

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 362.000: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: NONFINANCIAL ELIGIBILITY STANDARDS

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362.050: Introduction

106 CMR 362.000 describes the nonfinancial eligibility standards that must be met by SNAP applicants and clients. Nonfinancial eligibility standards are residency, citizenship, alien status, student eligibility, and work registration. These eligibility standards must be met by all household members before a household's financial eligibility is determined.

362.100: Residency

A household must be living in the state in which it files an application. In any month no individual may participate as a member of more than one household nor may any household participate in more than one state. The only individuals exempt from these dual participation restrictions are certain residents of shelters for battered women and their children as defined in 106 CMR 365.550: *Residents of Shelters for Battered Women and Their Children*. There is no durational residency or fixed residency requirement. For example, migrant campsites satisfy the residency requirement. Residency does not require an intent to live in the area permanently. However, individuals in an area solely for vacation purposes are not considered residents. An otherwise eligible household is not required to live in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

362.110: Reporting Residency

The application contains spaces for both a physical address and a mailing address. If the two are different, the worker will request that both addresses be given. A mailing address only, such as a post office box or a rural route, will not be sufficient as it does not indicate where the household lives. If the address is a rural route, information should be given to identify the exact location of the home.

362.120: Verification of Residency

Residency shall be verified before initial certification except in unusual cases (such as homeless households, certain migrant farmworker households, or households that have just arrived in the state) where verification of residency cannot reasonably be accomplished. As much as possible, documents used to verify rent or mortgage payments, utilities, or identity shall be used to verify residency. If such documentation does not verify residency, the Department shall use any documents, collateral contact, or home visits that reasonably establish the applicant's residency in accordance with 106 CMR 361.640: *Sources of Verification*. No requirement for a specific type of verification may be imposed. The Department shall not limit verifications to a single document and must assist the household in obtaining verification, when necessary, pursuant to 106 CMR 361.650: *Responsibility for Obtaining Verification*.

362.200: Citizens, Noncitizens, Canadian-born or Mexican-born Native Americans and Members of Hmong and Highland Laotian Tribes

To be eligible for SNAP benefits an individual must be:

(A) A citizen of the United States, defined as an individual born in one of the United States, District of Columbia, Commonwealth of Puerto Rico, Guam, and or the Virgin Islands. In addition, nationals from American Samoa or Swain's Island shall be regarded as United States citizens for SNAP purposes;

(B) A noncitizen who meets one of the requirements of 106 CMR 362.220;

(C) A Native American Indian born in Canada or Mexico covered by Section 289 of the Immigration and Nationality Act (INA) or who is a member of a tribe as defined in Section 4(e) of the Indian Self Determination and Education Assistance Act; or

(D) A member of a Hmong or Highland Laotian tribe who meets the requirements of 106 CMR 362.235.

A written statement certifying, under penalty of perjury, to the truth of the information contained in the application of the citizenship or noncitizen status of each household member applying for SNAP benefits, must be provided in accordance with 106 CMR 361.100(C).

If a household member does not meet the above requirements, other household members may still apply for and, if eligible, receive benefits.

362.210: Citizens

(A) Verification of Citizenship. Citizenship shall be verified when application information is questionable.

(B) Acceptable Forms of Verification. Acceptable forms of verification to prove birthplace or citizenship include:

- (1) birth certificate;
- (2) baptismal record;
- (3) United States passport;
- (4) hospital birth record;
- (5) voter registration;
- (6) naturalization certificate;
- (7) US Citizen Identity Card (INS Form I-179);
- (8) US Citizen Resident's Card (INS Form I-197);
- (9) court records that specifically state the citizenship of the individual;
- (10) military service papers that show citizenship;
- (11) proof that at least one of the biological or adoptive parents was:
 - (a) a U.S. citizen at the time of the household member's birth; and
 - (b) that parent resided in the United States before the member's birth;
- (12) proof that:
 - (a) both parents became naturalized citizens before the household member either turned 18 years of age or married while younger than 18 years old; and

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- (b) at the time the second parent or surviving parent was naturalized, he or she:
 1. was residing in the U.S. with lawful admission for permanent resident status; or
 2. began residing permanently in the U.S. while younger than 18 years old;
- (13) proof that:
 - (a) at least one of the child's parents is a U.S. citizen by birth or naturalization;
 - (b) the child is younger than 18 years old; and
 - (c) the child is residing in or has resided in the United States in the legal and physical custody of the U.S. citizen parent pursuant to a lawful admission for permanent residence.
- (14) proof that, at the time of household member's birth, one parent was a U.S. citizen residing in the U.S. for more than five years, and two of those years were after the parent was 14 years of age.

If the household member provided proof of citizenship to receive TAFDC or EAEDC benefits, this is acceptable verification of citizenship for SNAP. If the household cannot provide the above forms of verification but can provide a reasonable explanation as to why verification is not available, the Department shall accept a signed statement from a U.S. citizen that declares, under penalty of perjury, that the household member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud.

(C) Participation Pending Verification of U.S. Citizenship. The member whose U.S. citizenship is questionable in accordance with 106 CMR 361.620: *Questionable Information* shall be ineligible for SNAP and shall be disqualified on the basis of being an ineligible noncitizen in accordance with 106 CMR 361.230(D): *Disqualified Individuals*.

362.220: Noncitizens

A noncitizen applying for SNAP benefits and claiming an eligible noncitizen status must verify that he or she is present in the United States (U.S.) under one of the noncitizen statuses provided in 106 CMR 362.220(A). The status of a noncitizen must be verified at certification, at recertification or whenever the status of the noncitizen changes or is questionable. Verification of an eligible noncitizen status must be presented before the determination of SNAP eligibility.

When a noncitizen applying for SNAP benefits indicates an inability or unwillingness to provide information about, or acceptable verification of, his or her eligible noncitizen status, that household member shall be ineligible. In such cases the Department shall not continue efforts to obtain documentation. Also, if a noncitizen applying for SNAP benefits indicates an inability or unwillingness to provide, or apply for, a Social Security Number due to immigration status he or she is ineligible. The Department shall not continue efforts to obtain documentation. SNAP eligibility will be determined in accordance with 106 CMR 365.520(A) for the household members who do verify an eligible noncitizen status.

The Commissioner or designee is required to report to the United States Citizenship and Immigration Services (USCIS) information about noncitizens "known to be in the U.S. unlawfully" as defined in 106 CMR 362.240.

SNAP - Eligible Noncitizen Status. A noncitizen's eligibility for SNAP benefits depends on the noncitizen being a qualified noncitizen and meeting certain conditions related to the qualified noncitizen status.

- (A) A qualified noncitizen is a person who, at the time the person applies for or receives SNAP benefits, is in one of the following categories as determined by the USCIS:
 - (1) refugees admitted to the U.S. under section 207 of the INA, including a victims of severe forms of trafficking;
 - (2) asylees admitted to the U.S. pursuant to section 208 of the INA;
 - (3) noncitizens whose deportation is withheld pursuant to section 243(h) or whose removal is withheld pursuant to section 241(b)(3) of the INA;
 - (4) Cuban/Haitian entrants (defined by section 501(e) of the Refugee Education Assistance Act of 1980);
 - (5) Amerasians defined by in section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988;

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- (6) noncitizens paroled as a refugee or asylee pursuant to section 212(d)(5) of the INA for at least one year;
- (7) conditional entrants pursuant to section 203(a)(7) of the INA;
- (8) legal permanent residents; and
- (9) battered noncitizens.

(B) To receive SNAP benefits the qualified noncitizen must meet the conditions of one of the following USCIS statuses:

- (1) Refugee. A noncitizen present in the U.S. as a refugee under section 207 or 207(c) of the INA is an eligible noncitizen.
- (2) Asylee. A noncitizen present in the U.S. as a refugee under section 208 of the INA is an eligible noncitizen.
- (3) Withholding of Deportation. A noncitizen whose deportation is being withheld under section 243(h) or whose removal is withheld under section 241(b)(3) of the INA is an eligible noncitizen.
- (4) Cuban/Haitian Entrant. A noncitizen who is present in the U.S. as a Cuban/Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980) is an eligible noncitizen.
- (5) Amerasian. A noncitizen from Vietnam who is present in the U.S. as an Amerasian immigrant (as defined in section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988) is an eligible noncitizen.
- (6) Victims of Severe Forms of Trafficking. A noncitizen who is present in the U.S. and has been issued a letter from the U.S. Department of Health and Human Services (HHS) verifying that the noncitizen is a victim of severe forms of trafficking as defined in 106 CMR 362.240(E) is an eligible noncitizen.
- (7) Legal Permanent Resident. A noncitizen present in the U.S. as a legal permanent resident is an eligible noncitizen when he or she:
 - (a) prior to adjustment to legal permanent resident status, was:
 - 1. a refugee pursuant to section 207 of the INA, including a victim of severe forms of trafficking;
 - 2. an asylee pursuant to section 208 of the INA;
 - 3. a noncitizen whose deportation was being withheld pursuant to section 243(h) or 241(b)(3) of the INA;
 - 4. a Cuban/Haitian entrant (defined by section 501(e) of the Refugee Education Assistance Act of 1980); or
 - 5. an Amerasian immigrant (defined by section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988).
 - (b) has resided as a qualified noncitizen in the U.S. for five years;
 - (c) is elderly, born on or before August 22, 1931, and who was lawfully residing in the U.S. on August 22, 1996;
 - (d) is a child younger than 18 years old;
 - (e) is disabled as defined in 106 CMR 361.210: *Elderly or Disabled Individuals*;
 - (f) has worked a minimum of 40 qualifying quarters pursuant to Title II of the Social Security Act including qualifying quarters of work not covered by Title II;
 - (g) can be credited with a total of 40 qualifying quarters pursuant to Title II of the Social Security Act as worked by a combination of:
 - 1. the noncitizen;
 - 2. parent(s) of the noncitizen while the noncitizen was younger than 18 years old, including quarters worked before the noncitizen was born or adopted; and/or
 - 3. the spouse of the noncitizen during their marriage if the noncitizen is still married to the spouse or is widowed; or

No quarter may be claimed after December 31, 1996 if benefits from a federal means-tested program, defined by 106 CMR 362.240, were received from any state during that same quarter.
 - (h) is a veteran or active duty personnel as defined in 106 CMR 362.240(F).
- (8) Battered Noncitizen. A noncitizen who is battered is an eligible noncitizen when he or she has proof of the battering and meets the following conditions:

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- (a) The noncitizen must have one of the following:
 1. a Form I-130 petition filed by his or her spouse or parent;
 2. a Form I-130 petition filed as a widow(er) of a U.S. Citizen;
 3. an approved self-petition under the Violence Against Women Act or a pending self-petition under the Act with a notice of *prima facie* determination (including those filed by a parent); or
 4. an application for cancellation of removal or suspension of deportation filed as a victim of domestic violence;
 - (b) The noncitizen, the noncitizen's child or the noncitizen child's parent has been abused in the U.S. under any of the circumstances in 106 CMR 362.220(B)(8)(b)1. through 3.:
 1. The noncitizen has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household, if the spouse or parent consents to or acquiesces in the battery and cruelty;
 2. The noncitizen's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to or acquiesces in the battery or cruelty, and the noncitizen did not actively participate in the battery or cruelty; or
 3. The parent of a noncitizen child has been battered or subjected to extreme cruelty in the U.S. by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent, if the spouse consents to or acquiesces in such battery or cruelty;
 - (c) There is a substantial connection between the battery or extreme cruelty and the need for SNAP benefits;
 - (d) The battered noncitizen, child, or parent no longer resides in the same household as the abuser; and
 - (e) The noncitizen meets one of the following conditions:
 1. has resided as a qualified noncitizen in the U.S. for five years;
 2. was born on or before August 22, 1931 and was lawfully residing in the U.S. on August 22, 1996;
 3. is a child younger than 18 years old;
 4. is disabled as defined by 106 CMR 361.210: *Elderly or Disabled Individuals*; or
 5. is a veteran or active duty personnel as defined by 106 CMR 362.240(F).
- (9) Parolee. A noncitizen present in the U.S. as a parolee under section 212(d)(5) of the INA for at least one year is an eligible noncitizen when he or she:
- (a) has resided as a qualified noncitizen in the U.S. for five years;
 - (b) was born on or before August 22, 1931 and was lawfully residing in the U.S. on August 22, 1996;
 - (c) is a child younger than 18 years old;
 - (d) is disabled as defined by 106 CMR 361.210: *Elderly or Disabled Individuals*; or
 - (e) is a veteran or active duty personnel as defined in 106 CMR 361.240(F).
- (10) Conditional Entrant. A noncitizen present in the U.S. as a conditional entrant under section 203(a)(7) of the INA is an eligible noncitizen when he or she:
- (a) has resided as a qualified noncitizen in the U.S. for five years;
 - (b) was born on or before August 22, 1931 and was lawfully residing in the U.S. on August 22, 1996;
 - (c) is a child younger than 18 years old;
 - (d) is disabled as defined by 106 CMR 361.210: *Elderly or Disabled Individuals*; or
 - (e) is a veteran or active duty personnel as defined by 106 CMR 362.240(F).

(C) Verification of Noncitizen Status. The noncitizen must submit verification, in accordance with Department procedures, of the eligible noncitizen status and the date the status was granted for each household member at application. Unchanged noncitizen status shall not be reverified unless the information is questionable or outdated. In addition, the noncitizen must verify other noncitizen eligibility requirements as described under the applicable noncitizen status at 106 CMR 362.220(A).

If the noncitizen claims an eligible noncitizen status but the documentation is lost or missing, and he or she verified that they have formally requested from a Federal agency verification of their noncitizen status, the Department shall certify the individual for up to six months from the date of the original request for verification.

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(D) Ineligible Legal Noncitizen Status. An individual present in the U.S. under conditions or sections of the INA not described in 106 CMR 362.220(A) and (B) is ineligible for SNAP benefits. His or her income or assets shall be considered in accordance with 106 CMR 365.520(B).

(E) Nonimmigrant Noncitizen Status. An individual lawfully residing in the U.S. in a non-qualified status (such as a student or H1-B Visa worker) is ineligible for SNAP benefits. The nonimmigrant shall be ineligible in accordance with 106 CMR 361.230(D) and his or her income and assets are considered available to any remaining household members in accordance with 106 CMR 365.520(A).

(F) Undetermined Noncitizen Status. When a household indicates an inability or unwillingness to provide verification of an eligible noncitizen status for any household member, that household member shall be ineligible in accordance with 106 CMR 361.230(D), and his or her income and assets considered available to any remaining household members in accordance with 106 CMR 365.520(A). In such cases the Department shall not continue efforts to obtain documentation.

(G) Not Legally Residing Noncitizen Status. When a household verifies illegal noncitizen status for any household member by presenting to the Department a Final Order of Deportation, that household member shall be ineligible in accordance with 106 CMR 361.230(D), and his or her income and assets considered available to any remaining household members in accordance with 106 CMR 365.520(A).

362.230: Native Americans Born in Canada or Mexico

(A) Requirements. A person with at least 50% Native American blood born in Canada or Mexico, with treaty rights to cross the United States borders with Canada and Mexico, and who has maintained residence in the United States since his or her entry must be regarded as having been lawfully admitted for permanent residence.

People with less than 50% Native American blood must satisfy the requirements of 106 CMR 362.220.

(B) Verifications. The status of a Native American born in Canada or Mexico is verified by one of the following:

- (1) A "band card" issued by the band council of a Canadian Indian reserve;
- (2) Birth or baptism records;
- (3) A provincial Union of Indians card issued by the tribal nation (such as a Union of Nova Scotia Indians card); or
- (4) An affidavit from a tribal official or other person knowledgeable about the client's family ancestry.

362.235: Members of Hmong and Highland Laotian Tribes

A noncitizen lawfully residing in the United States is an eligible noncitizen when he or she is:

- (1) a member of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975; or
- (2) a spouse, unremarried surviving spouse or an unmarried dependent child of a Hmong or other Highland Laotian tribe member who meets the conditions provided in 106 CMR 362.235(a).

362.240: Noncitizen Definitions

(A) Lawfully Residing in the U.S. The following noncitizens are considered lawfully residing in the United States pursuant to Department of Justice guidance:

- (1) A qualified noncitizen as defined in 106 CMR 362.240;
- (2) A noncitizen who has been inspected and admitted to the U.S. and who has not violated the terms of the status under which he or she was admitted or to which he or she has adjusted after admission;

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- (3) A noncitizen paroled into the U.S. under section 212(d)(5) for less than one year, except:
- (a) noncitizens paroled for deferred inspection or pending exclusion proceedings pursuant to 236(a) of the INA; or
 - (b) noncitizens paroled into the U.S. for prosecution pursuant to 12(5)(a)(3);
- (4) A noncitizen who belongs to one of the following classes of noncitizens permitted to remain in the U.S. because the Attorney General has decided, for humanitarian or other public policy reasons, not to initiate deportation or exclusion proceedings or to enforce departure:
- (a) noncitizens currently in temporary residence status pursuant to section 210 or 245A of the INA;
 - (b) noncitizens currently under Temporary Protected Status (TPS) pursuant to section 244A of the INA;
 - (c) Cuban/Haitians entrants as defined by section 202(b) Public Law 99-603 as amended;
 - (d) Family Unity beneficiaries pursuant to section 301 of Public Law 99-101-649;
 - (e) noncitizens currently under Deferred Enforced Departure (DED) pursuant to a decision by the President;
 - (f) noncitizens currently in deferred action status pursuant to Services Operation Instructions at OI 242.1(a)(22); and
 - (g) noncitizens who are the spouse or child of a U.S. citizen whose visa petition has been approved and who have a pending application for adjustment of status;
- (5) Applicants for asylum pursuant to 208(a) of the INA and applicants for withholding of deportation pursuant to 243(h) of the INA who have been granted employment authorization and such applicants younger than 14 years old who have had an application pending for at least 180 days.
- (B) Known to Be in the U.S. Unlawfully. Known to be in the U.S. unlawfully means that:
- (1) the Department has seen a Final Order of Deportation or other determination of the USCIS or Executive Office of Immigration Review that the noncitizen is present unlawfully; and
 - (2) the noncitizen has applied for SNAP benefits for himself or herself and the Department has determined him or her ineligible due to unlawful presence.
- (C) Dependent Child. A dependent child is an unmarried child younger than 18 years old or, if a full-time student, younger than 22 years old, or a disabled child 18 years of age or older if the child was disabled and dependent on the parent before 18 years of age.
- (D) Federal Means-tested Program. The following are federal means-tested programs for purposes of determining qualifying quarters: SNAP, Transitional Aid to Families with Dependent Children (TAFDC), SSI, Medicaid, State Child Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), Food Assistance Program in Puerto Rico, American Samoa and the Commonwealth of the Northern Marianas Islands (CNMI).
- (E) Victims of Severe Forms of Trafficking. In the Trafficking Victims Protection Act, the term "severe forms of trafficking in persons" means:
- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; and/or
 - (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (F) Veterans and Active Duty Personnel. A noncitizen is a veteran or active duty personnel when he or she meets one of the following criteria:
- (1) is a veteran of the U.S. Armed Forces with honorable discharge not related to his or her noncitizen status who fulfilled the minimum active-duty service requirement of 24 months or the period for which he or she was called to active duty;
 - (2) is a person on active duty in the U.S. Armed Forces, other than active duty for training, who fulfills the minimum active-duty service requirement of 24 months or the period for which he or she was called to active duty;

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- (3) is a spouse of the veteran or the person who died during active duty if:
 - (a) the spouse has not remarried; and
 - (b) the couple was married for at least one year or for any period if the couple bore a child before or during the marriage;
- (4) is a spouse or unmarried dependent child as defined in 106 CMR 362.240 of the veteran or the person on active duty described in 106 CMR 362.240(F)(3)(a) or (b); or
- (5) was a member of the organized military forces of the Government of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order dated July 26, 1941, including organized guerrilla forces under commanders organized by the U.S. Army for service prior to July 1, 1946.

362.270: Deeming of Income and Assets for Sponsored Noncitizens

The deeming of income and assets rules for sponsored noncitizens do not apply to categorically eligible households as defined in 106 CMR 365.180: *Categorically Eligible Assistance Units*.

The deeming of income and assets rules for sponsored noncitizens will be applied to any household which contains a member disqualified from receiving SNAP benefits due to: a failure to comply with the ABAWD Work Program at 106 CMR 362.320; a failure to comply with TAFDC Income Reporting requirements at 106 CMR 366.110: *Household Reporting Responsibilities*; or any of the reasons listed in 106 CMR 367.800: *Disqualification Penalties*. In addition, non-SSI elder and/or disabled households with income, not including the income of the sponsor(s), that exceeds the Categorical Eligibility Gross Income Standards at 106 CMR 364.976: *Gross Monthly Categorical Eligibility Income Standards* will be subject to sponsor deeming requirements.

(A) Definitions.

- (1) Sponsor. A sponsor is any person, including a cosigner spouse, who executed a legally enforceable affidavit of support or similar agreement on behalf of a noncitizen as a condition of that noncitizen's entry into the United States.
- (2) Sponsored Noncitizen. A sponsored noncitizen is a noncitizen who has been admitted to the United States as a legal permanent resident and for whom a legally enforceable affidavit of support was signed as a condition of entry into the United States.
- (3) Affidavit of Support.
 - (a) An affidavit of support is a contract meeting the requirements of Section 213A of the INA, in which a sponsor agrees to financially support the noncitizen, so that the noncitizen will not become primarily dependent on the government, demonstrated by either receipt of cash assistance or institutionalization for long-term care at government expense.
 - (b) The affidavit of support is a contract which is legally enforceable against the sponsor by the federal, state and local agencies which provide any means-tested public benefits program.
- (4) Sponsor Deeming. Sponsor Deeming is the counting of the income and assets, in accordance with 106 CMR 363.100 through 363.230, of the sponsor(s) based on the amount on the affidavit of support or current verification of the sponsor's circumstances, whether or not monies are actually given to the sponsored noncitizen.

(B) Requirements.

- (1) When a sponsored noncitizen adult (18 years of age or older) applies for SNAP benefits, the income and assets of the sponsored noncitizen shall be deemed to include the income and assets of the sponsor(s) in accordance with 106 CMR 362.270(E) unless the Sponsor Deeming provisions do not apply in accordance with 106 CMR 362.270(D).
- (2) When a sponsored noncitizen adult has:
 - (a) provided acceptable verification of his or her noncitizen immigration status;
 - (b) provided or applied for a Social Security Number; and
 - (c) indicates an inability or unwillingness to provide acceptable verification of the income and assets of the sponsor(s).

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The sponsored noncitizen shall be ineligible. The Department shall not continue to obtain documentation. SNAP benefits will be determined for the remaining members of the household who verify an eligible noncitizen status and meet other eligibility requirements in accordance with 106 CMR 365.520(B).

(3) When sponsored noncitizen adults are the only members of a household and indicate an inability or unwillingness to provide acceptable verification of the income and assets of the sponsor(s) the entire household shall be ineligible.

(C) Verification.

(1) If the sponsored noncitizen was granted legal permanent resident status on or after June 1, 1998, the Department will presume the noncitizen was sponsored under a legally enforceable affidavit of support. The sponsored noncitizen can rebut this presumption by verifying that he or she was not sponsored by a family member or was sponsored by an affidavit of support which is not legally enforceable.

(2) The following information must be provided to the Department by the noncitizen before certification or recertification unless 106 CMR 362.270(B)(2) or (3) apply:

- (a) The name and address of the sponsor(s); and
- (b) The income and assets of the sponsor(s). All income and assets of the sponsor(s) shall be verified in accordance with 106 CMR 363.000: *Supplemental Nutrition Assistance Program: Financial Eligibility Standards.*

(D) Noncitizens Not Subject to Sponsor Deeming.

(1) The Sponsor Deeming provisions shall not apply to any noncitizen, present in the United States for whom a legally enforceable affidavit of support was not required. Noncitizens not subject to sponsor deeming include:

- (a) asylees pursuant to section 208 of the INA;
- (b) refugees pursuant to section 207 of the INA;
- (c) parolees pursuant to section 212(d)(5) of the INA for a period of at least one year;
- (d) members of a Hmong or other Highland Laotian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam Era beginning August 5, 1964 and ending May 7, 1975;
- (e) noncitizens whose deportation is being withheld pursuant to section 243(h) or 241(b)(3) of the INA;
- (f) Cuban/Haitian entrants (as defined by section 501(e) of the Refugee Education Assistance Act of 1980);
- (g) Amerasian immigrants (as defined by section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988);
- (h) conditional entrants pursuant to section 203(a)(7) of the INA;
- (i) veterans or active duty personnel as provided in 106 CMR 362.240(F);
- (j) noncitizens sponsored by a public or private organization or group rather than by an individual; or
- (k) noncitizens living in the same SNAP household as the sponsor.

(2) At the option of the sponsored noncitizen, the Sponsor Deeming provisions shall not apply for a period of 12 months if the sponsored noncitizen claims and verifies one of the following exceptions.

(a) Battered Noncitizen Exception. The noncitizen verifies he or she was battered and there is a substantial connection between the need for SNAP benefits and the battery (in the opinion of the Department, which opinion is not subject to review by any court):

1. if the noncitizen was battered or subject to extreme cruelty in the United States by a spouse or a parent, or by a member of the family of the spouse or parent residing in the same household as the noncitizen and the spouse or parent consented or acquiesced to such battery or cruelty; or
2. if the noncitizen's child has been battered or subject to extreme cruelty in the United States by a spouse or a parent of the noncitizen (without active participation of the noncitizen in the battery or cruelty), or by a member of the family of the spouse or the parent residing in the same household as the noncitizen and the spouse or parent consented or acquiesced to such battery or cruelty; and
3. if the battered noncitizen or the battered noncitizen's child is no longer living in the same household as the individual responsible for such battery or cruelty.

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This exception may be reviewed and benefits continued after the 12-month period if the noncitizen demonstrates that such battery or cruelty described above has been recognized in an order of a judge or administrative law judge or a prior determination of the USCIS, and that such battery or cruelty has a substantial connection to the need for benefits.

- (b) Indigent Exception. The noncitizen verifies that the sum of the sponsored noncitizen's SNAP household's own income and any cash or in-kind assistance provided by the sponsor(s) or others is less than the Maximum Gross Monthly Income Standard found at 106 CMR 364.950: *Maximum Gross Monthly Income Standards*.

Each indigence determination is effective for 12 months and may be renewed for additional 12-month periods.

The Commissioner or designee shall notify the Attorney General of each indigency determination, including the names of the sponsor(s) and the sponsored noncitizen adult(s).

- (3) The Sponsor Deeming provisions shall end when:
- (a) The sponsored noncitizen becomes a United States citizen through naturalization pursuant to Chapter 2 of Title III of the INA; or
 - (b) The sponsored noncitizen has worked a minimum of 40 qualifying quarters pursuant to Title II of the Social Security Act; or
 - (c) The sponsored noncitizen can be credited with a total of 40 qualifying quarters under Title II of the Social Security Act as worked by:
 1. the noncitizen;
 2. the parent(s) of the noncitizen prior to the birth of the noncitizen until the noncitizen became 18 years of age; and/or
 3. the spouse of the noncitizen during their marriage if the noncitizen remains married to the spouse or is widowed.
- However, no quarter may be claimed after December 31, 1996 if benefits from a means tested program were received from any state during that same quarter.
- (d) The sponsored noncitizen no longer has a status of a noncitizen lawfully admitted for permanent residence and has left the United States; or
 - (e) The sponsor(s) dies.

(E) Determination of Available Income from a Sponsor. The total monthly countable income of the sponsor(s) is identified in accordance with 106 CMR 363.220: *Countable Income*. Excluded income listed in 106 CMR 363.230: *Excluded Income* is not counted. The portion of the monthly income of the sponsor(s) that shall be deemed as unearned income to the sponsored noncitizen adult(s) shall be calculated as follows:

- (1) Subtract 20% from the monthly gross earned income and add that result to the monthly gross unearned income, if any;
- (2) Subtract from the result of (1) the Maximum Gross Monthly Income Standards at <http://www.mass.gov/eohhs/gov/departments/dta/program-eligibility-charts-and-tables.html> for the household equal in size to the sponsor(s) and any other person who is claimed or could be claimed by the sponsor(s) as a dependent for federal income tax purposes;
- (3) Divide the result of (2) by the number of sponsored noncitizens; then
- (4) Multiply the result of (3) by the number of sponsored noncitizen adults applying for SNAP benefits. This is the sponsors' deemed income amount.

(F) Determination of Countable Assets from a Sponsor. The total countable assets of a sponsor(s) are identified in accordance with 106 CMR 363.130: *Countable Assets*. Excluded assets listed in 106 CMR 363.140: *Noncountable Assets* are not counted. The assets of a sponsor(s) which shall be deemed to the noncitizen shall be calculated as follows:

- (1) Add the countable assets together;
- (2) Subtract \$1500 from the result of (1);
- (3) Divide the result of (2) by the number of sponsored noncitizens; then
- (4) Multiply the result of (3) by the number of sponsored noncitizen adults applying for SNAP benefits. This is the sponsors' deemed asset amount.

(G) Sponsorship of More than One Noncitizen. If an individual has sponsored more than one noncitizen, the total monthly income and total assets of the sponsor(s), shall be prorated among all the sponsored noncitizens.

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(H) Request for Reimbursement.

(1) The sponsor is obligated to reimburse the Department for any means-tested public benefit which was provided to the sponsored noncitizen, unless the sponsor's obligation terminates as provided in 106 CMR 362.270(D)(3). The termination of the sponsor's support obligation does not relieve the sponsor of responsibility to reimburse the Department for means-tested benefits that were received before the support obligation terminated.

(2) The request for reimbursement shall be a written request notifying the sponsor that the sponsor must, within 45 days of the date of service, respond to the request for reimbursement either by paying the reimbursement or arranging to begin payments. If within 45 days the sponsor does not indicate a willingness to pay, the Department may sue the sponsor in a state or federal court.

362.300: Work Requirements

As a condition of eligibility, nonexempt household members between 16 and 59 years of age must comply with the mandatory SNAP work requirements found at 106 CMR 362.310(A). Failure to comply with these requirements without good cause will result in disqualification in accordance with 106 CMR 367.800: *Disqualification Penalties*. Good cause criteria are found at 106 CMR 362.330.

Unless an exemption applies, household members between 18 and 49 years of age must also comply with the ABAWD work program requirements found at 106 CMR 362.320. Failure to comply with these requirements for three months in a three-year period without good cause may result in ineligibility. Good cause criteria are found at 106 CMR 362.320(C).

362.310: General SNAP Work Requirements

(A) Mandatory Requirements. Nonexempt household members between 16 and 59 years of age must:

- (1) Register for work at application and every 12 months after initial registration;
- (2) Provide information to the Department regarding employment status or job availability when requested;
- (3) Report to an employer when the Department has made a referral and the work meets the suitability requirements as provided in 106 CMR 362.330(A)(3);
- (4) Accept a legitimate offer of suitable employment as described at 106 CMR 362.330(A)(3); and
- (5) Not voluntarily, and without good cause, quit a job of 30 or more hours a week or reduce work hours to less than 30 hours a week in accordance with Voluntary Quit provisions found at 106 CMR 362.340.

(B) Voluntary SNAP Employment and Training Participation. If a slot is available, SNAP recipients may volunteer to participate in a SNAP Employment and Training Program (SNAP E&T) component that is approved by the Department and is consistent with the Department's federally approved Employment and Training Plan.

Volunteer SNAP E&T participants are expected to:

- (1) Complete the SNAP E&T enrollment form;
- (2) Attend a SNAP E&T interview;
- (3) Begin participating through the E&T vendor;
- (4) Provide verification of participation if requested on a form approved by the Department;
- (5) Participate in all E&T component activities;
- (6) Take part in vendor-assisted job search activities; and
- (7) Accept and maintain an offer of employment as described by at 106 CMR 362.330(A)(3).

Voluntary participants in an employment and training component will not be disqualified for failure to comply with employment and training requirements.

(C) Exemptions from General SNAP Work Requirements. The individuals listed in 106 CMR 362.310(C)(1) through (10) are exempt from the general SNAP work requirements found at 106 CMR 362.310(A). If verification is necessary for a particular exemption, it is noted under that exemption.

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(1) Age. A person younger than 16 years old or a person 60 years of age or older is exempt. A child who has his or her 16th birthday within a certification period shall fulfill the work registration requirement at the next scheduled recertification, unless the child qualifies for another exemption.

(2) Persons Physically or Mentally Unfit for Employment. Persons who are physically or mentally unfit for employment due to disability or illness, either permanently or temporarily, are exempt. If the disability or illness is not obvious, appropriate verification of physical or mental unfitness must be provided. Verification includes, but is not limited to:

- (a) receipt of temporary or permanent disability benefits from a government or private source;
- (b) a written, dated and signed statement from a competent medical authority stating that the person is physically or mentally unfit for employment;
- (c) participation in a Massachusetts Rehabilitation Commission program or other Massachusetts-approved vocational rehabilitation program; and
- (d) proof that the individual is temporarily ill and that the illness is serious enough to temporarily prevent employment.

Persons claiming temporary unfitness for employment due to illness will be required to meet work requirements once they become physically or mentally fit.

(3) TAFDC/EAEDC Work Program Participants. A TAFDC or EAEDC client subject to and complying with the relevant program's work requirement is exempt.

(4) Unemployment Compensation Applicants and Recipients. Unemployment Compensation applicants or recipients subject to and participating in a comparable unemployment compensation work program are exempt.

If the exemption claimed is questionable, the Department is responsible for verifying the exemption with the office of the State employment services agency.

(5) Caretakers. A parent or other household member responsible for the care of a dependent child under six or an incapacitated person is exempt.

If the child has his or her sixth birthday within a certification period, the caregiver of the child shall fulfill the work requirements at the next scheduled recertification, unless the caregiver qualifies for another exemption.

If a parent and another member of the household both claim to be responsible for the care of the same dependent child or incapacitated household member, the actual responsibility shall be determined by discussion with the applicant or client.

(6) Students. Persons enrolled at least half-time in any recognized school, including high school, a training program or institution of higher education who have met the conditions provided in 106 CMR 362.400 and 362.410 are exempt. Enrollment must be verified at application and recertification.

Persons enrolled less than half-time or who experience a break in their enrollment status due to graduation, expulsion or suspension, or who drop out or otherwise do not intend to return to school do not qualify for this exemption.

(7) Addicts and Alcoholics. A regular participant, either on a resident or nonresident basis, in a drug addiction or alcohol treatment and rehabilitation program is exempt. Participation, if questionable, may be verified through the organization or institution operating the program.

(8) Employed Persons. Persons employed or self-employed are exempt if working a minimum of 30 hours weekly or receiving weekly earnings equal to or greater than the federal minimum wage multiplied by 30 hours. The guidelines for determining a client's eligibility for this exemption are as follows:

- (a) Verification of earned income must establish that the amount of income is consistent with a 30-hour work week;
- (b) If the income of the employed individual does not meet the preceding test but he or she still claims to be employed, the client shall be required to supply documentary evidence of the existence of an employee-employer relationship and that the number of hours worked is equivalent to 30 hours a week;
- (c) If a self-employed person's income does not meet the test in 106 CMR 362.310(C)(8)(a), he or she must establish that the income received from the self-employment activity is sufficient to be considered gainful employment and that the amount of work claimed justifies a determination that the self-employment activity is a full-time job for the purpose of this exemption; and

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(d) Persons engaged in hobbies or any other activity that cannot, because of the minimal amount of monies received from such activity, be considered gainful employment are not exempt.

(9) Teens. A person 16 or 17 years of age who is:

(a) not a head of household;

(b) attending school on at least a half-time basis; or

(c) enrolled in an employment and training program on at least a half-time basis, is exempt.

An exempt teen who turns 18 years of age within a certification period must fulfill the work registration requirement at the next scheduled recertification unless he or she qualifies for another exemption.

(10) Pregnant Women. A woman in her second or third trimester of pregnancy is exempt.

(D) Work Registration Requirement. Nonexempt household members must complete and sign the work registration section on a form prescribed by the Department. A copy of the form is retained in the case record. Refusal to work-register without good cause will result in disqualification in accordance with 106 CMR 367.800: *Disqualification Penalties*.

A person who loses his or her exemption status due to changes in circumstances that he or she is required to report as a condition of SNAP certification must register for work when the change is reported. Those persons who lose their exemption due to a change in circumstances that is not subject to the reporting requirements must register for work at their household's next recertification.

362.320: Able-bodied Adults Without Dependents (ABAWD) Work Program

(A) Mandatory Population and Requirements. All nonexempt household members between 18 and 49 years of age must:

(1) Register for work at application and every 12 months after initial registration; and

(2) Do one of the following:

(a) Work at a job, or combination of jobs, for 20 hours per week averaged monthly. The work performed may be done in exchange for money, in exchange for goods or services (in-kind work) or may be unpaid work;

(b) Work at a community service site for a specified number of hours per month determined by dividing the monthly SNAP allotment by the (higher of the State or Federal) minimum wage;

(c) Participate in a qualifying SNAP Employment and Training (E&T) program, including basic education, vocational or technical training, or on-the-job training for 20 hours per week. Job search activities associated with E&T components must make up less than half of the required participation hours; or

(d) Work at a job less than 20 hours per week and participate in a qualifying SNAP E&T program component or a WIOA activity for a combined total of 20 hours per week averaged monthly; and

(3) Provide information to the Department regarding employment status or job availability when requested; and

(4) Any SNAP household member currently meeting his or her ABAWD work program requirement may volunteer to participate in an Employment and Training Program as described in 106 CMR 362.310(B) if a slot is available.

(B) Exemptions. Able-bodied Adults without Dependents are exempt from the ABAWD work program requirements if they meet the exemption criteria of 106 CMR 362.310(C). The individuals listed below are also exempt from the ABAWD work program requirements:

(1) Age. Persons younger than 18 years old or 50 years of age or older;

(2) Pregnant Women. A pregnant woman at any stage of pregnancy;

(3) Adults Living with Children Younger than 18 Years Old. Persons residing in a household where a household member is younger than 18 years old, even if the household member who is younger than 18 years old is not eligible for SNAP benefits; and

(4) Resident of a Waived Area. A person who otherwise would be required to participate in the ABAWD work program is exempt if living in an area of the state exempted by the United States Department of Agriculture.

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(C) Good Cause Criteria for ABAWD Work Program Requirements. If an individual would have worked an average of 20 hours per week but missed hours due to good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary and the individual retains his or her job. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

(D) Community Service Program Participation Criteria.

(1) ABAWD work program participants who are not working at least 20 hours per week averaged monthly, or participating in a qualifying E&T Program component for at least 20 hours per week, must work in an uncompensated volunteer Community Service Program site in a public, quasi-public or non-profit organization, except that such placement cannot be in a candidate's campaign for public office.

(2) Participation Requirements.

(a) Each Community Service Program participant must:

1. self-arrange a volunteer Community Service Program placement approved by the Department; or
2. select a volunteer SNAP Community Service Program placement identified by the Department.

(b) Each Community Service Program participant must comply with the following Community Service Program activities:

1. Report to the appropriate Community Service Program site when referred by the Department;
2. Report to the appropriate Community Service Program site for an interview upon reasonable request;
3. Respond to any request from the Community Service Program site for additional information regarding employment status or availability for work;
4. Attend the required hours per month as provided in 106 CMR 362.320(A)(2);
5. Perform satisfactorily in this component, as defined by the provider;
6. Provide verification of placement and participation at time periods determined by the Department on a form approved by the Department; and
7. Accept an offer of employment, if any, from the Community Service Program site.

(E) Ineligibility for Failure to Comply. ABAWD work program participants who choose not to comply with the above requirements for three months (which do not have to be consecutive) in a three-year period will be ineligible for SNAP benefits for the remaining months in the designated three-year period unless they regain eligibility by meeting the requirements of 106 CMR 362.320(F).

(F) Regaining Eligibility. Clients who are determined ineligible for failure to comply with the ABAWD work program requirements for three months during a three-year period may regain eligibility, if otherwise eligible, after the client:

- (1) Works at a job for 80 hours during a 30-day period;
- (2) Works at a community service site for a specified number of hours per month determined by dividing the monthly SNAP allotment by the (higher of the State or Federal) minimum wage;
- (3) Participates and complies with the requirements of a qualifying SNAP Employment and Training (E&T) program component in accordance with 106 CMR 362.320(A)(2) for 80 hours during a 30-day period;
- (4) Works and participates in a qualifying SNAP E&T Program component for a combined total of 80 hours per month during a 30-day period;
- (5) Provides proof that he or she will meet the work requirement during a 30 consecutive day period; or
- (6) Becomes exempt from ABAWD work program requirements.

There is no limit on how many times an individual may regain eligibility by meeting the work requirement.

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(G) Maintaining Eligibility. Clients who regain eligibility under 106 CMR 362.320(F) shall remain eligible for the balance of the three-year period as long as they continue to comply with the ABAWD work program requirements by:

- (1) Working at a job 20 hours per week averaged monthly;
- (2) Working at a community service site for a specified number of hours per month determined by dividing the monthly SNAP allotment by the (higher of the State or Federal) minimum wage;
- (3) Participating and complying with the requirements of a qualifying SNAP E&T program for at least 20 hours per week in accordance with 106 CMR 362.320(A)(2);
- (4) Working at a job less than 20 hours per week and participating in a qualifying SNAP E&T program for a combined total of 20 hours per week averaged monthly; or
- (5) Being exempt from ABAWD work program requirements in accordance with 106 CMR 362.320(B).

(H) Additional Three Month Eligibility. A client who has regained eligibility under 106 CMR 362.320(F) and is no longer fulfilling the ABAWD work program requirement may continue to receive SNAP benefits for an additional three months without complying with 106 CMR 362.320(A). This exception is limited to a single period of three consecutive months during the balance of the three-year period.

362.330: Good Cause Criteria for the General SNAP Work Requirements

Good cause for failure to meet the general SNAP work requirements found at 106 CMR 362.310 exists in the following situations:

(A) Good Cause Reasons.

- (1) Suitable state-standard child care is totally unavailable, or unavailable during the individual's hours of training or employment, including additional commuting time, or arrangements for child care have broken down or have been interrupted. This includes the unavailability of suitable child care for children with identified special needs;
- (2) The individual, a member of the individual's immediate family, or anyone whose relationship to the individual makes it appropriate for the individual to provide care or support during a crisis or emergency situation, suffers a family crisis or emergency situation or other compelling circumstances, beyond the control of the individual that:
 - (a) demands the individual's immediate attention;
 - (b) can only be attended to by the individual; and
 - (c) can only be attended to by the individual during the hours of his or her employment or work program activity.Examples of crisis or emergency situations include, but are not limited to, a death, a health emergency, domestic violence or a child's school problem;
- (3) The employment or offer of paid employment is at a wage level below the higher of:
 - (a) the applicable federal minimum wage;
 - (b) the applicable state minimum wage; or
 - (c) 80% of the federal minimum wage, if neither the federal nor the state minimum wage applies to the job, the applicable federal or state minimum wage laws, or the prevailing rate for similar work, whichever is applicable; or the daily or weekly hours of work are more than customary to the occupation;
- (4) The employer discriminates in terms of age, sex, race, religion, ethnic origin, or disability;
- (5) The employment is available due to a strike or lockout;
- (6) The employment causes an unreasonable risk to health and safety;
- (7) The working hours or nature of the employment interferes with the client's religious observances, convictions or beliefs; and/or
- (8) The employment would require travel time in excess of two hours, not including the time necessary to transport family members to a school or a place providing care, or, if walking, the round trip distance is more than two miles.

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(B) Verifications. Verification of good cause is mandatory. The following are the specific verifications for the good cause reasons specified in 106 CMR 362.330(A):

(1) The unavailability, or breakdown or interruption of suitable, state-standard childcare shall be verified by a written, dated and signed statement from an appropriate official of the designated agency under contract with the Department, stating that such services are unavailable in the area, or are unavailable during the hours of the individual's employment or training.

If there is a breakdown of suitable, state-standard childcare which is not provided through a designated agency under contract with the Department appropriate verifications, such as a statement from the childcare provider, must be submitted.

If these childcare services have been interrupted, verification shall be by a written, dated and signed statement from an appropriate official of the designated agency under contract with the Department, or from the childcare provider.

If childcare services are otherwise available, the individual may not refuse a Department referral to a childcare facility that provides suitable state-standard childcare within a reasonable distance from the individual's home.

Unavailability of suitable childcare for children with identified special needs shall be verified by:

(a) A written, dated, and signed statement from a competent medical authority, or appropriate school official that the child in question has a disability, as recognized under state law, or has other specific needs; and

(b) A written, dated, and signed statement from the designated agency under contract with the Department stating that suitable childcare services are unavailable, within reasonable proximity, to the individual and his or her family.

(2) The occurrence of a serious family crisis, an emergency situation, or other compelling circumstances, as described by 106 CMR 362.330(A)(2), shall be verified by a written, dated, and signed statement from the individual describing the crisis, emergency situation or other compelling circumstances and a collateral contact with another individual or organization involved in the situation. To the extent possible, the collateral contact shall be with a third party who is not a family member;

(3) Employment, or an offer of employment, below the applicable federal or state minimum wage, or exceeding the customary daily and weekly hours of work shall be verified by a written, dated, and signed statement from the individual and, if appropriate, by a collateral contact with the employer made by the Department;

(4) Employment, offer of paid employment or activity for employment which discriminates on the basis of age, sex, race, religion, ethnic origin, or disability shall be verified by a written, dated, and signed statement from the individual and, if appropriate, by collateral contact with the employer made by the Department; and

(5) A strike or lockout shall be verified by a written, dated, and signed statement from either the collective bargaining representative or the employer.

The good cause criteria described in 106 CMR 362.330(B) applies to SNAP work requirements only. They do not apply to ABAWD work program requirements.

362.340: Voluntary Quit Provisions

(A) If a household member is unemployed and has voluntarily quit a job without good cause, the individual or household will be disqualified in accordance with 106 CMR 367.800: *Disqualification Penalties*. Good cause criteria are found in 106 CMR 362.340(C).

(1) Applicant Households. For applicant households, when a client subject to the SNAP work requirements at 106 CMR 362.310 is unemployed and has voluntarily quit a job without good cause within the 60 days before application, the entire household shall be ineligible in accordance with 106 CMR 367.800: *Disqualification Penalties*.

(2) Ongoing Households. For ongoing households, when a client subject to SNAP work requirements is unemployed and has voluntarily quit a job without good cause while participating in the program, the individual shall be disqualified in accordance with 106 CMR 367.800: *Disqualification Penalties*. The entire household will be disqualified in accordance with 106 CMR 367.800 if the head of household voluntarily quits a job while participating in the program.

Persons who have been disqualified for quitting a job without good cause will carry their sanction with them if they join a new household.

362.340: continued

(B) Definition of Unemployed. Employment of less than 20 hours per week or receiving weekly earnings that are less than the federal minimum wage multiplied by 20 hours.

This 20-hour requirement is different from the 30-hour requirement used to determine full time employment for exemption from SNAP work requirements as provided in 106 CMR 362.310(C)(8).

(C) Voluntary Quit Good Cause Criteria. Good cause for leaving employment includes the good cause reasons found at 106 CMR 362.330 as well as the following reasons:

- (1) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
- (2) Acceptance of employment by the household member or enrollment at least half-time in any recognized school, training program or institution of higher education that requires the household member to leave employment;
- (3) Acceptance of employment by the household member or enrollment at least half-time in any recognized school, including high school, training program or institution of higher education that requires the household to move and the household member to leave employment;
- (4) Resignations by persons younger than 60 years old when the resignation is recognized by the employer as retirement;
- (5) Employment becomes unsuitable after acceptance of such employment in accordance with 106 CMR 362.330(A)(3) through (8);
- (6) Acceptance by the household member of a *bona fide* offer of employment of more than 20 hours per week or in which the weekly earnings are at least equivalent to the federal minimum wage multiplied by 20 hours when, because of circumstances beyond the household member's control, the employment subsequently either does not happen or results in employment of less than 20 hours per week or weekly earnings of less than the federal minimum wage multiplied by 20 hours; and
- (7) The leaving of employment by the household member in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work. There may be some circumstances when households will apply for SNAP benefits between jobs particularly in cases where 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 shall be considered as with good cause if it is part of the pattern of that type of employment.

(D) Changes in Employment That Are Not Considered a Voluntary Quit. Changes in employment that are not considered a voluntary quit include the following:

- (1) Reducing hours of employment while working for the same employer;
 - (2) Termination of a self-employment enterprise;
 - (3) Resigning from a job at the demand of the employer; and
- Exception: Federal, state, or local government employees who participate in a strike against such employers and who are dismissed from their jobs because of participation in the strike shall be considered to have voluntarily quit their job without good cause.
- (4) If an individual quits a job, secures new employment at comparable wages or hours and is then laid off through no fault of his or her own, the earlier quit will not form the basis of a disqualification.

(E) Exemption from the Voluntary Quit Provision. Persons exempt from SNAP work requirements at 106 CMR 362.310(C), with the exception of 106 CMR 362.310(C)(8), are exempt from voluntary quit provisions.

(F) Verification of Voluntary Quit. The Department shall request verification of the client's statements only when information given by the client is questionable, inconsistent with information on the application or previous applications or inconsistent with information known to the Department. The primary responsibility for providing verification rests with the client. However, if it is difficult or impossible for the client to obtain documentary evidence in a timely manner, the Department shall offer assistance to the client to obtain the needed verification.

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(1) Sources of Verification. Acceptable sources of verification include, but are not limited to, the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, a Department shall substitute a collateral contact. If the collateral contact designated by the household cannot be expected to provide accurate third-party verification, the Department shall ask the household to designate another collateral contact and document in the case record why the original collateral contact was unacceptable.

(2) Inability to Obtain Verification. No household shall be denied participation in SNAP when the household and the Department are unable to obtain verification from the sources in 106 CMR 362.340(1), or from other sources because the reason for the quit cannot be verified. Such reasons include, but are not limited to, resignation due to discriminatory practices or unreasonable demands by an employer or because the employer cannot be located.

(G) Voluntary Quit at Application. When the Department makes a determination of voluntary quit without good cause, the household's application shall be denied and the entire household shall remain ineligible to participate in SNAP in accordance with 106 CMR 367.800: *Disqualification Penalties*.

If a household reappplies with less than 30 days remaining in the disqualification period, the Department shall use the same application to deny benefits for the remainder of the disqualification period and to certify the household for subsequent month(s) if all other eligibility criteria are met by the household in accordance with 106 CMR 364.110(A).

(H) Voluntary Quit for Participating Household. When the Department makes a determination of voluntary quit during a household's participation in the program, a Notice of Adverse Action shall be sent within ten days after the determination of a voluntary quit is made. The disqualification period shall comply with 106 CMR 367.800: *Disqualification Penalties*.

(I) Ending a Voluntary Quit Disqualification. Following the end of the disqualification period, a household may begin participation in the program if it applies again and is determined eligible.

Eligibility may be reestablished during a disqualification period and the household shall be permitted to resume participation in the program, if the household is otherwise eligible and the member who caused the disqualification:

- (1) gets a new job that is comparable in salary or hours to the job that was quit (comparable employment may involve fewer hours or a lower net salary than the job that was quit);
- (2) leaves the household; or
- (3) becomes exempt from SNAP work requirements pursuant to 106 CMR 362.310(C) with the exception of 106 CMR 362.310(C)(8).

362.400: Student Status

(A) Definition. A student is an individual 18 through 49 years of age who is enrolled at least half-time in an institution of post-secondary education, a vocational or technical school at any level, a program that provides for completion of a secondary school diploma or the equivalent, or a school at any level for persons who have disabilities. A student shall be ineligible to participate in SNAP unless he or she meets one of the eligibility requirements in 106 CMR 362.410.

An institution of post-secondary education is any public or private educational institution that admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located or normally requires a high school diploma or equivalency certificate for enrollment. The institution must be legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or to provide a training program that will prepare students for gainful employment. This includes, but is not limited to, colleges, universities, and correspondence schools.

This student definition does not apply to individuals who are:

- (1) younger than 18 years old or 50 years of age or older;
- (2) physically or mentally unfit for employment;
- (3) attending high school;
- (4) participating in on-the-job training programs during the period training is actually being conducted by the employer;

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- (5) enrolled full-time in schools and training programs that are not institutions of higher education; or
- (6) enrolled for the exclusive purpose of obtaining training in English as a Second/Other Language (ESOL), provided that the courses are not taken for credit as part of a total program.

(B) Verification. If mental or physical unfitness for employment is claimed and the unfitness is not evident, verification may be required. Appropriate verification may consist of:

- (1) receipt of temporary or permanent disability benefits from a government or private source;
- (2) a statement from a physician or licensed or certified psychologist stating that the person is physically or mentally unfit for employment; or
- (3) participation in a Massachusetts Rehabilitation Commission program or other Massachusetts approved vocational rehabilitation programs.

362.410: Student Eligibility Requirements

To be eligible to participate in SNAP, a student, as defined in 106 CMR 362.400(A), must meet at least one of the following requirements:

- (A) Be employed at least 20 hours per week or be employed for 20 hours per week averaged monthly and be paid for the employment, or, if self-employed, be employed for a minimum of 20 hours per week or be employed for 20 hours per week averaged monthly and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours;
- (B) Participate during the school year in a federally-funded work-study program (financed at least partially under Title IV-C of the Higher Education Act of 1965) or a state-funded work-study program;
- (C) Be responsible for the care of a dependent household member younger than six years old;
- (D) Be responsible for the care of a dependent household member who has reached six years of age but is younger than 12 years old for whom adequate child care is not available to enable the student to attend school and work a minimum of 20 hours per week, or participate in a federally-funded or state-funded work-study program during the regular school year;
- (E) Be receiving TAFDC;
- (F) Be assigned to or placed in an institution of higher learning through:
 - (1) a program under Section 236 of the Trade Act of 1974;
 - (2) an employment and training program under the Food and Nutrition Act; or
 - (3) an employment and training program operated by a state or local government including a program under the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109- 270) administered by a community college or other program as determined by the Department likely to lead to employment; or
- (G) Be a single parent enrolled full-time in an institution of higher education and responsible for the care of a dependent child younger than 12 years old regardless of the availability of adequate child care.

362.420: Continuous Enrollment

The enrollment status of a student begins on the first day of the school term of the institution. Such enrollment continues through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

362.500: Social Security Numbers

(A) Requirements.

- (1) A Social Security number (SSN) must be provided, either orally or in writing, for each household member applying for SNAP benefits before the initial certification period, unless good cause exists in accordance with 106 CMR 362.500(C).
- (2) If an SSN cannot be provided either orally or in writing for each household member applying for SNAP benefits, the applicant or client must receive written verification from the Social Security Administration (SSA) stating that the household member for whom the SSN cannot be provided:
 - (a) has applied for an SSN; or
 - (b) has requested that an already-existing SSN be validated.
- (3) If the household is unable to provide proof of application for an SSN for a newborn, the household must provide the SSN or proof of application at its next recertification or within six months following the month the baby is born, whichever is later. If the household is still unable to provide an SSN or proof of application for an SSN at its next recertification or within six months following the baby's birth, the State agency must determine if the good cause provisions described in 106 CMR 362.500(C) are applicable.
- (4) A household eligible for expedited SNAP benefits must meet the SSN requirement before the first full month of participation.
- (5) SNAP benefits may not be denied, delayed or decreased pending the issuance or verification of an SSN if the applicant or client has complied with the requirements specified in 106 CMR 362.500(A) and (B).
- (6) Each household member applying for SNAP benefits who does not meet the SSN requirements shall be considered a disqualified household member in accordance with 106 CMR 365.520. An otherwise eligible household member disqualified for failing to meet the SSN requirements becomes eligible upon meeting the requirements.

(B) Verification.

- (1) The Department will verify the SSN provided for each household member applying for SNAP benefits by a computer match with SSA. SSA sources that verify the SSN include, but are not limited to, BENDEX Title II and Title XVIII data, Numident, State Data Exchange information and the enumeration process.
- (2) For each household member for whom no SSN is provided, for whom an SSN cannot be verified by a SSA computer match or for whom more than one SSN is verified by SSA computer match, the applicant or client must receive written communication from SSA, verifying that the household member has applied for an SSN, has applied to have an already-existing number validated, or has made every effort to supply SSA with the information necessary to apply for an SSN, or to apply to have an already-existing number validated.

Once the SSN has been issued or validated, the Department will verify the SSN by computer match with SSA.

(C) Determining Good Cause. Good cause for failure to comply with the requirements in 106 CMR 362.500(A) exists when there is documentary evidence or collateral information that the household member has made every effort to supply SSA with the information necessary to apply for an SSN or to apply to have an already-existing number validated.

Good cause must be verified monthly until the SSN is provided and verified by computer match with SSA in accordance with 106 CMR 362.500(B)(1).

(D) Right to Know Uses of Social Security Numbers. The applicant or client has the right to know how the Department will use his or her SSN and the numbers of all members of the household. At the time the applicant is given the application form and at the time of recertification, he or she will also be given written notice on a form prescribed by the Department explaining the following:

- (1) the purposes for which the numbers are sought. The Department will use the SSN to prevent duplicate participation, to facilitate mass changes in benefits and to determine the accuracy of the information given by the household member;
- (2) that the SSN(s) will be computer cross-checked with SSNs appearing in other personal data files;

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(3) what those files are, whether within the Department, in other governmental agencies or elsewhere. The Department will regularly use the SSN to obtain and use wage and benefit information from other sources for purposes of verifying eligibility for SNAP and the amount of SNAP benefits. These sources include, but are not limited to, any federal or state agency, providers under contract with the Department, welfare departments in other states and banks and other financial institutions; and

(4) the household member who fails to meet the requirements described in 106 CMR 362.500(A) must have benefits denied or terminated, unless good cause exists as specified in 106 CMR 362.500(C).

The Department need not obtain the prior approval of the applicant or client to acquire and use the information from the sources and for the reasons indicated in 106 CMR 362.500(D).

REGULATORY AUTHORITY

106 CMR 362.000: M.G.L. c. 18, § 10.