

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

May 24, 2023
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level
Meadowlark Conference Room
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 475, Chapters 1-5 of the Nebraska Administrative Code (NAC) – *Supplemental Nutrition Assistance Program*. These regulations establish criteria for eligibility and govern the application process and any requirement for receiving benefits. The proposed regulations remove repeat of statutory language, duplicative language, and direction to staff from the regulations; update definitions; update USDA mailing address; update requirements for the process used to delegate authority; establish the process for determining fleeing felon status; incorporate flexibility to allow the Department to comply with federally required program changes; clarify recertification interview process and requirements; clarify program residency; remove sanctions for whole households based on the head of household being non-compliant with work requirements; clarified when exclusion of child support payments apply; updated income eligibility standards; set out application timeframes; clarified when pending notices are required; established when household must report their income; updated regulations to comply with state and federal law changes; and update formatting.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may provide written comments by mail, fax, or email, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 (fax) or dhhs.regulations@nebraska.gov, respectively.

In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS via the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 475	Prepared by: Melissa Weyer
Chapter: 1-5	Date prepared: 03-30-2023
Subject: Supplemental Nutrition Assistance Program	Telephone: 402-429-1057

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 475 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

CHAPTER 1 GENERAL PROVISIONS

001. GENERAL POLICIES. The Supplemental Nutrition Assistance Program is a federal low income nutrition program established by Title 7 of the United States Code (U.S.C.) Chapter 51. The program is managed by the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA) which has promulgated federal regulations found at 7 [Code of Federal Regulations \(CFR\)](#) §§ 271-285 governing the administration of the Program. Nebraska participates in the Supplemental Nutrition Assistance Program as authorized by Nebraska Revised Statute (Neb. Rev. Stat.) §§ 68-1017-1017.02.

001.01 PURPOSE. The purpose of the Supplemental Nutrition Assistance Program is to:

- (A) Safeguard the health of the nation's low income families through better nutrition;
- (B) Increase the food purchasing power of low income families; and
- (C) Increase the flow of foods from the nation's farms through the normal trade channels.

001.02 RIGHT TO APPLY. Every person has the right to apply for Supplemental Nutrition Assistance Program benefits. Application forms will be readily accessible to any groups, organizations, or private citizens who request the forms.

001.03 PROGRAM INFORMATION. Persons or agencies desiring information concerning any part of the program may contact any of the following:

- (A) The Nebraska Department of Health and Human Services, Division of Children and Family Services, Economic and Family Support, Supplemental Nutrition Assistance Program, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509;
- (B) Mountain Plains Regional Office, United States Department of Agriculture, Food and Nutrition Service, 1244 Speer Blvd., Suite 903, Denver, Colorado 80204; or
- (C) The Administrator, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302.

001.04 COMPLAINTS. Complaints regarding program policy or civil rights may be filed by participants, potential participants, or other concerned individuals or groups. Individuals may contact the Department for information about filing a complaint or the procedure for filing a complaint. Complaints may be filed by telephone, by letter, or in person. Collect calls will be accepted by all offices. Civil Rights complaints or program policy complaints may be filed verbally or in writing according to the following. Applicants and participants may file complaints regarding any aspect of program administration including:

- (1) Household certification;
- (2) Supplemental Nutrition Assistance Program benefit issuance;
- (3) Fair hearing conduct; or
- (4) Any other program service management.

001.04(A) PROGRAM POLICY COMPLAINTS. Each local office has information available to the public regarding the procedures to follow in filing a program complaint and lists the name and telephone number of the contact person for that office. If an individual wants to file a complaint, the individual may do so with either:

- (1) A contact person designated by the Service Area Administrator to accept service complaints in each local office; or
- (2) The Central Office of the Nebraska Department of Health and Human Services, Office of Economic and Family Support, Food Program Unit, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, NE 68509.

001.04(A)(i) DOCUMENTING COMPLAINTS. In situations where complaints are resolved at the worker level, the complaint will not be documented. The Department documents all other complaints. All documented complaints are forwarded to Food Programs, Central Office, within 30 days of the receipt of the complaint.

001.04(A)(i)(1) DEPARTMENT ACTIONS ON COMPLAINTS. The Department takes the following actions in regard to the complaint:

- (a) Investigate the complaint;
- (b) Take corrective action where warranted; and
- (c) Respond to the complainant on the disposition of the complaint.

001.04(B) CIVIL RIGHTS COMPLAINTS. Discrimination based on age, race, color, sex, disability, religion, national origin, or political belief is prohibited. The Department will not discriminate against any applicant or participant in any aspect of program administration including:

- (1) Household certification;
- (2) Supplemental Nutrition Assistance Program benefit issuance;
- (3) Fair hearing conduct;
- (4) Any other program service management; or
- (5) Reprisal or retaliation for prior civil rights activity.

001.04(B)(i) FILING OF CIVIL RIGHTS COMPLAINTS. Persons or agencies desiring to file a complaint alleging discrimination on the basis of age, race, color, sex, disability, religion, national origin, or political belief may contact any of the following:

- (a) United States Department of Agriculture, ~~Director, Office of Adjudication~~, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov;
- (b) Mountain Plains Regional Office, United States Department of Agriculture, Food and Nutrition Service, 1224 Speer Blvd., Suite 903, Denver, Colorado 80204; or
- (c) Nebraska Health and Human Services, Economic and Family Support, Food Program Unit, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, NE 68509.

001.04(B)(i)(1) COMPLAINT REPORTING FOR THOSE REQUIRING ASSISTANCE. Individuals with disabilities who require alternative means for communication of program information, such as Braille, large print, or audiotape, should contact United States Department of Agriculture's Technology and Accessible Resources Give Employment Today Center at (202) 720-2600, which is voice and Telecommunications Device for the Deaf.

001.04(B)(i)(2) TIMELY COMPLAINT REPORTING. The civil rights complaint must be filed no later than 180 days from the date of the alleged incident of discrimination if the person requests action on the complaint.

001.04(B)(ii) DISCRIMINATION COMPLAINT REQUIREMENTS. Discrimination complaints must contain the following information:

- (1) The name, address, and phone number of the person alleging discrimination or other means of contacting this person;
- (2) The location and name of the office which is accused of discriminatory action;
- (3) The nature of the incident, action, or program administration that led to the complaint;
- (4) The basis for the alleged discrimination such as age, race, color, sex, disability, religion, national origin, or political belief;
- (5) The names and titles, if known, and addresses of persons who may have knowledge of the alleged discriminatory act; and
- (6) Each date on which the action occurred.

001.04(B)(iii) VERBAL COMPLAINTS. If the complainant makes accusations verbally to a Department worker and is unable or reluctant to put the allegations in writing, the Department asks the individual to contact Food and Nutrition Service directly. If the complainant is unwilling to do so, the Department will document the complaint and forward it to the Director, Office of Adjudication.

001.05 AVAILABILITY OF PUBLIC INFORMATION. Federal regulations, state plans of operation, federal procedures, the Nebraska Supplemental Nutrition Assistance regulations, Guidance Documents and supplemental instructions issued for use in certifying households are maintained at the Central Office for examination by the general public on regular workdays during office hours.

001.06 PRUDENT PERSON PRINCIPLE. The Department assesses all circumstances regarding case eligibility and uses appropriate judgment in requiring further verification or information before determining eligibility and benefit level.

001.07 PROGRAM INFORMATIONAL ACTIVITIES. Program informational activities convey information about the Supplemental Nutrition Assistance Program, including household rights and responsibilities, to applicant and recipient households through means such as publications, telephone hot lines, films, media, and face-to-face contacts.

001.07(A) INFORMATION AVAILABLE IN LOCAL OFFICES. The local office provides the public information on civil rights, claims, overpayments, and Supplemental Nutrition Assistance Program benefit reduction. All program informational material is available in

languages other than English and includes a statement that the program is available to all persons without regard to age, race, color, sex, disability, religion, national origin, or political beliefs.

002. PROGRAM DEFINITIONS. The following definitions apply to Supplemental Nutrition Assistance Program:

002.01 ABLE BODIED ADULT WITHOUT DEPENDENTS. An individual age 18 through 49 who lives in a Supplemental Nutrition Assistance Program household which includes no children age 17 or younger and is able to work.

002.02 ACCOUNTS RECEIVABLE. Overpayment(s) for the same time frame and reason, which the Department groups together into one account.

002.03 ADEQUATE NOTICE. A written notice which contains the following:

- (A) The action the Department has taken or intends to take;
- (B) The reason for the intended action;
- (C) The household's right to request a fair hearing;
- (D) The name of a person to contact for additional information;
- (E) The availability of continued benefits; and
- (F) The household's liability for over-issuances received while awaiting a fair hearing decision which is adverse to the household.

002.04 AGGREGATE BENEFIT. The second month of a combined allotment. All of the following conditions must be met to be an aggregate benefit:

- (A) The application month must be expedited;
- (B) The application received date must be the 16th of the month or later; and
- (C) The household must be eligible for benefits for both the application month and the following month.

002.05 ALLOTMENT. The total value of benefits a household is authorized to receive during each month of the certification period.

002.06 APPLICATION. The action by which the individual indicates the desire to receive assistance by submission of an application.

002.07 AVAILABLE DOCUMENTARY EVIDENCE. Evidence available through computer match systems.

002.08 BOARDER. An individual who either lives in a commercial boardinghouse or lives with a household and pays reasonable compensation in cash for meals and lodging. A boarder is not considered a member of a participating household and the individual's income and resources are not considered available to the household.

002.09 BONA FIDE JOB OFFER. A job offer that is considered suitable employment, as defined in this section, except for the exceptions to voluntary quit and bona fide job offers detailed in chapter three of this title.

002.10 CATEGORICALLY ELIGIBLE. Households in which:

- (A) All members receive or are authorized to receive Aid to Dependent Children Program, Assistance to the Aged, Blind, or Disabled Program, State Disability Program or Supplemental Security Income payments; or
- (B) At least one member is authorized to or receives either Aid to Dependent Children Emergency Assistance or Employment First supportive services.

002.11 CHEMICAL DEPENDENCY TREATMENT AND REHABILITATION PROGRAM. Any chemical dependency treatment and rehabilitation program which is a private, nonprofit organization or facility or a publicly operated community health center. Private, nonprofit treatment programs do not need to be funded under Title XIX but must qualify for the same essential conditions as those publicly operated programs under Title XIX funding. The program must be certified to provide treatment that can lead to rehabilitation in accordance with the agency responsible for the administration of drug or alcoholic treatment and rehabilitation programs.

002.12 CITIZENSHIP AND IMMIGRATION SERVICES. United States Citizenship and Immigration Services is the federal agency that oversees lawful immigration to the United States. Citizenship and Immigration Services is a component of the Department of Homeland Security.

002.13 COMBINED ALLOTMENT. The prorated first month's expedited benefit and the second full month's aggregate benefit issued together as one allotment. Combined allotments are only issued to households entitled to expedited service which apply on or after the 16th of the month.

002.14 COMPLETE APPLICATION. An application that has a valid name, address and signature and contains the minimum information necessary to determine eligibility: identity, household composition, disqualification information, income, resources, student status and citizenship.

002.15 DATE OF DISCOVERY. The date ~~the Department confirms an overpayment occurred~~ a potential overpayment is initially identified and submitted for review.

002.16 DEPARTMENT. The Nebraska Department of Health and Human Services.

002.17 DISABLED. A household member who is:

- (1) Receiving Supplemental Security Income under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
- (2) Receiving Assistance to the Aged, Blind, or Disabled Program or State Disability Program benefits;
- (3) Receiving disability retirement benefits from a government agency because of a disability considered permanent under Section 221(i) of the Social Security Act;
- (4) A veteran with a disability rated or paid as total under Title 38 of the United States Code or is considered in need of regular aid and attendance or permanently housebound under Title 38 of the Code;

- (5) A surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound and incapable of self-support under Title 38 of the Code;
- (6) A surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the United States Code;
- (7) A surviving spouse or child of a veteran receiving or approved for compensation for a service-connected death or pension benefits for a non-service connected death under Title 38 of the Code and has a disability considered permanent under Section 221(i) of the Social Security Act; or
- (8) Receiving an annuity payment under:
 - (i) Section 2(a)(1)(iv) of the Railroad Retirement Act and eligible to receive Medicare as determined by the Railroad Retirement Board; or
 - (ii) Section 2(a)(i)(v) of the Railroad Retirement Act and disabled based on criteria used under Title XVI of the Social Security Act.

002.17(A) CONTINUED ELIGIBILITY FOR CONSIDERATION AS DISABLED. A person meets the definition of disabled if the individual has been determined disabled by the agencies or laws listed above. The individual does not have to be receiving a payment from the agency which determined the disability. For example, if a person is certified to receive Supplemental Security Income but is in a suspended status, the individual would be considered disabled for Supplemental Nutrition Assistance Program purposes.

002.18 DISQUALIFIED HOUSEHOLD MEMBER. A financially responsible individual who purchases and prepares meals with a Supplemental Nutrition Assistance Program household but is disqualified from participation.

002.19 ELDERLY. A household member who is age 60 or older. This includes people who are age 59 when they apply but who will turn 60 by the last day of the month of application.

002.20 ELECTRONIC BENEFITS TRANSFER. A system that uses electronic funds transfer and point-of-sale technology for the delivery and control of Supplemental Nutrition Assistance Program benefits.

002.21 ELECTRONIC BENEFITS TRANSFER CARD. A plastic card, similar to a debit card, which holds the Supplemental Nutrition Assistance Program benefit information. The Nebraska Electronic Benefits Transfer card can be used at point-of-sale machines to buy eligible foods at stores taking part in the Electronic Benefits Transfer program.

002.22 ELIGIBLE FOODS. Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods or hot food products prepared for immediate consumption. Eligible foods include:

- (A) Seeds and plants to grow foods for personal consumption by eligible households;
- (B) Meals prepared and served by an authorized chemical dependency treatment center to eligible households, including the meals of children living with their parents in the treatment center;
- (C) Meals prepared and delivered by an authorized meal delivery service to eligible households; or meals served by a communal dining facility for elderly persons, for Supplemental Security Income households, or both, who are eligible to use Supplemental Nutrition Assistance Program benefits for communal dining;

- (D) Meals prepared and served by a licensed or certified group living arrangement to residents who are disabled;
- (E) Meals prepared by and served by a shelter for battered persons to its eligible residents;
- (F) Meals prepared and served by an approved and authorized public or private non-profit establishment that serves homeless persons; and
- (G) In the case of homeless Supplemental Nutrition Assistance Program households, meals prepared by a restaurant that contracts with the Department to serve meals to homeless persons at low or reduced prices.

002.23 EXPANDED RESOURCE PROGRAM. The Expanded Resource Program provides individuals with information and referrals about various programs and services that could be of benefit to the household. Programs and services about which information and referral is provided include: ACCESSNebraska web services, Child Care Subsidy, Medicaid, Aid to Dependent Children Program, Refugee Resettlement, Energy Assistance, and Developmental Disabilities.

002.24 EXPUNGEMENT. The process of removing Electronic Benefits Transfer benefits from a Supplemental Nutrition Assistance Program recipient's account when there has not been a debit from the account within the last 365 days.

002.25 FAIR HEARING. A hearing conducted by a Department hearing officer at a date and time set by the Department.

002.26 FOOD AND NUTRITION SERVICE. The Food and Nutrition Service is an agency of the United States Department of Agriculture's Food, Nutrition, and Consumer Services. The Food and Nutrition Service addresses hunger and obesity issues through the administration of federal nutrition assistance programs one of which is the Supplemental Nutrition Assistance Program.

002.27 GENERAL ASSISTANCE. Cash or another form of assistance, excluding in-kind assistance, financed by state or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

002.28 GOOD CAUSE. Circumstances in situations which are beyond the control of the applicant or participant. Good cause as a condition of failure to comply is covered in the specific sections of this title, where applicable.

002.29 GROUP LIVING ARRANGEMENT. A public or private non-profit residential setting that serves 16 or fewer residents and is licensed or certified by the appropriate state agency. To be eligible for Supplemental Nutrition Assistance Program benefits, a resident must be blind or disabled.

002.30 HEARING OFFICER. The hearing officer is an employee of the Department of Health and Human Services or an individual under contract with the Department who is designated to conduct hearings.

002.31 HOMELESS INDIVIDUAL. A person who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

- (A) A supervised shelter designed to provide temporary lodging;
- (B) A halfway house or similar facility that provides temporary residence for individuals intended to be institutionalized;
- (C) Temporary lodging in the home of another individual for no more than 90 days; or
- (D) A place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

002.32 HOMELESS MEAL PROVIDER. A Department approved public or private non-profit establishment, such as a soup kitchen or temporary shelter, which feeds homeless persons or a restaurant that contracts with the Department to offer meals at low or reduced prices to homeless persons.

002.33 INELIGIBLE HOUSEHOLD MEMBER. A financially responsible individual who purchases and prepares meals with a Supplemental Nutrition Assistance Program household but is not eligible to participate.

002.34 INITIAL MONTH. The first month the household is certified to participate, or the first month the household is certified after not participating for more than one month.

002.35 INTENTIONAL PROGRAM VIOLATION. A person that intentionally:

- (A) Made a false statement or misrepresented, concealed, or withheld facts for the purpose of receiving or attempting to receive Supplemental Nutrition Assistance Program benefits to which the person or the person's household was not entitled; or
- (B) Committed an act that constitutes a violation of the Food Stamp Act, federal or state Supplemental Nutrition Assistance Program regulations, or any state law for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking Supplemental Nutrition Assistance Program benefits.

002.36 INTERFACES. Automated data exchanges that provide financial and nonfinancial information.

002.37 ISSUANCE. The amount of benefits placed in recipient Electronic Benefits Transfer accounts.

002.38 ISSUANCE AND COLLECTIONS CENTER. The Department staff designated to issue all Electronic Benefits Transfer cards and to perform collection activities for Supplemental Nutrition Assistance Program. Issuance and Collections Center also coordinates and tracks all transactions with the Treasury Offset Program.

002.39 LOCAL OFFICE. The geographic area office designated by the Department as the administrative unit for local program operations.

002.40 MEDICAID. Medical assistance received under Title XIX of the Social Security Act.

002.41 MIGRANT FARM WORKER. A person who travels away from the place the individual calls home on an overnight basis in order to seek or perform agricultural work at one or more locations.

002.42 NON-PUBLIC ASSISTANCE HOUSEHOLD. A household that does not meet the definition of a public assistance household.

002.43 NON-HOUSEHOLD MEMBER. An individual who lives with the Supplemental Nutrition Assistance Program household but does not receive benefits because:

- (A) The individual does not purchase and prepare meals with the Supplemental Nutrition Assistance Program household; or
- (B) The individual purchases and prepares meals with the Supplemental Nutrition Assistance Program household but is denied eligibility by program guidelines.

002.44 OVERPAYMENT. Payment(s) of more than the amount of benefits a household was eligible to receive.

002.45 PROGRAM. Supplemental Nutrition Assistance Program as conducted under the Food Stamp Act, and federal and state Supplemental Nutrition Assistance Program Regulations.

002.46 PROJECT AREA. The administrative unit for operation of the Supplemental Nutrition Assistance Program. In Nebraska, the state has been designated as one project area.

002.47 PROSPECTIVE BUDGETING. The computation of a household's Supplemental Nutrition Assistance Program benefit for an issuance month based on the Department's and household's best estimate of income and circumstances which will exist in that month.

002.48 PUBLIC ASSISTANCE HOUSEHOLD. A household in which all members in the Supplemental Nutrition Assistance Program unit are eligible for Supplemental Security Income, Assistance to the Aged, Blind, or Disabled Program, State Disability Program, or Aid to Dependent Children Program benefits even if the benefit amount is zero, or at least one member is authorized to receive Aid to Dependent Children Emergency Assistance or Employment First supportive services. The classification of Public Assistance household is not affected by the presence of a legally assigned foster child.

002.49 QUALIFIED WORK QUARTER. A qualified work quarter includes earnings covered under Title II of the Social Security Act and earnings not covered by the Social Security Act. Quarters worked in another country can be counted as qualified quarters when social security taxes were required to be paid to the United States. Countable qualified work quarters for a non-citizen qualifying through 40 quarters are based on the sum of:

- (A) Quarters the non-citizen worked;
- (B) Quarters credited from the work of a parent of the non-citizen before the non-citizen became 18 including quarters worked before the non-citizen was born or adopted; **or**
- (C) Quarters credited from the work of a spouse of the non-citizen during their marriage if they are still married or the spouse is deceased.

002.50 QUALITY CONTROL REVIEW. A review of a statistically valid sample of Supplemental Nutrition Assistance Program cases to determine whether households are receiving the allotment they are entitled to and to ensure cases are not incorrectly denied or terminated. Program Evaluation and Review is another name for Quality Control Review.

002.51 REINSTATEMENT MONTH. A month during the certification period when a household's eligibility is re-established. The household had a change in circumstances which determined the household ineligible for a period of 30 days or less. The household receives a prorated amount of benefits during the reinstatement month.

002.52 REPORTING CATEGORIES. There are two separate reporting categories for Supplemental Nutrition Assistance Program households. The reporting categories are:

- (A) Simplified Reporting; and
- (B) Transitional Benefit Reporting.

002.53 RESIDENT OF AN INSTITUTION. An Individual who is provided with over 50% of the individual's meals as part of the normal services for the institution in which the individual resides is considered to be a resident of an institution. A resident of an institution is not eligible to participate in the Supplemental Nutrition Assistance Program, unless the individual resides in one of the facilities listed below:

- (A) Federally subsidized housing for the elderly under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;
- (B) Chemical dependency treatment and rehabilitation programs;
- (C) Group homes for disabled individuals;
- (D) Shelters for battered persons, who are considered as individual household units for the purpose of applying for and participating in Supplemental Nutrition Assistance Program; ~~and~~ or
- (E) Shelters for homeless persons.

002.54 RESTORATION. Benefits issued to a household due to an underpayment in a prior month.

002.55 RETAIL FOOD STORE. Any of the following:

- (A) An establishment or a house-to-house trade route whose eligible food sales volume is more than 50% staple food items for home preparation and consumption;
- (B) Public or private communal dining facilities and meal delivery services, chemical dependency treatment and rehabilitation programs, public or private non-profit group homes, or public or private non-profit shelters for battered women and children;
- (C) Any private non-profit cooperative food purchasing venture, including those whose members pay for food before receipt of the food;
- (D) Public or private non-profit establishments that feed homeless persons; or
- (E) A farmer's market.

002.56 SEASONAL FARM WORKER. A person who works on a farm or ranch on a seasonal basis when the work is generally within commuting distance of the individual's home. A person who works on the individual's own or leased or rented farmland on a year-round or seasonal basis is neither a seasonal farm worker nor a migrant farm worker.

002.57 SHELTER FOR BATTERED PERSONS AND CHILDREN. A public or private non-profit residential facility that serves battered persons and their children. If this 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.

002.58 SPONSOR. An individual who has executed an affidavit of support on behalf of an alien as one of the conditions required for the alien's entry into the United States.

002.59 SPOUSE. Two individuals who would be defined as married to each other under applicable state laws.

002.60 STAGGERED ISSUANCE. An issuance cycle which ensures households will receive their benefits on the same day of each month.

002.61 SUITABLE EMPLOYMENT. All work is considered suitable unless one of the following situations exists:

- (A) The wage offered is less than the highest of either the applicable federal minimum wage, the applicable state minimum wage, or 80% of the federal minimum wage if neither the federal or state minimum wage is applicable. The training wage may be substituted for the federal or state minimum wage in situations that warrant the payment of a training wage. The training wage of at least 85% of the federal or state minimum wage may be paid to employees under age 20 for up to 90 days under certain conditions;
- (B) The employment offered is on a piece-rate basis and the hourly yield is likely to be less than the applicable wages above;
- (C) The individual, 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 lockout at the time of the offer, unless the strike has been enjoined under the Taft-Hartley Act or unless an injunction has been issued under Section 10 of the Railway Labor Act; **or**
- (E) The individual can demonstrate or the Department becomes aware that:
 - (i) The degree of risk to health and safety is unreasonable;
 - (ii) The individual is physically or mentally unfit to perform the work as documented by medical or other evidence;
 - (iii) Employment offered within the first 30 days is not in the individual's major field of experience;
 - (iv) The nature or hours of the work interfere with the individual's religious observances, convictions, or beliefs; or
 - (v) The distance of the employment from the individual's home is unreasonable, considering the wages and the time and cost of commuting. Daily commuting time must not exceed two hours per day, not including time required to transport a child to and from a childcare facility. The employment is not considered suitable if the distance prohibits walking and public or private transportation is unavailable.

002.62 SUPPLEMENT. Additional benefits issued to a household within the current month. Supplemental issuances cannot be used to offset overpayments.

002.63 SUPPLEMENTAL SECURITY INCOME. Monthly cash payments made under the authority of:

- (A) Title XVI of the Social Security Act, as amended, to the aged, blind, and disabled;
- (B) Section 1616(a) of the Social Security Act; or
- (C) Section 212(a) of Public Law 93-66.

002.64 TIMELY NOTICE. A written notice which contains all the elements of adequate notice and also is mailed at least ten calendar days before the action takes place. The mailing date of the notice is day one of the ten-calendar-day period. A timely notice may also be called a notice of adverse action.

002.65 TRAFFICKING. Trafficking of Supplemental Nutrition Assistance Program benefits includes:

- (A) The buying, selling, stealing, or otherwise effecting an exchange of Supplemental Nutrition Assistance Program benefits issued and accessed via Electronic Benefit Transfer cards, card numbers and personal identification numbers, 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;
- (B) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for Supplemental Nutrition Assistance Program benefits;
- (C) Purchasing a product with Supplemental Nutrition Assistance Program benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;
- (D) Purchasing a product with Supplemental Nutrition Assistance Program benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with Supplemental Nutrition Assistance Program benefits in exchange for cash or consideration other than eligible food;
- (E) Intentionally purchasing products originally purchased with Supplemental Nutrition Assistance Program benefits in exchange for cash or consideration other than eligible food; or
- (F) Attempting to buy, sell, steal, or otherwise affect an exchange of Supplemental Nutrition Assistance Program benefits issued and accessed via Electronic Benefit Transfer cards, card numbers and personal identification numbers, 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.

002.66 VERIFICATION. Information obtained to establish the accuracy of information provided by the household. The use of third-party information or documentation to establish the accuracy of statements made by the household or provided on the application.

002.67 VOLUNTARY QUIT. Voluntary termination of employment of 30 or more hours per week or the equivalent of 30 hours per week times minimum wage. An individual who terminates a self-employment enterprise or resigns from a job at the employer's demand is not considered to have voluntarily quit.

003. HOUSEHOLD RESPONSIBILITIES. The household is informed both verbally and in writing, of its responsibilities. All households must:

- (A) Provide accurate and complete information;
- (B) Obtain needed verification materials;
- (C) Cooperate with state and federal quality control and audit processes;

- (D) Provide the Department with the ~~S~~social ~~S~~security numbers of household members;
- (E) Follow the reporting requirements for the category the household is assigned to:
 - (i) Simplified Reporting; or
 - (ii) Transitional Benefit Reporting; and
- (F) Contact the agency for an interview within 30 days of the date of application if notified that an interview is required.

004. BILINGUAL REQUIREMENTS. ~~Based on the estimated total number of low income households in the state which speak the same non-English language, the Department provides bilingual program information, certification materials, and staff or interpreters for the timely processing of non-English speaking applicants. The Department provides the following:~~

- ~~(A) Bilingual materials used for program informational activities for the project area with:
 - (i) Fewer than 2,000 low-income households if approximately 100 or more of those households are single language minority households; and
 - (ii) 2,000 or more low-income households if approximately five percent or more of those households are single language households; and~~
- ~~(B) Both bilingual materials and interpreters or staff when:
 - (i) Each certification office provides service to approximately 100 single language minority households;
 - (ii) A majority of those households consists of a single language minority in the project area with less than 100 low-income households; and
 - (iii) A seasonal influx of non-English speaking households moving into the area meets or exceeds any of the above limits. The Department will provide bilingual services in accordance with the requirements of 7 CFR 272.4(b) and Food and Nutrition Services (FNS) Instruction 113-1.~~

005. RECORDS. The following applies to the disclosure and retention of records.

005.01 SAFEGUARDING RECORDS. Records pertaining to applicants and recipients are safeguarded in accordance with 7 CFR §272.1 and ~~Nebraska Revised Statute~~ (Neb. Rev. Stat.) § 68-313.

005.01(A) DISCLOSURE TO HOUSEHOLD. If there is a written request by a responsible member of the household, its currently authorized representative, or any person authorized in writing to act in its behalf to review materials contained in the case file, the material and information contained in the case file is available for inspection during normal business hours. However, the Department may withhold confidential information, such as, but not limited to, the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

005.01(B) ELECTRONIC BENEFIT TRANSFER CARD AND ISSUANCE DOCUMENT ACCESS. Access to Electronic Benefits Transfer cards and issuance documents is limited to employees of:

- (i) The Department;
- (ii) The Issuance and Collection Center; or
- (iii) The federal government agency which oversees administration of Supplemental Nutrition Assistance Program.

005.02 RETENTION. Records will be retained in compliance with 7 CFR §272.

005.02(A) DESTRUCTION OF CASE FILE MATERIAL. Destruction of outdated case record material will be done in compliance with procedures outlined by the Nebraska Records Management Division.

006. FAIR HEARINGS. The Department provides a fair hearing to a household that wishes to appeal a Department action or inaction that affects the household's participation unless the action is not appealable. Actions that are not appealable include actions that reduce, suspend, or cancel benefits program-wide, mass changes that affect the Supplemental Nutrition Assistance Program benefit level, or allotment reductions for failure to pay an outstanding accounts receivable.

006.01 NOTIFICATION OF RIGHT TO APPEAL. The following applies to notifying households of their right to appeal.

006.01(A) AT TIME OF APPLICATION. At the time of application, the household is informed in writing of the following:

- (i) The right to request a fair hearing;
- (ii) The method of requesting a fair hearing; and
- (iii) That the household may have its case presented at a fair hearing by:
 - (1) A household member; or
 - (2) Any representative chosen by the household.

006.01(B) OTHER CIRCUMSTANCES. When a household disagrees with the Department regarding action affecting the household's eligibility, the Department:

- (i) Informs the household of its right to request a fair hearing;
- (ii) Refers the household to any free legal representation or a legal referral service; and
- (iii) Offers the household an agency conference.

006.02 REQUESTS FOR HEARING. Any request for a hearing must be made verbally or in writing by the household or its representative on any appealable action which occurred within the past 90 days. A request for a hearing is defined as a clear expression, oral or written, by the household or its representative that it wishes to appeal a decision. The Department does not limit or interfere in any way with the household's freedom to request a hearing.

006.02(A) VERBAL REQUESTS. If a verbal request is received, the Department will request that the household submit a written request and help the household with the written request if the household requires assistance. If a household makes an oral request and does not submit a written request for a hearing, the Department will complete the procedures necessary to start the hearing process.

006.02(B) APPEALABLE ACTION. Appealable action by the Department includes a denial of a request for restoration of benefits lost more than 90 days but less than a year before the request for restoration. A household may request a fair hearing at any time within its certification period to dispute its current level of benefits.

006.02(C) REQUEST FOR EXPEDITED HEARING. Expedited hearing requests will be granted to households, such as migrant farm workers, which plan to move from the jurisdiction of the Department before the hearing decision would normally be reached. Hearing requests from these households will be given priority in processing.

006.02(D) VOLUNTARY WITHDRAWAL REQUEST FOR A FAIR HEARING. The household may withdraw a fair hearing request, orally or in writing, any time before a determination of the fair hearing is made.

006.02(D)(i) VERBAL WITHDRAWAL. If the withdrawal request is made verbally, the Central Office will provide written notice to the household within ten days of the household's request to withdraw, confirming the withdrawal request and providing the household an opportunity to request another hearing if desired. A household is allowed one reinstated fair hearing per appeal.

006.02(D)(ii) COERCION. Coercion or actions which would influence the household or its representative to withdraw the household's fair hearing request are prohibited.

006.02(D)(iii) HOUSEHOLD'S PARTY TO ANOTHER ACTION. A household's request for a fair hearing will not be denied even if the household is a party to another action that differs from the reinstated action.

006.02(E) REQUEST FOR POSTPONEMENT. A household may request a postponement of the scheduled hearing. This postponement will not exceed 30 days; and the time limit for action on the decision may be extended for as many days as the hearing is postponed. The individual is entitled to one postponement of the individual's fair hearing upon a showing of good cause. The individual is entitled to a second postponement of individual's fair hearing only upon a showing of exceptional good cause. Fair hearing may be postponed only at the request of, or with the consent of, the individual.

006.02(F) DENIAL OR DISMISSAL OF REQUEST. The Department will not deny or dismiss a request for a hearing unless:

- (i) The request is not received within the specified time limit;
- (ii) The request is withdrawn, in writing or orally, by the household or its representative;
- (iii) The household or its representative fails, without good cause, to appear at the scheduled hearing; or
- (iv) The action the household requests to appeal is non-appealable.

006.02(G) CONTINUATION OF BENEFITS. If a hearing request is made within the notice of adverse action period and the household's certification period has not expired, participation will be continued at the same level of benefits, unless the household waives continuation of benefits. If the household does not waive its right to continuation of benefits in writing, the Department will assume the household wishes benefits to continue and will issue the benefits accordingly.

006.02(G)(i) CLAIMS AFTER CONTINUANCE. If the Department action is upheld by the hearing decision, the Department will initiate a claim against the household for all overpayments.

006.02(G)(ii) REQUESTS NOT MADE WITHIN TEN DAYS. If a hearing request is not made within ten days from the date the notice was mailed, the Department will reduce or terminate benefits as provided in the notice. If the Department determines that the household has good cause for failure to make the request within the required time limits, the Department will reinstate the benefits at the level previous to the notice of adverse action being sent.

006.02(G)(iii) REDUCTION DUE TO MASS CHANGES. When benefits are reduced or terminated due to a mass change, the Department will reinstate the household's benefits to the previous level only if the household contests the computation of the Supplemental Nutrition Assistance Program eligibility or benefit level, or the application or interpretation of the federal law or regulation.

006.02(G)(iv) REDUCTION AND TERMINATION AFTER CONTINUANCE. Once benefits are continued or reinstated, the Department will not reduce or terminate benefits before the hearing decision unless one of the following conditions occurs:

- (a) The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount determined by the Department;
- (b) The household or its representative orally withdraws its request for a fair hearing and does not advise the agency of its desire to reinstate the fair hearing request within the required time frame;
- (c) The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of federal law or regulation and that the household's claim that the Department improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid;
- (d) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or
- (e) A mass change affecting the eligibility or basis of issuance occurs.

006.02(G)(iv)(1) NOTIFICATION OF REDUCTION OR TERMINATION. The Department will promptly notify the household in writing if benefits are reduced or terminated pending the fair hearing decision.

006.03 HEARING PROCESS. Within 60 days of the Department's receipt of a fair hearing request:

- (1) The hearing will be conducted;
- (2) A decision will be reached; and
- (3) The household and Department must be notified of the hearing decision by an order.

006.03(A) WRITTEN NOTICE. The Department will provide all persons involved with a written notice at least ten days before the Fair Hearing. The notice will:

- (i) Advise the household or its representative of the name, address, and phone number of a contact person;
- (ii) Specify that the Hearing Office will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause;
- (iii) Include the Hearing Office's hearing procedures and any other information that would provide the household with an understanding of the proceedings and that would contribute to the effective presentation of the household's case; and
- (iv) Explain that the household or representative may examine the case file before the hearing.

006.03(B) INFORMATION FROM THE DEPARTMENT. Upon request, the Department will 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 hearing request does not speak English and the Department employs bilingual staff or interpreters, the hearing procedures will be verbally explained in that language. The Department will advise households of any legal services available that may provide representation at the hearing. The Department will make available clearly written rules of procedure to any interested person. The rules of procedure include:

- (i) Time limits for a hearing request;
- (ii) Advance notification requirements;
- (iii) Timeliness standards; and
- (iv) Rights and responsibilities of persons requesting a hearing.

006.03(C) HEARING OFFICER. The hearing officer will make recommendations for final administrative decisions.

006.03(D) HOUSEHOLD HEARING ATTENDANCE. A fair hearing must be attended by a representative of the Department and the household, its representative, or both.

006.03(D)(i) FRIENDS AND RELATIVES. Friends and relatives of the household may attend the hearing, if the household so chooses. The hearing officer has the authority to limit the number of persons in attendance at the hearing if space is limited.

006.03(D)(ii) INDIVIDUALS APPEARING ON BEHALF OF THE HOUSEHOLD. Any person appearing on the household's behalf may appear by telephone, in person at the location of the hearing officer, or by telephone or video conference from a local office that is more accessible to the person.

006.03(D)(iii) PERSON'S ACCUSED OF INTENTIONAL PROGRAM VIOLATIONS. A person accused of an intentional program violation is not required to attend the individual's administrative disqualification hearing or to send a representative.

006.03(E) HOUSEHOLD RIGHTS. The household or its representative will be given the opportunity to take any or all of the following actions:

- (i) The household or its representative is entitled to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file, including the

application form and documents of verification, used by the Department to establish the household's ineligibility or eligibility and allotment level will be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the Department will provide one 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 would not otherwise have an opportunity to contest or challenge will not be introduced at the hearing or affect the Department's decision;

- (ii) The household or its representative may present the case or have it presented by legal counsel or another person;
- (iii) The household or its representative is entitled to call or offer witnesses;
- (iv) The household or its representative may advance arguments without undue interference;
- (v) The household or its representative is entitled to question any testimony or evidence. This includes having an opportunity to cross-examine adverse witnesses; and
- (vi) The household or its representative is entitled to submit evidence to establish all pertinent facts and circumstances in the case.

006.03(F) HEARING DECISIONS. The decision will:

- (1) Comply with federal laws and regulations;
- (2) Be based on the hearing record;
- (3) Be made available to the household;
- (4) Summarize the facts of the case;
- (5) Specify reasons for the decision;
- (6) Identify supporting evidence and pertinent federal regulations; and
- (7) Become a part of the hearing and case records.

006.03(F)(i) NOTIFICATION OF HEARING DECISIONS. The Hearing Office informs the household and the Department in writing of:

- (a) The hearing decision and the reasons for the decision;
- (b) The available appeal rights; and
- (c) Benefits being issued or terminated within the appropriate time limits.

007.03(F)(i)(1) PUBLIC INSPECTION. All hearing records and decisions will be available for public inspection and copying, subject to disclosure safeguards provided that identifying names and addresses of household and other members of the household are kept confidential.

006.03(F)(ii) HEARING DECISION AUTHORITY. The authority to make the final disqualification hearing decision is vested in the Director or an agent to whom authority has been delegated by the Director.

006.04 SPECIAL ARRANGEMENTS. The following special arrangements are taken into consideration for fair hearings.

006.04(A) AGENCY CONFERENCES. The Department will offer agency conferences to households that wish to contest a denial of expedited service or to households affected by an agency action. Use of an agency conference is optional to the household and will in no way delay or replace the fair hearing process. The conference may be attended by the Department and will be attended by the supervisor or local administrator, and the household, its representative, or both. The conference may lead to an informal resolution of the dispute. However, a fair hearing will still be held unless the household makes a written withdrawal of its request. Agency conferences for households contesting a denial of expedited service will be scheduled within two working days unless the household requests otherwise.

006.04(B) CONSOLIDATED HEARINGS. A single group hearing may be conducted for a series of individual requests where the sole issues being raised are those of state law, federal law, regulation, or policy. Each individual household will be permitted to present its own case or have its case presented by a representative.

006.05 ACTION ON FAIR HEARINGS. The following applies to actions taken after a fair hearing decision.

006.05(A) DECISIONS RESULTING IN BENEFIT INCREASE. Fair hearing decisions which result in an increase in benefits will be reflected in the allotment issued within ten days after the receipt of the hearing decision, even if the Department will provide the household with an opportunity to obtain the allotment outside of the normal issuance cycle.

006.05(B) DECISIONS RESULTING IN BENEFIT DECREASE. Fair hearing decisions which result in a decrease in benefits will be reflected in the household's next scheduled issuance following the Department's receipt of the hearing decision. If the individual has received benefits to which the individual was not entitled to pending the fair hearing decision, a claim will be filed. In the case of a disqualification such as a work requirement, the Department will disqualify the household or the household member beginning with the month after the receipt of the fair hearing decision.

007. DISQUALIFICATION HEARINGS. The Special Investigations Unit Central Office initiates a disqualification hearing whenever sufficient documentary evidence is established to substantiate that a household member has committed an Intentional Program Violation. The Department informs the household in writing of the disqualification penalties for committing an Intentional Program Violation each time the household applies for benefits. The penalties are listed in clear, prominent, and bold face lettering on the application form or attachment.

007.01 INITIATING DISQUALIFICATION PROCEEDINGS. Upon receiving information that a household may have committed an Intentional Program Violation, the Department takes steps to investigate the report and determine if disqualification may be warranted.

007.01(A) REPORTING REQUIREMENTS. The Department reports cases of suspected Intentional Program Violation to the Special Investigations Unit, Central Office.

007.01(B) SPECIAL INVESTIGATIONS UNIT GUIDELINES. The Special Investigations Unit considers the following in determining whether to proceed with a disqualification hearing or refer the matter for prosecution:

- (i) A disqualification hearing may be initiated regardless of the current eligibility status of the individual;
- (ii) The burden of proving Intentional Program Violation by clear and convincing evidence is on the Department;
- (iii) The Department will not initiate a disqualification hearing against an individual whose case is currently being referred for prosecution or after any action taken against the accused individual by a court, if the factual issues of the case arise out of the same, or related, circumstances; and
- (iv) The Department will refer for criminal prosecution those individuals suspected of committing Intentional Program Violation in cases which meet evidentiary standards of state or federal criminal statutes.

007.02 DISQUALIFICATION HEARING PROCEDURES. The Department designates either an employee or an individual under contract to the Department to conduct disqualification hearings.

007.02(A) TIMELINESS STANDARDS. The following timeliness standards are followed in the disqualification hearing process:

- (1) The household member suspected of intentional program violation is given at least 30 days written advance notice of the hearing unless the household requests a waiver of the advance notice in situations when the disqualification and fair hearings are combined;
- (2) The Department has 90 days from the date the accused household member is notified of the hearing to:
 - (a) Conduct the hearing;
 - (b) Arrive at a decision; and
 - (c) Initiate administrative action to make the decision effective; and
- (3) If the hearing is postponed, the time limits are extended for as many days as the hearing is postponed.

007.02(A)(i) SCHEDULING HEARINGS. A Department hearing officer conducts the Disqualification Hearing in Lincoln, Nebraska at a date and time set by the Department, according to the following guidelines:

- (a) The household member or representative is entitled to one postponement of a maximum of 30 days of the scheduled hearing if the request for postponement is made at least ten days before the scheduled hearing;
- (b) If the household member or the individual's representative cannot be located or fails to appear at a hearing without good cause, the hearing will be conducted without representation for the household member. Even though the household member is not represented, the hearing officer or Director will carefully consider the evidence and determine if Intentional Program Violation was committed based on clear and convincing evidence;
- (c) If a household member is found to have committed an intentional program violation, but it is later determined by the Department hearing officer or

- Director that the household had good cause for not appearing, the previous decision is no longer valid and the Department will conduct a new hearing;
- (d) The household member has ten days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. The Department hearing officer or Director will enter the good cause decision into the record; and
 - (e) The household member and any person appearing on the household member's behalf may appear by telephone, in person at the location of the hearing officer, or by telephone or video conference from a local office that is more accessible to the person.

007.02(A)(i)(1) CONSOLIDATED HEARINGS. A disqualification hearing may be combined with a fair hearing when:

- (i) The factual issues of both hearings arise out of the same or related circumstances; and
- (ii) The household is notified in advance that the hearings will be combined in a single hearing.

007.02(A)(i)(1)(a) TIMELINESS. If a disqualification hearing and a fair hearing are combined, the Hearing Office will follow the timeliness standards for disqualification hearings.

007.02(A)(i)(1)(b) CONSOLIDATED HEARINGS REGARDING CLAIM AMOUNTS AND INTENTIONAL PROGRAM VIOLATIONS. If the hearings are combined for the purpose of settling the claim amount and determining if intentional program violation has occurred, the household loses its right to a later fair hearing on the claim amount. Upon the household's request, the Department will allow the household to waive the 30-day advance period when the disqualification hearing and fair hearing are combined.

007.02(A)(ii) ADVANCE NOTICE OF HEARING. The Special Investigations Unit of the Department will send an Advance Notice of Disqualification Hearing, to the individual suspected of the intentional program violation at least 30 days before the date of the disqualification hearing. The Advance Notice of Disqualification Hearing is mailed first class mail or certified mail, return receipt requested.

007.02(A)(iii) WAIVED HEARING. The Advance Notice of Disqualification Hearing contains information advising the household of its right to waive the disqualification hearing. If the household wishes to waive a disqualification hearing, the Special Investigations Unit will send a waiver of hearing consent form to the household.

007.02(A)(iv) PARTICIPATION WHILE AWAITING A HEARING. A pending disqualification hearing does not affect the right of the individual or the household to be certified and participate in the program. The Department shall determine the eligibility and benefit level in the same manner it would be determined for any other household, until there is a determination that the individual has committed intentional program violation. If the pending disqualification action 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. If the certification period has expired and the household does not reapply after receiving its notice of expiration, benefits will be terminated. The Department will also reduce or terminate the household's benefits if there is documentation which substantiates ineligibility or eligibility for fewer benefits and the household fails to request a fair hearing and continuation of benefits pending the hearing. These actions occur even if the documented facts led to the suspicion of intentional program violation and the resulting disqualification hearing. The Department may have facts which substantiate that a household failed to report a change in its circumstances even though the state has not yet demonstrated that the failure to report involved an act of intentional program violation. In these cases, the Department will reduce or terminate benefits.

007.02(B) THE HEARING OFFICER. The information below applies to the hearing officers.

007.02(B)(i) DUTIES OF THE HEARING OFFICER. The hearing officer shall ensure that:

- (1) All relevant issues are considered;
- (2) All persons who testify at the hearing present their evidence as completely and accurately as possible; and
- (3) The hearing record contains enough evidence to enable the hearing officer or the Director to make a decision.

007.02(B)(ii) POWERS OF HEARING OFFICER. The hearing officer has the power to:

- (1) Administer oaths;
- (2) Ask for additional witnesses and question witnesses;
- (3) Ask that additional documents be brought in;
- (4) Dismiss witnesses from the room for good and sufficient reason;
- (5) Recess, continue, or close the hearing at any time if there is good and sufficient reason for so doing; and
- (6) Regulate the conduct and course of the hearing in accordance with due process and keep the hearing orderly and to the point by excluding and discouraging evidence which is not relevant.

007.02(B)(iii) INTENTIONAL PROGRAM VIOLATION HEARING DECISION AUTHORITY. The power to make the final disqualification hearing decision is vested in ~~the hearing officer or~~ the Director or an agent to whom authority has been delegated by the Director.

007.02(C) CONDUCT OF THE HEARING. Disqualification hearings will be conducted by the hearing officer as informal hearings, but witnesses will be placed under oath.

007.02(C)(i) ATTENDANCE AT THE HEARING. The hearing will be attended by a representative of the Department. The suspected household member and the member's representative, if applicable, are encouraged to attend, but their presence is not required. The hearing is not open to the public, but friends or relatives of the

household may attend if the household so chooses. However, the hearing officer has the authority to limit the number of persons in attendance at the hearing if space is limited or if persons in attendance must be limited to ensure an orderly hearing.

007.0(C)(ii) RECORDING THE HEARING. Disqualification hearings are recorded by either mechanical equipment, a stenographer, or both.

007.02(C)(iii) ORDER OF THE HEARING. The hearing will begin with introductions by the hearing officer. At this time the hearing officer will advise the suspected household member or the representative that the individual may refuse to answer questions during the hearing. The Department's representative will present the state's case first. The household member or the representative will then present the individual's case.

007.02(D) RECESSING THE HEARING. The hearing officer may order a recess if the individual considers it necessary to request, receive, or obtain additional testimony or evidence in order for the hearing officer or Director to decide the issues being raised. The hearing officer will advise the household member or the individual's representative of the reason for the recess and the nature of the additional information that is required. The hearing will be reconvened when the witness, document, or other evidence is available so that the household member will have an opportunity to question or refute any testimony or other evidence received. When reconvened, the hearing is conducted as any other disqualification hearing.

007.02(E) ADMISSION OF EVIDENCE AFTER HEARING IS CLOSED. Evidence may be submitted after a hearing is closed. However, copies of any new evidence will be sent to interested parties, together with an explanation of the right to explain or refute new evidence.

007.03 HEARING DECISION. The following applies to the hearing decision.

007.03(A) CRITERIA FOR DETERMINING INTENTIONAL PROGRAM VIOLATION. The Department of Health and Human Services hearing officer or Director will base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member knowingly, willfully and with deceitful intent committed an intentional program violation.

007.03(B) DECISION FORMAT. On the basis of the evidence presented, the hearing officer or Director will enter a final decision which:

- (i) Specifies the reasons for the decision;
- (ii) Identifies the supporting evidence;
- (iii) Identifies the pertinent Food and Nutrition Service regulation; and
- (iv) Responds to reasonable arguments made by the household member or representative.

007.04 APPEAL RIGHTS OF THE HOUSEHOLD. No further administrative appeal procedure exists after a hearing decision is made which is adverse to the household member. A determination of intentional program violation cannot be reversed by a subsequent fair hearing

decision on the same level. However, the household member is entitled to seek relief in a court having appropriate jurisdiction under ~~Nebraska Revised Statute Section~~ Neb. Rev. Stat. § 84-917. The period of disqualification may be subject to stay or other injunctive remedy.

007.05 COURT-IMPOSED PENALTIES. A court of appropriate jurisdiction of either the State, a political subdivision of the State, or the United States, may find an individual guilty of civil or criminal fraud. Court decisions will not address disqualification periods. Court orders regarding penalties for intentional program violation which are received by the Department will be referred to Food Programs and Office of the General Counsel at the Department. Court ordered penalties may be imposed separate and apart from any action taken by the Department to disqualify the individual through a disqualification hearing unless it is contrary to the court order.

007.05(A) NOTICE OF COURT DECISION. If the court finds that the household member committed an intentional program violation, the Department contacts the Special Investigations Unit for further instructions. After receiving instructions from the Special Investigations Unit, the Department mails a written notice to the household member before the disqualification whenever possible. The notice will inform the household member of the decision and the reason for the decision. The Department will send the remaining household members a notice of the hearing decision and the allotment amount for the next month, if appropriate.

007.05(B) REVERSED INTENTIONAL PROGRAM VIOLATION DISQUALIFICATIONS. In cases where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, the individual will be reinstated in the program if the household is eligible. The Department will restore any benefits that were lost as a result of the disqualification.

008. PROGRAM DISQUALIFICATIONS. The following section details criteria that disqualify individuals or households from participating.

008.01 DISQUALIFICATION PENALTIES FOR INTENTIONAL PROGRAM VIOLATION. An individual found to have committed an intentional program violation, either through an administrative disqualification hearing or by a federal, state, or local court, or who has signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, will be disqualified from the Supplemental Nutrition Assistance Program as follows, except as otherwise provided:

- (1) Twelve months for the first intentional program violation;
- (2) Twenty-four months for the second intentional program violation; and
- (3) Permanently for the third intentional program violation.

008.01(A) ADDITIONAL INTENTIONAL PROGRAM VIOLATION REGULATIONS. Only the individual convicted of or found to have committed Intentional Program Violation is disqualified, not the participating household. The first month of the disqualification will begin no later than the second month which follows the date the individual receives notice of the disqualification within 45 days of the receipt of the notice informing the household of the disqualified individual. The period of disqualification begins regardless of whether

or not the individual is a member of a participating household. The disqualified individual is a financially responsible household member.

008.02 DISQUALIFICATION PENALTIES FOR USE OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS IN THE SALE OF A CONTROLLED SUBSTANCE. An individual found guilty by a federal, state, or local court of having used or received Supplemental Nutrition Assistance Program benefits in a transaction involving the sale of a controlled substance is disqualified from participation in the Supplemental Nutrition Assistance Program. The disqualification periods for this violation are:

- (A) Twenty-four months for the first violation; and
- (B) Permanently for the second violation.

008.03 DISQUALIFICATION FOR TRAFFICKING OF ~~SNAP~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS. An individual convicted by a federal, state, or local court of having trafficked Supplemental Nutrition Assistance Program benefits for an aggregate amount of \$500 or more is permanently disqualified from the program. Only the individual convicted of the violation is disqualified, not the entire household.

008.04 DISQUALIFICATION OF AN INDIVIDUAL WITH DRUG-RELATED CONVICTIONS. Individuals convicted of drug felonies are disqualified pursuant to ~~Nebraska Revised Statute~~ Neb. Rev. Stat. § 68-1017.02.

008.05 DISQUALIFICATION OF FLEEING FELONS AND PROBATION OR PAROLE VIOLATORS. An individual is disqualified from participation if the individual is:

- (A) Fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime that would be classified as a felony; or
- (B) Violating a condition of probation or parole under a federal or state law.

008.05(i) ESTABLISHING FLEEING FELON STATUS. In order to determine if an individual is a fleeing felon, they must meet all four factors of a four-part test pursuant to 7 CFR 273.11(n)(1)(i).

008.06 DISQUALIFICATION FOR FRAUDULENT INFORMATION. An individual found guilty by a federal, state, or local court or by a state agency of having made a fraudulent statement or false representation with respect to the individual's identity or place of residence in order to receive multiple Supplemental Nutrition Assistance Program benefits simultaneously is disqualified from participation in the Supplemental Nutrition Assistance Program for a period of ten years.

008.07 DISQUALIFICATION FOR USE OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS TO PURCHASE FIREARMS, AMMUNITION, AND EXPLOSIVES. An individual found guilty by a federal, state, or local court of having used or received Supplemental Nutrition Assistance Program benefits in a transaction involving the sale of firearms, ammunition, or explosives is permanently disqualified from participation in the Supplemental Nutrition Assistance Program. Only the individual is disqualified, not the entire household.

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008.08 DISQUALIFICATION OF INDIVIDUALS WITH CERTAIN FELONIES. Individuals are disqualified if they are convicted of certain felonies described in Chapter three of this title.

008.09 DISQUALIFICATION OF HOUSEHOLDS WITH SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS. Households are disqualified from participating in the Supplemental Nutrition Assistance Program if they include a participant with substantial lottery or gambling winnings described in Chapter 3 of this title.

TITLE 475 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

CHAPTER 2 HOUSEHOLD PROCESSING

001. APPLICATION. Application forms are readily accessible to any group, organization, or private citizen who requests them. Every household expressing an interest in receiving Supplemental Nutrition Assistance Program benefits may receive an application on the same day the household contacts the Department.

001.01 APPLICATION PROCESS. The application process is completed no later than 30 days following the date the application was filed, unless processing is delayed. Eligible households are given an opportunity to participate within 30 days from the date the application was filed. The following steps are included in the application process:

- (A) The individual completes and files an application form;
- (B) The application is reviewed to determine if the applicant should receive expedited services;
- (C) An interview is scheduled and conducted; and
- (D) Information supplied by the applicant is verified.

001.02 SIGNING THE APPLICATION. Applications may be signed in writing, telephonically, or by electronic signature. If an application is signed with a mark, such as an X, it must be witnessed.

001.03 FILING AN APPLICATION. Households may submit applications to the Department in person, by mail, by telephone, by fax or other electronic transmission, or through an authorized representative. The household may file an incomplete application which minimally must include the applicant's name, address, and the signature of a responsible member of the household and the authorized representative, if the latter is applicable. The household does not have to be interviewed before the application is filed. An application containing the minimal information is considered filed on the day it is received by the agency.

001.04 WITHDRAWING AN APPLICATION. The household may voluntarily withdraw its application at any time before the determination of eligibility. Households have the right to reapply after withdrawing an application.

001.05 TIME STANDARDS. Time standards for application processing begin with the day it is received by the agency. Certain households are entitled to expedited service and, if eligible, must be allowed to participate within seven days. At initial application the appropriate time standard includes the time needed for the receipt of the Electronic Benefits Transfer card. At recertification or when there has been a break in service the time standard includes the time

needed for the receipt of a replacement card, if needed.

002. INTERVIEWS. Interviews may be conducted in person or by telephone. Interviews may be conducted at a mutually acceptable location, other than just the household's home, or the Supplemental Nutrition Assistance Program office. Households must have an interview at initial application and may be required at recertification. An applicant may request and receive a face-to-face interview. A face-to-face interview is held if the household requests one or if the Department determines a face-to-face interview is necessary.

002.01 SCHEDULING INTERVIEWS. The interview is scheduled as soon as possible to ensure that eligible households receive an opportunity to participate within 30 days after the application is filed.

002.01(A) MISSED INTERVIEW. If a household fails to appear for the first interview, the household is notified in writing that they missed the scheduled interview. The household is responsible for rescheduling the missed interview. If the household contacts the local office within 30 days after the application filing date, a second interview is scheduled.

002.02 SITE OF AND ATTENDANCE OF INTERVIEWS. Interviews may be conducted by telephone or at the Supplemental Nutrition Assistance Program office or another mutually agreed upon location, including a household's residence. If the interview will be conducted at the household's residence, it must be scheduled in advance with the household. The head of household, the individual's spouse, another responsible household member or an authorized representative must participate in the interview.

002.03 CONFIDENTIALITY OF INTERVIEWS. The applicant's right to privacy is protected during the interview, and information provided during the interview remains confidential.

002.04 CONTENT OF INTERVIEW. During the interview, the individual will be asked to explain any unclear or incomplete information. The individual will receive explanation of:

- (A) The application process;
- (B) The household's rights, including the right to appeal and the method of filing an appeal;
- (C) The penalty warning on the application including the penalties for intentional program violation;
- (D) The work requirements, including Able Bodied Adults Without Dependents work requirements, if applicable; and
- (E) The household's responsibility to:
 - (i) Comply with all requirements;
 - (ii) Notify the worker of the changes required to be reported; and
 - (iii) Cooperate with quality control reviews and audits.
- (F) If the household is also applying for or receiving public assistance through other programs, the other programs' benefits time limits and other public assistance related requirements do not apply to the receipt of Supplemental Nutrition Assistance Program benefits. Households that cease receiving public assistance benefits because they have reached a time limit, have begun working, or for other reasons may still qualify for Supplemental Nutrition Assistance Program benefits.

002.05 RECERTIFICATION INTERVIEW. Interview requirements for recertification applications include:

- (A) For households assigned a 6 month certification period, an interview is only required once in a 12 month period. If an interview was not completed at the most recent recertification, an interview is required;
- (B) For households assigned to a 12 month certification period, or that will be assigned to a 12 month certification period at the time of the recertification, an interview may not be required at recertification. An interview will still be conducted if there are any outstanding issues or questions about the recertification process;
- (C) For recertification applications received by the Department after the end of the certification period, an interview is required;
- (D) For households recertifying to the Simplified Reporting Category due to the Transitional Reporting Category certification period ending or closing, an interview will be required;
- (E) For all recertifications in which an interview may not be required, an interview will be conducted upon request of the household;
- (F) If the Department determines there is insufficient information to be able to reasonably recertify the household with the appropriate benefits without an interview; or
- (G) Prior to denying any household that had a 12 month Simplified Reporting Category certification period for their most recent certification period.

003. VERIFICATION. The Department verifies the eligibility information provided by the applicant.

003.01 REQUIRED INITIAL VERIFICATION. Information listed below is verified before eligibility can be determined. The exception is that households eligible for expedited processing may have all verification postponed for the first issuance except identity of the person making the application and the household's authorized representative, if applicable.

003.01(A) REQUIRED VERIFICATION. The following information must be verified:

- (i) Identity of the person making application and the authorized representative, if applicable;
- (ii) Social Security numbers or proof of application for Social Security number;
- (iii) Residency;
- (iv) Alien status for household members applying for Supplemental Nutrition Assistance Program benefits;
- (v) Eligible student status if claimed;
- (vi) Resources if the total amount of countable resources indicated on the application is \$1500 or more;
- (vii) Income; and
- (viii) Expenses allowed as a deduction:
 - (1) Medical expenses and disability if claimed;
 - (2) Dependent care costs; and
 - (3) Child support costs.

003.01(B) ELIGIBILITY FACTORS MAY REQUIRE VERIFICATION. The following eligibility factors are verified if questionable:

- (i) Citizenship;
- (ii) Work requirements;

- (iii) Household composition;
- (iv) Shelter costs;
- (v) Utility costs; and
- (vi) Countable resources under \$1,500.

003.01(C) QUESTIONABLE INFORMATION. Information on the application is questionable if it is inconsistent with:

- (i) Statements made by the applicant;
- (ii) Other information on the current application or a previous application; or
- (iii) Any information received by the local office.

003.01(D) OPPORTUNITY TO CORRECT DISCREPANCIES. If information from a source of verification contradicts information given by the household, the household will have an opportunity to resolve the discrepancy before an eligibility determination is made.

003.02 SOURCES OF VERIFICATION. Residency or household composition may be verified through either readily available documentary evidence or a collateral contact.

003.02(A) DOCUMENTARY EVIDENCE. Any written confirmation of a household's circumstances is considered documentary evidence. This evidence may be obtained from the household or another source.

003.02(B) COLLATERAL CONTACT. An alternate source of verification is the collateral contact. This is confirmation of a household's circumstances by a person outside the household. A collateral contact is not restricted to any particular individual; it can be anyone who is expected to provide an accurate verification of the household's statements. Collateral contacts are designated by the household, but the household may request assistance from the local office in making this designation. Verification by a collateral contact may be given in person or by telephone.

003.02(C) HOME VISIT. A visit to the household's home is used for verification only when the household cannot provide documentary evidence.

003.02(D) INTERFACES – AUTOMATIC EXCHANGES. Interfaces are automated exchanges of information received from the Department of Labor, Social Security Administration, Internal Revenue Service, and other divisions of the Department. Every pending or active Supplemental Nutrition Assistance Program household member whose income and resources are used to determine eligibility will have their ~~S~~social ~~S~~security number routinely matched against automated exchanges.

003.03 RESPONSIBILITY FOR PROVIDING VERIFICATION. The household has the primary responsibility for providing verification to support income statements and to resolve questionable information. Verification may be supplied in person, through the mail, electronically, or through an authorized representative.

003.04 VERIFICATION AFTER INITIAL CERTIFICATION. The following applies to verifying information after initial eligibility has been determined.

003.04(A) AT RECERTIFICATION. Changes reported at the time of recertification are subject to the same verification procedures that apply at initial certification.

At the time of recertification, verification is required for the following:

- (i) Resources if the total amount of countable resources indicated on the application is \$1500 or more;
- (ii) Earned income;
- (iii) Unearned income if the source or the amount has changed;
- (iv) Medical expenses, dependent care costs, and child support costs claimed by the household if the source or amount of the claimed expenses have changed;
- (v) ~~S~~social ~~S~~security numbers if not previously provided; and
- (vi) Questionable information.

004. PROCESSING APPLICATIONS UNDER SPECIAL CIRCUMSTANCES. Special procedures are used for households which are:

004.01 EXPEDITED SERVICE. Expedited service standards require that processing be completed with timeframes that are shorter than the usual 30 days. If this is an initial application, the criteria apply to the month of application. The household may be certified under expedited service procedures if they are determined to be entitled to expedited service and have either provided all the required verifications since the last certification or have been certified under the 30-day processing standards since the last expedited service certification. If otherwise eligible, a household cannot waive its right to expedited service. If otherwise eligible, the following households are entitled to expedited service:

- (1) Households with less than \$150 in monthly gross income provided their liquid resources do not exceed \$100;
- (2) Households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage and utilities; and
- (3) Migrant or seasonal farmworkers who are destitute provided their liquid resources do not exceed \$100.

004.01(A) SPECIAL PROCEDURES FOR EXPEDITED SERVICE. The following procedures apply for expedited cases.

004.01(A)(i) EXPEDITED APPLICATION. If the application is complete enough to determine the household is entitled to expedited service, the expedited time frame starts with the receipt date of the application. If an application is not complete enough to determine if the household is entitled to expedited service, an interview is scheduled to meet the expedited time frame. If the household does not appear for the interview, the household will receive a written notice of missed interview. If the interview is not rescheduled by the household in time to meet the expedited time frame from the receipt date of the application, the household loses its entitlement to expedited service and the application is approved or denied within the normal 30 days.

004.01(A)(ii) VERIFICATION. Other than identity, verification is not required to receive an initial issuance. In order to receive a second issuance, the following information must be verified:

004.01(A)(ii)(1) IDENTITY. The applicant's identity and the authorized representative's identity, if applicable, must be verified. If identity cannot be verified within the expedited timeframe, the household is not entitled to expedited processing.

004.01(A)(ii)(2) RESIDENCY. The household's Nebraska residency must be verified in order to receive a second issuance.

004.01(A)(ii)(3) INCOME. For the second issuance, income must be verified.

004.01(A)(ii)(4) DEDUCTIONS. The following verification standards apply to deductions:

004.01(A)(ii)(4)(a) MEDICAL. In circumstances when a individual's eligibility for the medical deduction and expenses cannot be verified, the following applies:

- (i) If the disability cannot be verified in time to meet expedited timeframes, the medical deduction is allowed for the first issuance. Medical deductions which cannot be verified are removed from the budget for the second issuance;
- (ii) If the household claims medical expenses and no insurance, the Department accepts the household's estimate of expenses for the first issuance;
- (iii) If the household claims medical expenses and insurance, the household must report to the Department which expenses will be reimbursed by insurance. The medical expenses which will not be reimbursed will be deducted for the first issuance. For the second issuance, verification is necessary; and
- (iv) If the household is unable to provide information on which portion is reimbursable by insurance, no deduction is allowed.

004.01(A)(ii)(4)(b) DEPENDENT CARE. If the household claims an allowable dependent care expense that is not reimbursed from another source and the expense cannot be verified in time to meet the expedited timeframes, the household's statement of expenses is accepted. To allow the dependent care deduction for the second issuance, verification is required.

004.01(A)(ii)(4)(c) UTILITIES. If the household is responsible for utilities, either the standard utility allowance, limited utility allowance, one utility allowance, or telephone allowance are used for the utility deduction. The exception to this is if a household is eligible for a standard homeless shelter deduction which would be used instead of a utility cost because the deduction's calculation includes utility costs.

004.01(A)(ii)(4)(d) CHILD SUPPORT. When the household is entitled to expedited processing and has an obligation to pay child support for a non-

household member, the household's statement regarding the child support payment amount is accepted for the first issuance. To allow the child support deduction for the second issuance, verification is required.

004.01(A)(ii)(4)(e) DEDUCTIONS IN FUTURE ISSUANCES. In all cases, verification must be provided before the second issuance of the certification period or the expenses will not continue to be allowed.

004.01(A)(ii)(5) SOCIAL SECURITY NUMBER. Initial certification must not be delayed if the ~~S~~social ~~S~~security number is not provided within the expedited timeframe.

004.01(A)(ii)(6) WORK REGISTRATION. Household members must be work-registered but meet this requirement when they are included on the signed application.

004.01(A)(ii)(7) OTHER VERIFICATION. Verifications that cannot be obtained in time to meet expedited processing standards are postponed. All required verifications must be provided before the second issuance of the certification period.

004.01(B) PROCESSING STANDARDS FOR EXPEDITED SERVICE. The following applies to processing expedited cases.

004.01(B)(i) ISSUANCE OF ELECTRONIC BENEFITS TRANSFER CARD. The Electronic Benefits Transfer card will be available for the household or its authorized representative no later than the seventh calendar day after the application filing date.

004.01(B)(ii) AGGREGATE ALLOTMENT. When applications are received after the 15th of the month and identity is verified, the prorated first month's expedited benefits and the full second month's aggregate benefits are issued to households. All of the following conditions must be met to be an aggregate benefit:

- (1) The application month must be expedited;
- (2) The eligibility for benefits must be determined during the application month;
- (3) The application date must be the 16th of the month or later; and
- (4) The household must be eligible for benefits for both the application month and the following month.

004.01(B)(iii) INTERVIEWS. An expedited household must have an interview before certification to complete the application process.

004.01(B)(iv) LATE DETERMINATIONS. If the initial expedited screening fails to identify that a household is entitled to expedited service, and the Department later learns the household should receive expedited service, then the household's application receives expedited processing.

004.01(C) CERTIFYING HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE. There is no limit to the number of times a household can be certified under the expedited procedures as long as the household has provided the required verifications or was certified under the 30-day processing standards since the last expedited certification. Household applications not eligible for expedited service are processed within 30 days of the application date.

004.01(D) DESTITUTE HOUSEHOLDS. Migrant or seasonal farmworker households may have little or no income at the time of application and may be in need of immediate food assistance even though they receive income at some time during the month of application. To determine when households in these circumstances may be considered destitute and, entitled to expedited service and special income calculation procedures, the following applies.

004.01(D)(i) TERMINATED INCOME. A household whose only income for the month of application was received before the date of application, and was from a terminated source, is a destitute household and is provided expedited service.

- (1) If income is received on a monthly or more frequent basis, it is considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month.
- (2) For a household that normally receives income less often than monthly, the income is considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

004.01(D)(ii) NEW SOURCE OF INCOME. A household whose only income for the month of application is from a new source is destitute and is provided expedited service if income of more than \$25 from the new source will not be received by the tenth calendar day after the date of application.

- (1) Income which is normally received on a monthly or more frequent basis is considered to be from a new source if income of more than \$25 has not been received from that source within 30 days before the date the application was filed.
- (2) If income is normally received less often than monthly, it is considered to be from a new source if income of more than \$25 was not received within the last normal interval between payments.

004.01(D)(iii) TERMINATED SOURCE AND NEW SOURCE. Households may receive both income from a terminated source before the date of application and income from a new source after the date of application and still be considered destitute if they receive no other income in the month of application and income of more than \$25 from the new source will not be received by the tenth calendar day after the date of application.

004.01(D)(iv) TRAVEL ADVANCES. Some employers provide travel advances to cover the travel costs of new employees who must journey to the location of their new employment. Receipt of travel advances will not affect the determination of when a household is destitute.

004.01(D)(iv)(1) TRAVEL ADVANCES AS WAGES. If the travel advance is an advance of wages later earned by the employee and the advance is by written contract, the travel advance is considered income. The receipt of a wage advance for travel costs of a new employee does not affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household must be considered destitute.

004.01(D)(v) SOURCES OF INCOME. A household member who changes jobs but continues to work for the same employer is considered as still receiving income from the same source. A migrant farmworker's source of income is considered to be the same grower for whom the migrant is working at a particular point in time and not the crew chief. A migrant who travels with the same crew chief but moves from one grower to another is considered to have moved from a terminated income source to a new source.

004.01(E) MIGRANTS. If a migrant household eligible for expedited services applies:

- (1) On or before the 15th of a month, then the Department:
 - (a) Requires postponed verification from sources within the state before the second issuance; and
 - (b) Requires verification from out-of-state sources before the household's third issuance.
- (2) After the 15th of a month:
 - (a) The household must provide all postponed verifications before the third month of the certification period to continue to be eligible to receive benefits.

004.01(E)(i) VERIFIED CHANGES. If verification results in changes in a household's eligibility and benefit levels, the Department acts on these changes without sending the household a notice of adverse action.

004.01(E)(ii) OUT-OF-STATE VERIFICATION. Migrant households are entitled to postpone out-of-state verification only once each season. If a migrant household requesting expedited service has already been allowed to postpone out-of-state verification during the current season, the postponement is allowed only for the initial month's issuance and not for any following month's issuance.

004.01(E)(iii) IN-STATE VERIFICATION. When in-state verification that has been postponed is received, the second month's benefits are issued within seven calendar days from receipt of the verification or the first of the second month, whichever is later.

004.01(E)(iv) RECERTIFICATION. Verification factors are treated the same at time of recertification as at initial application except that:

- (1) If a household has postponed providing verification at time of last certification, the verification must be provided before recertification; and
- (2) If a household reported a change within the certification period that resulted in a benefit decrease and it was not verified, verification of the change must be obtained before recertification.

004.02 PUBLIC ASSISTANCE HOUSEHOLDS. Households in which all members are applying for Aid to Dependent Children, Aid to Aged Blind and Disabled, or the State Disability Program are allowed to apply for Supplemental Nutrition Assistance Program benefits at the same time they apply for other public assistance benefits. The Supplemental Nutrition Assistance Program eligibility and benefit level determinations are based solely on Supplemental Nutrition Assistance Program criteria. Households whose public assistance applications are denied are not required to complete a new Supplemental Nutrition Assistance Program application.

004.02(A) INTERVIEWS. At initial application, applicants complete an interview to obtain public assistance and Supplemental Nutrition Assistance Program benefits, but are not required to attend multiple interviews.

004.02(B) CERTIFICATION. All requirements for procedures, notices, and time standards apply to the certification of public assistance households as well as to households not receiving public assistance.

004.02(C) VERIFICATION. Evidence provided for required public assistance verifications may also be used for Supplemental Nutrition Assistance Program verifications if the evidence meets Supplemental Nutrition Assistance Program verification requirements.

004.02(D) TIME STANDARDS. Action on the Supplemental Nutrition Assistance Program application is not delayed or denied on the grounds that the public assistance determination has not been made.

004.03 HOUSEHOLDS IN CHEMICAL DEPENDENCY TREATMENT AND REHABILITATION CENTERS. Persons who regularly participate in residential chemical dependency treatment and rehabilitation programs may apply for Supplemental Nutrition Assistance Program benefits.

004.03(A) TREATMENT PROGRAMS ON RESERVATIONS. If an alcoholic treatment and rehabilitation program is located on an Indian reservation and a state agency has not certified or licensed the program, approval to participate may be granted if the program either is funded by the National Institute on Alcohol Abuse and Alcoholism or was funded by the National Institute on Alcohol Abuse and Alcoholism and is now funded by Indian Health Services.

004.03(B) CHILDREN LIVING WITH PARENTS. Children of residents of drug and alcohol treatment centers who live with their parent in the treatment center may qualify for Supplemental Nutrition Assistance Program benefits. Children who are served meals by the center are eligible to participate as part of the parents' household.

004.03(C) TREATMENT CENTER RESPONSIBILITIES. The following responsibilities apply to the treatment centers.

004.03(C)(i) APPLICATION. The treatment center must:

- (1) Have knowledge of the household's circumstances and carefully review these circumstances with the household before application is made; and

- (2) Provide the household with an authorized representative. An employee of the treatment center must act as an authorized representative and apply for the household. The household cannot file an application on the household's own behalf. This employee will act on behalf of the household, receive the allotment, and make food purchases for the household with the household's Electronic Benefits Transfer card.

004.03(C)(ii) NOTIFICATIONS. The treatment center must notify the Department of changes in the household's circumstances, such as changes in income. The treatment center must also supply the Department with a list of residents currently participating in the Supplemental Nutrition Assistance Program. This list must be signed by a responsible treatment center official and must be provided semi-monthly or monthly.

004.03(C)(iii) END OF RESIDENCE. The treatment center must take the following actions when a household leaves the center:

- (a) Return the Electronic Benefits Transfer card to the departing household;
- (b) Ensure that the departing household receives its full allotment if the benefits have already been issued and no benefits have been spent on that household's behalf that month;
- (c) When a household leaves on or before the 15th day of the month, ensure that a household's Electronic Benefits Transfer account contains one-half of its monthly allotment if benefits have been issued and any portion of them have been used;
- (d) If an aggregate benefit allotment has been issued to the household on or after the 16th of the application month and the household leaves the treatment center on or after the 16th of the application month but before the first day of the full month, the treatment center must ensure the full month's benefits are not used by the treatment center and remain in the Electronic Benefits Transfer account;
- (e) Report the departure to the local office; and
- (f) If the household leaves the center without taking its Electronic Benefits Transfer card, return the card to the Issuance and Collection Center.

004.03(C)(iii)(1) END OF TREATMENT CENTER'S AUTHORIZED REPRESENTATIVE ROLE. The treatment center is not allowed to act as an authorized representative for the household once that household leaves the center.

004.03(C)(iv) LIABILITY. The treatment center is responsible for any misrepresentation which it knowingly commits in the certification of center residents. The center is also strictly liable for all misuses of Electronic Benefits Transfer benefits on behalf of a resident household and for all overpayments which occur while the household is a resident of the center.

004.03(D) RECIPIENT RIGHTS WHILE IN TREATMENT. Households in treatment centers have the same rights as all other Supplemental Nutrition Assistance Program households.

004.03(E) CLAIMS AND DISQUALIFICATION. The treatment center may be penalized or disqualified if it is determined administratively or judicially that Supplemental Nutrition Assistance Program benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. If a treatment center loses its state license, its residents are no longer eligible for Supplemental Nutrition Assistance Program benefits. Residents are not entitled to a notice of adverse action, but will be sent written notices explaining the reason for termination and the effective date.

004.04 HOUSEHOLDS IN GROUP HOMES. Disabled residents of a State licensed or certified nonprofit group home which serves 16 or fewer people may apply for Supplemental Nutrition Assistance Program benefits. The following living arrangements which are certified or licensed under section 1616(e) of the Social Security Act meet the criteria to be an eligible institution:

- (1) Licensed Boarding Homes;
- (2) Certified Adult Family Homes;
- (3) Licensed Assisted Living Facilities; and
- (4) Licensed Centers for the Developmentally Disabled.

004.04(A) DESIGNATION AS AUTHORIZED REPRESENTATIVE. The group home may act as the authorized representative, residents may apply on their own behalf, or residents may name an authorized representative of their choice. Any combination of these methods may be used in any single group home. Residents have the right to apply as a one-person household or to form groups and apply as households with more than one member. Residents who use the group home as the authorized representative are considered a one-person household.

004.04(B) GROUP HOME RESPONSIBILITIES. The following are the responsibilities of group homes.

004.04(B)(i) AT APPLICATION. The group home must:

- (1) Have knowledge of the household's circumstances and carefully review these with the household before application is made; and
- (2) Determine if a resident may apply for Supplemental Nutrition Assistance Program benefits on the individual's own behalf based on the resident's physical and mental ability to handle the individual's own affairs.

004.04(B)(ii) DURING RESIDENCE. The group home must:

- (1) Provide the local office with a list of currently participating residents which is signed by a responsible official of the group home on a semi-monthly or monthly basis;
- (2) Ensure that each resident's benefits are used for that resident if residents purchase or prepare food for home consumption; and
- (3) Notify the local office of changes in the household's circumstances if the group home is acting as the authorized representative.

004.04(B)(iii) ENDING RESIDENCE. If a group home is acting as an authorized representative for a household, the group home must:

- (a) Return the Electronic Benefits Transfer card to the departing household;

- (b) Ensure that the departing household's Electronic Benefits Transfer account contains the household's full allotment if the benefits have already been issued and no benefits have been spent on that household's behalf that month;
- (c) When a household leaves on or before the 15th day of the month, ensure that a household's Electronic Benefits Transfer account contains one-half of its monthly allotment if benefits have been issued and any portion of those benefits that have not been used;
- (d) If an aggregate benefit allotment has been issued to the household on or after the 16th of the month and the household leaves the group home on or after the 16th of the application month but before the first day of the full month, the group home must ensure the full month's benefits are not used by the group home and remain in the Electronic Benefits Transfer account;
- (e) Ensure the departing resident the individual's pro rata share of one-half of the monthly allotment if the individual has:
 - (a) Been part of a group of residents certified as one household; and
 - (b) Left on or before the 15th of the month;
- (f) Allow residents who apply on their own behalf and retain their Electronic Benefits Transfer card to keep the benefits when they leave. A pro rata share must be available to the departing resident who was part of a group certified as one household;
- (g) Report the departure to the Department if the group home has acted as the authorized representative; and
- (h) If the household leaves the group home without taking its Electronic Benefits Transfer card, return the card to the Issuance and Collection Center.

004.04(B)(iii)(1) ENDING OF GROUP LIVING ARRANGMENT'S AUTHORIZED REPRESENTATIVE ROLE. The group living arrangement must not serve as a household's authorized representative once that household leaves the facility.

004.04(B)(iv) LIABILITY. The group home is liable for any overpayments to a resident household when the group home is acting as the authorized representative.

004.04(C) HOUSEHOLD RESPONSIBILITIES. The following are the household's responsibilities.

004.04(C)(i) REPORTING CHANGES. If a group home resident or residents make an application on their own behalf, the household is responsible for reporting changes to the local office.

004.04(C)(ii) LIABILITY. If a group home resident makes application on the individual's own behalf, the individual is responsible for any overpayments to the household.

004.04(D) USE OF ELECTRONIC BENEFITS TRANSFER CARD. The group home may purchase and prepare food to be consumed by eligible residents if the meals are normally obtained at a central location as part of the group living arrangement, or if meals are delivered to the individual residents.

004.04(D)(i) GROUP HOME AS AUTHORIZED REPRESENTATIVE. If the resident uses the facility as the authorized representative, the facility may either:

- (1) Receive the Electronic Benefits Transfer card and spend the Supplemental Nutrition Assistance Program benefits for food prepared by and served to the eligible resident; or
- (2) Allow the resident to use all or any portion of the allotment on the resident's own behalf.

004.04(D)(ii) RESIDENTS WITHOUT AUTHORIZED REPRESENTATIVES. If the resident is certified on the resident's own behalf, the resident's Electronic Benefits Transfer cards are:

- (1) Given to the facility to use for purchasing food served communally or individually to eligible residents;
- (2) Used by eligible residents to purchase and prepare food for their own consumption; or
- (3) Used to purchase meals prepared and served by the group home.

004.05 SHELTERS FOR BATTERED PERSONS AND CHILDREN. Shelters for battered persons and children must meet the definition, provided in chapter one of this title, before the shelter's residents may be certified as Supplemental Nutrition Assistance Program participants. Shelters having Food and Nutrition Service authorization to redeem at wholesalers are considered as meeting the definition.

004.05(A) PROCESSING APPLICATIONS. Shelter residents are considered separate from their former households if the former household which includes them in the allotment also includes the persons who subjected them to abuse. Shelter residents who are included in these certified households may receive an additional allotment as a separate household only once during a month. Benefits are prorated from the application filing date. Shelter residents who apply as separate households are certified solely on their income, resources, and the expenses for which they are responsible. They are certified without regard to the income, resources, and expenses of their former household. Jointly held resources are considered inaccessible. Room payments to the shelter are considered as shelter expense. A notice of adverse action is sent to the former household notifying the household of the change.

004.06 BOARDERS. Boarders are not eligible to participate in the Supplemental Nutrition Assistance Program as separate households. To be eligible, an individual must be a member of the household with which the individual lives. A boarder may participate with the household the individual lives with upon the household's request.

004.06(A) BOARDER STATUS. A boarder is an individual to whom a household furnishes lodging and meals for reasonable compensation. The following persons are not considered boarders:

- (1) The spouse of a member of the household;
- (2) Children who are under parental control of an adult member of the household;
- (3) Parents and children who live together; or
- (4) Any person who lives with the household and pays less than a reasonable monthly amount in cash for meals.

004.06(A)(i) DETERMINING REASONABLE COMPENSATION. Reasonable monthly boarding compensation must equal or exceed:

- (a) The maximum total program allotment for the size of the boarder household when more than two meals per day are furnished; or
- (b) Two-thirds of the maximum total program allotment for the size of the boarder household when two meals or fewer per day are furnished.

004.06(A)(i)(1) PROCESS FOR SEPARATE ROOM AND BOARD PAYMENTS. When boarder payments for rooms are distinguishable from payments for meals, only the amount paid for meals is considered in determining reasonable compensation.

004.06(A)(ii) RESIDENTS OF A COMMERCIAL BOARDINGHOUSE. Residents of commercial boardinghouses are boarders and are therefore ineligible. The following provisions apply when determining whether a person is a resident of a commercial boardinghouse:

- (1) A boardinghouse is defined as an establishment which:
 - (a) Is licensed as a commercial enterprise which offers meals and lodging for compensation; or
 - (b) Offers meals and lodging for compensation with the intention of making a profit.
- (2) The number of boarders in the boardinghouse must not be used to determine if a boardinghouse is a commercial enterprise.
- (3) The household of the proprietor of a boardinghouse may participate in the Supplemental Nutrition Assistance Program separate and apart from the residents if the household meets all of the eligibility requirements.

004.07 AUTHORIZED REPRESENTATIVES. The head of the household, the individual's spouse, or any other responsible household member may designate an authorized representative to act on behalf of the household. The designation of the authorized representative must be in writing. Normally the authorized representative is designated at the time of application, but the household may select an emergency authorized representative at a later time. The authorized representative may act in one or all of the following capacities:

- (1) Making application;
- (2) Fulfilling household responsibilities during the certification period such as submitting information on changes in household circumstances;
- (3) Obtaining the benefits;
- (4) Using the benefits; and
- (5) Filing a request for appeal.

004.07(A) SELECTION. The authorized representative must be fully aware of pertinent information about the household's circumstances, and must also be one of the following:

- (i) An adult who is not a household member;
- (ii) An employee of a chemical dependency treatment and rehabilitation center acting on behalf of the center's residents;
- (iii) An employee of a group living arrangement acting on behalf of the residents of the group living arrangement; or
- (iv) A representative of an authorized shelter for battered women and children.

004.07(B) USE. Authorized representatives may be used when the head of the household or the individual's spouse or other adult member of the household cannot be interviewed or is unable to get benefits or food because of factors such as illness, employment, or transportation problems. Individuals who are residents of a chemical dependency treatment and rehabilitation program are an exception to this policy and must have authorized representatives.

004.07(B)(i) MAKING APPLICATION. A responsible member of the household must review the application made by the authorized representative whenever possible, because the household is held liable if an overpayment results from erroneous information given by the authorized representative. The authorized representative bears no liability for overpayments other than the disqualification as an authorized representative.

004.07(B)(ii) USE OF ELECTRONIC BENEFITS TRANSFER CARD. The authorized representative may purchase food for the household if the individual has the household's full knowledge and consent and the household's Electronic Benefits Transfer card and Personal Identification Number.

004.07(C) EXCLUSIONS. The following persons cannot serve as authorized representatives:

- (i) Retailers who are authorized to accept Supplemental Nutrition Assistance Program benefits unless the Department has granted written approval;
- (ii) Employees of the local office unless the Department has granted written approval;
- (iii) Individuals disqualified for intentional program violation unless the disqualified individual is the only adult household member able to act on the household's behalf and the local office has determined that no one else is available to serve as authorized representative; and
- (iv) Meal providers for the homeless.

004.07(D) DISQUALIFICATION OF AUTHORIZED REPRESENTATIVES. If an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has improperly used Supplemental Nutrition Assistance Program benefits, that authorized representative may be disqualified from participating as an authorized representative in Supplemental Nutrition Assistance Program for up to one year. The authorized representative is notified of the following:

- (1) The proposed action;
- (2) The reason for the proposed action;
- (3) The household's right to request a fair hearing;
- (4) The telephone number of the Department; and
- (5) Where to receive the additional information.

004.07(D)(i) DISQUALIFICATION OF GROUP LIVING ARRANGEMENTS AND TREATMENT CENTERS. This provision is not applicable for drug and alcohol treatment centers and group living arrangements which act as an authorized representative for their residents.

004.08 CATEGORICALLY ELIGIBLE HOUSEHOLDS. Households in which all members are authorized to or receive an Aid to Dependent Children, Aid to Aged Blind and Disabled, State Disability Program or Supplemental Security Income cash payment are categorically eligible. Households in which one or more members are authorized to or receive Aid to Dependent Children-Emergency Assistance or Employment First supportive services are categorically eligible. In addition to individuals receiving benefits, the term recipients includes the following:

- (1) Individuals whose Aid to Dependent Children, Aid to Aged Blind and Disabled, or State Disability Program benefits are being recouped;
- (2) Individuals whose Supplemental Security Income benefits are suspended or being recouped; and
- (3) Individuals entitled to an Aid to Dependent Children grant but who do not receive a grant because the grant is \$9.99 or less.

004.08(A) HOUSEHOLDS NOT CONSIDERED CATEGORICALLY ELIGIBLE. Some examples of households that are not considered categorically eligible for Supplemental Nutrition Assistance Program are those where:

- (i) The entire household consists of:
 - (1) General assistance applicants;
 - (2) Individuals eligible for medical assistance only;
 - (3) Individuals in non-exempt institutions;
 - (4) Supplemental Security Income recipients in 1619(b) status who do not receive an Supplemental Security Income payment; or
 - (5) Residents of an institution who jointly apply for Supplemental Nutrition Assistance Program benefits and Supplemental Security Income, and who are determined eligible for Supplemental Security Income before the release from the institution. These individuals are not considered categorically eligible until the date of release from the institution.
- (ii) The household is disqualified because the head of household failed to comply with work requirements; or
- (iii) The household includes a disqualified household member or a household member who is otherwise ineligible.

004.08(B) PROCESSING APPLICATIONS FOR CATEGORICALLY ELIGIBLE HOUSEHOLDS. The 30-day processing standard applies. If the household's application is or has been denied for Supplemental Nutrition Assistance Program benefits and is later found to have been categorically eligible, the original application date is used to certify the case. Another interview is not required but the application may have to be updated. If changes are made on the original application, applicant or authorized representative will need to initial and sign the application. If eligible, benefits would be issued from the date of the original Supplemental Nutrition Assistance Program application or the date categorical eligibility was determined, whichever is later.

004.09 FOSTER CARE CHILDREN. Households may determine whether children receiving payments from any publicly funded foster care agency are included as part of their household for purposes of Supplemental Nutrition Assistance Program. Foster care children may not participate as separate households. If the household chooses to include foster care children in their Supplemental Nutrition Assistance Program household, the income and resources of

these individuals are considered available to the household. If the household chooses not to include these individuals, their foster care payments, other income, and resources are not considered available to the household.

004.10 EXPANDED RESOURCE PROGRAM ELIGIBLE HOUSEHOLDS. Any household in which all members receive or are authorized to receive the Expanded Resource Program services can have their Supplemental Nutrition Assistance Program eligibility determined through the Expanded Resource Program resource and income guidelines. Eligibility for the Expanded Resource Program is automatic if the household has signed the electronic or paper application. All of the application forms include a statement that if the household is eligible for the Expanded Resource Program, the household has been notified and is authorized to receive Expanded Resource Program services.

004.10(A) HOUSEHOLDS NOT CONSIDERED EXPANDED RESOURCE PROGRAM ELIGIBLE. Households that are not considered Expanded Resource Program eligible are those where:

- (i) An individual in the household is disqualified due to failure to comply with work requirements;
- (ii) A member of the household is disqualified due to an intentional program violation. This applies to the following individuals:
 - (1) Those found to have committed an ~~IPV~~ intentional program violation:
 - (a) Through an administrative disqualification hearing;
 - (b) By a federal, state, or local court; or
 - (c) Who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement;
 - (2) Those found by a federal, state, or local court to have used or received Supplemental Nutrition Assistance Program benefits in a transaction involving the sale of a controlled substance;
 - (3) Those found by a federal, state, or local court to have used or received Supplemental Nutrition Assistance Program benefits in a transaction involving the sale or the purchase of firearms, ammunition, or explosives;
 - (4) Those convicted by a federal, state, or local court of trafficking Supplemental Nutrition Assistance Program benefits of an aggregate amount of \$500 or more;
 - (5) Those found by a federal, state, or local court or by a state agency to have made a fraudulent statement or representation with respect to the identity or place of residence in order to receive Supplemental Nutrition Assistance Program benefits in more than one household in the same month;
 - (6) Those found to be ineligible due to a drug felony disqualification pursuant to 001.07 of chapter 3; or
 - (7) Those found to be ineligible due to being convicted of certain felonies pursuant to section 001.08 of chapter 3.

005. DELAYS IN APPLICATION PROCESSING. If the application is not processed by the end of the 30th day, the following applies:

005.01 DELAYS CAUSED BY THE HOUSEHOLD. The household is not entitled to benefits for the application month when the delay is the household's fault. If the household later

cooperates with the application processing, benefits are prorated back to the date the household took the required action to establish eligibility. The following are considered the household's fault:

- (A) Failing to complete the application form;
- (B) Failing to provide complete verification;
- (C) Missing a scheduled interview; and
- (D) Failing to reschedule a missed interview within 30 days of the application date.

005.02 DELAYS CAUSED BY THE DEPARTMENT. If eligibility has not been determined by the 30th day following the date the application was filed because of the Department's failure to act, the following occurs:

- (A) The household's application will remain pending for an additional 30 days. The recipient will be sent a notice by the 30th day after the application was filed notifying the household of the status and any additional action needed by the household;
- (B) The Department will provide benefits that are retroactive to the application date if:
 - (i) The household is determined eligible during the second 30-day period; and
 - (ii) The household was eligible for the application month; or
- (C) The Department will deny the application if the household is determined ineligible during the second 30 days.

005.03 DELAYS BEYOND 60 DAYS. When eligibility has not been determined within 60 days following the date the application was filed, the following applies:

- (A) If the Department caused the delay in the second 30 days, the Department continues to process the original application until an eligibility determination is made; or
- (B) If the Department caused the delay in the first 30 days but the household caused the delay in the second 30 days, then the application is denied and the household must file a new application if the household wishes to participate.
- (C) The household is not entitled to retroactive benefits if it caused the delay during the second 30 days. A notice of denial is not necessary if the pending notice informed the household that it must file a new application if it did not provide verification.

~~006. DENIALS DUE TO HOUSEHOLD'S FAILURE TO APPEAR FOR INTERVIEWS. When the household fails to appear for a scheduled interview, the application will be denied if the household fails to contact the office to reschedule the second interview within 30 days of the application filing date. If the household fails to appear for a second interview, the application is denied. REFUSAL TO COOPERATE. In situations where the household is able to cooperate but clearly demonstrates that it will not take the actions required to complete the application process, then the application is denied at the time of the refusal. However, if someone outside the household, such as an employer, fails to cooperate with a request for verification, then the application will not be denied based upon the third party's refusal. Non-household members as defined in 475 NAC 1, or disqualified household members, are not considered persons "outside" the household for the purpose of this section.~~

~~006.01 REFUSAL TO COOPERATE. In situations where the household is able to cooperate but clearly demonstrates that it will not take the actions required to complete the application process, then the application is denied at the time of the refusal. However, if someone outside the household, such as an employer, fails to cooperate with a request for verification, then the application will not be denied based upon the third party's refusal. Non-household members~~

~~or disqualified household members are not considered persons "outside" the household for the purpose of this section. DENIALS DUE TO HOUSEHOLD'S FAILURE TO APPEAR FOR INTERVIEWS. When the household fails to appear for a scheduled interview, the application will be denied if the household fails to contact the office to reschedule the second interview within 30 days of the application filing date. If the household fails to appear for a second interview, the application is denied.~~

006.042(A) QUALITY CONTROL REVIEW REFUSAL TO COOPERATE. If a household's case is closed for refusal to cooperate with a:

- (i) State Quality Control Review, the household may reapply but it is ineligible until:
 - (1) It cooperates with Quality Control Review; or
 - (2) 115 days after the review period ends.
- (ii) Federal Quality Control review, the household may reapply but is ineligible until:
 - (1) It cooperates with Quality Control; or
 - (2) Seven months after the review period ends.

006.042(BA) CONTINUED REFUSAL TO COOPERATE WITH QUALITY CONTROL. Households that continue to refuse to cooperate after the termination period ends with either a State Quality Control Review or a Federal Quality Control review are subject to 100% verification when or if they reapply for Supplemental Nutrition Assistance Program benefits.

006.042(CB) WORKER ACTION. Applicants or recipients who refuse to cooperate in any subsequent review of eligibility, including reporting changes, recertifications, and Quality Control reviews, will have the application denied or their case closed. The household may reapply once it has been denied or terminated for refusal to cooperate, but it is not eligible until it cooperates.

007. RECERTIFICATION. A household may file an application for recertification before the end of the current certification period. If an application is filed timely, eligible households receive uninterrupted benefits. Any application filed before the certification period expires is considered a recertification. Benefits are not prorated. An application filed after the certification period has expired but within 30 days following the expiration date is also considered a recertification. Since the filing date is later than the last day of the previous certification period, benefits are prorated from the date the application is filed.

007.01 TIMELY FILING. Households must return an application for recertification by the 15th day of the month the certification period expires.

007.02 SCHEDULING THE INTERVIEWS. A face-to-face or telephonic interview is conducted with a member of the household or its authorized representative ~~at least once every 12 months for households certified for less than 12 months. Elderly or disabled Supplemental Nutrition Assistance Program households with a 12 month certification are not required to have a face-to-face or telephonic interview once a year as enumerated above in this chapter.~~ The interview is scheduled so that the household has at least ten days after the interview in which to provide verification before the certification period expires. If a household misses its scheduled interview, a notice of missed interview is sent to the household.

007.03 INTERVIEW. In addition to submitting the application in a timely manner, the household must appear for a scheduled interview and provide the required verifications within ten days of the date verifications were requested. If the household does not meet these requirements, a denial notice is sent on the 30th day following the application filing date.

007.04 VERIFICATION AFTER INTERVIEW. The household is provided a written notice of the required verifications and the date by which the verification requirements must be satisfied. Households who have applied but eligibility has not been determined by the end of the current certification period are allowed a minimum of ten days to provide the required verification. When all the required verification is provided in the ten days, the household, if eligible, is given an opportunity to participate within five working days after the household provides the missing verification. Any household whose eligibility is not determined by the end of its current certification period due to the time period allowed for submitting any missing verifications extending into the following month will receive an opportunity to participate, if eligible, within five working days after the household submits the missing verification. ~~b~~Benefits cannot be prorated in this situation if the missing verification is provided by its due date.

007.05 APPLICATION RECEIVED AFTER THE END OF THE CERTIFICATION PERIOD. Households who apply after the end of their certification period are allowed a minimum of ten days to provide the required verification information. When all the required verification is provided in the ten days, the household, if eligible, is given an opportunity to participate within five working days after the household provides the missing verification.

007.05(A) LATE RECERTIFICATION APPLICATION PRORATION. When the household submits an application after the expiration of the last certification period, the first month's benefits are prorated from the application filing date.

007.06 DELAYS. The following procedures apply to delays in processing.

007.06(A) CAUSED BY HOUSEHOLD. A household will lose its right to uninterrupted benefits and have its application approved or denied by the end of the certification period for any of the following reasons:

- (i) The household returns the application for recertification after the timely filing deadline;
- (ii) The household does not attend the scheduled interview; or
- (iii) The household does not return requested verifications within ten days of the date the worker requests it.

007.06(B) CAUSED BY LOCAL OFFICE. When an eligible household that has filed a timely application is not given an opportunity to participate due to administrative error, the household is entitled to retroactive benefits because the household was unable to participate in the month after the certification period expired.

007.07 CATEGORICAL ELIGIBILITY. Categorical eligibility for public assistance households is assumed at the time of recertification if the public assistance redetermination is late. If the household is later found ineligible for public assistance and is not otherwise eligible for Supplemental Nutrition Assistance Program benefits, the case is closed.

TITLE 475 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

CHAPTER 3 ELIGIBILITY

001. NONFINANCIAL ELIGIBILITY STANDARDS. This section outlines the nonfinancial eligibility standards for Supplemental Nutrition Assistance Program. These include:

- (A) Identity;
- (B) Residency;
- (C) Citizenship/alien status;
- (D) Work requirement;
- (E) Student status;
- (F) Social Security number;
- (G) Drug felon status;
- (H) Striker status; and
- (I) Household composition

001.01 IDENTITY. To be eligible, the individual making application must prove the applicant's identity. The Department verifies the identity of the applicant. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of the household will be verified.

001.01(A) VERIFICATION OF IDENTITY. The Department:

- (i) Verifies identity through readily available documentary evidence or, if this is unavailable, through a collateral contact; and
- (ii) Accepts any documents which reasonably establish the applicant's identity.

001.02 RESIDENCY. Only Nebraska residents are eligible. An individual may participate in only one household in any one month across all states and Program project areas, unless that individual is a resident of a shelter for battered persons and was a member of the household containing the abusive person.

001.02(A) DURATION. Residency does not require an intent to live in the state permanently. Persons in the state solely for vacation purposes are not eligible.

001.02(B) FIXED RESIDENCE. A fixed residence is not required.

001.02(C) VERIFICATION OF RESIDENCY. The Department verifies residency in conjunction with the verification of other information whenever possible. The Department may also verify residency through a home visit, collateral contact, or other documentary evidence.

001.03 CITIZENSHIP OR ALIEN STATUS. When a non-citizen requests to participate in Supplemental Nutrition Assistance Program, the applicant's alien status will be determined. Citizenship or alien status of a new household member is determined at the time the individual is added to the household. If the individual does not meet the citizenship or alien provisions, the applicant is ineligible.

001.03(A) VERIFICATION VIA THE SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS PROGRAM. The status of all aliens requesting benefits will be verified through the Systematic Alien Verification for Entitlements program. If a household or individual indicates inability or unwillingness to provide documentation of alien status for any household member, that member is considered an ineligible alien. If applicants do not wish to have Citizenship and Immigration Services contacted to verify their immigration status, the household has the option of participating without that member. The household may also choose to withdraw its entire application.

001.03(B) HOUSEHOLD MEMBERS MEETING CITIZENSHIP OR ALIEN REQUIREMENTS. To be eligible, a household member must meet the citizenship or alien status requirements of Title 7 of the Code of Federal Regulations (CFR) § 273.4.

001.03(C) INELIGIBLE ALIENS. Aliens, other than those meeting citizenship or alien requirements outlined in this section, are ineligible for Supplemental Nutrition Assistance Program benefits. These include, but are not limited to, alien visitors, tourists, diplomats, and students who enter the United States with no intention of abandoning their residence in a foreign country.

001.03(C)(i) MICRONESIA AND MARSHALL ISLANDS. Citizens of the Federated States of Micronesia and the Marshall Islands may enter and leave the United States without providing documentation, but they are not United States citizens and are therefore ineligible for program benefits.

001.03(C)(ii) ATTESTING TO CITIZENSHIP OR ALIEN STATUS. At the time of initial certification, the individual making application must attest to the citizenship of all household members requesting benefits by checking the appropriate field and signing the application.

001.03(D) EXPEDITED SERVICES. If an individual is unable to verify alien status in time to meet expedited time frames and the individual has declared eligible citizenship or alien status, the verification will be postponed.

001.03(E) REPORTING UNDOCUMENTED ALIENS. The agency will immediately inform the local Citizenship and Immigration Services office whenever personnel responsible for the certification or recertification of households determine that an applicant or recipient is illegally in the United States in violation of the Immigration and Nationality Act. An alien is known to be "illegal" only when the unlawful presence in the United States is a Finding of Fact or conclusion of law that is made by the entity as part of a formal determination subject to administrative review. In addition, that finding or conclusion of unlawful presence must be supported by a determination by the Service or the Executive Office of Immigration Review, such as the Final Order of Deportation.

001.03(F) VERIFICATION OF CITIZENSHIP OR ALIEN STATUS. When the citizenship or alien status of any person applying for benefits is questionable, the household is required to provide verification of citizenship or alien status. The household member is ineligible until proof of United States citizenship or eligible alien immigration status is received.

001.03(G) PENDING VERIFICATION OF IMMIGRATION STATUS. Some applicants who declare eligible immigration status may not have documents issued by Citizenship and Immigration Services. Until acceptable documentation is provided, a non-citizen is ineligible for Supplemental Nutrition Assistance Program unless:

- (i) The Department has submitted a copy of a document provided by the household to Citizenship and Immigration Services for verification;
- (ii) The Lawful Permanent Resident or the Department has:
 - (1) Submitted a request to Social Security Administration for information regarding the number of quarters of work that can be credited to the individual;
 - (2) Social Security Administration has responded that the individual has fewer than 40 quarters; and
 - (3) The individual provides documentation from the Social Security Administration that the Social Security Administration is conducting an investigation to determine if more quarters can be credited; or
- (iii) The applicant or Department has submitted a request to a federal agency for verification of information which bears on the individual's eligible alien status.

01.03(H) APPLICATION PROCESSING PENDING VERIFICATION. During the period of time the alien's status is under review by the Citizenship and Immigration Services, Social Security Administration or another federal agency, the Department cannot delay, deny, reduce, or terminate the individual's eligibility on the basis of the individual's immigration status. Pending the outcome of the review, the alien may be certified for up to six months from the date of original request for verification. The alien's eligibility will be reviewed based on the results of the investigation when received from the federal agency. The alien may be determined eligible or ineligible.

001.04 WORK REQUIREMENTS. The work requirement provision is applied statewide. Exemptions from the work requirements and eligibility for meeting the work requirements are covered in this section. Each household member age 16 through 59 must meet or be exempt from the work participation requirements which are:

- (1) Work Registration;
- (2) Bona Fide Job Offer;
- (3) Voluntary Quit; or
- (4) Employment First work requirements [for recipients of Aid to Dependent Children.](#)

001.04(A) ADDITIONAL WORK REQUIREMENT. Each household member age 18 through 49, in addition to the work requirements above, must also meet or be exempt from the Able Bodied Adult Without Dependents work requirements discussed later in this section.

001.04(B) WORK REQUIREMENT EXEMPTIONS. The following household members are exempt from meeting any work requirements:

- (1) A person age 15 or younger. If a household member's sixteenth birthday falls within a certification period, that member will register for work as part of the next scheduled recertification unless otherwise exempt;
- (2) A person age 16 or 17 who is not the head of household, or who is attending school, or enrolled in an employment and training program on at least a half-time basis;
- (3) High school students of any age who are attending classes at least half-time;
- (4) A student enrolled at least half time in any recognized school, training program, or post-secondary education when the individual is an exempt student. The following persons are not considered as students:
 - (a) Persons who experience a break in their enrollment due to graduation, expulsion, suspension; or
 - (b) Persons who drop out or do not intend to return to school;
- (5) A person age 60 or older. If a person who is age 59 will turn 60 during the application month, then that person is considered exempt;
- (6) A person who is physically or mentally unfit for employment. Verification may be required if a disability is claimed but is not evident to the Department. The individual is considered disabled if the individual receives one of the following:
 - (a) Retirement, Survivors and Disability Insurance or Supplemental Security Income based on disability;
 - (b) A statement from the Veteran's Administration indicating inability to work;
 - (c) Medical Assistance based on disability;
 - (d) A statement from the individual's physician or licensed certified psychologist indicating inability to work; or
 - (e) Temporary or permanent disability benefits from other government or private sources;
- (7) An employed or self-employed person if that person is working at least 30 hours per week or is receiving weekly earnings equal to or greater than the federal minimum wage or training wage multiplied by 30 hours. This includes migrant and seasonal farmworkers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days;
- (8) A parent or other household member responsible for the care of a dependent child age five or younger or an incapacitated person. If the child's sixth birthday falls within a certification period, the member responsible for that child's care must register for work as part of the next scheduled recertification unless otherwise exempt;
- ~~(89)~~ A person who receives unemployment compensation. A person who has applied for but has not yet received unemployment compensation is also exempt if that person was required to register for work with the Job Service Workforce Development as part of the unemployment compensation application. This is verified through wage match procedures; or
- (10) A chemically dependent person participating in a chemical dependency treatment and rehabilitation program;

001.04(B)(i) CHANGE IN EXEMPTION STATUS. Household member(s) who lose their exempt status due to a change in circumstances that is required to be reported are screened for the work requirements at the time of report. Household member(s)

who lose their exemption due to a change in circumstances that is not required to be reported are screened for the work requirements at the household's next recertification.

001.04(B)(ii) UNEMPLOYMENT COMPENSATION NONCOMPLIANCE. Household members who fail to comply with the unemployment compensation requirements lose their work requirement exemption. Unless these individuals are otherwise exempt, they are required to comply with the work requirements as appropriate.

001.04(B)(iii) EMPLOYMENT FIRST NONCOMPLIANCE.

- (a) Household members who fail to comply with Employment First work requirements and who are otherwise exempt from work requirements are not disqualified for a work requirement. However, they are subject to a penalty under Chapter 4 of this title, failure to comply with another program requirement.
- (b) Household members who fail to comply with Employment First work requirements and who are not otherwise exempt from work requirements are disqualified for noncompliance with a work requirement. The disqualification follows Supplemental Nutrition Assistance Program work requirement disqualification penalties.

001.04(B)(iii)(1) ACTION AFTER EMPLOYMENT FIRST NONCOMPLIANCE.

The appropriate work requirement disqualification is applied. In addition, the individuals are subject to the failure to comply with another program requirement penalty for noncompliance with Employment First.

001.04(C) WORK REGISTRATION. Household members who are not exempt from work registration are considered registered when an adult household member or an authorized representative signs the completed application form.

001.04(D) EMPLOYMENT AND TRAINING. Individuals residing in Nebraska are geographically exempt from mandatory Employment and Training participation. Individuals may volunteer to participate in Employment and Training in designated areas of the state. The Employment and Training program is governed by federal regulations at 7 CFR § 273.7(d), 7 CFR § 273.7(e), 7 § CFR 273.7(m), and the Nebraska Employment and Training State Plan. Participation in Employment and Training is voluntary in Nebraska and failure to cooperate will not impact Supplemental Nutrition Assistance Program participation unless participation satisfied the Able Bodied Adult Without Dependents work requirement.

~~001.04(D)(i) EMPLOYMENT AND TRAINING REIMBURSEMENT. Any household member voluntarily participating in the Employment and Training Program qualifies for a reimbursement for actual costs that are reasonably necessary for and directly related to participation.~~

001.04(E) REFUSAL TO ACCEPT A BONA FIDE JOB OFFER OR VOLUNTARY QUIT.

If an individual refuses to accept a bona fide job offer or voluntarily quits employment

within 60 days before an application is filed, any time after the application is filed or after the household is certified, the individual or the entire household may become ineligible for the Supplement Nutrition Assistance Program, pursuant to the disqualification's timeframes referenced in this section, unless they are able to claim good cause. The household cannot claim good cause for refusing a bona fide job offer due to not meeting the drug test requirement. The following conditions do not constitute a refusal to accept a bona fide offer or a voluntary quit:

- (i) Employer offered employment of less than 30 hours per week or less than an equivalent of 30 hours times the federal minimum wage;
- (ii) Program recipient initiated changes in employment status which do not result in reducing hours of employment to less than 30 hours per week for the same employer;
- (iii) Terminating a self-employment enterprise; or
- (iv) Resigning from a job at the employer's demand.

001.04(F) NON-COMPLIANCE WITH WORK REQUIREMENTS. In any of the following situations an individual is ineligible to participate in the Supplemental Nutrition Assistance Program when the individual:

- (1) Refuses without good cause to register for employment;
- (2) Voluntarily and without good cause quits a job or reduces employment to less than 30 hours per week;
- (3) Refuses without good cause to accept an offer of bona fide employment;
- (4) Is a non-exempt Able Bodied Adult Without Dependents who has used three months of time-limited benefits in the 36-month period and is not meeting an Able Bodied Adult Without Dependents work requirement; or
- (5) Is determined to be noncompliant with Employment First and is not otherwise exempt from work requirements.

001.04(F)(i) ONGOING COMPLIANCE. Household member who is exempt from work requirements is not subject to a disqualification at the time of non-compliance. If the individual is participating in the program at the time non-compliance is discovered, the household is treated as a certified household.

001.04(F)(ii) FAILURE TO COMPLY WITH WORK REQUIREMENT. If a household member who has work registered refuses or fails to comply with any of the work participation requirements, the Department will initiate the noncompliance process. The process includes the following steps:

- (1) Determine the reason(s) the noncompliance occurred;
- (2) Determining if good cause exists;
- (3) If good cause does not exist, determining if the individual who committed the violation is the head of household or another household member; and
- (4) Closing the individual or household, whichever is appropriate, and providing timely notice to the household.

001.04(F)(iii) GOOD CAUSE. Good cause for not meeting the work participation requirement may include, but is not limited to:

- (1) Illness of the employed household member;

- (2) Illness of another household member requiring the presence of the employed member;
- (3) A household emergency;
- (4) Unavailability of transportation;
- (5) Recognition of the fact that the employment does not meet the suitability of employment criteria;
- (6) Discrimination by an employer based on age, race, sex, color, disability, religious beliefs, national origin, or political beliefs;
- (7) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
- (8) Acceptance of employment or enrollment of at least half-time in any recognized school, training program, or institution of higher education that requires the head of household to leave other employment;
- (9) 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 which requires the household to relocate and requires other employed household members to leave their employment;
- (10) Resignations by persons under 60 which are recognized by the employer as retirement;
- (11) Employment which becomes unsuitable by not meeting the suitable employment criteria after the employment has been accepted;
- (12) Acceptance of a bona fide job offer which meets the criteria for employment but because of circumstances beyond the control of the head of household, subsequently either:
 - (a) Does not materialize;
 - (b) Results in employment of less than 30 hours per week; or
 - (c) Earnings of less than the federal minimum wage multiplied by 30 hours per week; or
- (13) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as in migrant farm labor or construction work. There may be some cases where households will apply for Supplemental Nutrition Assistance Program benefits between jobs, particularly when work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment is considered as with good cause if it is part of the pattern of that type of employment.

001.04(F)(iv) ENGLISH AS A SECOND LANGUAGE. Problems caused by the individual's inability to speak, write, or read English could constitute good cause.

001.04(F)(v) LIMITATION OF GOOD CAUSE. The good cause provision is not applied to federal, state, or local governmental employees who strike against their employers and consequently lose their jobs.

001.04(G) HEAD OF HOUSEHOLD. Each applicant household must designate a head of household. The head of household's name will appear on the case record and all correspondence related to that case. The head of household will not have special

requirements based on this designation. The head of household is not required to appear at the certification office to apply for benefits.

001.04(G)(i) DESIGNATION OF HEAD OF HOUSEHOLD. The head of household designation determines how the disqualification penalties will be applied in situations of failure to comply with the work related requirements. The head of household is determined as follows:

- (a) If there is only one adult parent, of a child of any age, in the household, that individual is the head of household;
- (b) If there is more than one parent of a child in the household, then the household may select the head of household; or
- (c) For households that do not have children, the household chooses the head of household or if the household does not specify the head of household, the head of household must be the primary wage earner.
- (d) The primary wage earner must be the household member, including excluded members, who is the greatest source of earned income in the two months before the month of the violation.

001.04(G)(i)(1) DESIGNATION EXCEPTIONS. The designation of head of household for households consisting of parents must be made at the time of application and may be changed at the time of review or if the household composition changes. The household cannot designate a disqualified household member as the head of household. The head of household for work requirement compliance must be an eligible household member.

~~001.04(G)(ii) INELIGIBILITY OF AN APPLICANT HOUSEHOLD. If the individual who has been named the head of household on the application is ineligible to participate due to a work requirement noncompliance, the entire household is ineligible. The household is ineligible to participate for:~~

- ~~(1) Thirty days from the application filing date for the first disqualification;~~
- ~~(2) Ninety days from the application filing date for the second disqualification; and~~
- ~~(3) One hundred eighty days from the application filing date for the third or subsequent disqualification.~~

~~001.04(G)(iii) INELIGIBILITY OF A CERTIFIED HOUSEHOLD. If the individual who is the head of household becomes ineligible to participate due to a work requirement noncompliance, the household is ineligible to participate for:~~

- ~~(1) One calendar month for the first disqualification;~~
- ~~(2) Three calendar months for the second disqualification; and~~
- ~~(3) Six calendar months for the third and subsequent disqualification.~~

~~001.04(G)(iv) EXEMPTION OF HEAD OF HOUSEHOLD DURING DISQUALIFICATION PERIOD. If the head of household becomes exempt from the work requirements during the disqualification period, the household may reapply for benefits.~~

001.04(H) OTHER INELIGIBILITY OF A HOUSEHOLD MEMBER. The following disqualification information applies to all members of the household ~~who are not the head of household.~~

001.04(H)(i) INELIGIBILITY OF AN APPLICANT HOUSEHOLD MEMBER. If any household member, ~~other than the head of household,~~ becomes ineligible to participate due to non-compliance with Supplemental Nutrition Assistance Program work requirements, the household member is ineligible to participate for:

- (1) Thirty days from the application filing date for the first disqualification;
- (2) Ninety days from the application filing date for the second disqualification; and
- (3) One hundred eighty days from the application filing date for the third or subsequent disqualification.

001.04(H)(ii) INELIGIBILITY OF A CERTIFIED HOUSEHOLD MEMBER. ~~If the individual in violation is not the head of household, the individual household member becomes ineligible to participate in the program due to a work requirement noncompliance. After a household member has been certified in the Supplemental Nutrition Assistance Program and then does not comply with work requirements, the~~ individual is ineligible to participate in any household for:

- (a) One calendar month for the first violation;
- (b) Three calendar months for the second violation; and
- (c) Six calendar months for the third and subsequent violation.

001.04(H)(ii)(1) EXEMPTION OF OTHER HOUSEHOLD MEMBER DURING DISQUALIFICATION PERIOD. If an individual ~~who is not the head of household~~ becomes exempt from the work requirements during the disqualification period, the individual may again be included in the benefits. Otherwise, the individual must not be included in the household's allotment until the month following the last month of the disqualification period.

001.04(I) ACTION TAKEN AFTER DISQUALIFICATION. Within ten days of noncompliance or notification of noncompliance, the household will:

- (i) Be provided with a timely notice which describes:
 - (1) The specific reason or action of noncompliance;
 - (2) The penalty imposed for the noncompliance, including the period of disqualification; and
 - (3) That the household may apply at the end of the disqualification period or the household member would be added back to the unit at the end of the disqualification period.
- (ii) Begin the disqualification period with the first month after the expiration of the timely notice period unless a fair hearing is requested. If a fair hearing is held and the Department action is upheld, the disqualification period begins the month after the decision is made.

001.04(J) FAIR HEARINGS. Each household has a right to a fair hearing to appeal a denial, reduction, or termination of Supplemental Nutrition Assistance Program benefits because of a determination of non-exempt status or a determination of failure to comply with work participation requirements. Actions that may be appealed include:

- (1) Exemption status;
- (2) Type of requirement imposed; or
- (3) The Department's refusal to grant good cause.

001.04(J)(i) REVIEW OF CASE FILE. Household members are allowed to examine the documents in their case file at a reasonable time before the fair hearing except that confidential information such as test results may be withheld. Information not released to the household may not be used by either party at the hearing.

001.04(K) ENDING THE DISQUALIFICATION. ~~An household's individual's disqualification will be ended if: the disqualified individual becomes exempt from Supplemental Nutrition Assistance Program work requirements.~~

- ~~(1) The head of household:
 - ~~(a) Becomes exempt from work requirements; or~~
 - ~~(b) Leaves the household.~~~~
- ~~(2) The disqualified non head of household:
 - ~~(a) Becomes exempt from work requirements.~~~~

001.04(K)(i) DISQUALIFIED INDIVIDUALS LEAVING THE HOUSEHOLD. If the disqualified individual leaves the household and joins a different Supplemental Nutrition Assistance Program household, the disqualification period in the new Supplemental Nutrition Assistance Program household continues until served. ~~If the individual becomes the head of household in the new household and is not exempt from work requirements, the entire household is ineligible for the remainder of the disqualification period. If the individual is not the head of household in the new household and not exempt from work requirements, the individual is ineligible for the remainder of the disqualification period.~~

001.04(L) REAPPLYING AFTER DISQUALIFICATION. In situations when the entire household is disqualified, the household may apply in the last month of the disqualification period. Eligibility can be reestablished no earlier than the date after the disqualification ends. If the household files an application before the end of the current disqualification period, the following will occur:

- (i) If the application is prior to the final month of the disqualification period, the application will be denied; or
- (ii) If the application is within the last month of the disqualification period, the application will be denied for the month of application but the household will be certified for subsequent months if all other eligibility factors are met.

001.04(M) OCCURRENCE OR DISCOVERY IN THE LAST MONTH OF CERTIFICATION. The following rules explain how a household will be affected by work requirement disqualifications in the last month of a certification period.

001.04(M)(i) HOUSEHOLD REAPPLIES. If a failure or refusal to comply with a work participation requirement occurs or is discovered in the last month of the certification period, the disqualification will be determined at the time of recertification. The appropriate disqualification period will begin the first day after the existing certification period ends.

001.04(M)(ii) NO REAPPLICATION. If a failure or refusal to comply with a work requirement occurs or is discovered in the last month of the certification period and the household does not reapply, the disqualification will be reviewed at the next certification. If the household reapplies during what would otherwise have been the disqualification period for the prior failure to comply violation, the remainder of the disqualification period will be applied. The disqualification period would begin the day after the certification period expires, which is:

- (a) One calendar month for the first violation;
- (b) Three calendar months for the second violation; and
- (c) Six calendar months for the third and subsequent violation.

001.04(M)(ii)(1) APPLYING THE DISQUALIFICATION AT NEXT CERTIFICATION. If the individual in violation is the ~~head of household, the only household member, the household~~ is not eligible for benefits until the disqualification period is served. If the disqualified individual is ~~another household member a member of a household of one or more other individuals who are eligible household members~~, that individual will not be added to the household until the month following the month the disqualification period has been served.

001.04(N) ABLE BODIED ADULTS WITHOUT DEPENDENTS WORK REQUIREMENTS. Able Bodied Adults Without Dependents are eligible for only three full months of benefits during a 36-month period without meeting an Able Bodied Adults Without Dependents work requirement or qualifying for an Able Bodied Adult Without Dependents work requirement exemption. Months of prorated benefits do not count in the three months. An Able Bodied Adult Without Dependents 36-month period begins the first full month the individual does not meet an Able Bodied Adults Without Dependents work requirement or qualify for an Able Bodied Adults Without Dependents exemption.

001.04(N)(i) WORK REQUIREMENTS FOR ABLE BODIED ADULTS WITHOUT DEPENDENTS. Individual's age 18 through 49 are ineligible to receive benefits after three full months unless they meet one of the following criteria:

- (1) Working 20 or more hours per week, including in-kind or volunteer work, or a total of 80 hours per month;
- (2) Participating in and complying 20 or more hours per week or a total of 80 hours per month with the requirements of a work program. A work program means:
 - (a) A program under the Workforce Innovation and Opportunity Act;
 - (b) A program under section 236 of the Trade Act of 1974; or
 - (c) An employment and training program other than job search or job search training approved by the State; or
- (3) Any combination of working and participating in a work program for a total of 20 or more hours per week or a total of 80 hours per month.

001.04(N)(i)(a) ABLE BODIED ADULT WITHOUT DEPENDENTS WORK REQUIREMENT EXEMPTIONS. Individuals are exempt if they meet one of the following:

- (1) Under 18 or over 49 years of age;
- (2) Physically or mentally unfit for employment;

- (3) Residing in a Supplemental Nutrition Assistance Program household where a household member is age 17 or younger, even if the household member who is age 17 or younger is not receiving benefits;
- (4) Pregnant;
- (5) Exempt from work requirements; or
- (6) Resides in an area that has been granted an exemption by the Department.

001.05 STUDENT STATUS. A household member who is enrolled at least half time in an institution of higher education must meet one of the student eligibility exemptions to be eligible to participate. The program definition of a student is an individual enrolled at least half time in a regular curriculum at:

- (1) A college or university that offers degree programs, regardless of whether a high school diploma is required; or
- (2) A business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certification for enrollment.

001.05(A) STUDENT EXEMPTIONS. A student by program definition who meets one of the following requirements is eligible to participate if the student is:

- (i) Age 17 or younger;
- (ii) Age 50 or older;
- (iii) Physically or mentally unfit;
- (iv) Included in an Aid to Dependent Children Program grant unit;
- (v) Enrolled in the Employment First Program;
- (vi) Working an average of 20 hours or more per week for pay or 80 hours or more per month for pay or, if self-employed, working an average of 20 hours or more per week or 80 hours or more per month and receiving weekly or monthly earnings at least equal to the federal minimum wage multiplied by 20 hours per week or 80 hours per month. For self-employed students, the net income after business deductions is multiplied by 20 hours per week or 80 hours per month and then compared to the federal minimum wage;
- (vii) Participating in a state or federally financed work study program during the regular school year. The following restrictions apply to work study:
 - (1) The student must be approved for work study at the time of application for Supplemental Nutrition Assistance Program benefits;
 - (2) The work study must be approved for the school term and the student must anticipate actually working during that time;
 - (3) The work study exemption begins the month the school term begins or the month the work study is approved, whichever is later; and
 - (4) The work study exemption does not continue between terms when there is a break of a full month or more, unless the student is participating in work study during the break;
- (viii) Participating in an on-the-job training program. An individual is considered participating only during the time the person is being trained by the employer. During the period of time the person is only attending classes, this exemption would not apply;
- (ix) Responsible for the care of a dependent household member who is age five or younger;

- (x) Responsible for the care of a dependent household member who is age 11 or younger when the Department has determined that adequate childcare is not available to enable the student to attend class and comply with the work requirements of student eligibility;
- (xi) A single parent enrolled full time in an institution of higher education and responsible for the care of a dependent child age 11 or younger. This provision applies when only one biological, adoptive, or stepparent (regardless of marital status) is in the same Supplemental Nutrition Assistance Program household as the child. This provision may apply to another full-time student in the same Supplemental Nutrition Assistance Program household as the child when:
 - (1) No biological, adoptive, or stepparent is in the same Supplemental Nutrition Assistance Program household; and
 - (2) The student has parental control over the child and is not living with his or her spouse; or
- (xii) Assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the following programs:
 - (1) Workforce Innovation and Opportunity Act;
 - (2) State's Employment and Training Program, subject to the condition that the program of study:
 - (a) Is part of a program of career and technical education as defined in section three of the Carl D. Perkins Career and Technical Education Act of 2006 designed to be completed in not more than four years at an institution of higher education as defined in section 102 of the Higher Education Act of 1965; or
 - (b) Is limited to remedial courses, basic adult education, literacy, or English as a second language;
 - (3) Section 236 of Trade Act of 1974; or
 - (4) Employment First program.

001.05(B) CONTINUED ENROLLMENT. Enrollment is considered as continued through normal periods of class attendance, vacation, and recess unless the student graduates, drops out, is suspended, or expelled, or does not intend to register for the next normal school term.

001.05(C) VERIFICATION OF STUDENT STATUS. The following must be verified for students:

- (i) If students indicate they are employed an average of 20 hours or more per week or 80 hours or more per month, the number of hours worked must be verified;
- (ii) If students indicate they actively participate in a state or federal work study program during the regular school year, the participation must be verified;
- (iii) If students state they are physically or mentally unfit, the unfitness must be verified if the Department has determined the unfitness is not apparent;
- (iv) If students state they are receiving and are included in the Aid to Dependent Children Program grant, the inclusion must be verified if they Department does not already have the information;
- (v) If students state they are enrolled in the Employment First Program, the participation must be verified if the Department does not already have the information;

- (vi) If students state they are responsible for the physical care of a dependent child, declaration from the households is sufficient unless questionable; or
- (vii) If students are participating in training through the Workforce Innovation and Opportunity Act, a program under Section 236 of the Trade Act of 1974, or a state or local employment and training program, the participation must be verified if the Department does not already have the information.

001.05(D) NOT STUDENTS. The following individuals attending school are not required to meet the student status eligibility criteria:

- (i) Individuals enrolled less than half time;
- (ii) High school students of any age;
- (iii) Graduate Equivalency Degree students of any age;
- (iv) Individuals enrolled in English as Second Language courses only; and
- (v) Individuals enrolled in other classes not part of an institution's regular curriculum.

001.06 SOCIAL SECURITY NUMBER. All household members applying for participation in the Supplemental Nutrition Assistance Program must provide their ~~SS~~social ~~SS~~security number. If an applicant household member does not have a ~~SS~~social ~~SS~~security number, the individual must apply for one before certification unless the individual has good cause for failure to apply.

001.06(A) PROVIDING THE SOCIAL SECURITY NUMBER. Providing the ~~SS~~social ~~SS~~security number is voluntary, however failure to provide or apply for a ~~SS~~social ~~SS~~security number will result in the denial of benefits to each individual failing to provide a ~~SS~~social ~~SS~~security number. A household member with more than one ~~SS~~social ~~SS~~security number must provide all of them. The ~~SS~~social ~~SS~~security number of a non-participating household member will be used in computer matching and program reviews or audits in the same manner as the ~~SS~~social ~~SS~~security number of a participating household member.

001.06(B) ELIGIBILITY AFTER NOT PROVIDING A SOCIAL SECURITY NUMBER. To be eligible, a household member who previously has not provided a ~~SS~~social ~~SS~~security number must:

- (i) Provide the Department with that individual's ~~SS~~social ~~SS~~security number;
- (ii) Demonstrate that application has been made for a ~~SS~~social ~~SS~~security number; or
- (iii) Demonstrate that the individual has attempted to supply the documentation required for a ~~SS~~social ~~SS~~security number.

001.06(C) NEWBORN'S SOCIAL SECURITY NUMBERS. Parents of a newborn child may apply for a ~~SS~~social ~~SS~~security number for the child at the hospital when this service is available. A household must provide proof of application for a ~~SS~~social ~~SS~~security number for a newborn child or within six months following the month the baby is born or at its next recertification, whichever is later.

001.06(D) APPLICATION PROCESSING PENDING VERIFICATION OF SOCIAL SECURITY NUMBER. The application cannot be delayed pending the verification of a ~~SS~~social ~~SS~~security number.

001.06(E) APPLYING FOR A SOCIAL SECURITY NUMBER. Individuals who wish to participate in the Supplemental Nutrition Assistance Program but do not have a ~~SS~~social

§§security number are referred to their local Social Security Administration Office to apply for a §social §§security number. Once an application for a §social §§security number has been completed, the individual may participate during the period the §social §§security number is being obtained from the Social Security Administration.

001.06(F) GOOD CAUSE. The Department considers the following when determining whether good cause exists for failure to provide a §social §§security number:

- (1) Information received from the household member;
- (2) Information received from the Social Security Administration; and
- (3) Information received by the Department.

001.06(F)(i) GOOD CAUSE AFTER SOCIAL SECURITY NUMBER APPLICATION. Documentary evidence or other information that indicates the household has applied for or made every effort to supply the necessary information for a §social §§security number is considered as proof of good cause.

001.06(F)(ii) SITUATIONS NOT CONSIDERED GOOD CAUSE. Good cause does not include delays caused by illness, lack of transportation, or temporary absences from the home because Social Security Administration makes provisions for mail in applications in lieu of applying in person.

001.06(F)(iii) CONTINUED PARTICIPATION. If a household member can show good cause for why the household member has been unable to provide verification in order to complete the §social §§security number application process, the household member may participate for the month of application and one additional month. After this, the household must show good cause monthly in order to continue participating.

001.06(G) ENDING DISQUALIFICATION. An ineligible household member may become eligible by:

- (i) Providing the Department with the household member's §social §§security number;
- (ii) Demonstrating that application has been made for a §social §§security number; or
- (iii) Demonstrating that the household member has attempted to supply the documentation required for a §social §§security number application.

001.06(H) USE OF THE SOCIAL SECURITY NUMBER. The Department uses the household member's §social §§security number to:

- (i) Prevent duplicate participation;
- (ii) Facilitate mass changes in federal benefits;
- (iii) Determine the accuracy or reliability of information given by households; and
- (iv) Initiate computer matches through the automated system.

001.06(I) VERIFICATION OF SOCIAL SECURITY NUMBERS. Social §§security numbers for all household members are verified through the interface in the automated system.

001.07 DRUG FELON STATUS. Drug felon participants are only eligible in accordance with Nebraska Revised Statute Neb. Rev. Stat. § 68-1017.02. Drug felonies that occurred on or before August 22, 1996, do not affect eligibility.

001.08 DISQUALIFICATION OF INDIVIDUALS CONVICTED OF CERTAIN FELONIES. An individual is disqualified from Supplemental Nutrition Assistance Program if the individual has, both, been convicted of the following crimes on or after February 8, 2014 and is in violation of the terms of their sentence:

- (1) Aggravated sexual abuse under Title 18 United States Code ~~section~~ § 2241;
- (2) Murder under Title 18 United States Code ~~section~~ § 1111;
- (3) Sexual exploitation and abuse of children defined in Title 18 United States Code ~~e~~Chapter 110;
- (4) Sexual assault as defined in section 40002(a) of the Violence Against Women Act of 1994 which is codified at Title 42 United States Code ~~section~~ § 13925(a); or
- (5) An offense under state law determined by the Attorney General to be substantially similar to an offense described in (1) through (4) above.

001.08(A) REGAINING ELIGIBILITY. Individuals are ineligible until they are back in compliance with the terms of their sentence. If they are a fleeing felon or in violation of probation or parole then they are eligible once they are no longer fleeing or in violation. The following applies to when individuals can receive benefits after the disqualification ends:

- (i) If an individual would otherwise be part of a certified household, they become eligible for the first month after:
 - (1) The month in which the individual becomes compliant; and
 - (2) The household reports the individual has become compliant.
- (ii) If an individual is not able to be added to an already certified household and their compliance did not occur in the month for which previous benefit had closed, then they are eligible for benefits as of the day of compliance;
- (iii) If an individual is not able to be added to an already certified household but the compliance occurred within 30 days of the date of closure, the benefits can be reinstated as long as the following criteria are met:
 - (1) The compliance occurs on or before the 30th day after the date of closure;
 - (2) The compliance is reported on or before the 30th day after the date of closure; and
 - (3) The compliance is verified within 10 days of the date of report.

001.08(B) VERIFICATION OF FELONY. If households declare that there is an individual not in compliance with the terms of the sentence of a felony defined in this section then they must provide verification of the felony. Households must also provide verification that they are now within compliance after they were previously non-compliant.

001.08(B)(i) APPLICATION PROCESS PENDING VERIFICATION. Applications will not be delayed beyond the time standards set forth in ~~sections 001.02C and 007 of~~ chapter two of this title when the only remaining verification is for proof of the non-compliance with a felony of this section. If verification is not provided by the date the application must be processed in order to meet the timeliness standards, the application will be processed without consideration of the felony and compliance status.

001.09 STRIKERS. Strikers are only eligible for Supplemental Nutrition Assistance Program pursuant to Title 7 CFR § 273.1(e) and § 273.7.

001.10 HOUSEHOLD COMPOSITION. Before eligibility can be determined, the household must meet certain criteria and the Department will determine the number of people that can and must participate in the program. The following guidelines apply:

- (1) Individuals participating in the program titled, "Food Distribution Program for Households on Indian Reservations" are not eligible to receive Supplemental Nutrition Assistance Program benefits in the same calendar month;
- (2) Household members may only participate in one household during the month unless the members live in a shelter for battered persons and were members of the household containing the person who allegedly abused them;
- (3) Persons who reside in institutions are not included in the same household with persons who do not;
- (4) Unborns are not considered household members;
- (5) Persons who live with the household but also maintain separate residence because of work, school, or other reasons are not considered household members if they are apart from the household for a majority of their meals; and
- (6) Persons who receive Supplemental Security Income from ~~California or State Supplementary payments from California~~ a Supplemental Security Income cash-out state are not eligible for Supplemental Nutrition Assistance Program benefits. Once these individuals begin receiving Supplemental Security Income through Nebraska, they would be eligible for Supplemental Nutrition Assistance Program benefits in Nebraska.

001.10(A) HOUSEHOLD CONCEPT. A household may be composed of any of the following individuals or groups of individuals:

- (i) An individual living alone;
- (ii) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;
- (iii) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption;
- (iv) An individual who is 60 years of age or older and who is unable to purchase and prepare meals separate from other household members because:
 - (1) The individual suffers from a disability considered permanent by Social Security Administration; or
 - (2) The individual suffers from a non-disease-related, severe, permanent disability. An individual meeting the above criteria may be a separate household provided that the income of the others with whom the individual resides, excluding the income of the spouse of the elderly and disabled member, does not exceed the 165 percent poverty guidelines. The individual's spouse would be included in the household with the disabled individual;
- (v) Children age 22 or older and their parent(s) may be separate households if they purchase and prepare their meals separately;
- (vi) A foster child in the Independent Living Program under the supervision of the Department; or
- (vii) Eligible resident of an institution.

001.10(B) DETERMINING HOUSEHOLD STATUS. Some individuals or groups of individuals who meet the definition of a household by customarily purchasing and

preparing food apart from others will not be granted separate household status. The following individuals are not eligible for separate household status:

- (1) A spouse of a household member when the two live together;
- (2) A boarder;
- (3) A person age 21 or younger who is living with the person's natural or adoptive parent(s) or step-parent(s); or
- (4) Children who are age 17 or younger and under the parental control of an adult household member. A child is considered to be under parental control for purposes of this provision if the individual is financially or otherwise dependent on a member of the household.

001.10(B)(i) SEPARATE HOUSEHOLD STATUS VERIFICATION. Individuals who claim separate household status are responsible for proving the separate status.

001.10(C) NON-HOUSEHOLD MEMBERS. The following individuals residing with a household will not be considered household members in determining the household's eligibility or benefit:

- (1) A roomer or an individual to whom a household furnishes lodging, but not meals, for compensation;
- (2) A live-in attendant who resides with a household to provide medical, housekeeping, childcare, or other similar personal services;
- (3) Other individuals who share quarters with the household but who do not customarily purchase food and prepare meals with the household;
- (4) Students who are enrolled in an institution of higher education and who are ineligible because they failed to meet the student eligibility exemption criteria; and
- 5) Individuals receiving Supplemental Security Income or State Supplemental payments from [California a Supplemental Security Income cash-out state](#).

001.10(C)(i) ELIGIBLE AS A SEPARATE HOUSEHOLD. The following non-household members may be separate households, provided they file an application and are otherwise eligible:

- (1) Roomers;
- (2) Live-in attendants; and
- (3) Other individuals who live with the household but who do not customarily purchase food and prepare food with the household.

001.10(C)(ii) NOT ELIGIBLE AS SEPARATE HOUSEHOLD. The following non-household members are not eligible as separate households:

- (1) Ineligible students;
- (2) Individuals receiving Supplemental Security Income or State Supplemental payments from [California a Supplemental Security Income cash-out state](#);
- (3) Foster child(ren); and
- (4) Ineligible aliens.

001.10(D) EXCLUDED FROM BENEFIT. The following household members are excluded from the household when determining benefit level and may not participate as separate households:

- (i) Individuals who do not apply for or provide their ~~S~~social ~~S~~security numbers;

- (ii) Ineligible Able Bodied Adults Without Dependents;
- (iii) Ineligible aliens or individuals who do not provide information regarding their citizenship or alien status;
- (iv) Individuals disqualified for failure to comply with the work requirements; and
- (v) Individuals disqualified for the following reasons:
 - (1) Intentional Program Violation;
 - (2) Conviction for the use of Supplemental Nutrition Assistance Program benefits in the sale of a controlled substance;
 - (3) Conviction for trafficking Supplemental Nutrition Assistance Program benefits totaling \$500 or more;
 - (4) Drug-related felony violation as pursuant to section 001.07 of this chapter;
 - (5) Convicted of certain felonies pursuant to section 001.08 of this chapter;
 - (6) Fleeing from prosecution or custody for a felony, parole or probation violation;
 - (7) Found guilty by a court or state agency of having made fraudulent representation of identity or residency to receive Supplemental Nutrition Assistance Program benefits in more than one household in the same month; and
 - (8) Conviction for the use of Supplemental Nutrition Assistance Program benefits in the sale of firearms, ammunition, or explosives.

001.10(E) VERIFICATION OF HOUSEHOLD COMPOSITION. Due to the difficulty in verifying whether a group of individuals customarily purchases or prepares meals together and therefore constitutes a household, the household's statement is generally taken regarding preparation and purchasing of food.

002. FINANCIAL ELIGIBILITY. This section discusses financial eligibility criteria including how to treat resources and income in determining eligibility for Supplemental Nutrition Assistance Program.

002.01 RESOURCES. All households must comply with the resource eligibility standard to establish or continue eligibility. The household's available resources at the time the household is interviewed are used to determine eligibility. If the Department discovers a resource that was not reported at the time of the interview, then the resource will be counted in the application month. Resources acquired after the interview date are considered in subsequent months.

002.01(A) RESOURCE ELIGIBILITY STANDARD. All resources which are not specifically excluded or exempt are considered in determining eligibility. This includes nonrecurring lump sum payments in the month received. If a household exceeds the maximum resource limit, its application will be denied or its participation terminated. To be eligible beginning October 1, 2022, the value of a household's resources cannot exceed:

- (1) ~~\$2,250~~ 2,750; or
- (2) ~~\$3,500~~ 4,250 for a household which consists of or includes a member who is disabled or elderly.

The resource limit for the Supplemental Nutrition Assistance Program will continue to adjust automatically in accordance with 7 CFR § 273.8(b) without the need to further amend this section.

002.01(A)(i) RESOURCES OF PUBLIC ASSISTANCE PROGRAM RECIPIENTS.

The resources of any household member who receives an Aid to Dependent Children Program, Supplemental Security Income, State Disability Program, or Assistance to the Aged, Blind, or Disabled Program payment are excluded. All resources are excluded for categorically eligible households.

002.01(A)(ii) EXPANDED RESOURCE PROGRAM RESOURCES. Total liquid resources of \$25,000 or less are excluded for Expanded Resource Program households. Liquid resources include cash on hand and funds in personal checking and savings accounts, money market accounts and share accounts. All non-liquid resources are excluded for Expanded Resource Program households.

002.01(B) TYPE OF RESOURCES. There are two types of resources: liquid and nonliquid.

002.01(B)(i) LIQUID RESOURCES. Liquid resources include cash on hand, money in checking and savings accounts, savings certificates, stocks or bonds, credit card company gift card balances, and nonrecurring lump sum payments.

002.01(B)(ii) NONLIQUID RESOURCES. Nonliquid resources include personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property, provided none of these are specifically excluded.

002.01(C) EXCLUDED RESOURCES. The following resources are excluded in determining eligibility:

- (1) All resources excluded pursuant to Title 7 CFR § 273.8(e);
- (2) Liquid resources of \$25,000 or less and all non-liquid resources for households eligible for the Expanded Resource Program; and
- (3) Vehicles as [explained below](#) in this chapter.

002.01(C)(i) HANDLING EXCLUDED LIQUID RESOURCES. Excluded liquid resources remain excluded for an unlimited period of time if the liquid resources are kept in a separate account and not combined in an account with non-excludable funds. Funds, other than assistantships, fellowships, and stipends, received for educational financial assistance, are excluded resources during the period the funds are intended to cover. When excluded liquid resources are combined in an account with non-excludable funds, the excluded liquid resources remain excluded for six months from the date they were combined with non-excluded funds. After the six months have elapsed, all funds in the combined account are counted as resources.

002.01(D) VALUATION OF RESOURCES. The value of any non-excluded resource is its equity value with the exception of some licensed vehicles.

002.01(D)(i) EQUITY VALUE. Equity value equals the fair market value minus all encumbrances.

002.01(D)(ii) ENCUMBRANCES. An encumbrance is the balance due on a mortgage, sales agreement, or contract.

002.01(E) JOINTLY OWNED RESOURCES. Resources owned jointly by separate households will be considered entirely available to each household, unless the applicant household can demonstrate that these resources are inaccessible to the household's member(s). Ineligible household members and disqualified household members are considered household members for purposes of this section.

002.01(E)(i) PORTIONS OF A RESOURCE. If a household can demonstrate that it has access to only a portion of a jointly owned resource, the value of that portion is counted toward the resource limit.

002.01(E)(ii) TOTALLY INACCESSIBLE RESOURCES. A jointly owned resource is considered totally inaccessible to a household when both of the following conditions are met:

- (1) The resource cannot realistically be subdivided; and
- (2) The household's access to the value of the resource depends on the agreement of a joint owner who refuses to cooperate.

002.01(E)(iii) RESIDENTS OF SHELTERS FOR BATTERED PERSONS. Resources are considered inaccessible to residents in shelters for battered persons if:

- (1) The resources are jointly owned by these persons and by members of their previous households which included the persons who subjected them to abuse; and
- (2) The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still lives in the previous household which included the person who subjected them to abuse.

002.01(F) TRANSFER OF RESOURCES. The transfer of resources for the purpose of qualifying for or attempting to qualify for Supplemental Nutrition Assistance Program benefits is prohibited.

002.01(F)(i) ALLOWABLE TRANSFERS. Eligibility is not affected by the transfer of the following:

- (1) Resources which would not otherwise affect eligibility;
- (2) Resources which are sold or traded at or near fair market value;
- (3) Resources which are transferred between members of the same household including aliens or disqualified household members whose resources are being considered available to the household;
- (4) Resources which are transferred for reasons other than qualifying for or attempting to qualify for Supplemental Nutrition Assistance Program benefits;
- (5) Resources transferred by categorically eligible households; or
- (6) Transfer of nonliquid resources for Expanded Resource Program households.

002.01(F)(ii) DISQUALIFICATION. Households which have transferred resources deliberately for the purpose of qualifying for or attempting to qualify for Supplemental Nutrition Assistance Program benefits will be disqualified from participation for up to one year from the date the transfer is discovered as follows:

- (1) The resources are transferred in the three-month period before eligibility determination; or

- (2) The resources are transferred after the household is determined eligible in order to maintain eligibility. This would apply to resources acquired after the eligibility determination.

002.01(F)(iii) DISQUALIFICATION NOTICE. When the agency has established that a household has transferred resources in order to qualify for benefits or to maintain eligibility, the household will be sent a notice of denial or a timely notice whichever is appropriate. This notice will explain the reason for and the length of the disqualification.

002.01(F)(iv) DISQUALIFICATION PERIOD. The disqualification period begins in the application month for applicants. For households participating at the time of the discovery, the disqualification period begins with the first allotment after the timely notice period expires, unless a fair hearing and continued benefits are requested. The length of the disqualification period is based on the value of the excess resources at the time of the transfer. This amount is determined by:

- (1) Establishing the value of any non-excluded transferred resources;
- (2) Adding this amount to the value of other countable resources; and
- (3) Subtracting the maximum allowable resources from the result of step 2.

002.01(F)(v) DISQUALIFICATION PERIOD BASED ON AMOUNTS. The length of the disqualification based on the amount in excess of the resource limit is:

- (1) \$0 to \$249.99 in excess is a disqualification of 1 month;
- (2) \$250 to \$999.99 in excess is a disqualification of 3 months;
- (3) \$1,000 to \$2,999.99 in excess is a disqualification of 6 months;
- (4) \$3,000 to \$4,999.99 in excess is a disqualification of 9 months; and
- (5) \$5,000 or more in excess is a disqualification of 12 months.

002.01(G) LICENSED VEHICLE AS A RESOURCE. The following sections regarding determining the value of licensed vehicles do not apply when the household is categorically eligible. The resources of any individual household member who receives a public assistance payment, as defined in chapter two, are excluded.

002.01(G)(i) ACCESS TO VEHICLES. The following is used to determine if a vehicle is accessible to all persons whose names appear on the title:

- (1) "And/or" indicates that the vehicle is available to all parties.
- (2) "Or" indicates that the vehicle is available to all parties.
- (3) "And" indicates that the vehicle is available to all parties unless the applicant household can demonstrate that the resource is totally inaccessible.

002.01(G)(ii) EXCLUDED LICENSED VEHICLES. Any licensed vehicle is an excluded resource if the vehicle meets one of the following conditions:

- (1) The vehicle is used for income-producing purposes such as taxi, vehicle used for deliveries, to call on clients or customers, or required by the terms of employment;
- (2) The vehicle is annually producing income consistent with its fair market value, even if it is used only seasonally;

- (3) The vehicle is necessary for long distance travel that is essential to the employment of a household member or household member(s) whose resources are being considered as available to the household, such as a vehicle belonging to a traveling salesperson or a migrant farm worker following the work stream. This exemption does not include vehicles used for daily commuting;
 - (a) Exclusions one through three continue to apply when the vehicle is not in use because of temporary unemployment, e.g., when a taxi driver is ill and cannot work;
- (4) The vehicle is used as the household's home;
- (5) The vehicle is needed to transport a physically disabled household member or household member(s) whose resources are being considered as available to the household, for any reason. The vehicle does not have to be specially equipped for this purpose. This exclusion is limited to one vehicle for each physically disabled household member;
- (6) The vehicle is necessary to carry the primary source of fuel for heating or water for home use;
- (7) The vehicle has been used in self-employed farming by a household member for a period of one year after the household member ceases to be self-employed in farming;
- (8) The sale of the vehicle and all related sale costs would return to the household \$1500 or less; or
- (9) After vehicle exclusions numbers one through eight have been processed for each household vehicle, one licensed or unlicensed vehicle per household may be excluded using the following policy. If the vehicle has a fair market value of:
 - (a) \$12,000 or less, the total value of the vehicle is excluded;
 - (b) More than \$12,000, the amount over \$12,000 is counted toward the household's resource limit; or
 - (c) The vehicle with the greatest fair market value is processed through the \$12,000 rule. The \$12,000 rule is limited to one vehicle per household.

002.01(G)(iii) DETERMINING THE VALUE OF NON-EXCLUDED LICENSED VEHICLES.

Each vehicle which cannot be excluded will be assigned a fair market value. The fair market value of a vehicle is the average trade-in value as determined by Kelley Blue book. The basic value of a vehicle will not be increased by adding value for low mileage, optional equipment, or special equipment for people with disabilities, etc. For vehicles which are in less than average condition, as indicated by the household, the household will be given the opportunity to get verification of the true value from a reliable source. For vehicles not listed in the Kelley Blue Book, the Department accepts the household's estimate of the fair market value unless:

- (a) The declared value is questionable; and
- (b) The estimate will affect the household's eligibility.
 - (i) In these cases, the household must obtain an appraisal or produce other evidence of the vehicle's value, such as a tax assessment or newspaper advertisement listing the price of similar vehicles.

002.01(G)(iii)(1) CLASSIC AND CUSTOM CARS. For licensed antique, custom-made, or classic vehicles, the worker asks the household to provide verification of the value if the worker is unable to make an accurate appraisal.

002.01(G)(iii)(2) EQUITY VALUE. Either the equity value of the vehicle or the fair market value of the vehicle minus \$4,650 is counted against the household's resource limit. The equity value is the fair market value of the vehicle minus encumbrances.

002.01(G)(iii)(3) LICENSED VEHICLES VALUED AT FAIR MARKET VALUE MINUS \$4,650. The following vehicles are evaluated only for their fair market value minus \$4,650:

- (a) One licensed vehicle per household member age 18 or older, or household member(s) whose resources are being considered available to the household, regardless of use of the vehicle; and
- (b) The following, which continues to be applied during periods such as summer vacation or temporary unemployment:
 - (i) Any other vehicle a household member age 17 or younger drives, or a household member(s) age 17 or younger whose resources are being considered as available to the household;
 - (1) To and from employment;
 - (2) To and from training or education which is preparing a household member for employment; or
 - (3) To seek employment in compliance with job search criteria.

002.01(G)(iii)(3)(a) REMAINING LICENSED VEHICLES. If a household has any other licensed vehicles, they will be evaluated for both equity and fair market value minus \$4,650. The greater of these two amounts is applied toward the household's countable resources.

002.01(H) UNLICENSED VEHICLES AS A RESOURCE. The following valuation procedures apply to unlicensed vehicles.

002.01(H)(i) EXCLUDED UNLICENSED VEHICLES. An unlicensed vehicle is excluded if:

- (1) Used as the household's home;
- (2) Annually produces income consistent with its fair market value;
- (3) Essential to a household member's employment such as farm equipment;
- (4) On an Indian reservation which does not require vehicles driven by tribal members to be licensed; or
- (5) One licensed or unlicensed vehicle per household may be excluded using the following policy. This exclusion is limited to only one vehicle per household. If the vehicle has a fair market value of:
 - (a) \$12,000 or less, the total value of the vehicle is excluded; or
 - (b) More than \$12,000, the amount over \$12,000 is counted toward the household's resource limit; and
 - (c) The vehicle with the greatest fair market value is processed through the \$12,000 rule. The \$12,000 rule is limited to one vehicle per household.

002.01(H)(ii) NON-EXCLUDED UNLICENSED VEHICLES. The equity value of non-excluded unlicensed vehicles is applied to the household's resource limit. The equity value is the fair market value of the vehicle minus encumbrances.

002.01(I) DISQUALIFICATION FOR SUBSTANTIAL LOTTERY OR GAMBLING WINNINGS. Any household certified to receive benefits shall lose eligibility for benefits when any individual in the household receives substantial lottery or gambling winnings. The disqualification will begin the first month after report or verification, allowing for timely notice.

002.01(I)(i) REGAINING ELIGIBILITY. Disqualified households will remain ineligible until they meet the allowable resources and income eligibility requirements for their household.

002.01(I)(ii) SUBSTANTIAL WINNINGS. Substantial lottery or gambling winnings are defined as a cash prize equal to or greater than the maximum allowable financial resource limit for elderly or disabled households, defined in this chapter, won in a single game before taxes or other withholdings. For the purpose of this section, the resource limit applies to all households, including non-elderly or disabled households, with substantial winnings. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the household would be counted in the eligibility determination.

002.01(J) VERIFICATION OF RESOURCES. The Department will verify the value of non-excluded resources and loans at the time of application and recertification if the total amount of countable resources indicated on the application is \$1500 or more. Household declaration is accepted when the total amount of resources indicated on the application is less than \$1500. The Department will not verify the value of liquid resources of \$25,000 or less or verify the value of nonliquid resources for Expanded Resource Program households. During a certification period, resources only need to be verified when:

- (1) The Department receives information which makes the information given by the household at application appear questionable;
- (2) The Simplified Reporting household reports the receipt of a resource which may put the household over the resource limit; or
- (3) The Simplified Reporting household loses its categorical eligibility and has resources which may put the household over the resource limit.

002.01(J)(i) VERIFICATION OF LOANS. Loans are considered a resource in the month received. To verify that money coming to the household is a loan, and is therefore considered a resource rather than income, the Department:

- (1) Accepts as loan verification a simple statement signed by the household member receiving the loan and the party providing the loan indicating that the payment is a loan and must be repaid; and
- (2) Requires a statement from the provider indicating that payments are being made or will be made in accordance with an established schedule when a household claims that payments from the same source received on a recurrent or regular basis are loans.

002.01(J)(ii) VERIFICATION OF QUESTIONABLE RESOURCES FOR CATEGORICALLY ELIGIBLE, EXPANDED RESOURCE PROGRAM, OR REGULAR PORGRAM HOUSEHOLDS. Households must provide verification of resources if questionable in order to receive Supplemental Nutrition Assistance Program benefits. If resources are questionable and the household fails or refuses to provide verification, the household is not eligible for Supplemental Nutrition Assistance Program.

002.02 TYPES OF INCOME. Household income is all income, regardless of source, that is not specifically excluded. The two types of income are earned and unearned.

002.02(A) EARNED INCOME. Earned income includes all the following:

- (i) All gross wages and salaries of an employee including wages earned by a household member that are garnished or transferred by an employer and paid to a third party for household expenses, such as rent;
- (ii) Income from self-employment. This includes payments from a roomer or boarder and income from rental property if a household member actually manages the property for at least an average of 20 hours per week. For additional information regarding the determination of self-employment income, see section 002.04(B) of this chapter;
- (iii) Training allowances from vocational or rehabilitative programs recognized by federal, state, or local governments, as long as these allowances are not reimbursements or are not excluded for another reason;
- (iv) Payments to a volunteer under Title I, referred to as Volunteers in Service to America, of the Domestic Volunteer Services Act of 1973 if the volunteer was not receiving Supplemental Nutrition Assistance Program or public assistance at the time the individual joined Volunteers in Service to America;
- (v) Agricultural program payments in the year received;
- (vi) Fellowships, stipends, and assistantships with a work requirement; and
- (vii) On-the-job training wages under Title I of the Workforce Innovation and Opportunity Act except for dependents 18 years or younger.

002.02(B) UNEARNED INCOME. Unearned income includes all the following:

- (i) Assistance payments from federal, federally aided or state funded public assistance programs such as Supplemental Security Income, State Disability Program, Assistance to the Aged, Blind, or Disabled Program, or Aid to Dependent Children Program;
- (ii) All or part of a public assistance or general assistance grant, including general assistance vendor payments for shelter when the household received no other assistance payments, that would normally be a money payment to the household but which is diverted to a third party or a protective payee unless the vendor payment is specifically excluded. No portion of benefits provided under Title IV-A of the Social Security Act except for Transitional Child Care used as an adjustment for work-related or childcare expenses is considered excludable under this provision;
- (iii) Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves;
- (iv) Foster care payments;

- (1) Foster care payments from grant programs Child and Family Services, Juvenile Court, and Subsidized Guardianship. Households have the option to include or exclude the children. If the children are included the payment is counted; or
- (2) Foster care payments from the grant program Subsidized Adoption. Households are required to include these children and their payments in the Supplemental Nutrition Assistance Program budget;
- (v) State and local energy payments made directly to the household or as a vendor payment to the provider;
- (vi) Retirement benefits, veterans' benefits, disability benefits, Retirement, Survivors and Disability Insurance benefits, strike benefits, workmen's compensation, the gross amount of unemployment compensation, annuities, and pensions;
- (vii) Gross rental property income minus the cost of doing business if a household member is not actively engaged in managing the property for an average of at least 20 hours per week;
- (viii) Portions of reimbursements if both the following conditions are met:
 - (1) The reimbursement exceeds the actual incurred expense it is intended to cover; and
 - (2) The household or the provider of the reimbursement indicates that the reimbursement exceeds the expense;
- (ix) Alimony payments made directly to the ex-spouse or money deducted or diverted from a court-ordered support to a third party for a household expense;
- (x) Child support payments made directly to the household from non-household members. This includes:
 - (1) All child support payments returned to the individual by the Child Support Payment Center; and
 - (2) Money deducted or diverted from a court-ordered support payment or other binding written support agreement to a third party for a household expense;
- (xi) All other direct money payments which can be construed as a gain or benefit to the household, such as cash gifts which can be anticipated, credit card company gift cards which can be anticipated, dividends, interest, or royalties, are unearned income, regardless of source;
- (xii) The portion of charitable donations that exceed \$300 in a federal fiscal quarter;
- (xiii) Two types of income from irrevocable trust funds as follows:
 - (1) Monies withdrawn from the trust fund are considered unearned income in the month they are received unless they are otherwise excluded; and
 - (2) Dividends which the household has the option of either receiving as income or reinvesting in the trust are considered unearned income in the month they become available to the household unless the dividends are otherwise excluded; and
- (xiv) Fellowships, stipends, and assistantships without a work requirement.

002.03 HANDLING INCOME. The following explains how income is handled.

002.03(A) INCOME EXCLUSIONS. Income exclusions are not counted as income for the household. Exclusions apply to both earned and unearned income.

002.03(A)(i) IN-KIND INCOME. In-kind income is excluded pursuant to Title 7 CFR § 273.9(c)(1).

002.03(A)(ii) VENDOR PAYMENT. Certain vendor payments are excluded. A vendor payment is a money payment which meets all the following conditions. It is:

- (a) Made on behalf of a household;
- (b) Paid by a person or organization outside the household with that person's or that organization's own funds; and
- (c) Paid directly to either the household's creditors or a person or organization providing a service to the household.

002.03(A)(ii)(1) INCOME LEGALLY OBLIGATED TO AN INDIVIDUAL. Income which is legally obligated and otherwise payable to the household but which is diverted by the provider of the payment to a third party for a household expense is counted as income and not excluded as a vendor payment.

002.03(A)(ii)(2) EXCLUDED VENDOR PAYMENTS. Excluded vendor payments include:

- (a) Support payments which are not required by a court order or other legally binding agreement, including payments exceeding the amount specified in a court order or agreement, which are paid directly to a third party rather than the household;
- (b) Rent paid directly to the landlord by a household member's employer in addition to the member's regular wages;
- (c) Rent or mortgage payments made to landlords or mortgagees by Department of Housing and Urban Development or a state or local housing authority;
- (d) A public assistance or general assistance payment which is paid directly to a third party for:
 - (i) Medical assistance;
 - (ii) Childcare assistance;
 - (iii) Burial expenses;
 - (iv) Expenses incurred by migrant and seasonal farm workers while in the job stream;
 - (v) Expenses over and above the normal assistance payment; and
 - (vi) Shelter expenses, if the household received an additional assistance payment and a general assistance payment for shelter; **and**
- (e) Low-Income Home Energy Assistance Program and weatherization payments.

002.03(A)(iii) IRREGULAR INCOME. Irregular income is excluded pursuant to Title 7 CFR § 273.9(c)(2).

002.03(A)(iv) STUDENT FINANCIAL ASSISTANCE. Student financial assistance is excluded pursuant to Title 7 CFR § 273.9(c)(3).

002.03(A)(v) LOANS. Loans are excluded pursuant to Title 7 CFR § 273.9(c)(4).

002.03(A)(vi) REIMBURSEMENTS. Reimbursements are excluded pursuant to Title 7 CFR § 273.9(c)(5).

002.03(A)(vii) THIRD-PARTY MAINTENANCE PAYMENTS. Third-party maintenance payments are excluded pursuant to Title 7 CFR § 273.9(c)(6).

002.03(A)(viii) INCOME OF CHILDREN. Income of children under the age of 18 is excluded pursuant to Title 7 CFR § 273.9(c)(7).

002.03(A)(ix) NONRECURRING LUMP SUM PAYMENTS. Nonrecurring lump sums are excluded pursuant to Title 7 CFR § 273.9(c)(8).

002.03(A)(x) INCOME WITHHELD FOR REPAYMENT. Income withheld for repayment is excluded pursuant to Title 7 CFR § 273.9(b)(5)(i).

002.03(A)(xi) TRANSFERRED CHILD SUPPORT PAYMENTS. Child support payments received by Aid to Dependent Children recipients must be transferred to the Title IV-D agency to maintain Aid to Dependent Children Eligibility. Child support payments which meet the following conditions are excluded:

- ~~(1) The payments are received by Aid to Dependent Children program recipients;~~
~~and~~
- ~~(2) The payments are transferred to the IV-D agency to maintain eligibility.~~

002.03(A)(xii) INCOME EXCLUDED BY FEDERAL STATUTES. The following types of income are excluded by federal statute:

- (1) Income derived from land held in trust for certain Indian tribes;
- (2) Payments from designated Energy Assistance Programs;
- (3) Payments received under the Americorps Program;
- (4) Payments received from the youth incentive entitlement pilot projects and the youth community conservation and improvement projects of 1978, but not payments from the Adult Conservation Corps (Public Law 95-524);
- (5) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 94-540);
- (6) Payments received from the Workforce Innovation and Opportunity Act;
- (7) Payments received under the Alaska Native Claims Act including those to Nana Indians;
- (8) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Public Law 95-433);
- (9) Payments to the Passamaquoddy Tribe and Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, Section 5);
- (10) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970;
- (11) Payments of relocation assistance to members of the Navajo and Hopi tribes;
- (12) Payments received under Title V of the Older Americans Act Amendments of 1987 including projects involving Experience Works, American Association of

- Retired Persons, United States Department of Agriculture Forest Service, and Area Aging Agencies;
- (13) Per capita payments to Indian tribal members up to \$2,000 per person per payment. Gambling operation payments are not considered per capita payments;
 - (14) The portion of a military retirement payment which goes to an ex-spouse under a divorce decree property settlement;
 - (15) Mandatory deductions from military pay for educational purposes while the individual is enlisted;
 - (16) Payments made under the Disaster Relief and Emergency Assistance Amendments of 1988;
 - (17) Payments to United States citizens of Japanese ancestry and resident Japanese aliens or their survivors and payments to eligible Aleuts per Public Law 100-383, Wartime Relocation of Civilians;
 - (18) Payments to individuals due to their status as victims of Nazi persecution;
 - (19) Per capita payments made under Public Law 98-124, distributions to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana;
 - (20) Per capita payments made to Chippewa's of Mississippi under Public Law 99-377, August 8, 1986, and the payments made to the Red Lake Band of Chippewa Indians under Public Law 98-123;
 - (21) Payments made from the Agent Orange Settlement Fund or any fund established by the settlement of the Agent Orange liability litigation under Public Law 101-201 and Public Law 101-239;
 - (a) Public Law 102-4, Agent Orange Act of 1991, authorized veteran's benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange. These Veteran's Administration payments are not excluded by law;
 - (22) Veteran's Administration annual adjustment in disability pension;
 - (23) Earned Income Tax Credits and Advanced Earned Income Tax Credits;
 - (24) Assistance to children under Public Law 89-642, Section 11(b) of the Child Nutrition Act of 1966;
 - (25) Supplemental Nutrition Assistance Program benefits under Women, Infants, and Children Program demonstration projects, exchanged for food at farmers' markets under Public Law 100-435, Section 501;
 - (26) Payments to specific Indian tribes;
 - (27) Payments under Public Law 98-500, the Old Age Assistance Claims Settlement Act except for per capita shares in excess of \$2,000;
 - (28) Payments under Public Law 101-426, Section 6(h)(2), the Radiation Exposure Compensation Act of 1990;
 - (29) Payments under Public Law 104-204 dated September 26, 1996, to any child of a Vietnam veteran who was born with spina bifida. The term "child" means a biological child of any age or marital status who was conceived after the date on which the veteran first served in the Republic of Vietnam during the Vietnam era;
 - (30) Any income, regardless of the source, which is deposited in a Program to Achieve Self-Sufficiency account;

- (31) Payments received under Title II (Retired Senior Volunteer Program, Foster Grandparents, and Senior Companion Program) and Title III (Service Corps of Retired Executives and Active Corps of Executives) of the Domestic Volunteer Services Act of 1973 (Public Law 93-113, as amended). Payments under Title I, including Volunteers in Service to America, University Year for Action, and the Urban Crime Prevention Program to volunteers are excluded for those persons receiving Supplemental Nutrition Assistance Program or public assistance at the time they joined the Title I program;
- (a) The exception is Households which were receiving an income exclusion for a Volunteers in Service to America or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 continue to receive an income exclusion for Volunteers in Service to America for the length of their volunteer contract in effect at the time of conversion;
- (32) Subsidy received by a household through the Medicare Drug Discount Program under the Medicare Prescription Drug Improvement and Modernization Act;
- (33) Any education loans on which payment is deferred, grants, scholarships, fellowships, and veteran's educational benefits and similar assistance;
- (34) Rent or mortgage payments made by Department of Housing and Urban Development or a state or local housing authority and payments for the purpose of providing energy assistance including utility reimbursements by Department of Housing and Urban Development or Farmers Home Administration;
- (35) Funds in Department of Housing and Urban Development Family Self-Sufficiency Program escrow accounts; and
- (36) Combat related military pay if the additional pay is the result of deployment to or service in a combat zone and was not received immediately prior to serving in a combat zone. This is authorized under United States Code, Title 37, Section 5.

002.03(A)(xiii) CHARITABLE CONTRIBUTIONS. Charitable contributions are excluded pursuant to Title 7 CFR § 273.9(c)(12).

002.03(A)(xiv) EMPLOYMENT AND TRAINING PAYMENTS. Employment and training payments are excluded pursuant to Title 7 CFR § 273.9(c)(14).

002.03(A)(xv) PAYMENTS MADE BETWEEN HOUSEHOLD MEMBERS. Payments between household members are excluded. This includes payments for child care or other services provided for other household members as long as the source of the payment is from an individual within the household and not an outside source.

002.03(B) ANTICIPATING INCOME. Anticipating income is the process of projecting the income that the Department is reasonably certain a household will receive each month during the certification period. All forms of non-excluded income will be prospectively anticipated at the time of application, recertification, and when any change is reported to the Department. This makes it possible for the Department to determine eligibility and benefit level based on monthly income. If the amount of income or when it will be received

is uncertain, the income will not be counted in the Supplemental Nutrition Assistance Program budget. However, any portion of the income that can be anticipated with reasonable certainty and verified will be counted.

002.03(B)(i) APPLICATION MONTH INCOME. When the Department computes application month income and the actual income for that month is known, the Department will use the following procedures:

- (1) If the income is for less than a full month, actual application month income is used;
- (2) If the income is for a full month and paid either weekly or bi-weekly, the income is converted to a monthly amount; or
- (3) If the income is for a full month and is not paid weekly or biweekly, actual income is used.

002.03(B)(ii) INCOME IN THE MONTH RECEIVED. Income anticipated during the certification period is considered only in the month it is expected to be received. Income counted in the budget is never counted as a resource for the same month.

002.03(B)(ii)(1) WAGES WITHHELD BY EMPLOYERS. Wages held back at the employee's request are considered income in the month the wages would otherwise have been received. Wages held back by the employer as a general practice, even if in violation of law, are not counted as income unless:

- (a) The household anticipates that it will ask for and receive an advance; or
- (b) The household anticipates that it will receive income from wages that were previously held by the employer and therefore not counted as income.

002.03(B)(ii)(2) INCOME ADVANCES. Advances on income are counted in the month received only when they can be reasonably anticipated.

002.03(B)(ii)(3) INCOME VARIATION BASED ON MAILING. Anticipated income received monthly or twice a month will not be varied solely because mailing cycles cause more than the normal number of payments in a one month period. Examples of this type of income are public assistance benefits, Supplemental Security Income benefits, Retirement, Survivors and Disability Insurance payments or an employer issuing checks early because the normal payday falls on a weekend or holiday.

002.03(B)(iii) USING PAST INCOME. The following explains how past income is used to prospectively budget future income in the budget.

002.03(B)(iii)(1) PAST 30 DAYS AS AN INDICATOR. The Department will use income from any consecutive 30-day period within three months before the application date to project future income unless changes have occurred or are anticipated. For households with seasonal income, the Department will compare the income of the most recent season to the certification period. In the case of a substantial change in the household's business, income is determined prospectively. This method is not used for migrant and seasonal farm workers.

002.03(B)(iii)(2) PAST 30 DAYS NOT REFLECTIVE. When income from any consecutive 30-day period within three months before the application date does not reflect household circumstances, the Department will use the employer's verified best estimate to project future income. This criteria applies when income is from a new source, or the pay rate or the number of hours worked per week has increased or decreased.

002.03(B)(iii)(3) USING MORE THAN 30 DAYS. If income fluctuates to the extent that the past 30 days does not provide a reasonable basis of anticipation of future income, more than 30 days' income may be used to project the household's monthly income. Fluctuating income is that which varies from month to month due to:

- (i) Work hours fluctuating;
- (ii) Variances in the amount of work when paid other than hourly; or
- (iii) The irregular nature of the income.

002.03(B)(iii)(3)(a) INCOME NOT CONSIDERED FLUCTUATING. Income which varies from pay period to pay period because of an increase or decrease in the pay rate or because the number of hours have permanently changed would not be considered fluctuating income.

002.03(B)(iii)(4) INCOME PAID MONTHLY OR SEMI-MONTHLY. If paid monthly or semi-monthly and the past 30 days of income are not representative because of fluctuating income, the Department may use a period of longer than 30 days to compute the monthly income amount. If monthly income is used, one month's verification will be considered acceptable unless one month is not reflective, in which case a reflective number of months will be used. The months used must be representative of the anticipated fluctuation.

002.03(C) INCOME AVERAGING. The following applies to how income is averaged.

002.03(C)(i) INCOME RECEIVED IN LESS THAN ONE YEAR. Some households receive their annual income in a period of less than one year by contract or through self-employment. The income for these households is averaged over a 12-month period, provided the contract income is not received on an hourly or piecework basis. Self-employment income or contract income that is not received on an hourly or piecework basis and that is intended to meet the household's needs for only part of the year will be averaged over the period of time the income is intended to cover. Examples of households of this type are those containing school employees, share croppers, and farmers. These averaging provisions do not apply to:

- (1) Households whose income is received on an hourly or piece work basis; and
- (2) Migrant or seasonal farm workers.

002.03(D) VERIFICATION OF INCOME. Before initial certification, the Department will verify gross non-excluded income. At the time of recertification, earned income will be verified again. Additionally, unearned income will be verified if the amount or the source has changed. However, under certain conditions, the Department determines an income amount based on the best available information. These conditions are as follows:

- (i) All attempts to verify the income have failed because the source has failed to cooperate with the household and the Department; and
- (ii) No other source of verification is available.

002.04 POLICIES FOR SELF-EMPLOYMENT INCOME. The following policies apply to all households receiving self-employment income including households that own and operate a commercial boarding house.

002.04(A) ANNUALIZING SELF-EMPLOYMENT INCOME. Annualizing income is averaging income over a 12-month period. Self-employment income is annualized even if the household receives additional income from sources other than self-employment. Self-employment income which is intended to meet the household's needs for only part of the year will be averaged over the period of time it is intended to cover. Self-employment income which represents a household's annual income will be annualized when:

- (1) The income is received within a short period of time during the 12 months; or
- (2) The income is received on a monthly basis but represents a household's annual support.

002.04(A)(i) SUBSTANTIAL CHANGE IN CIRCUMSTANCES. Self-employment income is computed based on anticipated earnings when:

- (1) The household has experienced a substantial increase or decrease in business; and
- (2) The averaged amount does not reflect the household's actual monthly income.

002.04(A)(ii) NEW ENTERPRISES. If a household's self-employment enterprise has been in existence for less than one year, the income from that enterprise will be averaged over the period of operation. The monthly income will be projected for the coming year.

002.04(B) DETERMINING SELF-EMPLOYMENT INCOME. The following regulations apply to determining self-employment income.

002.04(B)(i) AVERAGED SELF-EMPLOYMENT INCOME. The Department will determine the gross income, including capital gains, from self-employment for each source of self-employment of the household.

002.04(B)(i)(1) INCOME CALCULATION WITH TAX RETURNS. For individuals who incur allowable operating expenses and provide a tax return to document such expenses and income, the actual allowable operating expenses are deducted from gross income. A tax return is only usable when the business was operated for the entire prior calendar year.

002.04(B)(i)(2) INCOME CALCULATION WITH LEDGERS OR HOUSEHOLD RECORDS. For individuals who incur but provide no tax return to document such expenses, the department applies a standard disregard of 49% to the gross income and does not calculate actual expenses.

002.04(B)(i)(3) HOUSEHOLDS WITH NO EXPENSES. If the household reports no expense(s) from a source of self-employment income, the gross income from that source is used to calculate Supplemental Nutrition Assistance Program eligibility.

002.04(B)(i)(4) SPECIAL PROCEDURES FOR FARMING SELF-EMPLOYMENT INCOME. If the allowable costs of producing self-employment farm income are verified with a tax return and exceed the gross farm income, the losses are offset against other countable income. To qualify for this offset, the person must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise. If a tax return is not provided to document the costs of producing self-employment farm income, a standard disregard of 49% is applied to the gross income. A loss is not allowed.

002.04(B)(ii) CAPITAL GAINS. The full amount of any capital gain is counted as income for Supplemental Nutrition Assistance Program purposes. The proceeds from the sale of capital goods or equipment are computed in the same way as a capital gain is computed for federal income tax purposes. Even if only 50% of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the full amount of the capital gain is counted as income in computing the Supplemental Nutrition Assistance Program budget.

002.04(B)(iii) ALLOWABLE SELF-EMPLOYMENT EXPENSES. Allowable self-employment operating expenses include, but are not limited to:

- (1) Identifiable costs of labor;
- (2) Stock;
- (3) Raw material;
- (4) Seed and fertilizer;
- (5) Payments on the principal of the purchase price of income-producing real estate and capital assets;
- (6) Equipment;
- (7) Machinery;
- (8) Other durable goods;
- (9) Interest paid to purchase income-producing property;
- (10) Insurance premiums;
- (11) Taxes paid on income-producing property; and
- (12) Reimbursement from the USDA United States Department of Agriculture Child and Adult Care Food Program.

002.04(B)(iv) EXPENSES NOT ALLOWED. When a tax return is utilized to verify self-employment, the following expenses are not allowable as self-employment operating expenses:

- (1) Net losses from previous tax years;
- (2) Federal, state, and local income taxes. However, any taxes paid by the business for employees are allowed as an expense;
- (3) Money set aside for retirement purposes;
- (4) Other work-related personal expenses, such as transportation to and from work;

- (5) Depreciation;
- (6) Depletion;
- (7) Any amount that exceeds the payment a household receives from a boarder for lodging and meals; and
- (8) Any other expense that cannot be reasonably considered an expense for the business or is allowed as a deduction elsewhere in the budget.

002.04(C) INCOME FROM BOARDERS. These provisions apply to households that receive income from boarders but do not operate a commercial boarding house.

002.04(C)(i) PAYMENTS. Payments from boarders are treated as self-employment income. Income from boarders includes all direct payments to the household for room and meals, including contributions to the household's shelter expenses. However, shelter expenses paid directly by boarders to someone outside the household are not counted as income to the household.

002.04(C)(ii) COST OF DOING BUSINESS. When a tax return is provided to document the expenses, the cost of doing business equals either of the following amounts provided that the amount allowed as a cost of business does not exceed the payment the household receives from the boarder for lodging and meals:

- (a) The value of the maximum allotment for a household size equal to the number of boarders; or
- (b) The actual documented cost of providing room and meals, if this cost exceeds the amount of item one above. Only separate and identifiable costs of providing room and meals to boarders are included as actual documented costs.

002.04(C)(ii)(1) CALCULATION WITHOUT TAX RETURN. If there are costs of doing business but no tax return is provided to document such expenses, a standard disregard of 49% is applied to the gross income.

002.05 TREATMENT OF RESOURCES, INCOME AND DEDUCTIONS OF INELIGIBLE STUDENTS OR OTHER NON-HOUSEHOLD MEMBERS. The resources of ineligible students or other non-household members are excluded. The income of ineligible students or other non-household members is excluded unless the ineligible student or other non-household member makes a cash contribution to the household. These cash contributions or payments are considered countable unearned income to the household. Vendor payments by the ineligible student or other non-household member on behalf of the household are excluded. If a household shares deductible expenses with an ineligible student or non-household member, the ineligible student's or non-household member's prorated share is not deductible as a household expense.

002.05(A) COMBINED WAGE. 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 is determined as follows:

- (i) If the household's share can be identified that portion due to the household as earned income is counted; or

- (ii) If the household's share cannot be identified, the income is prorated among all those who earned it.

002.06 TREATMENT OF RESOURCES, INCOME, AND DEDUCTIONS OF HOUSEHOLD MEMBERS INELIGIBLE DUE TO FAILURE TO PROVIDE A SOCIAL SECURITY NUMBER, INELIGIBLE ABLE BODIED ADULT WITHOUT DEPENDENTS, AND INELIGIBLE ALIEN STATUS. This section describes procedures for determining the eligibility of remaining household members when a household member(s) is ineligible due to:

- (1) Failure to provide a ~~S~~social ~~S~~security number;
- (2) Noncompliance with Able Bodied Adults Without Dependents work requirements after three months of time-limited benefits;
- (3) Alien status; ~~or~~
- (4) Food Distribution Program on Indian Reservations-Intentional Program Violation; ~~or~~
- (5) Non-cooperation with Child Support Enforcement.

002.06(A) PRORATION METHOD. All resources of an ineligible household member in this section are counted to the remaining household members. A pro rata share of the income of the ineligible individual will be counted as income to the remaining household members. The pro rata share is calculated by dividing the countable income evenly among the household members, including the ineligible member. All but the ineligible member's share is counted as income for the remaining household members. When considering deductible expenses for a household with an ineligible household member:

- (i) The earned income deduction applies only to the prorated income which is attributed to the household. The earned income deduction is subtracted from the ineligible member's earned income and divided evenly among all household members including the ineligible member(s);
- (ii) Those portions of the household's allowable expenses for dependent care, child support and shelter costs, aside from utilities, which are either paid by or billed to the ineligible member will be divided evenly among the household members, including the ineligible member; and
- (iii) All but the ineligible member's share is counted as a deductible expense for the remaining household members.

002.06(B) ELIGIBILITY AND BENEFIT LEVEL. The ineligible member will not be included in determining the household's size for the purpose of assigning a benefit level to the household, comparing the household's monthly income to the income eligibility standards, or comparing the household's resources with the resource limits. The income and deductions are prorated between the ineligible household member and the remaining eligible household members.

002.06(C) REDUCTION OR TERMINATION OF BENEFITS WITHIN THE CERTIFICATION PERIOD. When an individual becomes an ineligible household member during the household's certification period, the ineligible household member is removed when determining the benefit level and allotment for the remaining members of the household.

002.07 TREATMENT OF RESOURCES, INCOME AND DEDUCTIONS OF DISQUALIFIED HOUSEHOLD MEMBERS. This section describes procedures for determining the eligibility of remaining household members when a household member has been disqualified for:

- (1) A work requirement violation;
- (2) An intentional program violation;
- (3) Conviction for the use of Supplemental Nutrition Assistance Program benefits in the sale of a controlled substance;
- (4) Conviction for trafficking of Supplemental Nutrition Assistance Program benefits of \$500 or more;
- (5) A drug felony violation described in this chapter;
- (6) Fleeing from prosecution or custody for a felony, parole, or probation violation;
- (7) Found guilty by a court or state agency of having made a fraudulent representation of identity or residency to receive Supplemental Nutrition Assistance Program benefits in more than one household for the same month;
- (8) Conviction for the use of Supplemental Nutrition Assistance Program benefits in the sale of firearms, ammunition, or explosives; and
- (9) Convicted of certain felonies described in this chapter.

002.07(A) PRORATION METHOD. The resources of the disqualified individual are counted in their entirety to the remaining household members. The earned or unearned income of the disqualified individual is counted in its entirety to the remaining eligible household members. The household's entire allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions continue to apply to the remaining eligible household members.

002.07(B) ELIGIBILITY AND BENEFIT LEVEL. The disqualified member will not be included in determining the household's size for the purpose of assigning a benefit level to the household, comparing the household's monthly income with the income eligibility standards, comparing the household's resources with the resource limits, or determining the household's standard deduction.

002.07(C) REDUCTION OR TERMINATION OF BENEFITS WITHIN THE CERTIFICATION PERIOD. When an individual is disqualified during the household's certification period, the eligibility or ineligibility of the remaining household members will be determined.

002.07(C)(i) INTENTIONAL PROGRAM VIOLATION NOTICE TO THE HOUSEHOLD. Adequate notice only is required to reduce the household's allotment. The household may request a fair hearing to contest the reduction or termination of benefits unless the household has already had a fair hearing on the claim amount as a result of consolidation of the disqualification hearing with the fair hearing.

002.08 TREATMENT OF INCOME OF STRIKERS. When determining eligibility for households containing a striker, the Department will:

- (A) Compare the striker's income as it stood the day before the strike to the striker's current income;
- (B) Add the higher of the two amounts to the current income of non-striking members during the month of application; and

- (C) Determine eligibility by considering the day before the strike as the day of the application and assume the strike did not occur.

002.09 DEEMING OF IMMIGRANT SPONSOR'S RESOURCES AND INCOME. People lawfully admitted to the United States as actual or prospective permanent residents or persons with the right to eventually obtain citizenship may be immigrants. For immigrants who are sponsored by individuals, deeming is the process of counting a sponsor's income and resources as accessible to an immigrant. The income and resources of an individual sponsor are counted when determining the eligibility of an immigrant. The individual sponsor signs an affidavit of support as required by the Immigration and Nationality Act. The resources and income of the sponsor's spouse are used in the deeming process only if the spouse has also signed the affidavit of support. The sponsor's resources and income are considered available until the immigrant:

- (1) Becomes a United States citizen; or
- (2) Obtains 40 qualifying work quarters of coverage as defined in Title II of the Social Security Act and the immigrant did not receive any federal means-tested public benefit during a countable quarter after December 31, 1996:
 - (i) Qualified work quarters earned after December 31, 1996, cannot be counted if the noncitizen, parent, or spouse received certain federal means-tested public benefits during the quarter the earnings were credited. Individuals who believe they should be credited with more quarters of work may request that Social Security Administration investigate their work history to determine if more quarters can be credited. The applicant may participate pending the results of the investigation for up to six months from the date of Social Security Administration's original finding of insufficient quarters.

002.09(A) REPORT OF SPONSOR'S CHANGES. During the certification period, the immigrant is not required to report changes regarding the sponsor. At recertification, the immigrant must report if the sponsor:

- (i) Changes employment;
- (ii) Loses employment; or
- (iii) Dies.

002.09(B) EXEMPT FROM DEEMING. Individuals are exempt from deeming requirements if they are:

- (i) Not required to have a sponsor under the Immigration and Nationality Act, such as refugees, parolees, asylees, Cuban or Haitian entrants, Amerasians, or deportees;
- (ii) Sponsored by an organization or employer;
- (iii) Participating in the sponsor's household;
- (iv) Children age 17 or younger;
- (v) Indigent aliens;
- (vi) Battered spouse or child; or
- (vii) Ineligible and disqualified household members.

002.09(C) BATTERED IMMIGRANTS. Deeming is exempted for 12 months if:

- (i) The immigrant, the immigrants' child, or both were battered;

- (ii) The battery was committed by a spouse, a parent, or a member of the spouse's or parent's family while they are residing together; and
- (iii) The battered immigrant, child, or parent must no longer reside in the same household as the abuser.

002.09(D) INDIGENT IMMIGRANTS. If an immigrant is unable to obtain food and shelter, taking into account the immigrant's own income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor(s), the amount deemed will be the amount actually provided to the immigrant by the sponsor.

002.09(D)(i) DEEMED INCOME FOR INDIGENT IMMIGRANTS. The Department will determine the amount of income and other assistance provided in the month of application. This income is the sum of the eligible sponsored alien household's own income, the cash contributions of the sponsors and others, and the value of any in-kind assistance of the sponsor or others. If the alien is indigent, the amount that will be deemed will be the amount actually provided for a period beginning on the date of determination and ending 12 months after the determination date. Each instance of indigence is renewable for an additional 12-month period.

002.09(D)(ii) REPORTING INDIGENT IMMIGRANTS. When an immigrant is determined indigent, the Department will notify the United States Attorney General and the United States Citizenship and Immigration Services of each determination, including the names of the sponsor and the sponsored immigrant involved.

002.09(E) IMMIGRANT RESPONSIBILITIES. As an eligibility requirement, an immigrant is responsible for:

- (1) Obtaining the necessary cooperation from the sponsor; and
- (2) Providing income and resource information and verification from the sponsor.

002.09(E)(i) SPONSOR VERIFICATION. If an immigrant does not provide the necessary information or verification, the immigrant is not eligible for assistance. If the sponsor or required documents related to the sponsor cannot be located, the eligibility of any remaining household members is determined by including the income and resources of the ineligible immigrant and excluding the deemed income and resources of the sponsor.

003. ELIGIBILITY COMPUTATIONS. After the household's resource eligibility and determination regarding how to treat the household's income has been established, the net monthly income is determined for households which either passed the gross income standards or who are exempt from meeting the gross income standards. This section discusses the process of finding the net monthly Supplemental Nutrition Assistance Program income by outlining deductions and applying monthly income standards.

003.01 POLICIES FOR HANDLING DEDUCTIONS. The following applies to how deductions are used when budgeting.

003.01(A) DEDUCTIONS. Deductions are taken after the household's earned and unearned income are determined.

003.01(A)(i) ITEMS NOT ALLOWED. The following expenses will not be allowed as deductions:

- (1) An expense covered by an excluded reimbursement; **and**
- (2) An expense is not deductible if:
 - (a) The expense is for a service provided by a household member; or
 - (b) The household does not make a money payment for the service.

003.01(A)(ii) EXPENSES AS BILLED. A deduction is allowed only in the month the expense is billed regardless of when the household intends to pay the bill. Amounts carried forward from past billing periods are not deductible with the exception of medical expenses. A particular expense may be deducted only once.

003.01(A)(iii) AVERAGING EXPENSES. For fluctuating expenses, the household chooses one of the following methods to determine the monthly deduction:

- (1) Expenses which are billed less often than monthly may be averaged over the period the expense is intended to cover;
- (2) "One time only" expenses may be averaged over the entire certification period in which they are billed; or
- (3) An expense may be deducted entirely in the month in which it is billed.

003.01(A)(iv) ANTICIPATING EXPENSES. A household's expenses are computed based on expenses the household expects to be billed for during the certification period. The anticipation of expenses is based on the most recent month's bills unless the household is reasonably certain a change will occur.

003.01(A)(v) VERIFICATION OF DEDUCTIONS. If the household claims an expense it must be verified before it can be allowed as a deduction. The client's declaration of shelter and utilities is accepted as verification unless questionable. If the household claims an expense but does not provide verification, the household may be certified; however, the deduction will not be allowed.

003.01(B) EARNED INCOME DEDUCTION. A percentage of a household's gross earned income will be deducted pursuant to Title 7 CFR § 273.9(d)(2).

003.01(B)(i) EARNED INCOME DEDUCTION FOR OVERISSUANCES. Households in the Simplified Reporting category are not allowed the earned income deduction when an overissuance was caused by the household's failure to meet a reporting requirement for a new source or change in earned income timely.

003.01(C) STANDARD DEDUCTION. Each household will be allowed a monthly standard deduction pursuant to Title 7 CFR § 273.9(d)(1)(i).

003.01(D) MEDICAL EXPENSE DEDUCTION. The medical expense deduction is allowed only for the eligible individuals in households with one or more elderly or disabled members. Only the amount of the expense incurred or reasonably anticipated by the elderly or disabled household member(s) may be considered. To qualify for the deduction, the medical expenses must be:

- (1) Verified as non-reimbursable; and

(2) In excess of the monthly threshold amount.

003.01(D)(i) SUPPLEMENTAL SECURITY INCOME ELIGIBILITY FOR MEDICAL EXPENSE DEDUCTION. Persons receiving Supplemental Security Income presumptive disability payments are considered eligible for the medical expense deduction. Presumptive disability payments are regular benefits for a three-month period paid to persons most likely to meet Supplemental Security Income disability criteria. These persons are considered Supplemental Security Income eligible by the Social Security Administration and receive a federal Supplemental Security Income check for the amount of entitlement.

003.01(D)(i)(1) RECEIPT OF SUPPLEMENTAL SECURITY INCOME ON BEHALF OF SOMEONE ELSE. Spouses or other persons receiving benefits as a dependent of a Supplemental Security Income or disability recipient are not eligible to receive this deduction unless they are elderly or otherwise meet the definition of a disabled person.

003.01(D)(ii) ALLOWABLE MEDICAL EXPENSES. Any non-reimbursable costs over the monthly amount for allowable items are deducted from the household's income if the cost was incurred by an eligible household member. These items are:

- (a) Medical care including psychotherapy and rehabilitative costs provided by a licensed medical practitioner;
- (b) Dental care provided by a licensed medical practitioner;
- (c) Hospitalization or nursing home care which is paid on behalf of a person who was a household member immediately before entering the hospital or nursing home;
- (d) Health and hospitalization insurance premiums which cover medical costs;
- (e) Ambulance insurance premiums;
- (f) Medicare premiums and any cost sharing copay or spend down expenses incurred by a Medicaid recipient;
- (g) Animals providing service to disabled persons such as seeing eye dogs, their veterinary fees, food, and other maintenance costs;
- (h) Prosthetic devices;
- (i) Dentures;
- (j) Hearing aids;
- (k) Transportation to obtain medical treatment, services, or prescriptions. To be deductible, costs for this transportation must be reasonable;
- (l) The cost of a medic-alert system above the basic telephone rate;
- (m) The principal, but not the interest, on a loan to cover medical expenses;
- (n) Corrective footwear, wheelchairs, and other items prescribed by a licensed medical practitioner;
- (o) Drugs, including over-the-counter, prescribed by a licensed medical practitioner;
- (p) Eyeglasses prescribed by a physician skilled in eye diseases or by an optometrist;
- (q) Attendant, housekeeper, or home health aide if the care is needed because of age, infirmity, or illness. When the household supplies a majority, 51%, of

an attendant's meals, the maximum allowable one-person allotment is deducted in addition to the attendant's wages;

- (r) Adult day care expenses for the elderly or disabled;
- (s) Telephone amplifiers, warning signals for handicapped, and costs of typewriter equipment for the deaf, etc.; and
- (t) Annual enrollment fee for Medicare prescription drug card.

003.01(D)(ii)(1) MEDICAL VENDOR PAYMENTS. If a vendor payment for any allowable medical expense is excluded as income, this expense will not be allowed as a medical deduction.

003.01(D)(ii)(2) NON-ALLOWABLE MEDICAL COSTS. The following medical costs are not allowed:

- (a) Premiums for life or dismemberment insurance;
- (b) Premiums for income producing policies;
- (c) Special diets;
- (d) Interest on a loan to pay medical expenses;
- (e) The basic telephone rate for a medic-alert system;
- (f) Overdue or past due expenses;
- (g) Medical expenses previously deducted in the Supplemental Nutrition Assistance Program budget;
- (h) Prescriptions received at no cost through the prescription drug discount program; and
- (i) Automobile medical liability insurance.

003.01(D)(iii) ONE TIME ONLY MEDICAL EXPENSES. A one-time only medical expense is the cost of a medical occurrence which is not ongoing or routine. The following procedures apply solely to one time only medical expenses:

- (1) If a household reports a one time only medical expense at certification or recertification, the household will have the choice of having the expense:
 - (a) Budgeted as a lump sum; or
 - (b) Averaged and budgeted over the certification period;
- (2) If a household reports they anticipate a medical expense during the certification period and at the time of certification they can provide adequate verification of the anticipated expense, the expense can be prorated over the entire certification period;
- (3) If a household reports a one time only medical expense during the certification period, the household will have the choice of having the expense:
 - (a) Budgeted as a lump sum; or
 - (b) Averaged and budgeted over the remaining months in the certification period;
- (4) If a household reports they anticipate a medical expense during the certification period but are unable to provide the verification at the time of certification, the expense will be allowed if the verification is provided during the certification period and the expense will be prorated over the balance of the certification period; or
- (5) If a one-time medical expense was averaged over the certification period and the certification period is extended, the one-time medical expense will be

recalculated. The medical expense will be averaged over the months in the extended certification period.

003.01(D)(iv) VERIFICATION OF MEDICAL EXPENSES. Before initial certification, the household must verify the following:

- (a) The amount of medical expenses, including the amount of reimbursement if any; and
- (b) The type of medical expense, whether allowable or non-allowable.

003.01(D)(iv)(1) RECERTIFICATION. At the time of recertification the household must verify medical expenses it has claimed if changes have occurred since last verified.

003.01(E) DEPENDENT CARE COST DEDUCTION. Dependent Care costs allowable pursuant to Title 7 CFR § 273.9(d)(4).

003.01(E)(i) VERIFICATION OF DEPENDENT CARE COSTS. The household must verify dependent care costs that it claims as an expense:

- (a) If questionable; or
- (b) If allowing the expense could potentially result in a deduction.

003.01(E)(i)(1) AFTER INITIAL VERIFICATION. Subsequent verification is not required unless the household reports a change in the provider or in the amount of the deduction or unless the information is questionable.

003.01(F) CHILD SUPPORT DEDUCTIONS. Child support paid by a household member is an allowable expense when it meets all of the following conditions:

- (1) Child support is paid to or for a non-household member;
- (2) The household member has a legal obligation to pay child support; and
- (3) The amount of child support paid is verified.

003.01(F)(i) PAYMENT TO THIRD PARTY. If the noncustodial parent makes a payment to a third party in accordance with the court order, these payments are allowable as child support expenses.

003.01(F)(ii) ALLOWABLE CHILD SUPPORT COSTS. In computing the child support deduction, the Department considers the following as long as the expense is court-ordered and verifies any of the following as paid:

- (a) Payments to the court;
- (b) Payments to the custodial parent in accordance with a court order;
- (c) Payments to the custodial parent's mortgage company or landlord;
- (d) Payments to the custodial parent's utility company;
- (e) Payments to obtain health insurance for the child(ren); or
- (f) Payments for child care per court order.

003.01(F)(ii)(1) ALIMONY AND SPOUSAL SUPPORT. Alimony or spousal payments made to or for a non-household member are not an allowable child support deduction.

003.01(F)(iii) ARREARAGES. Households which have a three-month record of current child support payments and are also paying arrearages will have the arrearage amount also included as part of the child support deduction. The three-month record of payment is the current three-month period.

003.01(F)(iv) VERIFICATION OF CHILD SUPPORT COSTS. The household has the responsibility to provide verification of:

- (a) The legal obligation;
- (b) The obligated amount; and
- (c) The amount paid.

003.01(F)(iv)(1) VERIFICATION WITH SAME DOCUMENTS. The same document cannot be used to verify the household's legal obligation to pay child support and to verify the household's actual monthly child support payments.

003.01(F)(iv)(2) VERIFICATION AT RECERTIFICATION. The amount of legally obligated child support a household member pays to a non-household member will be verified at initial certification and at each recertification.

003.01(F)(iv)(3) PAYMENTS MADE TO THE CLERK OF THE DISTRICT COURT. If the child support payments are made to the Clerk of the District Court, the Department is responsible for obtaining verification of the household's child support payments. The Department will give the household an opportunity to resolve any discrepancy between the household verification and the Clerk of the District Court records.

003.01(F)(v) BUDGETING THE CHILD SUPPORT PAYMENT. The amount of the child support deduction is determined by the amount of child support paid by the household. Child support must actually be paid before it can be allowed as a deduction.

003.01(F)(v)(1) IRREGULAR AND NEW PAYMENTS. If a household has an irregular pattern of paying child support, the Department may use the past payment history in determining the monthly amount used as a child support deduction. If a household has no record of paying child support or a payment record of less than three months, the Department will budget the child support deduction using the best information available.

003.01(G) SHELTER DEDUCTIONS. Each household is allowed to deduct shelter expenses in excess of 50% of the household's net income after allowable deductions. This is automatically calculated by the automated system. The following procedures apply:

- (1) The household's excess shelter deduction cannot exceed the maximum allowable amount for households with no elderly or disabled members; or
- (2) If the household contains a member who is elderly or disabled the household is entitled to an unlimited excess shelter deduction.

003.01(G)(i) ALLOWABLE SHELTER COSTS. The following shelter costs are allowable deductible expenses:

- (1) Rent or mortgage payments (whether or not the household receives a general assistance payment for shelter);
- (2) Property taxes;
- (3) Homeowner's insurance;
- (4) Special assessments;
- (5) Home repair costs associated with substantial damage or destruction from a natural disaster;
- (6) Temporarily unoccupied homes. Costs of a home temporarily not occupied by the household because of employment or training away from the home, illness, or abandonment caused by a natural disaster or casualty loss are allowed only if all of the following conditions are met:
 - (a) The household intends to return to the home;
 - (b) The home is not leased or rented during the household's absence;
 - (c) The current occupants, if any, are not claiming shelter costs for this home for Supplemental Nutrition Assistance Program purposes; and
 - (d) The shelter costs are verified;
- (7) Utility allowances; and
- (8) Standard homeless shelter deduction.

003.01(G)(ii) COMPUTING THE SHELTER DEDUCTION. In computing the shelter deduction, the following is considered as a deductible expense if declared by the household:

- (1) Continuing charges for the shelter occupied by the household, including rent payments, condominium fees, mortgage payments and other continuing charges leading to the ownership of the shelter:
 - (a) Payments on second mortgages and home equity loans are allowable shelter costs regardless of how the money was used. If a second mortgage is obtained for medical expenses, repayment is treated as a shelter expense and not as a medical expense;
 - (b) If a household moves in the middle of the month and is billed for shelter expenses for two residences, the costs of both residences are allowable for one month; **or**
 - (c) If Department of Housing and Urban Development is involved in partial payment of rent costs, only the amount the household actually owes to the landlord may be allowed as a shelter expense;
- (2) Real estate taxes may be allowed as a shelter cost in the month billed or taxes may be prorated forward over the period between billings. The household chooses the option;
- (3) Homeowner's insurance premiums covering the structure are allowable shelter costs;
 - (a) If this expense is billed less often than monthly, the household may elect to have the expense used when billed or prorated forward over the period between billings. The household chooses the option;
 - (b) If the household has a homeowner's insurance policy that lists the structure and contents separately on the premium notice, only the amount on the structure and any associated administrative costs may be allowed; **or**

- (c) If the household has a homeowner's insurance policy that includes insurance both on the structure, contents, and additional costs, but the costs cannot be separately identified, the entire premium may be allowed;
- (4) Only assessments related to the home and lot are allowable. Allowable assessments include special payments for civic improvements such as curb, storm sewer, sidewalks, streetlights, sewage treatment, etc.; and
- (5) Non-reimbursable charges for the repair of a home which has been substantially damaged or destroyed due to a natural disaster, such as a flood or fire.

003.01(G)(iii) NONALLOWABLE SHELTER COSTS. The following are not allowable as shelter costs:

- (1) Costs to insure shelter contents such as furniture and personal belongings;
- (2) One-time deposits required by landlords;
- (3) Any cost to repair damage caused by a natural disaster that has been or will be reimbursed by any source;
- (4) Down payments;
- (5) Closing costs as a whole. However, if the closing costs can be itemized to identify allowable costs such as taxes and insurance, these costs can be allowed;
- (6) Repairs and improvements in exchange for rent (no income is counted and no deduction for rent is allowed);
- (7) Any cost to repair wear and tear, incidental damages, and improvements;
- (8) Late fees or charges for late shelter payments, and shelter payment amounts carried forward from past billing periods;
- (9) Shelter expenses being paid by an insurance company;
- (10) Any amount of housing costs, including utilities, covered by the Department of Housing and Urban Development or other vendor payments to the landlord; and
- (11) Mortgage payments on unsecured or personal loans. A loan is considered secured only when a lien is placed on the property by the lender. Continuing charges leading to ownership of a property are not considered an unsecured loan and are allowable shelter costs.

003.01(G)(iv) VERIFICATION OF SHELTER COSTS. At initial certification, the Department accepts the household's declaration of rent, mortgage payments and related expenses such as lot rental, taxes, and insurance unless the information is questionable. Shelter expenses are allowed in the month the expense is billed, regardless of when the household intends to pay the expense. When a household occupies a residence that has a monthly rent structure and the rent has been paid in advance, the monthly amount of rent should be taken into consideration each month when the shelter deduction is determined without regard to when it is actually paid. Expenses which are billed less often than monthly such as taxes or insurance may be prorated forward over the period between billings.

003.01(G)(v) STANDARD SHELTER DEDUCTION FOR HOMELESS INDIVIDUALS. Homeless households which incur or anticipate they will have shelter costs for any portion of the month are eligible for a homeless standard shelter allowance. The

homeless standard shelter allowance is updated annually. Utilities are considered a part of the homeless standard shelter allowance, therefore, households receiving the standard homeless deduction do not qualify for any utility expenses. Homeless households which have free shelter do not qualify for the homeless standard shelter allowance.

003.01(G)(v)(1) VERIFICATION OF SHELTER COSTS FOR HOMELESS INDIVIDUALS. If the shelter costs seem questionable and there is no other documentation to support the household's shelter costs, verification may be required, including collateral contacts.

003.01(G)(v)(1)(a) SHELTER COSTS GREATER THAN HOMELESS DEDUCTION. If the household claims to have shelter costs that allow a shelter deduction in excess of the homeless shelter standard for homeless individuals, verification will be obtained to allow the higher costs. The same type of verification may be used for homeless households claiming actual costs that are used for homeless people using the standard shelter allowance.

003.01(G)(vi) SHELTER SHARED WITH OTHERS. Shared shelter is when multiple households are living in one physical residence and more than one household is being billed for or is contributing to the shelter costs. This type of shared shelter is for convenience of the households and is not a self-employment enterprise. Any payments made from one household to another for rent/mortgage expenses when they reside together are excluded income as a pass through payment up to the full amount of the rent/mortgage payment billed. If the payment is more than the total rent/ ~~or~~ mortgage payment billed, the excess payments are considered unearned income to the household receiving the payment. A shelter deduction for each household is allowed based on the amount each household contributes toward the total rent/ ~~or~~ mortgage billed.

003.01(H) UTILITY ALLOWANCE. Actual utility costs cannot be allowed as a deduction. To qualify for a utility allowance, the household must be billed for utilities on a recurring basis apart from the rent or mortgage. If the household does not qualify for one of the allowances, the household is not eligible for any utility deduction. The household may receive one of the following:

- (1) Standard Utility Allowance;
- (2) Limited Utility Allowance;
- (3) One Utility Allowance; or
- (4) Telephone Standard Allowance.

003.01(H)(i) UTILITY ALLOWANCE DETERMINATION AFTER A MOVE. If a Simplified Reporting household reports a move the entitlement to a utility allowance will be re-determined.

003.01(H)(ii) UTILITY ALLOWANCE FOR UNOCCUPIED HOMES. If a household owns a home that is temporarily unoccupied because of employment or training away from home, illness, or abandonment due to a casualty or natural disaster, the household is entitled to only one utility allowance. If the household is paying different

utility types at the two residences, the household has the choice of using the temporarily unoccupied structure or their current residence in the Supplemental Nutrition Assistance Program budget.

003.01(H)(iii) STANDARD UTILITY ALLOWANCE. To qualify for the Standard Utility Allowance, the Supplemental Nutrition Assistance Program household must have a member who:

- (a) Is billed for a recurring heating or cooling expense separately and apart from its rent or mortgage; or
- (b) Has received one or more Low-Income Home Energy Assistance Program payment(s) that exceed \$20 annually in the current or preceding 12 months.

003.01(H)(iii)(1) COSTS INCLUDED IN THE STANDARD UTILITY ALLOWANCE. The Standard Utility Allowance includes:

- (a) Costs of heating and cooking fuel, such as oil, gas (including the rental fee for the propane tank), wood when the primary heating source, or electricity;
- (b) Costs of air conditioning;
- (c) Costs of septic tank installation and maintenance;
- (d) Fees for water;
- (e) Sewage costs;
- (f) Garbage and/or trash collection fees;
- (g) Basic telephone rate; and
- (h) Initial fees, other than the deposit, charged by the utility provider.

003.01(H)(iii)(2) ELIGIBILITY FOR STANDARD UTILITY ALLOWANCE. Any household which is billed for a heating or cooling expense on a recurring basis separately and apart from its rent or mortgage or has a member who has received one or more Low Income Home Energy Assistance Program payment(s) in the current or preceding 12 months that exceed \$20 annually is entitled to the Standard Utility Allowance. Eligibility for Standard Utility Allowance based on receipt of the Low Income Home Energy Assistance Program is not affected by a change in household residence after the household has received the Low Income Home Energy Assistance Program payment(s).

003.01(H)(iii)(2)(a) RECURRING PAYMENTS. Recurring means the household is billed on a regular basis or the expense is incurred on a regular basis. A household that only incurs cooling costs for two weeks out of the year is not entitled to the Standard Utility Allowance. A household that incurs heating or cooling costs several months out of the year is entitled to the Standard Utility Allowance. A household which incurs recurring cooling or heating fuel costs on an irregular basis but is otherwise eligible to use the Standard Utility Allowance may continue to use the Standard Utility Allowance between billings. A household only needs to have a member who has received one or more Low Income Home Energy Assistance Program payment(s) totaling more than \$20.00 within the current or preceding twelve months to be eligible for Standard Utility Allowance.

003.01(H)(iii)(2)(b) COOLING COST ENTITLEMENT. Cooling costs that entitle the household to the Standard Utility Allowance are those costs related to the operation of an air conditioning system, evaporative cooler, swamp box, or room air conditioner(s). The use of a fan does not qualify the household for the Standard Utility Allowance.

003.01(H)(iii)(2)(c) NONALLOWABLE HEATING SOURCES. Utility costs for the operation of a space heater, electric blanket, heat lamp, cooking stove, or other similar heating source when used as a supplemental heating source do not qualify a household for the Standard Utility Allowance. The cost of operating an electric blower for an oil or gas furnace does not qualify a household for the Standard Utility Allowance.

003.01(H)(iv) LIMITED UTILITY ALLOWANCE. To qualify for the Limited Utility Allowance, the household must be billed on a recurring basis separately and apart from its rent or mortgage for at least two utilities other than heating or cooling. The Limited Utility Allowance covers the basic telephone rate, water, sewer, garbage or trash collection, maintenance of wells and septic tank systems. Gas, propane, and electricity are included when only non-heating or cooling costs are incurred.

003.01(H)(v) ONE UTILITY ALLOWANCE. To qualify for the One Utility Allowance, the household must be billed for no more than one utility. The household cannot be eligible for the One Utility Allowance and be billed for heating or cooling costs, the telephone or have received a Low Income Home Energy Assistance Program payment. A household which is billed for one utility on a recurring basis separately and apart from its rent or mortgage payment is entitled to the One Utility Allowance.

003.01(H)(vi) TELEPHONE ALLOWANCE. To qualify for the Telephone Allowance, the household must be billed for the basic service fee for a telephone. The Telephone Allowance may be allowed for a cell phone if there is no house phone available and the cell phone is the household's primary phone.

003.01(H)(vii) UTILITIES SHARED WITH OTHERS. When multiple households are living in one physical residence and more than one household is being billed for or contributing to the utility costs, this agreement is considered shared utilities. This type of shared utilities is for convenience and is not a self-employment enterprise. The Standard Utility Allowance, Limited Utility Allowance, One Utility Allowance, or Telephone Allowance is not prorated for households that share utility expenses. These households are eligible for the appropriate utility allowance.

003.01(H)(viii) RENTAL HOUSING. The following applies to individuals in rental housing.

003.01(H)(viii)(1) PRIVATE HOUSING. The following households are also eligible for one of the utility deductions:

- (a) Private rental housing units which are billed by the landlord on the basis of individual usage;

- (b) Private rental housing units which are charged a flat fee separately from their rent; or
- (c) Households receiving direct or indirect energy assistance, which is excluded from income consideration, other than Low-Income Home Energy Assistance Program, if their expenses exceed the amount of assistance.

003.01(H)(viii)(2) PUBLIC HOUSING. The following households are eligible for one of the utility deductions:

- (a) Public housing units which determine the amount of usage separately for each household through a metering system; and
- (b) Public housing units which have central meters and which charge the household only for excess cost.

003.01(H)(ix) VERIFICATION OF UTILITY EXPENSES. The household must report a utility expense(s) if the Standard Utility Allowance, Limited Utility Allowance, One Utility Allowance, or Telephone Allowance is to be used.

003.01(H)(ix)(1) MOVES DURING CERTIFICATION PERIOD. When a Simplified Reporting household reports a move or a change in the source of utilities during the certification period, the utility allowance must be re-determined based on the current physical address and household circumstances. When a Transitional Benefit Reporting household reports a move or change in the source of utilities during the certification period, the information is acted on at the next recertification.

003.02 INCOME ELIGIBILITY STANDARDS. Applicant households must meet the income eligibility standards of the Supplemental Nutrition Assistance Program as follows:

- (1) Households containing a member who is elderly or disabled must meet the net monthly income eligibility standards. Gross and net income eligibility tables are included in a guidance document;
- (2) Households which do not contain an elderly or disabled member must meet both the gross and net monthly income eligibility standards;
- (3) Households which are categorically eligible are not required to meet either the gross or net monthly income standard. Eligible one or two-person households whose income exceeds the net income limits are entitled to the minimum monthly benefit, listed in a guidance document, except during an initial month if the benefit prorates to less than the minimum monthly benefit. If the initial month's benefit is prorated to \$10, \$11, \$12, or \$13, the prorated amount is issued; and
- (4) Households which are Expanded Resource Program eligible must meet **both** the Expanded Resource Program **gross and net** income standards. ~~One or two person households who contain an elderly or disabled member and are over the gross income levels must go through the regular Supplemental Nutrition Assistance Program eligibility criteria. If eligible, the household will then receive the minimum monthly benefit listed in a guidance document.~~

~~003.02(A) MINIMUM ALLOTMENT EXCEPTION. There is no minimum allotment for a one or two person household that is eligible for Expanded Resource Program only. Households may meet the net income level but not be entitled to benefits because their~~

~~income is above the income level for which Supplemental Nutrition Assistance Program benefits are issued. These households will be denied.~~

003.02(BA) GROSS MONTHLY INCOME ELIGIBILITY STANDARDS. Gross income refers to income after any allowable income exclusions have been applied. Households which do not include an elderly or disabled member and are not categorically eligible must be under the gross monthly income standard for their household size. Households which are determined to be eligible under gross monthly income standards must also pass the net monthly income standards. Households which include one or more elderly or disabled household members are exempt from the gross monthly income standard. If the household income exceeds the gross income limits, the automated system will deny or close the case when a final budget is processed.

003.02(CB) NET MONTHLY INCOME ELIGIBILITY STANDARDS. Net income refers to income after all deductions have been applied. These standards are used for all households in determining benefit amounts. Eligible one or two-person households which are categorically eligible qualify for a minimum monthly benefit listed in a guidance document even if their income exceeds the net monthly income limits.

003.03 BENEFIT LEVEL. The household's monthly allotment will be equal to the maximum ~~SNAP Supplemental Nutrition Assistance Program~~ allotment for the household size reduced by 30% of the household's net monthly income. If 30% of the household's net income ends in cents, the value is rounded up to the nearest dollar.

~~004. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM CHILD SUPPORT ENFORCEMENT COOPERATION. A natural or adoptive parent must cooperate in good faith with child support enforcement if such parent is receiving Supplemental Nutrition Assistance Program (SNAP) benefits, is living with and exercising parental control over a child under the age of 18, and there is an absent parent. The recipient may claim good cause as an exception to cooperation as set forth in this chapter. Individuals will be notified of this requirement in writing at the time of application and reapplication for continued Supplemental Nutrition Assistance Program (SNAP) benefits. The following regulations detail how custodial and non-custodial parents must comply with Child Support Enforcement in order to receive benefits.~~

004.01 PARENTAL COOPERATION. ~~The following regulations detail who is required to cooperate with Child Support Enforcement and their requirements.~~

004.01(A) CUSTODIAL PARENT COOPERATION. ~~A natural or adoptive parent must cooperate in good faith with child support enforcement if such parent is receiving Supplemental Nutrition Assistance Program benefits, is living with and exercising parental control over a child under the age of 18, and there is an absent parent. The recipient may claim good cause as an exception to cooperation as set forth in this chapter. Individuals will be notified of this requirement in writing at the time of application and reapplication for continued Supplemental Nutrition Assistance Program benefits.~~

004.01(A)(i) DEEMED COOPERATION. If the individual is receiving Temporary Assistance for Needy Families (~~TANF~~) or Medicaid, or assistance from Nebraska Child Support Enforcement, and has already been determined to be cooperating, or has

been determined to have good cause for not cooperating, the individual is considered to be cooperating for Supplemental Nutrition Assistance Program (~~SNAP~~) purposes.

004.021(A)(ii) REQUIREMENTS AND RESPONSIBILITIES. The individual must cooperate with the State Child Support Agency in establishing paternity of the child, and in establishing, modifying, or enforcing a support order with respect to the child and the individual.

~~004.03 FEES FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) RECIPIENTS. Supplemental Nutrition Assistance Program (SNAP) recipients subject to the cooperation provisions of this Chapter shall not be required to pay a fee or other cost for services provided under Part D of Title IV of the Social Security Act.~~

0054.01(B) NON-CUSTODIAL PARENT COOPERATION. A putative or identified parent who does not live with his or her child who is under the age of 18 must cooperate in good faith with child support enforcement if such parent is receiving Supplemental Nutrition Assistance Program (~~SNAP~~) benefits. Individuals will be notified of this requirement in writing at the time of application and reapplication for continued Supplemental Nutrition Assistance Program (~~SNAP~~) benefits.

004.01(B)(i) DEEMED COOPERATION. ~~If the individual is receiving Temporary Assistance for Needy Families or Medicaid, or assistance from Nebraska Child Support Enforcement, and has already been determined to be cooperating, or the Department has determined an exception applies under 7 CFR § 273.11 for not cooperating, the individual is considered to be cooperating for Supplemental Nutrition Assistance Program purposes.~~

004.01(B)(ii) REQUIREMENTS AND RESPONSIBILITIES. ~~The individual must cooperate with the State Child Support Agency in establishing paternity of the child, and in establishing, modifying, or enforcing a support order with respect to the child and the individual.~~

~~004.02 FEES FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM RECIPIENTS. Supplemental Nutrition Assistance Program recipients subject to the cooperation provisions of this Chapter shall not be required to pay a fee or other cost for services provided under Part D of Title IV of the Social Security Act.~~

0054.043 INDIVIDUAL DISQUALIFICATION. If the Department determines that the custodial or non-custodial parent has refused to cooperate, then that individual shall be ineligible to participate in the Supplemental Nutrition Assistance Program (~~SNAP~~). Refusal to cooperate is when an individual has demonstrated an unwillingness to cooperate as opposed to an inability to cooperate.

~~005.02 DEEMED COOPERATION. If the individual is receiving Temporary Assistance for Needy Families (TANF) or Medicaid, or assistance from Nebraska Child Support Enforcement, and has already been determined to be cooperating, or the Department has determined an exception applies under 7 CFR 273.11 for not cooperating, the individual is~~

~~considered to be cooperating for Supplemental Nutrition Assistance Program (SNAP) purposes.~~

~~005.03 REQUIREMENTS AND RESPONSIBILITIES. The individual must cooperate with the State Child Support Agency in establishing paternity of the child, and in establishing, modifying, or enforcing a support order with respect to the child and the individual.~~

~~005.04 FEES FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) RECIPIENTS. Supplemental Nutrition Assistance Program (SNAP) recipients subject to the cooperation provisions of this Chapter shall not be required to pay a fee or other cost for services provided under Part D of Title IV of the Social Security Act.~~

0064.04 GOOD CAUSE. In order to show good cause for failing or refusing to cooperate, a recipient must demonstrate that:

- (A) Cooperation is likely to result in physical or emotional harm to the child;
- (B) Cooperation is likely to result in physical or emotional harm to the custodial party with whom the child is living which reduces the capacity to care for the child adequately;
- (C) The child was conceived as a result of incest or forcible rape;
- (D) Court proceedings are pending for the adoption of the child except in the case of stepparent adoption; or
- (E) The custodial party is contemplating placing the child for adoption and has been working with an agency for this purpose not more than three months.

0064.04(A) NOTICE OF GOOD CAUSE. Upon receiving notice of a claim of good cause for failure to cooperate, all activities to establish paternity or secure support will be suspended until the Department makes a final determination whether good cause exists. Assistance will not be denied, delayed, or discontinued pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements to furnish corroborative evidence and information.

0074.05 CORRABORATING EVIDENCE. Within 20 days of claiming good cause for failing or refusing to cooperate, a recipient must provide corroborating evidence. Additional time may be granted in the sole discretion of the Department. Corroborating evidence includes, but is not limited to:

- (A) Birth certificates, medical records, or law enforcement records that indicate that the child was conceived as the result of incest or forcible rape;
- (B) Court documents or other records that indicate that legal proceedings for adoption are pending;
- (C) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records that indicate that the alleged father or noncustodial party might inflict physical or emotional harm upon the custodial party or the child;
- (D) Medical records that indicate emotional health history and present emotional health status of the custodial party or the child, or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the custodial party or the child;
- (E) A written statement from a public or private agency confirming that the custodial party is being assisted in resolving the issue of whether to give up the child for adoption; or

(Fvi) Sworn statements from individuals, including but not limited to, friends, neighbors, relatives, clergy, social workers, and medical professionals who might have knowledge of the circumstances providing the basis of the good cause claim.

0084.06 DETERMINATION OF GOOD CAUSE. The recipient will be notified in writing whether the Department has determined good cause exists. As long as good cause exists, no actions will be taken to establish paternity or secure support unless the Department determines that support enforcement may proceed without the participation of the recipient, caretaker, or other relative. If such a determination is made, the recipient, caretaker, or other relative will not be required to be involved with any undertaking to establish paternity or secure support.

0094.07 EFFECT OF GOOD CAUSE DETERMINATION. The good cause determination extends to all parties involved in the case. If the Department determines that good cause exists, IV-D services will not be provided to any party to the case unless the Department determines that support enforcement may proceed without the participation of the recipient, caretaker, or other relative who showed good cause.

01004.08 SANCTIONS FOR FAILURE TO COOPERATE. Failure to cooperate in good faith can result in sanctions being imposed by the Department relating to receiving public assistance, discontinuation of IV-D services, or both.

01104.09 ENTIRE HOUSEHOLD NOT DISQUALIFIED. Any disqualification related to child support cooperation shall not apply to the entire household. The income and resources of the disqualified individual shall be handled in accordance with 7 CFR § 273.11.

01204.10 RIGHTS AND OBLIGATIONS UNDER FEDERAL LAW. All requirements for cooperation with child support enforcement by custodial parents and non-custodial parents shall be in accordance with 7 CFR § 273.11.

TITLE 475 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

CHAPTER 4 BENEFITS

001. CALCULATING BENEFITS. Benefit levels for all households are based on each household's net income and household size.

001.01 INITIAL CERTIFICATION. Benefits are prorated from the application filing date at initial certification. The eligibility determination for a household submitting an initial application is based on circumstances for the entire application month. A household's benefit level for the initial month will be based on the day of the month on which the household files the application. Benefits will be prorated from the application filing date to the end of the month.

001.02 RECERTIFICATION. When the household files a new application prior to the expiration of their certification period, benefits are not prorated. Unless there has been a break in benefits, households are not entitled to expedited services at recertification. When the household files a new application after the expiration of their certification period, benefits are prorated from the application filing date. Migrants and seasonal farm workers' benefits are not prorated unless there has been a break in service of more than one month. The Department determines eligibility and benefit level at the time of recertification by considering the household's circumstances as anticipated for the certification period following the expiration of the current certification period.

001.02(A) APPLICATION TIMEFRAME. An application will be considered as an application for recertification if it is received within the 60 days before the last day of a certification period, or within 30 days after the last day of the certification period. The last day of a certification period is day 1 when counting back 60 days. Applications received before the 60 day timeframe will not be considered recertification applications but they will be reviewed for actionable changes. Applications received within 30 days after the last day of the certification period are considered late recertifications and are eligible for expedited service.

001.03 ELIGIBILITY FOLLOWING APPLICATION MONTH. The Department will use the same application to deny a case for the initial month and to approve the case for the following month when both of the following conditions are met and actions are completed at the same time:

- (A) The household is ineligible for the program in the month of application; and
- (B) The household is eligible for the program in the following month.

001.04 RETROACTIVE BENEFITS. Retroactive benefits are issued only when eligibility is determined in the month(s) following application. The Department will issue retroactive

benefits to a household for the month of application when all of the following conditions are met:

- (1) The household is eligible for the program in the month of application;
- (2) The household is entitled to benefits in the month of application; and
- (3) The Department makes the determination in a month following the month of application that the two steps above apply to the household.

001.04(A) TIME STANDARDS. The eligibility determination for the month following the month of application will be made within the time standards for application processing.

001.05 FLUCTUATING ALLOTMENTS. When there are anticipated changes in the household circumstances, and the household does not choose to use the averaging procedures, the assigned allotment will reflect changes anticipated at the time of certification.

001.056 PRORATED ALLOTMENT. Benefits are prorated for the first month of the initial certification period and for the month following recertification when there has been a break in service and at reinstatement. If the allotment after proration is less than \$10, benefits are not issued for that month.

001.056(A) STANDARD MONTH. As a basis of proration, the automated system uses a 30-day month as a standard for households. Application of households applying on the 31st day of a month will be treated as though the household had applied on the 30th day of the month. In February, households applying on the 28th or 29th day are treated the same as households applying on those dates in any other month.

001.056(B) EXPEDITED PROCESSING. If the household files an initial application on or after the 16th day of the month, the Department issues one combined allotment for the month of application and the following month. The household must provide verification of the identity of the head of the household before receiving benefits but may postpone providing some or all of the other verifications for the first two months. The combined allotment will be issued within seven calendar days of the receipt of the application. All required verifications must be provided before the third month's benefits can be issued.

001.056(C) MIGRANT AND SEASONAL FARMWORKER HOUSEHOLDS. The Department will not prorate benefits for migrant and seasonal farm workers when the household has participated in the Supplemental Nutrition Assistance Program within a month before the date of application or at reinstatement.

001.067 FULL MONTHS ALLOTMENT. A full month's allotment is provided in all months except the initial month, the first month of the recertification period when there has been a break in service, or at reinstatement. Except during a prorated month, all eligible one and two-person households will receive at least the minimum monthly benefit, listed in a guidance document, ~~unless they are eligible for the Expanded Resource Program, in which case the allotment can be less.~~ A full month's allotment for a household of three or more may be less than the minimum monthly benefit. All eligible households with three or more members who are entitled to benefits of \$1, \$3, and \$5 will have the benefits adjusted up to \$2, \$4, and \$6, respectively.

001.078 FAILURE TO COMPLY WITH ANOTHER PROGRAM REQUIREMENT. The Supplemental Nutrition Assistance Program allotment is reduced 25% when:

- (1) The household is receiving Supplemental Nutrition Assistance Program benefits and an Aid to Dependent Children Program or Assistance to the Aged, Blind, or Disabled Program cash payment at the time of noncompliance with the means-tested program; and
- (2) The individual within the Supplemental Nutrition Assistance Program household is being sanctioned through a reduction or termination of cash assistance for failure to comply with an Aid to Dependent Children Program or Assistance to the Aged, Blind, or Disabled Program requirement and there is no corresponding Supplemental Nutrition Assistance Program requirement.

001.078(A) INCLUSION IN THE CASH PAYMENT. The household, unit, or individual must be included in the cash payment at the time of the sanction. If there is a corresponding Supplemental Nutrition Assistance Program guideline for which the individual is being sanctioned in the Aid to Dependent Children Program or Assistance to the Aged, Blind, or Disabled Program cash assistance program, only the Supplemental Nutrition Assistance Program penalty applies.

001.078(B) TIMEFRAME OF SANCTION. The 25% allotment reduction is applied the same month the assistance payment is reduced or terminated. If the household member who caused the sanction leaves the household, the benefit reduction is lifted the month following the report the individual is no longer in the Supplemental Nutrition Assistance Program household.

001.078(B)(i) SANCTION DUE TO GRANT REDUCTION. If the ~~Aid to Dependent Children Program~~ grant is reduced, the Supplemental Nutrition Assistance Program failure to comply with another program requirement penalty continues until the sanction is lifted. If the sanction is still in effect at the end of one year, the Department will review the case to determine if the failure to comply with another program requirement penalty should continue.

001.078(B)(ii) SANCTION DUE TO GRANT TERMINATION. If the grant is terminated due to an Aid to Dependent Children Program Employment First sanction, the failure to comply with another program penalty is applied concurrently with the minimum length of the Employment First sanction.

001.078(B)(iii) ENDING SANCTION. If the household is no longer eligible for cash assistance due to a reason other than the sanction, the failure to comply with another program penalty will be lifted.

002. CERTIFICATION PERIODS. The Department will determine a definite period of time for which a household is eligible to receive benefits. At the expiration of the certification period, the household loses its entitlement to Supplemental Nutrition Assistance Program benefits until it is recertified based on a new application, an interview if required, and providing the required verifications. Under no circumstances will the Department continue benefits beyond the end of a certification period without a new determination of eligibility.

002.01 CALENDAR MONTHS. The Department sets the certification period to conform to calendar months. For the initial certification, the Department uses the month of application, if eligible, as the first month in the certification period, even if the household's eligibility is not determined until a later month. For recertification, the certification period will begin the month following the last month of the previous certification period.

002.02 LENGTH OF CERTIFICATION PERIODS. The length of the certification period assigned to a household is determined by the household's reporting category and circumstances. If the household is ineligible for the application month and eligible for the month following the application month, the certification period begins with the first month the household is eligible for Supplemental Nutrition Assistance Program benefits.

002.02(A) CERTIFICATION PERIODS FOR HOUSEHOLDS IN SIMPLIFIED REPORTING. When the Supplemental Nutrition Assistance Program household is assigned to Simplified Reporting at initial determination of eligibility or at recertification ~~and all adult members are elderly or disabled with no earned income,~~ the household will be given a six month or 12 month certification period. ~~All other households assigned to Simplified Reporting at initial determination of eligibility or at recertification will be given a six month certification period.~~

002.02(B) CERTIFICATION PERIODS FOR HOUSEHOLDS IN TRANSITIONAL BENEFIT REPORTING. The household is assigned to the Transitional Benefit Reporting category during an existing certification period from the Simplified Reporting category. ~~When a Simplified Reporting household is assigned to the Transitional Benefit Reporting category, the end date of the current certification period is extended, if applicable, to give the household five months of benefits in the Transitional Benefit Reporting category.~~ The household cannot be assigned to Transitional Benefit Reporting at initial determination of eligibility or at recertification.

002.02(C) CERTIFICATION PERIODS FOR EXPEDITED SERVICES. A certification period is assigned based on the household's circumstances and reporting category. The household may provide all verifications or postpone verifications other than the identity of the head of the household and authorized representative, if appropriate, for the first two months' issuance. When the household has postponed verifications and provides, at a minimum, verification of the identity of the head of the household and authorized representative, if appropriate:

- (1) The Department issues benefits only for the application month when the household applies before the 16th of the month; or
- (2) The Department issues benefits for the application month and the second month together when the household applies on or after the 16th of the month.

002.02(C)(i) EXPEDITED SERVICES AT INITIAL CERTIFICATION. When an expedited household applies before the 16th of the month and provides the minimum required verification as defined in Chapter two of this title, the Department will, within seven days from the date the application is filed, issue to the household prorated benefits for the month of application.

002.02(C)(i)(1) EXPEDITED VERIFICATION. If the household fails to provide the required postponed verification(s) by the end of the expedited issuance benefit month, the benefits for the second issuance will not be issued. If the household provides the required postponed verification(s) before the end of the second month of the certification period, the benefits will be provided for the second month and for the remainder of the original certification period without a new application. Benefits will not be prorated.

002.02(C)(i)(2) EXPEDITED ELIGIBILITY. There is no limit to the number of times a household can be certified under expedited processes as long as the household has completed the verification requirements or was certified under normal processing standards since the last expedited certification.

002.02(C)(i)(3) AGGREGATE ALLOTMENTS AT INITIAL CERTIFICATION. When an expedited household applies on or after the 16th of the month and provides the minimum required verification as defined in Chapter two, the Department will, within seven days from the date the application is filed, issue to the household an aggregate allotment of the prorated benefits for the month of application and the full second month.

002.02(C)(i)(3)(a) AGGREGATE EXPEDITED VERIFICATION. If the household fails to provide the required postponed verification(s) by the end of the second month of the certification period, the benefits for the third month, which would be the second issuance, will not be issued. If the household provides the required postponed verification(s) before the end of the third month of the certification period, the benefits will be provided for the third month and for the remainder of the original certification period without a new application. Benefits will not be prorated.

002.02(D) REINSTATEMENT DURING THE CERTIFICATION PERIOD. A household in the Simplified Reporting category may be eligible for reinstatement during the remaining months of the certification period if household circumstances change.

002.02(D)(i) REINSTATEMENT ELIGIBILITY. During the initial 30 days following the close effective date, the household may be reinstated if a change in circumstances is reported and verified by the household that re-establishes the household's eligibility, or if the missing verification is provided. The household is not required to file a new application. If eligible, the benefits are prorated from the date of report if verified in ten days or from the date all information to re-establish eligibility is received if more than ten days. If the reason for closure was missing verification, benefits are prorated from the date the verifications are provided.

002.02(D)(ii) REINSTATEMENT AFTER CERTIFICATION PERIOD ENDS. If the certification period has ended a new application must be submitted to continue eligibility.

003. NOTICES. The household will be provided with a notice as soon as a determination of eligibility is made but no later than 30 days after the date the application was filed.

003.01 NOTICE OF ELIGIBILITY. If an application is approved, the household will be provided a notice of eligibility which includes the amount of the allotment, the reporting category, and the beginning and ending dates of the certification period. This eligibility notice will inform the household of:

- (A) Variations in the benefit level based on changes anticipated at the time of certification;
- (B) The initial and following month's benefits if the first issuance contains benefits for the month of application and the following month;
- (C) The initial month's benefits and aggregate benefits, if a combined allotment will be issued to an expedited household;
- (D) The household's right to a fair hearing including information about free legal services available and the telephone number of the Department;
- (E) The reporting requirements for households assigned to Simplified Reporting:
 - (i) The household's total gross monthly income exceeds the maximum gross monthly income limit for the household size; or
 - (ii) A non-exempt Able Bodied Adult Without Dependents household member's work, volunteer, or work program hours decrease to below 20 hours per week or below a total of 80 hours per month;
- (F) The non-reporting requirements for the household in the Transitional Benefit Reporting category;
- (G) The need to reapply for continued participation at the end of the certification period; and
- (H) The need for a household entitled to expedited services to provide any remaining required verification necessary to continue benefits.

003.02 NOTICE OF DENIAL. If an application is denied, the household is provided with a notice of denial. This denial notice informs the household of:

- (A) The reason for the denial;
- (B) The household's right to a fair hearing, including information about free legal services available, and the telephone number of the Department; and
- (C) If the delay was caused by the household's failure to complete the application process, the Department explains:
 - (i) The action the household must take to reopen the application process;
 - (ii) That the case will be reopened without a new application if the household takes the required action within 30 days following the application received date; and
 - (iii) That the household must submit a new application if at least 60 days have passed following the application received date, and the household:
 - (1) Has not provided the required information; and
 - (2) Wishes to participate in the program.

003.03 NOTICE OF PENDING STATUS. If an application is held pending more than 30 days because the Department is unable to complete the application process, the Department provides the household with written notice that the application is still pending. This section does not apply to applications received before the end of the certification period.

003.04 TIMELY NOTICE. Before any action can be taken to reduce or terminate a household's benefits within the certification period, the Department sends the household a timely notice. When the Department's mail is returned with no forwarding address, it is not necessary to send a notice to an address known to be incorrect.

003.04(A) EXCEPTION TO TIMELY NOTICE. The Department may send an adequate notice to a household whose mail has been returned with no known forwarding address. A household that did not receive a notice and had benefits reduced or terminated retains the right to a fair hearing and restoration of benefits as if the household had received a notice.

003.04(B) TIMELINESS. The notice of adverse action period includes at least ten days from the date the notice is mailed to the date the action becomes effective. Actions become effective on the first day of the month's allotment cycle. An allotment cycle always begins on the first day of the month. In addition, extra time will be allotted when the last processing day falls on a Friday or when a holiday follows the last processing day since notices will not be generated until the next workday. The ten-day period of advance notice allows the household to contest the Department's action before the action becomes effective. The effective date of the adverse action is the first day of the month following the expiration of the ten-day adverse action period.

003.04(B)(i) FAIR HEARING WHEN NOTICE DATE FALLS ON A HOLIDAY OR WEEKEND. If the period of adverse action ends on a weekend or a holiday and a request for a fair hearing and continuation of benefits is received on the next workday, the Department considers the request as being within the period of adverse action.

003.04(C) ADEQUATE NOTICE. The household is notified in writing no later than the date the household receives or would have received its allotment of a benefit reduction or termination when any of the following conditions exist:

- (i) The household reports the information in writing which results in the reduction or termination and the Department can determine both eligibility and benefit level based on the household's written information;
- (ii) Agency mail to the household has been returned with no forwarding address and the action taken would require a timely notice in normal circumstances; or
- (iii) When an individual is disqualified for intentional program violation, the Department notifies the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his/her disqualification.

003.04(D) NOTICE EXEMPTIONS. Individual notices of action are not required in cases when the agency action is due to:

- (i) A mass change;
- (ii) The death of all household members;
- (iii) The entire household moves out of the state;
- (iv) The completion of a restoration of benefits period if the household was previously informed in writing when the increased restoration of benefits would terminate;
- (v) Month-to-month variances in the household's allotment provided the household was notified of the exact allotment(s) at the time of certification;
- (vi) Initial receipt of an Aid to Dependent Children Program grant provided the household was notified at the time of certification that Supplemental Nutrition Assistance Program benefits would decrease upon approval of the Aid to Dependent Children Program grant;
- (vii) A household member being disqualified for intentional program violation;

- (viii) Verification being received which would terminate or reduce benefits for an expedited case when a certification period of more than one month was assigned. The household must have been informed at the time of certification that the Department would act on verified information without further notice;
- (ix) The conversion of a household from cash repayment of an intentional program violation claim to benefit reduction as a result of failure to make cash repayment;
- (x) A resident of a chemical dependency treatment center or group home becoming ineligible because of the facility losing its license with the appropriate state agency. Residents of a group home which loses its license or certification may still apply on their own behalf; and
- (xi) The voluntary request of the household that its participation be terminated. If the household does not put the request in writing, the Department will send a letter confirming the request. The written confirmation will allow the household to request a fair hearing but does not have to meet other adverse action requirements.

003.05 NOTICE OF EXPIRATION. The Department notifies the households of the expiration of their certification periods by sending a notice. The automated "Notice of Expiration of Certification Period" will be received by the household between the 15th day of the next to last month and the first day of the last month of the certification period.

003.05(A) TIMELINESS. Regardless of when the Department assigns an interview date, the Department considers the household's application as timely if it is received by the 15th day of the last month of certification. Households provided a notice of expiration have a minimum of 15 days from the date the notice is received to file a timely application for recertification. If the application is mailed in, the household must allow two days mailing time to ensure that the Department receives the application within 15 days.

004. HOUSEHOLD RESPONSIBILITY TO REPORT. An applying household must report all changes relating to its Supplemental Nutrition Assistance Program eligibility and benefit level at the certification interview.

004.01 REPORTING CATEGORIES. The following defines the Supplemental Nutrition Assistance Program reporting categories.

004.01(A) HOUSEHOLDS ASSIGNED TO SIMPLIFIED REPORTING. All households will be assigned to Simplified Reporting unless they are excluded from this reporting category. The household is assigned to the Simplified Reporting category at application or at recertification. When the household is assigned to the Simplified Reporting category, the household remains in this reporting category until the end of the certification period, unless the household becomes eligible to be assigned to the Transitional Benefit Reporting category.

004.01(A)(i) HOUSEHOLDS EXCLUDED FROM SIMPLIFIED REPORTING. Households whose Aid to Dependent Children Program cash grant has ended are excluded from Simplified Reporting and will be assigned to the Transitional Benefit Reporting category.

004.01(A)(ii) DETERMINING TIMEFRAMES FOR SIMPLIFIED REPORTING HOUSEHOLDS. Households assigned to Simplified Reporting at initial determination of eligibility or at recertification in which all adult members are elderly or disabled with no earned income will be given a 12 month certification period. All other households assigned to Simplified Reporting at initial determination of eligibility or at recertification will be given a six month certification period.

004.01(A)(ii)(1) CHANGES TO TIMEFRAME. No changes will be made to shorten or lengthen a correctly determined certification period in Simplified Reporting during an ongoing certification period, unless the household becomes eligible to be assigned to the Transitional Benefit Reporting category.

004.01(A)(iii) SIMPLIFIED REPORTING REQUIREMENTS. Households assigned to the Simplified Reporting category are only required to report when the household's actual total gross monthly income exceeds the maximum gross monthly income limit for the household size as it was at the most recent certification or recertification regardless of any subsequent changes in its household size when the household contains a non-exempt Able Bodied Adult Without Dependents whose hours decrease below 20 hours per week or below a total of 80 hours per month, or when a household member wins substantial gambling winnings as defined in Chapter 3. The household must report information within ten days after the last day of the month in which the change occurred. These are the only changes a household assigned to the Simplified Reporting category must report during the certification period. All other changes are reported at recertification.

004.01(A)(iii)(1) ACTION WHEN AID TO DEPENDENT CHILDREN PROGRAM GRANT ENDS. When the household is currently assigned to the Simplified Reporting category and the Aid to Dependent Children program grant ends due to going over the Aid to Dependent Children program's income limit, the household will be assigned to Transitional Benefit Reporting if they are otherwise eligible for that reporting category. The household will be assigned to the Transitional Benefit Reporting category the month the household receives the Aid to Dependent Children Program Transitional Medical Assistance grant or the month after the Aid to Dependent Children Program grant ends when a Transitional Medical Assistance grant is not authorized.

004.01(A)(iii)(2) ACTION ON INTERFACE CHANGES. The Department will take action on all information received through automated exchanges.

004.01(A)(iii)(3) ACTION ON OTHER CHANGES. Action will be taken on all reported changes even if the household was not required to report the change. Action will also be taken on information reported to the agency by someone outside the Supplemental Nutrition Assistance Program household.

004.01(A)(iii)(4) ACTION WHEN HOUSEHOLD RECEIVED OVERPAYMENT OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS. During the certification period if the household fails to report when the household income exceeded the maximum gross monthly income limit for the household size, the

Department will determine if an overpayment occurred. The first month of the overpayment is two months after the actual monthly income exceeded the maximum monthly gross income limit.

004.01(A)(iii)(5) ACTION WHEN HOUSEHOLD RECEIVED UNDERISSUANCE OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS. Supplemental Nutrition Assistance Program benefits are not restored to Simplified Reporting households that fail to report changes at application and/or reapplication.

004.01(A)(iii)(6) REPORTING INCOME. The household must report if their gross income exceeds the amount listed on the notice of approval from the most recent initial application approval or recertification approval, as appropriate.

004.01(B) HOUSEHOLDS ASSIGNED TO TRANSITIONAL BENEFIT REPORTING. All households in which one or more members were receiving an Aid to Dependent Children Program cash grant and the Aid to Dependent Children Program cash grant ends due to going over that programs income limit will be assigned to the Transitional Benefit Reporting category unless the household is ineligible for Transitional Benefit Reporting for one of the following reasons:

- (1) The Aid to Dependent Children Program cash grant is ending because of an Aid to Dependent Children Program sanction;
- (2) The Aid to Dependent Children Program cash grant is ending because of non-cooperation with Employment First;
- (3) An individual in the Supplemental Nutrition Assistance Program household is disqualified from Supplemental Nutrition Assistance Program; or
- (4) The household failed to comply with Supplemental Nutrition Assistance Program reporting requirements.

004.01(B)(i) DETERMINING TIMEFRAMES FOR TRANSITIONAL BENEFIT REPORTING HOUSEHOLDS. Households placed in Transitional Benefit Reporting will be assigned to this category for five months. The first Transitional Benefit Reporting month is the first month of the Aid to Dependent Children Program transitional grant or the month after the Aid to Dependent Children Program grant ends when an Aid to Dependent Children Program transitional grant is not authorized. The household remains in Transitional Benefit Reporting until the end of the Transitional Benefit Reporting certification period unless the household requests to be recertified in Simplified Reporting.

004.01(B)(ii) BENEFIT LEVELS FOR TRANSITIONAL BENEFIT REPORTING HOUSEHOLDS. To calculate Supplemental Nutrition Assistance Program benefits for a household in Transitional Benefit Reporting, the Department uses the budget from the final month the household receives the Aid to Dependent Children Program grant and calculates a new budget that omits from income the Aid to Dependent Children Program grant amount.

004.01(B)(iii) TRANSITIONAL BENEFIT REPORTING REQUIREMENTS. Households in Transitional Benefit Reporting are not required to report any changes during the time the household is in this reporting category.

004.01(B)(iii)(1) ACTION ON REPORTED CHANGES IN HOUSEHOLD COMPOSITION. Household composition changes which are reported are acted on only to prevent duplicate participation or when the household requests to be recertified in the Simplified Reporting category. If a household member leaves the Transitional Benefit Reporting household, the allotment remains the same unless the individual leaving the Transitional Benefit Reporting household applies for Supplemental Nutrition Assistance Program benefits on the applicant's own behalf or requests to be added to another household. In these cases, the individual(s) leaving the household will be removed from the Transitional Benefit Reporting household to prevent duplicate participation. Additionally, any income, resources, and deductible expenses attributable to the individual(s) being removed from the household will be removed from the budget for the first possible month, allowing for either timely or adequate notice, whichever is applicable. The original household remains in Transitional Benefit Reporting unless the household requests to be recertified.

004.01(B)(iii)(1)(a) INDIVIDUAL MOVING INTO A TRANSITIONAL HOUSEHOLD. If an individual joins a Transitional Benefit Reporting household, no changes are made unless the household requests to add the new individual to the Supplemental Nutrition Assistance Program household. The household is notified that their case will be closed and that the household must file a new application to receive future benefits and be placed in the proper reporting category.

004.01(B)(iii)(2) ACTION ON OTHER REPORTED CHANGES. Other changes, including verified Interfaces, which are reported or are known to the agency, are not acted on until Transitional Benefit Reporting ends. The information or verification will be placed in the case file to be used at recertification.

004.01(B)(iii)(3) ACTION WHEN TRANSITIONAL BENEFIT REPORTING ENDS. Households which have been in the Transitional Benefit Reporting category for five months will be closed at the end of the five months. To receive Supplemental Nutrition Assistance Program thereafter, a household must reapply and, upon approval, will be assigned to Simplified Reporting category.

004.01(B)(iii)(4) ACTION WHEN HOUSEHOLD RECEIVED OVERPAYMENT OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS. Accounts receivable for established overpayments may be recouped from Transitional Benefit Reporting benefits.

004.01(B)(iii)(5) ACTION WHEN HOUSEHOLD RECEIVED UNDERISSUANCE OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS. If a household received fewer benefits than they were entitled to due to a Department error, the benefits will be restored to the household.

004.01(B)(iv) TRANSITIONAL BENEFIT REPORTING FOR HOUSEHOLDS THAT MOVE TO NEBRASKA. A household that received cash assistance from an Aid to Dependent Children Program, federally referred to as Temporary Assistance to Needy

Families, in another state before moving to Nebraska or a household that moved to Nebraska during Transitional Benefit Reporting eligibility in another state may be eligible for Transitional Benefit Reporting. The household must meet Nebraska's Transitional Benefit Reporting eligibility requirements.

~~004.02 DEPARTMENT'S ACTION ON CHANGES. The following applies to how the Department will act on changes. The Department takes action on changes pursuant to applicable federal law.~~

~~004.02(A) STATE SPECIFIC ACTION ON CHANGES. The following are the options the Department utilizes regarding the action taken on changes.~~

~~004.02(A)(i) ACTION ON ALL CHANGES. Unless specifically prohibited, the Department will take action on all reported changes, including requesting verification if required.~~

~~004.02(A)(ii) INCREASE IN BENEFITS. The Department will require verification prior to taking action on changes that increase benefits.~~

~~004.02(A)(iii) BENEFIT SUSPENSION. The Department does not suspend certification periods for period increases in recurring income or other changes not expected to continue in the subsequent month.~~

~~004.02(A) UNCLEAR INFORMATION. When unclear information is received by the Department, either from the household or another means, the Department will pursue clarification or verification from the household or collateral sources. If clarification or verification is requested from the household, the Department provides written notice to the household which:~~

- ~~(1) Advises the household of the verification it must provide or the actions that must be taken to clarify its situation, either by telephone or written correspondence;~~
- ~~(2) Allows the household at least ten days to provide the information; and~~
- ~~(3) Advises the household of the consequences for failure to respond within ten days.~~

~~004.02(A)(i) HOUSEHOLD RESPONSE. The following actions are taken dependent on a household's response.~~

~~004.02(A)(i)(1) HOUSEHOLD DOES NOT RESPOND. If the household does not respond to the verification request or does respond but refuses to provide sufficient information to clarify its circumstances, the Department:~~

- ~~(a) Issues a notice of adverse action which terminates the case;~~
- ~~(b) Explains the reasons for the action; and~~
- ~~(c) Advises the household of the need to submit a new application.~~

~~004.02(A)(i)(2) HOUSEHOLD DOES RESPOND. If the household does respond with sufficient information, the Department will act on the new circumstances:~~

- ~~(a) When the information provided will result in an increase in benefits, the change is made for the following month;~~

- ~~(b) When the information provided will result in a decrease in benefits, the change is made for the following month if timely notice can be provided; or~~
~~(c) When the information provided will result in a decrease in benefit and time does not allow for a timely notice, the change is made for the month following the expiration of the timely notice.~~

~~004.02(B) HOUSEHOLD COMPOSITION. The following applies to changes regarding household composition.~~

~~004.02(B)(i) ADDING MEMBER(S). When a household reports an increase in household membership, the household must provide or apply for a Social Security number for the new household member. The new household member must meet the same eligibility factors as applicant household members. When benefits will increase, the new member is added to the household for the month after the change is reported if the household provides requested verification within ten days of the reported change. If the verification is received too late in the month to make the change for the next issuance month, the Department issues supplemental benefits. When benefits will decrease, the change in the household membership is effective the month following the expiration of the notice of adverse action.~~

~~004.02(B)(i)(1) CHANGES MADE TOO LATE FOR TIMELY NOTICE. When a Supplemental Nutrition Assistance Program recipient moves to another Supplemental Nutrition Assistance Program household and the change is reported too late in the month to give timely notice, the change is made the month after the Supplemental Nutrition Assistance Program recipient last received benefits as a member of the prior household.~~

~~004.02(B)(ii) REMOVING MEMBER(S). When a household reports the loss of a household member, the Department will not obtain verification before making the change unless the information is questionable. When the benefit increases due to the loss of a household member, the individual is removed from the household beginning the month after the change is reported. When benefits decrease due to the loss of a household member, the individual is removed for the month following the expiration of the timely notice and the Supplemental Nutrition Assistance Program benefit is adjusted for the month after the ten-day notice period has expired. If the timeliness standard is waived by the household, the Supplemental Nutrition Assistance Program benefit is adjusted for the month following the reported change.~~

~~004.02(C) RESOURCES. Resource changes which are reported that do not affect the household's eligibility are documented in the case file. The value of vehicles is verified at the time of the report by use of the Kelley Blue Book. Other rResource changes which do not affect the household's eligibility are not verified until recertification unless questionable. At recertification, resources are verified if the total amount of countable resources indicated on the application is \$1500 or more.~~

~~004.02(C)(i) CHANGES IN RESOURCES. If a change of resources is reported which would put the household over the resource limit, no verification is needed before closing the case. If it is uncertain whether the report of a change regarding resources~~

~~will put the household over the resource limit, the Department will request verification and close the case if appropriate.~~

~~004.02(D) INCOME. A new source of income or an income change that is required to be reported must be reported within ten days after the last day of the month that the household exceeds the maximum gross monthly income limit. The Department will take action on known changes. When a written verification request is required to obtain verification, it will inform the household of:~~

- ~~(1) Verification needed to determine the new benefit amount;~~
- ~~(2) Length of time to provide the information; and~~
- ~~(3) Consequences of not providing the information timely.~~

~~004.02(D)(i) ACTION WHEN HOUSEHOLD RESPONDS TIMELY. If the household responds within the ten days, appropriate action is taken to determine the new allotment. The household must be given timely notice when the Supplemental Nutrition Assistance Program benefit decreases.~~

~~004.02(D)(ii) ACTION WHEN HOUSEHOLD DOES NOT RESPOND TIMELY. If the household does not respond within the ten days, the Department will close the case for the following month provided the household can be given timely notice.~~

~~004.02(D)(iii) INCOME VERIFICATION REQUIREMENTS. All sources and amounts of income will be verified before using the income in the Supplemental Nutrition Assistance Program budget. If a change of income is reported which would put the household over the income limit for the household size, no verification is needed before closing the case.~~

~~004.02(E) ASSISTANCE REPORTING REQUIREMENTS. If the household receives benefits from another assistance program provided by the Department, any changes reported to the worker handling the other assistance case are considered to have been reported for Supplemental Nutrition Assistance Program purposes. Department assistance programs may require changes to be reported which are not required to be reported for Supplemental Nutrition Assistance Program.~~

~~004.02(E)(i) CHANGES REPORTED TO ASSISTANCE PROGRAM. If a change is reported, the Department also makes the change in the Supplemental Nutrition Assistance Program budget even if it involves a change that need not be reported for Supplemental Nutrition Assistance Program.~~

~~004.02(E)(ii) REDUCTION OF AID TO DEPENDENT CHILDREN PROGRAM BENEFITS. If a household's Aid to Dependent Children Program benefits are reduced during a certification period and the Department has sufficient information to determine Supplemental Nutrition Assistance Program eligibility, the Department will take the following action:~~

- ~~(1) If both the Aid to Dependent Children Program grant and the Supplemental Nutrition Assistance Program benefits are reduced, a single timely notice may be sent to the household for the Aid to Dependent Children Program and Supplemental Nutrition Assistance Program actions;~~

- ~~(2) If the household requests a fair hearing, the household's Aid to Dependent Children Program and Supplemental Nutrition Assistance Program benefits are continued at the same amount as immediately before the notice was sent;~~
- ~~(3) If a fair hearing is requested, the hearing will be conducted according to procedures for Supplemental Nutrition Assistance Program;~~
- ~~(4) If the certification period expires before the completion of the fair hearing process, the household must reapply for benefits; and~~
- ~~(5) If the Aid to Dependent Children Program benefits are terminated but the household is still eligible for Supplemental Nutrition Assistance Program benefits, the Department will advise household members of the work requirements, if applicable.~~

~~004.02(F) DEDUCTION CHANGES. The following guidelines apply in regard to deduction changes:~~

- ~~(1) Except for shelter and utility, verification is required if the change would increase benefits;~~
- ~~(2) If verification is:
 - ~~(a) Received within ten days of the reported change, the increase would be effective for the next issuance ten days after the change is reported; or~~
 - ~~(b) Not received within ten days of the reported change, the increase would be effective by the next issuance ten days after the change was verified;~~~~
- ~~(3) Verification is not required before acting on changes which would decrease benefits. This verification would be done at the next recertification. Benefit decreases as a result of deduction decreases are effective in the month following the expiration of the adverse action period unless adequate notice is sufficient.~~

~~004.02(F)(i) MEDICAL. Households are not required to report changes in medical expenses during the certification period. However, if a household does provide verified changes during the certification period, the Department acts on these changes. This applies to a change that results in either an increase or a decrease in benefits.~~

~~004.02(F)(i)(1) ACTION ON CHANGES. If the Department learns of a change in medical expenses from a source other than the household, such as from the household's Assistance to the Aged, Blind, or Disabled Program case or another third party, and the change is considered to be verified, the Department acts on the change. However, the Department will not contact the household for additional information or verification. If the change would require the Department to contact the household, the Department will not act on the change during the certification period.~~

~~004.02(F)(i)(2) MEDICAL DEDUCTION CHANGES RESULTING IN BENEFIT DECREASE. If the reported change will decrease benefits, the Department acts on information provided without waiting for verification. If not verified before recertification, the change would be verified at that time.~~

~~004.02(F)(ii) DEPENDENT CARE. Households are not required to report changes in dependent care during the certification period. If the household reports that a household member will start paying dependent care costs, the Department will assess~~

~~the household's eligibility for the deduction and request verification before allowing it. The Department is not required to verify dependent care changes which would reduce the household's benefits before acting on the change. The change would be verified at the time of recertification.~~

~~004.02(G) INTERFACE RELATED CHANGES. An information alert through the automated system is considered information known to the agency and will be acted upon. The Department will act on changes reported in interfaces pursuant to 7 CFR § 273.12(c)(3)(iii).~~

~~004.02(H) CHANGES REPORTED AFTER AN AGGREGATE BENEFIT ISSUED. The following applies to cases in which a change is reported after an aggregate benefit is issued.~~

~~004.02(H)(i) INCREASE IN BENEFITS. If a household reports a change which would increase benefits after an aggregate budget has been completed, the allotment is adjusted as follows:~~

- ~~(1) If the change involves a decrease in income of \$50 or more or the addition of a household member, a supplemental benefit may need to be issued after the verification is provided.~~
- ~~(2) If a change occurs that does not involve a decrease in income of \$50 or more or the addition of a household member, the Department makes the allotment increase effective:
 - ~~(a) For the aggregate month by means of a supplemental benefit when verification is provided before the first day of the aggregate month.~~
 - ~~(b) For the month following the aggregate month when verification is not provided before the first day of the aggregate month.~~~~

~~004.02(H)(ii) DECREASE IN BENEFITS. If a household reports a change which would decrease benefits after an aggregate budget has been completed, the change is effective for the month following the aggregate month.~~

~~004.02(J) OTHER CHANGES. Although the household is not required to report some changes in household circumstances, the Department acts on these changes if information is received which would affect the household's eligibility or benefit level.~~

~~004.03 BENEFIT INCREASES. If the household reports a change other than a change in shelter or utility costs that will increase the household's benefits, the household must provide verification of the change before any action will be taken.~~

~~004.03(A) CHANGES IN HOUSEHOLD COMPOSITION AND INCOME. When the change is an addition of a new household member who is not a member of another certified household or an income decrease of \$50 or more in the household's gross monthly income, the household must be allowed a minimum of ten days to provide verification:~~

- ~~(i) When the household provides the verification within ten days of the date the change is reported, the Department makes the change in the month's allotment following the month the change was reported. When the change is reported in the~~

~~last ten days of the month and verified within ten days of the report, supplemental benefits will be issued; or~~

- ~~(ii) When the household does not provide the verification within ten days of the date the change is reported but does provide the verification at a later date, the Department will make the change in the month's allotment following the month after verification is received. When the verification is received too late in the month to change the next month's allotment, supplemental benefits will be issued.~~

~~004.03(B) CHANGES OTHER THAN HOUSEHOLD COMPOSITION AND INCOME.~~

~~When the household reports a change that will increase the Supplemental Nutrition Assistance Program benefits other than the addition of a household member or the decrease of \$50 or more in income, the change may be made in the following month. The change will be effective for the allotment issued ten days after the change was reported:~~

- ~~(i) When the household provides the verification within ten days of the date the change is reported, the Department will make the change no later than the first allotment issued ten days after the change is reported; or~~
- ~~(ii) When the household does not provide the verification within ten days after the change is reported but does provide the verification at a later date, the Department will make the change no later than the first month's allotment issued ten days after the verification is received.~~

~~004.03(C) SUPPLEMENTALS. For households in the Simplified Reporting category supplemental benefits will be issued to households under the following circumstances:~~

- ~~(i) The household has reported a \$50 or more decrease in household's gross monthly income or an addition of a household member who is not in another certified household;~~
- ~~(ii) The verification of the change is received too late to make the change for the appropriate benefit cycle; and~~
- ~~(iii) Supplemental benefits will be issued by the tenth day of the following month.~~

~~004.04 BENEFIT DECREASES. For households in the Simplified Reporting category, prompt action will be taken on changes. If the Department becomes aware of a change that will terminate or decrease the household's Supplemental Nutrition Assistance Program benefits, a notice of adverse action will be provided within 10 days of the date the change was reported unless adequate notice or notice exemption standards apply:~~

- ~~(A) When a notice of adverse action is required, the decrease in the benefit level will be made effective no later than the allotment for the month following the month in which the notice of adverse action period expired, provided a fair hearing and continuation of benefits have not been requested; or~~
- ~~(B) When a notice of adverse action is not required, the decrease will be made effective no later than the month following the change.~~

004.035 FAILURE TO REPORT. If the household failed to report a change as required and received benefits to which it was not entitled, the Department will file a claim against the household. If the discovery is made within a certification period, the Department will send the household a timely notice if its benefits will be reduced. A household is not liable for a claim because of a change in household circumstances, which it is not required to report. Individuals

are not disqualified for failing to report a change unless they are disqualified in accordance with the intentional program violation disqualification procedures.

005. MASS CHANGES. The following rules apply to mass changes.

005.01 FEDERAL AND STATE ADJUSTMENTS. Adjustments to eligibility standards, allotments, deductions, standard utility allowances, and standard shelter allowances will go into effect for all households at a specific point in time. The Department may not send notices for these changes. These mass changes will be publicized through the news media, posters in certification offices, or through general notices provided to the households.

005.02 MASS CHANGES IN STATE GRANTS. When the Department makes an overall adjustment to state grant payments, the Department will handle adjustments to Supplemental Nutrition Assistance Program benefits as a mass change using the following procedures:

- (1) If the Department knows of the change at least 30 days before it is effective, the benefits will be recomputed to be effective in the same month as the grant change; or
- (2) If the Department does not have 30 days notice of the change, the change will be effective no later than the month following the month of the grant change.

005.02(A) NOTICE FOR MASS CHANGE. A timely notice is not required as a result of a mass change in the state grant, however, the household will be informed of the change. If a household requests a fair hearing, benefits will be continued at the former level only if the issue being appealed is the incorrect computation of Supplemental Nutrition Assistance Program eligibility or benefits.

005.03 SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME BENEFITS. The household is not responsible for reporting cost-of-living adjustment increases and other mass changes in Social Security and Supplemental Security Income payments. The Department automatically adjusts the household's Supplemental Nutrition Assistance Program benefit level to reflect the change.

005.03(A) NOTICE FOR COST OF LIVING ADJUSTMENTS. A timely notice is not required for cost-of-living adjustments and other mass changes in Social Security and Supplemental Security Income; however, the household will be informed of the change. If a household requests a fair hearing, benefits will be continued at the former level only if the issue being appealed is incorrect computation of Supplemental Nutrition Assistance Program eligibility or benefits.

006. RESTORED BENEFITS. Benefits will be restored to households when they do not receive all of the benefits to which they were entitled because:

- (A) The Department made a mistake;
- (B) An intentional program violation disqualification is later reversed;
- (C) It is required by court order; or
- (D) Federal regulations specifically require it.

006.01 RESTORED BENEFIT REQUIREMENTS. Benefits are restored as soon as possible and will be completed no later than 30 days from the date the agency error was discovered. Benefits will be restored even if the household is not currently eligible or participating in the

program. The amount restored will be in addition to any current benefit the household is entitled to receive. However, if the household has a prior unpaid accounts receivable, that amount is offset from the restored amount, and the remainder, if any, is restored to the household.

006.02 TIMEFRAME FOR RESTORED BENEFITS. Restored benefits are not calculated for more than 12 months before the month of the date of discovery, unless court ordered. Underpayments caused by agency error will be restored; however, underpayments caused by the household are not restored.

006.03 CHANGES IN HOUSEHOLD COMPOSITION. If the household composition changes before benefits can be restored, benefits will be restored to the household containing the majority of individuals who were household members at the time the underpayment occurred. If the household containing the majority of members cannot be located, benefits will be restored to the individual who was the head of the household at the time the underpayment occurred.

007. COLLECTIONS. This section details the responsibilities and guidelines in regard to:

- (A) Establishing overpayments and accounts receivable; and
- (B) Collections on accounts receivable.

007.01 ESTABLISHING OVERPAYMENTS. Thresholds have been established to determine whether or not to create an accounts receivable against a certified or non-certified household. The thresholds are determined by how the error was determined and whether or not the household is certified at the time the overpayment is discovered. Accounts receivable are established for:

- (1) All overpayments determined by Quality Control;
- (2) Certified households when the cumulative amount of the overpayment is \$25 or more;
- (3) Non-certified households when the cumulative amount of the overpayment is \$125 or more; and
- (4) The amount of the threshold for each type of household is applied at the time the overpayments are calculated.

007.01(A) TYPES OF OVERPAYMENTS. There are three types of overpayments:

- (i) Administrative Error Overpayment: Any overpayment caused by the Department's action or failure to take action;
- (ii) Inadvertent Household Error Overpayment: Any overpayment caused by a household's misunderstanding or unintended error; and
- (iii) Intentional Program Violation Overpayment: Any overpayment caused by an Intentional Program Violation as adjudicated by:
 - (1) A disqualification hearing;
 - (2) A court of appropriate jurisdiction; or
 - (3) A household's signing of a waiver of the individual's right to a disqualification hearing.

007.01(B) CRITERIA FOR ESTABLISHING ADMINISTRATIVE ERROR OVERPAYMENTS. An overpayment will be established against any household that received an overpayment due to an Administrative Error within the last 12 months before

the month of discovery. ~~Action may be taken on an overpayment for which more than 12 months have elapsed; however, action cannot be taken on overpayments for which more than six years have elapsed between the month an overpayment occurred and the month the overpayment was discovered.~~ Instances of Administrative Error include, but are not limited to:

- (i) Income, resources, or deductions which were computed incorrectly or otherwise caused an incorrect benefit amount;
- (ii) Action that was not taken timely based on information known to the agency or reported by the household;
- (iii) When incorrect policy or procedure was applied; or
- (iv) When duplicate benefits were issued in error.

007.01(C) CRITERIA FOR ESTABLISHING INADVERTENT HOUSEHOLD ERROR OVERPAYMENTS. An overpayment will be established against any household that received an overpayment due to an Inadvertent Household Error within the last 12 months before the month of discovery. Action may be taken on an overpayment for which more than 12 months have elapsed; however, action cannot be taken on overpayments for which more than six years have elapsed between the month an overpayment occurred and the month the overpayment was discovered. The following are the most common overpayment situations caused by inadvertent household errors:

- (i) Household misunderstanding or an unintended error resulting in the household either reporting incorrect information or failing to report information or changes; or
- (ii) Household receiving continued benefits pending a fair hearing and the agency's decision was upheld.

007.01(D) CRITERIA FOR ESTABLISHING INTENTIONAL PROGRAM VIOLATION OVERPAYMENTS. Potential Intentional Program Violations will be reported to the Special Investigations Unit of the Department. Until a determination of an Intentional Program Violation has been made, the Accounts Receivable is processed as an Inadvertent Household Error.

007.01(D)(i) OVERPAYMENT PROCESSING PROCEDURES. In situations where a potential Intentional Program Violation may have occurred, overpayments are calculated back to the month the alleged Intentional Program Violation occurred up to six years from the date of discovery. If the alleged Intentional Program Violation was caused by the household's failure to report information timely, the overpayment will be calculated beginning with the month the change would have been effective if it had been reported in a timely manner. The first month of the overpayment cannot be more than two months after the change occurred.

007.01(E) TRAFFICKED BENEFITS. Overpayment amounts of trafficked benefits will be established based on reports from Food and Nutrition Service , Office of Inspector General or the Department of Health and Human Services Special Investigations Unit. Overpayments based upon trafficking or attempted trafficking of Supplemental Nutrition Assistance Program benefits will be established using the individual's admission, the adjudication, or the evidence of trafficking which may include evidence obtained from social media sites.

007.01(F) SITUATIONS WHEN OVERPAYMENTS ARE NOT ESTABLISHED. An overpayment is not established when:

- (i) The agency failed to ensure that the household signed the application form;
- (ii) A categorically eligible or an Expanded Resource Program eligible household has been overpaid benefits and there has been no change in the net income and/or household size;
- (iii) The household is receiving benefits and the accumulated months of Inadvertent Household Error and/or Administrative Error overpayments total less than \$25 and Quality Control or the Special Investigations Unit did not discover the error; or
- (iv) The household is not receiving benefits and the accumulated months of Inadvertent Household Error and/or Administrative Error overpayments total less than \$125 and Quality Control or the Special Investigations Unit did not discover the error.

007.02 COLLECTING ACCOUNTS RECEIVABLE. The following policies and procedures apply to collection accounts receivables.

007.02(A) CRITERIA FOR INITIATING COLLECTION ACTION ON INADVERTENT HOUSEHOLD AND ADMINISTRATIVE ERROR ACCOUNTS RECEIVABLE. Action will be taken to initiate collection on all types of overpayments. Collection on accounts receivable will be done through recoupment from the household's benefit or by other collection actions.

007.02(B) CRITERIA FOR INITIATING COLLECTION ACTION ON INTENTIONAL PROGRAM VIOLATION ACCOUNTS RECEIVABLE. Intentional program violation overpayments are handled as inadvertent household error accounts receivable for collection purposes until a household member is found to have committed an intentional program violation through a disqualification hearing, in a court of appropriate jurisdiction or if the individual has signed a waiver to an administrative disqualification hearing.

007.02(C) INITIATING COLLECTIONS OF ACCOUNTS RECEIVABLE. For households currently receiving benefits, recoupment occurs automatically through a monthly benefit reduction beginning the first month possible considering ten day notice of adverse action. Benefits are not recouped from any prorated month. In cases where a household was found guilty of an intentional program violation or has signed a waiver to a disqualification hearing, collection will be initiated the first month possible. Households not currently certified receive monthly billing statements. If the accounts receivable becomes delinquent, repayment is undertaken through other collection actions.

007.02(C)(i) BENEFIT REDUCTION FOR INADVERTENT HOUSEHOLD ERROR OR ADMINISTRATIVE ERROR ACCOUNTS RECEIVABLE. The amount of the inadvertent household error or administrative error benefit reduction is the greater of ten percent of the household's monthly benefit or \$10 unless the household agrees to a higher amount.

007.02(C)(ii) BENEFIT REDUCTION FOR INTENTIONAL PROGRAM VIOLATION ACCOUNTS RECEIVABLE. The amount of the monthly benefit reduction for

intentional program violation is the greater of 20% or \$20 unless the household agrees to a higher amount.

007.02(C)(iii) OTHER COLLECTION ACTIONS. In addition to benefit reduction for participating households, the following may also be used to repay overpayments:

- (a) Cash payments either through installment payments or lump sum amounts;
- (b) Treasury Offset Program;
- (c) Offset of restored benefits;
- (d) Public service if authorized by a court;
- (e) State tax refunds;
- (f) Wage garnishments;
- (g) Lottery winnings;
- (h) Property liens;
- (i) Small claims court; or
- (j) Unemployment Compensation Benefits intercept.

007.02(C)(iii)(1) ADDITIONAL COLLECTION METHODS. If the household's benefit is reduced, no other involuntary collection methods will be used unless the source of the payment is irregular and unexpected such as a state tax refund or lottery winnings offset.

007.02(C)(iii)(2) VOLUNTARY PAYMENTS. The household has the option to voluntarily enter into an agreement to repay the accounts receivable through an additional repayment method even though monthly Supplemental Nutrition Assistance Program benefits are being recouped.

007.03 ESTABLISHING DELINQUENCY. An accounts receivable becomes delinquent when:

- (1) There is no active recoupment;
- (2) No collections have been received within 210 days from the date of the initial demand letter or post fair hearing notice;
- (3) The accounts receivable has not been paid by the due date and a satisfactory payment arrangement has not been made. ~~(a)~~ The due date is the date on the initial written notification or demand letter or post fair hearing notice-30 days from the mail date. ~~(b)~~ Accounts Receivable remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated or an allotment reduction is invoked; or
- (4) An accounts receivable payment arrangement has been established but a scheduled payment has not been made by the due date. The due date is the date of the missed payment.

007.03(A) ACCOUNTS RECEIVABLE DELINQUENCY. The accounts receivable will remain delinquent until:

- (i) Payment is received in full;
- (ii) An allotment reduction is invoked;
- (iii) The repayment schedule is resumed or renegotiated;
- (iv) A good faith effort is determined; or
- (v) The accounts receivable is compromised due to hardship.

007.03(B) ACCOUNTS RECEIVABLES NOT CONSIDERED DELINQUENT. Accounts Receivables will not be considered delinquent in the following situations:

- (i) Another accounts receivable for the same household is currently being paid either through an installment agreement or benefit reduction and collection on the accounts receivable is anticipated to begin once the prior overpayment is settled;
- (ii) Collection is being coordinated through the court system and the Department has limited control over the collection action; or
- (iii) The accounts receivable is awaiting a fair hearing decision.

007.04 ACTION TAKEN ON DELINQUENT ACCOUNTS. All accounts receivables that are legally enforceable and delinquent are submitted to the Treasury Offset Program as well as to other programs or agencies for further collection actions. Debtors will receive notice of impending referral to Treasury Offset Program.

007.04(A) SUSPENDED COLLECTION ON ACCOUNTS RECEIVABLE. An administrative error, inadvertent household error or intentional program violation accounts receivable will be suspended in the following situations:

- (1) The household is nonparticipating;
- (2) Delinquency of the accounts receivable has been established;
- (3) At least one demand letter has been sent; and
- (4) At least three billing statements have been sent to the household.

007.04(A)(i) TREASURY OFFSET PROGRAM ON SUSPENDED ACCOUNTS RECEIVABLES. Suspended accounts receivables will still be subject to Treasury Offset Program collection and automatic recoupment if the responsible party becomes eligible for benefits.

007.04(B) TERMINATED COLLECTION ON ACCOUNTS RECEIVABLES. An administrative error, inadvertent household error, or intentional program violation accounts receivable will be terminated and written off in the following situations:

- (i) The accounts receivable has been in suspended status for three or more years with no active collection;
- (ii) All adult household members have died;
- (iii) The accounts receivable balance is \$25.00 or less and there are no accounts receivables existing that would result in an aggregate of accounts receivables to be greater than \$25.00 and the accounts receivable has been delinquent for 90 days or more; or
- (iv) The household cannot be located.

007.04(C) COMPROMISING AN ACCOUNTS RECEIVABLE. An administrative error, inadvertent household error, or intentional program violation accounts receivable will be compromised in the following situations:

- (i) The Department will compromise an accounts receivable or a portion of an accounts receivable if it is reasonably determined that a household's economic circumstances dictate that the accounts receivable will not be paid in three years; or
- (ii) The full amount of an accounts receivable, including any compromised amount, will be used to offset benefits.

007.05 CHANGE IN HOUSEHOLD COMPOSITION. Collection action will be taken against any or all of the adult household members at the time the overpayment occurred. If a change in household composition occurs, the accounts receivable may be collected from any household which contains an original adult member of the household which received the overpayment. Offsetting the amount of the accounts receivable may also be done against restored benefits owed to any household which contains an adult member of the original household at the time the overpayment occurred. The amount collected will never exceed the amount of the accounts receivable.

008. ALLOTMENT REDUCTION OR CANCELLATION PROCEDURES. If federal funds for Supplemental Nutrition Assistance Program run out before the end of a fiscal year, it is possible that Supplemental Nutrition Assistance Program benefits would have to be reduced or cancelled. This section details these procedures.

008.01 BENEFIT REDUCTIONS. If a reduction in benefits is necessary, the amounts for each household size will be reduced by the same percentage. All one and two-person households affected by a reduction are guaranteed the minimum monthly benefit unless the action is:

- (A) A cancellation of benefits; or
- (B) A national reduction of 90% or more of the total amount of benefits.

008.02 CANCELLATIONS. If benefits are cancelled, the provision for the minimum benefit for households with only one or two members will be disregarded and households will have their benefits cancelled. Benefits or portions of benefits representing restored or retroactive benefits for a prior unaffected month would not be reduced or cancelled even though they are issued during an affected month.

008.03 RESTORED OR RETROACTIVE BENEFITS. Restored or retroactive benefits for prior months not affected will not be reduced or cancelled, even though they are issued during the time period the statewide benefit reduction is in force. The agency will continue to make benefits available as needed to provide these restored or retroactive benefits. Households whose benefits are reduced or cancelled as a result of a reduction or cancellation are not entitled to restoration of lost benefits at a future date. However, if Food and Nutrition Service determines that restoration can take place as a result of surplus funds from the reduction or cancellation, the agency provides affected households with restored benefits.

008.04 NOTIFICATION AND CERTIFICATION OF ELIGIBLE HOUSEHOLDS. A notice of adverse action is not provided to households affected by reduction or cancellation of benefits. The Department will continue the normal acceptance of applications, processing of applications, and determinations of eligibility during a reduction or cancellation. Expedited processing standards remain in effect during a reduction. If an applicant is found to be eligible for benefits and a reduction is in effect, the issuance will be based on the reduced benefit table. If an applicant is found to be eligible for benefits during a cancellation period, benefits will not be issued. The reduction or cancellation of benefits does not affect the certification periods assigned to households. Recertifications continue for those participating households whose certification periods expire during a reduction or cancellation period.

008.05 FAIR HEARING. Any household that has its benefit reduced or cancelled as a result of funding cuts may request a fair hearing if it disagrees with the action, subject to the following conditions:

- (A) The request for a fair hearing must be based on a household's belief that:
 - (i) Its benefit level was computed incorrectly under the rules governing the reduction or cancellation; or
 - (ii) These rules were misapplied or misinterpreted;
- (B) Households do not have the right to continuation of benefits pending fair hearings; and
- (C) The appropriate amount of restored benefits may be issued if it is determined that benefits were decreased by more than the reduction rules required.

008.06 RESUMPTION OF ISSUANCE. The Department will act immediately to resume issuing benefits to certified households after receiving notice that a reduction or cancellation of benefits is over and will resume issuance as soon as possible.

TITLE 475 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

CHAPTER 5 ELECTRONIC BENEFITS TRANSFER CARD ISSUANCE AND
ACCOUNTABILITY

001. CARD ISSUANCE REQUIREMENTS. At initial application, an Electronic Benefits Card will be sent to the household. The cards are sent in the United States mail. Individuals without a mailing address may receive their cards at a local office. The household will not receive any funds on the card until the household is certified.

001.01 TIME STANDARDS FOR BENEFIT AVAILABILITY. The following standards apply to Supplemental Nutrition Assistance Program benefit availability for eligible households.

001.01(A) INITIAL CERTIFICATION. No later than 30 calendar days after a household or its representative files an application:

- (1) A household's eligibility will be determined; **and**
- (2) An eligible household will receive an Electronic Benefit Transfer card; and
- (3) An eligible household will have funds available on its card.

001.01(A)(i) ELECTRONIC BENEFITS TRANSFER CARD MAILING TIME. The 30-day time limit includes allowing a household time to receive its Electronic Benefit Transfer card.

001.01(B) RECERTIFICATION. When the Department receives an application for recertification on or before the 15th day of the last month of the certification period, the application process is completed before the end of the household's current certification period. When the Department receives an application for recertification after the 15th day but before the 30th day after the last day of the certification period, the application process is completed within 30 days of receiving the application.

001.01(C) SUPPLEMENTAL BENEFITS. Households that report the addition of a household member or a decrease in total gross income of \$50 or more are entitled to an increase in Supplemental Nutrition Assistance Program benefits the month following the month of report when the information is verified timely. When the additional benefits cannot be included in the regular issuance for the following month the household is provided supplemental program benefits by the tenth day of the month following the month in which the change was reported.

002. REPLACEMENTS.

002.01 ELECTRONIC BENEFIT TRANSFER CARD REPLACEMENTS. The household is responsible for notifying the Department or the Electronic Benefit Transfer card contractor as soon as possible when a card is lost, stolen or damaged. Electronic Benefit Transfer cards will be replaced within five days following the request of replacement by the household.

002.02 BENEFIT REPLACEMENT. A household must report a lost or stolen card immediately. When reported, an immediate hold will be placed on the account and no further benefits can be accessed with that card. At the time of report, the household can request a replacement card. No benefits will be replaced. Benefits that remained on the card at the time it was reported as lost or stolen will be transferred to the new card.

002.03 FOOD DESTROYED IN A DISASTER. In cases when food purchased with Electronic Benefit Transfer benefits is destroyed in a disaster affecting a participating household, that household may be eligible for the replacement of the actual value of loss, not to exceed the household's one month allotment. ~~The loss must be reported within ten days of the occurrence and the household's disaster must be verified.~~

002.03(A) REPORTING THE LOSS. The loss must be reported within ten days of the occurrence and the household's disaster must be verified.

002.03(AB) HOUSEHOLD STATEMENT OF LOSS. Prior to issuing a replacement, the recipient must provide the Department a signed statement attesting to the household's loss from the household. The statement must be received within 10 days of the date of report. If the 10th day falls on a weekend or holiday and the statement is received the day after the weekend or holiday then the request will still be considered received timely.

002.03(BC) DISASTER REPLACEMENT ELIGIBILITY. This policy applies in cases of natural disasters affecting more than one household, as well as individual household disasters, such as fire, or power outage lasting more than four hours for refrigerated food or twenty-four hours for frozen food. There is no limit on the number of replacements for food purchased with Supplemental Nutrition Assistance Program benefits which were destroyed in a household misfortune.

003. ELECTRONIC BENEFIT TRANSFER ACCOUNT AGING. Account aging occurs when a household has not used the benefits in their Electronic Benefit Transfer account.

003.01 INACTIVE ELECTRONIC BENEFIT TRANSFER ACCOUNT. An inactive account is an account that has not had a debit transaction in the past ~~365~~ 274 days. The household will continue to have access to all benefits remaining in their Electronic Benefit Transfer account until the benefits are expunged from the account.

003.01(A) EXPUNGED ELECTRONIC BENEFIT TRANSFER ACCOUNT. An expunged account is an account that is inactive. The Issuance and Collection Center can apply any expunged benefits to any outstanding Accounts Receivable the household may have.

003.02 DORMANT ELECTRONIC BENEFIT TRANSFER ACCOUNT. A dormant account is an account that has not had a debit transaction in the past 90 days. The household will continue to have access to all benefits remaining in their Electronic Benefit Transfer account.

003.02(A) DORMANT ELECTRONIC BENEFIT TRANSFER ACCOUNT BENEFITS. Dormant account benefits can be applied to any outstanding Accounts Receivable an adult household member may have following appropriate notice.

004. ELECTRONIC BENEFIT TRANSFER BENEFIT ADJUSTMENTS. If a system error occurs when the household is using its Electronic Benefit Transfer card at an authorized retailer, the household's Electronic Benefit Transfer card will be corrected through an adjustment process. These adjustments may occur after the benefit availability date and may result in either a debit or credit to the household.

004.01 HOUSEHOLD-INITIATED ADJUSTMENTS. Households have 90 calendar days from the date of the error to initiate a correction request claim. Household-initiated credit adjustments must be adjudicated and processed within 15 calendar days from the date the household reports the error. This timeframe also applies if the Department or entity other than the household discovers a system error that requires a credit adjustment to the household.

004.02 RETAILER-INITIATED ADJUSTMENTS. Retailers have nine calendar days from the original date of a system error to identify the error. Retailers must submit the correction request to the issuer and request that an adjustment be processed against the cardholder's account.

- (A) A notice will be sent to the household upon receipt of the notification and data pertaining to the requested adjustment from the Electronic Benefit Transfer Claim Tracking System through the Electronic Benefit Transfer contractor. The household's notice must provide specific detailed information about the error transaction and must advise the household of the right to a fair hearing;
- (B) No hold will be placed on the account balance for the amount of the adjustment;
- (C) If the household disputes the requested adjustment and requests a fair hearing within the 15 calendar day timeframe, no further action would be taken to debit the household's account until the fair hearing decision is rendered;
 - (i) If the fair hearing decision is rendered in the household's favor, no further action is needed; or
 - (ii) If the decision is rendered in favor of the State Agency, collection activity will begin immediately against the current account balance. The contractor will reopen the claim and will attempt daily to make the adjustment. No debit adjustment will occur unless the account has sufficient balance to complete the total amount of the adjustment by the end of the next calendar month. Nebraska will not settle partial adjustments; and
- (D) If the household does not request a fair hearing within 15 calendar days, the system will automatically begin the collection process upon expiration of that time period. If the account does not contain sufficient funds to cover the entire debit adjustment amount, the system will attempt daily to make the adjustment until the end of the next calendar month. No debit adjustment will occur unless the account contains sufficient balance for the total amount of the adjustment. The Department will not settle partial adjustments.