Congress. Upon notification from FNS, the State office shall instruct local offices to reduce, suspend, or cancel Food Assistance benefits for one or more months. Local offices shall take immediate action in accordance with the following procedures:

A.       Reduction of Benefits

If the State office instructs the local offices to reduce monthly Food Assistance allotments, the State shall notify the local offices of the date the reduction is to take effect. If an allotment reduction is necessary, allotments shall be reduced for each household size by the same percentage. If a benefit reduction is necessary, all households shall be guaranteed a minimum allotment allowed for one- and two-person households, unless the reduction is ninety percent (90%) or more. Revised issuance tables reflecting the percentage of reduction shall be provided to all local offices.

B.       Suspension and Cancellation

If the State Office instructs the county local offices to suspend or cancel Food Assistance Program benefits, the county local offices shall be informed of the date that the suspension or cancellation shall take effect. Upon receipt of this date, the counties shall take immediate action to affect the suspension or cancellation. This action shall include notification of certification and issuance personnel, as well as eligible households. In the event that cancellation or suspension of benefits is necessary, the provision for the minimum benefit level shall be disregarded and all households shall have their benefits suspended or cancelled.

If allotments are cancelled or suspended, local offices shall record the monthly allotment the household was entitled to receive prior to cancellation or suspension.

**4.904.41          Affected Allotments**

Whenever suspension or cancellation of allotments is ordered for a particular month, it shall affect all households. If a reduction is ordered, reduced benefits shall be calculated for all households for the designated month. However, all one- or two-person households shall be guaranteed a minimum allotment, as outlined in Section 4.207.3, unless the reduction is ninety percent (90%) or more.

Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled, even though they are issued during a month in which cancellation, suspension, or reduction is in effect.

**4.904.42 Notification to Households**

Reduction, cancellation, or suspension shall be considered a mass change and shall not require advance notice of adverse action; however, the household shall be notified by announcements through the news media or a general notice may be handed out or mailed to affected participant households.

**4.904.43 Restoration of Cancelled or Reduced Benefits**

Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a later date unless surplus funds are remaining after the reduction or cancellation. These surplus funds may be restored to affected households if a directive is issued by the Secretary of Agriculture. In the event of the issuance of a directive to issue restored benefits, the local office must work promptly to issue them.

In any event, the local office shall have issuance services to serve households receiving restored or retroactive benefits for a prior, unaffected month.

**4.904.44 Effects of Reduction, Suspension, and Cancellation on the Certification of Eligible Households**

In the event that cancellation, suspension, or reduction is ordered by the State, the following shall apply:

- A. Determinations of eligibility of applicant households shall not be affected.
- B. Local offices shall continue to accept and process applications in accordance with standard certification procedures.
- C. If a reduction of program benefits is in effect, and an applicant is found to be eligible, the amount of benefits will be determined by using the revised issuance tables, and shall be recorded in accordance with provisions in Section 4.904.4. If reduction or suspension of program benefits is in effect, and a household is found to be eligible for expedited service application processing, the application will be processed in accordance with procedures in Section 4.205.1. If a cancellation of program benefits is in effect, households shall receive expedited service; however, the deadlines for completing the processing shall be the end of the month of application or five (5) calendar days, whichever date is later.
- E. If an applicant household is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the applicant household. However allotment levels shall be calculated and recorded accordance with Section 4.904.4.
- F. Reduction, suspension or cancellation of allotments shall have no effect on certification periods assigned to households prior to the reduction, suspension, or cancellation of the program.
- G. Participating households whose certification periods expire during a month in which allotments have been reduced, suspended, or cancelled shall be recertified in accordance with normal procedures.
- H. Households found eligible to participate during a month in which allotments have been reduced, suspended, or cancelled shall have certification periods assigned in accordance with Section 4.208.1.

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**4.904.45 Fair Hearings When Program Reductions, Suspensions, or Cancellations Occur**

Any household that had its allotment reduced, suspended, or cancelled as a result of implementation of the procedures for reduction, suspension, or cancellation may request a fair hearing if it disagrees with the action; however, the household does not have a right to continuation of benefits. A household may receive retroactive benefits if it is determined that its benefits were reduced by more than the amount the local offices were directed to reduce benefits.

The Colorado Department of Human Services, Office of Appeals, may deny fair hearings to those households that are disputing the fact that a statewide reduction, cancellation, or suspension was ordered. The Office of Appeals is not required to hold a fair hearing unless the request is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied.

**4.905 OUTREACH**

Outreach activities performed by state and local personnel shall be ineligible for federal matching funds. Although activities to recruit participation in the Food Assistance Program are prohibited, all local offices shall perform program informational activities. Program informational activities are those activities that convey information about the Food Assistance Program, including household rights and responsibilities to applicant and participant households through means such as publications, telephone hotlines and face-to-face contacts.

All program informational material shall be available in languages other than English and shall include a statement that the program is available to all without regard to race, color, sex, age, mental or physical disability, religious creed, national origin, or political belief.

**4.906 D-SNAP**

D-SNAP, or the Disaster Supplemental Nutritional Assistance Program, may be implemented as a result of a "major disaster" or "temporary emergency" to provide temporary assistance to households affected by these misfortunes. A Presidential disaster declaration for individual assistance must be declared for the affected areas to be eligible for D-SNAP.

A "major disaster" is any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe that is determined to be a major disaster by the President pursuant to the Disaster Relief Act of 1974, Section 302(a). A similar definition is provided under State law in 24-33.5-703, C.R.S.

A "temporary emergency" means an emergency caused by any disaster, resulting from either natural or human causes, other than a major disaster as declared by the President under the Disaster Relief Act of 1974, Section 302(a), which is determined by FNS to have disrupted commercial channels of food distribution.

In such Presidentially-declared disasters, emergency Food Assistance allotments can be authorized by the USDA, FNS. In Colorado, the Governor can accept such federal assistance on behalf of the state if he/she determines and declares a major disaster. When authorized by the Governor and FNS, the Colorado Department of Human Services may authorize those counties, within which all or part of the disaster area lies, to distribute emergency Food Assistance allotments in those areas.

The state shall provide special certification material and forms designed for certification of disaster victims. Certification shall be done for households that are victims of a disaster that disrupts commercial channels of food distribution; if such households are in need of temporary Food Assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of those households.

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**Editor's Notes**

**History**

Sections SB&P, R-4010, R-4011, R-4100, R-4220, R-4222, R-4223, R-4224, R-4225, R-4230, R-4242 emer. rule eff. 10/01/2008.

Sections SB&P, R-4010, R-4011, R-4100, R-4220, R-4222, R-4223, R-4224, R-4225, R-4230, R-4242 eff. 12/01/2008.

Sections SB&P, 4010.11, 4230 emer. rule eff. 04/01/2009; expired eff. 06/06/2009.

Sections SB&P, 4010.11, 4230 eff. 07/01/2009.

Sections SB&P, B-4242, B-4242.1, B-4242.12, B-4242.13 eff. 03/02/2010.

Sections SB&P, B-4011.1-4011.11, B-4011.131-B-4011.136, B-4011.22-B-4011.3, B-4220-B-4220.12, B-4224, B-4230.1, B-4242.11-B-4242.13, B-4430.2-B-4430.22(B) eff. 02/01/2011.

Sections SB&P, B-4222.8, B-4223, B-4225.7.A.17 emer. rule eff. 06/10/2011.

Sections SB&P, B-4222.8, B-4223, B-4225.7.A.17 eff. 09/01/2011.

Sections SB&P, B-4224(A-C) emer. rule eff. 10/01/2011.

Sections SB&P, B-4224(A-C) eff. 01/01/2012.

Sections SB&P, B-4221.312, B-4230.11-B-4230.12, B-4240, B-4242.34-B-4242.36, B-4315, B-4317.4-B-4317.6, B-4600-B-4611, B-4640-B-4653, B-4695.1, B-4730-B-4800.3 eff. 05/01/2012.

Sections SB&P, B-4430.22.D-G, B-4430.32.B-H eff. 07/01/2012.

Sections SB&P, B-4010.42 eff. 08/01/2012.

Sections SB&P, B-4011.31-B-4011.32, B-4110.1-B-4110.2 eff. 11/01/2012.

Sections SB&P, B-4224 eff. 04/01/2013.

Sections SB&P, B-4100-B-4100.D, B-4220.11-B-4220.12, B-4223.1, B-4223.5-B-4223.5.B, B-4223.51 emer. rules eff. 10/01/2013.

Sections B-4010.12, B-4230-B-4230.1, B-4430.4 emer. rules eff. 11/01/2013.

Sections SB&P, B-4100-B-4100.D, B-4220.11-B-4220.12, B-4223.1, B-4223.5-B-4223.5.B, B-4223.51 eff. 12/01/2013.

Sections SB&P, B-4010.12, B-4230-B-4230.1, B-4430.4 eff. 01/01/2014.

Entire rule eff. 09/01/2014.

Sections SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3-4.407.31 emer. rules eff. 10/01/2014.

Sections SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3-4.407.31 eff. 12/01/2014.

Sections SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3.A-B, 4.407.31 emer. rules eff. 10/02/2015.

Sections SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3.A-B, 4.407.31, 4.801.2-4.801.43, 4.803-4.803.41, 4.803.43, 4.803.5, 4.803.7, 4.804.1 eff. 01/01/2016. Section 4.704.1 repealed eff. 01/01/2016.