

Subpart L. FOOD STAMP PROGRAM

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CHAPTER 501. FOOD STAMP DISCRETIONARY PROVISIONS

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Authority

The provisions of this Chapter 501 issued and amended under section 201(2) of the Public Welfare Code (62 P. S. § 201(2)), unless otherwise noted.

§ 501.1. General provisions.

The administration of the Food Stamp Program is governed by Federal regulations found at 7 CFR Chapter II, Subchapter C (relating to Food Stamp and Food Distribution Program).

Source

The provisions of this § 501.1 adopted February 23, 1979, effective March 1, 1979, 9 Pa.B. 615; amended January 3, 1992, effective January 4, 1992, 22 Pa.B. 23. Immediately preceding text appears at serial pages (109348) to (109349).

Cross References

This section cited in 55 Pa. Code § 275.11 (relating to general policy); 55 Pa. Code § 275.12 (relating to definitions); 55 Pa. Code § 275.32 (relating to finding of an intentional program violation); and 55 Pa. Code § 275.33 (relating to finding that no intentional program violation occurred).

§ 501.3. [Reserved].**Source**

The provisions of this § 501.3 adopted February 23, 1979, effective March 1, 1979, 9 Pa.B. 615; amended October 30, 1981, effective November 1, 1981, 11 Pa.B. 3690; reserved January 3, 1992, effective January 4, 1992, 22 Pa.B. 23. Immediately preceding text appears at serial pages (109349) to (109351).

§ 501.4. [Reserved].**Source**

The provisions of this § 501.4 adopted February 23, 1979, effective March 1, 1979, 9 Pa.B. 615; amended October 30, 1981, effective November 1, 1981, 11 Pa.B. 3960; reserved January 3, 1992, effective January 4, 1992, 22 Pa.B. 23. Immediately preceding text appears at serial pages (109351) to (109353).

§ 501.5. Regulatory options.

In some instances, the Federal food stamp regulations offer optional methods for implementation of Federal requirements. Typically, the options provided are of an operational nature. Some options may affect client benefits. Options affecting client benefits are published by the Department in the *Pennsylvania Bulletin* and codified in this chapter. The Department also notifies the Department of Agriculture, Food and Nutrition Service, of all option selections.

Source

The provisions of this § 501.5 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23.

§ 501.6. Employment and Training Program.

(a) *Employment and Training Program participation—7 CFR 273.7(f)*. A person required to register for work and not exempted from placement in the Department's Employment and Training Program shall participate in the Employment and Training Program. Failure to participate without good cause shall result in disqualification.

(b) *Persons exempt from work registration Employment and Training Program registration—7 CFR 273.7(f)(2)*. In addition to the exemptions in 7 CFR 273.7(b)(1) (relating to work requirements), individuals who meet the description

in paragraphs (1)—(5) have been determined as a group to be exempt from participation in the Employment and Training Program as follows:

- (1) A person who is homeless.
- (2) A person expected to return to work within 60 days.
- (3) A woman who is pregnant if it has been medically verified that the child will be born within the 6 months immediately following the month when registration would otherwise be required.
- (4) A person who is remote from an employment and training site. Remoteness is defined as residing in a location which is more than 2 hours in round trip commute by reasonably available public or private transportation from an Employment and Training Program site.
- (5) A person who is a full-time volunteer serving in the Volunteers in Service to America (VISTA) Program.

(c) *Employment and Training State Plan—7 CFR 273.7(c)(4) and (5)*. The Employment and Training Program shall be operated in accordance with the Department's Employment and Training State Plan as approved by the Food and Nutrition Service.

Source

The provisions of this § 501.6 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23.

Notes of Decision

Participation in Program

Petitioner, a Food Stamp recipient, was not exempted from the requirement to participate in the Employment and Training Program. His failure to enroll in a qualified program because it required him to disclose his Social Security number was not justified. *Kauffman v. Department of Public Welfare*, 778 A.2d 795 (Pa. Cmwlth. 2001).

§ 501.7. Treatment of income.

(a) *Income deductions.*

(1) *Heating standard utility allowance (SUA) and nonheating SUA—7 CFR 273.9(d)(6)*. A CAO will offer an eligible household the opportunity to use the heating SUA, nonheating SUA or the household's actual utility costs except for actual telephone costs when computing the combined shelter and utility cost. The SUAs include a nonheating SUA and a heating SUA. The heating SUA is available to households which incur out-of-pocket heating or cooling, or both, costs, even if paid irregularly, separate and apart from their rent or mortgage payments. A household that receives energy assistance payments made under the Low Income Home Energy Assistance Program (LIHEAP) is entitled to the heating SUA even if it does not incur out-of-pocket costs. The nonheating SUA is available to households which incur utility costs exclusive of heating or cooling costs, or both.

(2) *Standard utility allowance amounts—7 CFR 273.9(d)(6)*. The nonheating SUA amount is \$181 and the heating SUA amount is \$333 per month effective October 1, 2001. The heating SUA/nonheating SUA amounts are approved by FNS and reviewed annually by the Department in accordance with provisions of 7 CFR 273.9(d)(6) (relating to income and deductions). Future

adjustments will be issued by the Department as a notice in the *Pennsylvania Bulletin* and codified in this subpart.

(3) *Telephone allowance*—7 CFR 273.9(d)(6). The telephone allowance is \$26 per month effective October 1, 2001, regardless of the amount of the telephone charge. This allowance is available to households which incur telephone expenses. The Department has developed a method, that is FNS approved, for calculating the mandatory telephone allowance. Future adjustments will be issued by the Department as a notice in the *Pennsylvania Bulletin* and codified in this subpart.

(4) *Homeless shelter allowance*—7 CFR 273.9(d)(5)(i). Effective October 1, 1995, a \$143 homeless shelter allowance for shelter expenses is available to households if all the members are homeless and are not receiving free shelter throughout the month. Future adjustments will be issued by the Department as a notice in the *Pennsylvania Bulletin* and codified in this subpart.

(b) *Conversion of income, determination of monthly income amount*—7 CFR 273.10(c)(2)(i). Whenever a household anticipates a full month's income, but it is received on a weekly or biweekly basis, the CAO will convert the income to a monthly amount by using the Department's Public Assistance conversion table for computing eligibility and allotment.

(c) *Handling interest income*—7 CFR 273.21(f)(2)(vi). For households in monthly reporting and having both earned income and unearned interest income, the CAO will use actual interest income received in the budget month to compute eligibility and allotment.

Source

The provisions of this § 501.7 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23; amended September 24, 1993, effective upon publication, retroactively applicable to February 1, 1992, 23 Pa.B. 4502; amended September 30, 1994, effective October 1, 1994, 24 Pa.B. 4942; amended February 16, 1996, effective October 1, 1995, 26 Pa.B. 714; amended November 1, 1996, effective October 1, 1996, 26 Pa.B. 5261; amended October 16, 1998, effective October 1, 1998, 28 Pa.B. 5293; amended October 20, 2000, effective October 1, 2000, 30 Pa.B. 5495; amended January 18, 2002, effective October 1, 2001, 32 Pa.B. 392. Immediately preceding text appears at serial pages (274559) to (274560).

§ 501.8. Households with special circumstances—7 CFR 273.11(a)(1)(i) and (iii).

Self-employment income which represents a household's annual income will be annualized over a 12-month period, even if the income is received in only a short period of time. If the income is only intended to cover part of a year, it is averaged over the period of time it is intended to cover. For example, self-employment income received by farmers shall be averaged over a 12-month period, if the income represents the annual support of the farmer. However, if the average annualized amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the CAO will calculate the self-employment income on anticipated earnings. The CAO will not calculate self-employment income on the basis of prior income, for example, income tax returns, when the household has experienced a substantial increase or decrease in business. This self-employment

income will be annualized even if the household received income from other sources in addition to self-employment.

Source

The provisions of this § 501.8 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23.

§ 501.9. Certification.

(a) *Determination of benefit levels of application*—7 CFR 273.10(a)(1)(ii). A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using a 30-day calendar, households will receive benefits prorated from the day of application to the end of the month. A household which applies on the 31st of a month will be treated as though it applied on the 30th of the month. Applications for recertification will be processed in accordance with 7 CFR 273.10(a)(2) (relating to determining household eligibility and benefit levels).

(b) *Proration of a household's benefits*—7 CFR 273.10(a)(1)(iii)(A) and (C). To determine the amount of the prorated allotment, the CAO will use either the food stamp allotment proration table that is provided to the state agencies or use a 30-day calendar formula as follows: when the date of application for someone applying is on the 31st of a month, the 30th is the date of application. Using the preceding calendar formula in the determination of a prorated allotment, round the product down to the nearest lower whole dollar. If the resultant allotment is less than \$10, no issuance will be made for the initial month.

(c) *Calculating net monthly income: Rounding down and rounding up allotment amounts*—7 CFR 273.10(e)(1)(ii)(A). In calculating net monthly income, the county worker will round down in each income and allotment calculation that ends in 1¢ through 49¢ and round up each calculation that ends in 50¢ through 99¢. This rounding procedure will be applied to all calculations including shelter and medical computations.

(d) *Calculating the household's monthly allotment*—7 CFR 273.10(e)(2)(ii)(A)(1). The monthly allotment of the household will be equal to the Thrifty Food Plan for the size of the household reduced by 30% of the net monthly income of the household. If 30% of the household's net income ends in cents, the CAO will round the 30% of net income up to the nearest higher dollar.

(e) *Net income exceeds the level for which benefits are issued*—7 CFR 273.10(e)(2)(iii)(A). For eligible households with three or more members which are entitled to no benefits—except those households entitled to no benefits as a result of proration and the provision precluding issuance of less than \$10 in an initial month—the CAO will deny the household's participation on the grounds that its net income exceeds the level for which benefits are issued.

(f) *Certification period for expedited service households*—7 CFR 273.10(f)(4)(i) and (ii) and (g)(1)(i)(B). When a household's application is approved on an expedited basis without verification, in accordance with 7 CFR

273.2(i) (relating to application processing), and the application indicates the household is eligible in subsequent months, the longest certification period possible will be assigned based on the predictability of the household's circumstances. Normal certification periods may vary from 3 to 12 months. The initial certification period for expedited service households may be 1 or 2 months.

(g) *Certification period for monthly reporting household—7 CFR 273.10(f)(8) and 273.21(a)(3)*. A participant required to submit the monthly reporting form shall be assigned a 12-month certification period, which is to be effective with the initial month of certification. To provide for the timely receipt of benefits, reapplication is required in the 12th month of the certification period by the monthly reporting form due date.

(h) *Adequate notice period; adverse action—7 CFR 273.13(a)(1)*. Prior to an action to reduce or terminate a household's food stamp benefits within the certification period, the CAO will provide the household with timely and adequate notice before the adverse action is taken. The adverse action notice will be sent at least 10 days before the proposed effective date of the action so that the change is effective with the first issuance after the expiration of the advance notice period.

(i) *Time frame to submit required verifications at recertification—7 CFR 273.14(c)(3)*. To ensure its rights to uninterrupted benefits, the household will be allowed to submit required verification requested at the interview within 30 calendar days from the date of the CAO's initial request for the particular verification that is missing. The CAO will ensure that a household which timely reappplies under 7 CFR 273.14(c)(1) (relating to recertification) does not lose its right to uninterrupted benefits for failure to submit requested verification prior to the date the household submits a timely application for recertification, and that the household is adequately informed of this procedure.

(j) *Opportunity to participate by normal issuance cycle—7 CFR 273.14(a)(2)*. An eligible household shall be provided an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period. However, the household shall lose its right to uninterrupted benefits for failure to attend an interview scheduled on or after the deadline for timely filing of the application for recertification or failure to submit necessary verification within the time frame established as long as the time frame elapses after the deadline for filing a timely application for recertification. Although a household loses its right to uninterrupted benefits for these failures, the household may not be denied at that time, unless it refused to cooperate or the certification period has lapsed.

(k) *Households certified under the normal processing time frames—7 CFR 274.2(b)(2)*. The CAO will issue benefits for the first 2 months of eligibility for applications received after the 15th of the month if the household has completed the application and if all required verification within 30 days of the date of appli-

cation and has been determined eligible to receive benefits for the initial month of application and the subsequent month.

Source

The provisions of this § 501.9 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23; amended September 24, 1993, effective September 25, 1993, 23 Pa.B. 4502; amended December 9, 1994, effective December 10, 1994 and apply retroactively to May 14, 1994, 24 Pa.B. 6146. Immediately preceding text appears at serial pages (184809) to (184811).

§ 501.10. Monthly reporting.

(a) *Participants required to monthly report—7 CFR 273.21(b).* Households with earned income are required to submit monthly reporting forms, except as modified in subsection (b).

(b) *Participants excluded from the monthly reporting requirements—7 CFR 273.21(b).* In addition to the exemptions listed in 7 CFR 273.21(b) (relating to Monthly Reporting and Retrospective Budgeting (MRRB)), the following households are excluded from monthly reporting requirements:

- (1) Food stamp only households whose sole earned income is from self-employment.
- (2) Food stamp only households whose sole earned income is received from employment as a sheltered workshop participant.
- (3) Food Stamp only households and combination cash/Food Stamp households whose sole earned income is excluded as countable income under Federal laws or regulations.

(c) *Suspension of benefits due to temporary ineligibility—7 CFR 273.21(n).* Program benefits are suspended if the information provided on the monthly reporting form or late/incomplete notice indicates ineligibility which is expected to last for 1 month only. If the participant does not comply with the monthly reporting requirements during the month of suspension, the benefits are terminated.

(d) *Reinstating benefits due to a delayed monthly reporting form—7 CFR 273.21(k)(2)(ii).* If a household which has been suspended for failure to file a complete monthly report files a complete report after its extended filing date, but before the end of the issuance month, the CAO will reinstate the household by providing it with an opportunity to participate.

Source

The provisions of this § 501.10 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23; amended September 24, 1993, effective upon publication, retroactively applicable to April 1, 1992, 23 Pa.B. 4502. Immediately preceding text appears at serial page (166043).

§ 501.11. Prospective/retrospective budgeting.

(a) *Prospective determination of eligibility*—7 CFR 273.21(e)(1). Eligibility for program benefits is determined prospectively for each issuance month. The prospective determination is based on an estimation of household income and circumstances expected to exist in each issuance month. The computation of the monthly allotment is based on the best estimate of income and circumstances that will exist in the month of issuance.

(b) *Beginning months*—7 CFR 273.21(d). The beginning months are the first and second month of the initial certification period for which the participant is eligible for program benefits. A third beginning month may be necessary to coordinate the combined Cash/Food Stamp Program benefits.

(c) *Budget month*—7 CFR 273.21(d)(2). The budget month is the calendar month from which the actual income and circumstances of the participant are used to determine eligibility and the amount of the allotment for the issuance month. The budget month is referred to as the reporting period on the monthly reporting form.

(d) *Determining the amount of the allotment*—7 CFR 273.21(g). The amount of the allotment is budgeted prospectively in the beginning months and is based on an estimation of household income and circumstances expected to exist in the beginning months. The amount of the allotment following the beginning months is budgeted retrospectively and is based on the actual income and circumstances which existed in the corresponding budget month.

(e) *Prospective budgeting; terminated income*—7 CFR 273.21(g)(3) and 273.21(j)(1)(vii)(B)(2). Income that is budgeted prospectively to determine the amount of the allotment and is terminated in the prospective months is not budgeted retrospectively.

(1) If the combination cash/food stamp client receives income which starts and stops before being counted prospectively or retrospectively, the income is disregarded.

(2) If the food stamp only participant receives income which starts and stops before being counted prospectively or retrospectively, the income is counted retrospectively.

(f) *Treatment of PA payments*—7 CFR 273.21(j)(1)(vii)(B). PA payments are counted as follows:

(1) The PA payment for the issuance month is combined with actual income from the budget month to determine the food stamp allotment.

(2) A corrective or additional assistance payment which corrects the budget month PA payment is counted retrospectively to determine the amount of the allotment in the corresponding issuance month.

Source

The provisions of this § 501.11 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23.

§ 501.12. Overissuance.

(a) *Reinstatement of claims—7 CFR 272.1(g)(58)(ii).* A claim previously suspended, but not terminated will be reinstated. The reinstated claims shall be subject to the recovery provisions of the Food Stamp Act of 1977 (7 U.S.C.A. §§ 2011—2027).

(b) *Calculating the amount of the claim—7 CFR 273.18(c)(1)(i).* Inadvertent household and administrative error claims amounts shall be based on the amount of overissuance which occurred during the 24 and 12 months, respectively, preceding the date the overissuance was discovered.

(c) *Collecting claims against households—7 CFR 273.18(d)(1)(i)(A).* Collection action shall be taken against a household for inadvertent household or administrative error claims unless the claim is collected by offset or the total amount is less than \$35, and the claim cannot be recovered by reducing the household's allotment.

Source

The provisions of this § 501.12 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23.

§ 501.13. Intentional program violation disqualification.

(a) *Determination of an intentional program violation.*

(1) *Disqualification hearings—7 CFR 273.16(a) and (e).* The Bureau of Hearings and Appeals is responsible for conducting administrative disqualification hearings for individuals alleged to have committed an intentional program violation as set forth in § 275.11(a) (relating to general policy).

(2) *Court referrals—7 CFR 273.16(g).* The Office of Inspector General will refer appropriate cases to law enforcement authorities for prosecution. An individual suspected of committing one or more acts of intentional program violations will be referred by the Office of Inspector General for prosecution.

(3) *Imposing the disqualification—7 CFR 273.16(e) and (g).* The Department will impose the disqualification against the individual eligible for food stamp benefits within 45 days of the date of the finding of the court or administrative disqualification hearing final order. If the individual, who is found to have committed an intentional program violation is not eligible for food stamp benefits, the Department will impose the disqualification effective on the date of the finding of the court or administrative disqualification hearing final order. Once the Department imposes the disqualification, the disqualification period shall continue uninterrupted.

(b) *Disqualification without a hearing or prosecution by a court.*

(1) *Waived hearings—7 CFR 273.16(f)*. The procedures to allow the individual to waive an administrative disqualification hearing are set forth in § 275.41 (relating to waiver of administrative disqualification hearing). If the individual is eligible for food stamp benefits, the period of disqualification will begin within 45 days of the date the individual signed the waiver. If the individual is not eligible for food stamp benefits, the Department will impose the disqualification effective on the date the individual signed the waiver. Once the Department imposes the disqualification, the disqualification period shall continue uninterrupted.

(2) *Deferred adjudication—7 CFR 273.16(h)*. The Department will establish procedures to allow accused individuals to sign disqualification consent agreements for cases of deferred adjudication. The Office of Inspector General may use this method for cases in which a determination of guilt is not obtained from a court because the accused individual met the terms of a court order or for cases which are not prosecuted because the accused individual met the terms of an agreement with the prosecutor. Disqualification consent agreements in cases referred for prosecution will conform with the following requirements:

(i) *Notification*. Advance written notification will be provided to the household member stating the consequences of consenting to disqualification as part of the deferred adjudication. The advance notification will include, at a minimum:

(A) A statement for the accused individual to sign that indicates the accused individual understands the consequences of consenting to disqualification. The head of the household shall also sign the consent agreement if the accused individual is not the head of the household.

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

(C) A statement that the disqualification penalties for intentional program violations under the Food Stamp Program are specified in 7 CFR 273.16(b) (relating to disqualification for intentional program violation).

(D) A statement of the penalty that will be imposed as a result of consenting to disqualification.

(E) A statement that the remaining household member, if any, will be held responsible for repayment of the resulting claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

(ii) *Household member consent to disqualification*. If the household member suspected of an intentional program violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification period specified in 7 CFR 273.16(b) (relating to disqualification for intentional program violation), unless contrary to the

order. The period of disqualification shall begin against the household member eligible for food stamp benefits within 45 days of the date the household member signed the disqualification consent agreement. If the household member is not eligible for food stamp benefits, the Department will impose the disqualification effective on the date the individual signed the disqualification consent agreement. Once the Department imposes the disqualification, the disqualification period shall continue uninterrupted.

Authority

The provisions of this § 501.13 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)); and the Federal Food Stamp regulation in 7 CFR 273.16(h)(1)(ii)(C) (relating to disqualification for intentional program violation).

Source

The provisions of this § 501.13 adopted January 3, 1992, effective January 4, 1992, 22 Pa.B. 23; amended December 16, 1994, effective December 17, 1994, 24 Pa.B. 6300; amended July 6, 2001, effective July 7, 2001, apply retroactively to February 1, 1996, for the Food Stamp Program and retroactively to March 4, 1996, for the TANF and GA Cash Assistance Programs, 31 Pa.B. 3538; amended January 1, 2010, effective January 2, 2010, 40 Pa.B. 29. Immediately preceding text appears at serial pages (280979) to (280981).

Cross References

This section cited in 55 Pa. Code § 275.51 (relating to imposing the disqualification).

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