

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 364.000: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVEL

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364.050: Introduction

When the Department receives a complete application, including all required verification and documentation, the case manager must determine if the household is eligible to participate in SNAP.

For eligible households, the benefit level is the monthly allotment or amount of SNAP benefits the household is eligible to receive.

364.100: Month of Application

The month of application is the month in which the household applies. Generally, the month of application will be the first month of the household's certification period.

364.110: Initial Applications

For most households submitting an initial application, eligibility will be based on the household's circumstances for the entire month of application.

(A) If the worker finds a household ineligible for the month of application, but eligible in the following month(s) because of anticipated changes, the same application shall be used to deny benefits for the month of application and to approve benefits for the following month(s). In this situation, the household does not have to reapply to receive benefits for the month(s) following the month of application. The worker will use the month of ineligibility, however, as the first month of the household's certification period.

(B) If the Department finds a household eligible for the month of application, but ineligible in the following month because of anticipated changes, the household shall be paid benefits for the month of application even if the benefit is not issued until the following month.

(C) If the Department finds that an eligible household's benefit amount for the month of the application is different from the household's benefit amount in the following month(s) because of anticipated changes, the Department shall issue the correct benefit amount for each of the certification months, even if the amount is different each month. The household may also elect to have its income averaged over the certification period.

364.120: Recertifications

Eligibility for recertifications shall be based on the household's circumstances anticipated for the certification period starting the month after the current certification period ends. If an application for recertification is submitted after the certification period ends, that application shall be considered an initial application and benefits for that month shall be prorated in accordance with 106 CMR 364.650.

If the household submits an application for recertification prior to the end of its certification period but is found ineligible for the first month following the end of the certification period, then the first month of any subsequent participation shall be considered the initial month of the new certification period. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be considered the initial month.

Any household that receives a Notice of Expiration at the time of or prior to recertification, as discussed in 106 CMR 366.310: *Notification to Recertify*, shall not be subject to proration for the first month of its new certification period if the deadline for filing an application for recertification falls after the end of their current certification period.

If a household is requested in writing to provide missing verifications by a specified date (at least ten calendar days after the request) that is beyond its current certification period, and provides the required verifications and is otherwise eligible, the household will not be subject to proration for the first month of its new certification period.

364.200: Determining Assets

If subject to the asset test, the household's assets at the time of the initial interview shall be used to determine the household's eligibility. (See 106 CMR 363.000 through 363.150).

364.300: Determining Income

All income received or anticipated to be received during the certification period must be considered when determining the household's eligibility and benefit level. The worker will determine the household's monthly countable income.

364.310: Income Anticipated in the Certification Period

To determine a household's eligibility and benefit level, the Department shall count the income already received by the household during the certification period and any anticipated income the household and the Department are reasonably certain will be received during the remainder of the certification period. If the amount of income or timing of the income receipt is uncertain, that portion of the household's income shall not be counted.

364.310: continued

For example, a household anticipating income from a new source, such as a new job or a recent application for public assistance benefits may be uncertain as to the timing and amount of the initial payment. The Department will not anticipate these monies as countable income unless there is reasonable certainty of the amount of the payment and the month the income will be received. If the exact amount of the income is not known, only that portion anticipated with reasonable certainty will be considered income. Where receipt of income is reasonably certain but the monthly amount may fluctuate, the household may choose to have their income averaged.

364.320: Anticipating Income

Income received during the previous four consecutive weeks shall be used as an indicator of anticipated income. If income fluctuates to the extent that a consecutive four week period alone cannot provide an accurate indication of anticipated income, the Department and the household may use a longer period of past time (*e.g.*, eight weeks) as an indicator of future income.

The Department shall not automatically attribute to the household the amounts of any past income, nor shall it use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

(A) Income from Steady Employment. The four consecutive weeks prior to initial certification or prior to the recertification date shall be used as an indication of anticipated income in the month of application and subsequent months, unless:

- (1) the household can verify that a change in income has occurred;
- (2) the Department and the household are reasonably certain that an income change will occur; or
- (3) some other method is used to determine income as provided in 106 CMR 364.320(B) and (C) and 364.340.

(B) Income from Hourly and Piecework Employment. When income is received on an hourly wage or piece work basis, weekly income may fluctuate if the wage earner works less than eight hours some days or is required to work overtime on others. In this case, the Department should consult with the household to determine the "normal" amount of income to be expected as a result of one week's work. This amount should be used to determine monthly income.

(C) Income from Seasonal Employment. In cases where the household's income is seasonal, the Department may use the income from the most recent earning season that is comparable to the certification period, rather than the four consecutive weeks prior to the application/recertification date as an indicator of anticipated income. The Department shall exercise particular caution in using income from a past season as an indicator of income for the certification period, as income may also fluctuate from one season to the same season in the following year.

364.330: Income Counted in the Month Received

Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Nonrecurring lump sum payments are counted as an asset in the month received and not counted as income.

364.340: Income Averaging

In some cases income averaging is required. In other cases, the household may elect to average fluctuating income over the certification period. For destitute households as defined by 106 CMR 365.810(B), income shall not be averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the Department shall convert the income to a monthly amount by multiplying weekly amounts by 4.333 and biweekly amounts by 2.167.

364.340: continued

(A) Mandatory Income Averaging.

(1) Annual Income in Shorter Period. Households that earn their annual income in a period of time shorter than one year shall have their income averaged over a 12 month period, unless the income is received on an hourly or piecework basis. These households may include school employees, share croppers, farmers and other self-employed households, but not migrant or seasonal farm workers. For a detailed discussion of self-employed households, see 106 CMR 365.900: *Households with Income from Self-employment.*

(2) Educational Grants, etc. Households receiving scholarships, deferred education loans, or other educational grants shall have such income, after exclusions, averaged over the period for which they were provided. See 106 CMR 365.700 *Students* for a detailed discussion of student households.

(B) Optional Income Averaging. Households, except destitute households as defined by 106 CMR 365.810(B): *Destitute (Migrant) Household*, may choose to have their income averaged over the certification period. The number of months used to arrive at the average monthly income need not be the same as the number of months in the certification period. For example, if fluctuating income over the previous three months is known and it is reasonably certain that this income is representative of the fluctuations anticipated in the coming months, the income from the three known months may be averaged over a certification period of longer than three months.

(C) Assistance Payments. Households receiving state or federal assistance payments, such as TAFDC, EAEDC, SSI, or Social Security payments, on a recurring, monthly basis shall not have their monthly average income from these sources fluctuate merely because mailing cycles may cause two payments to be received in one month and none in the next month.

(D) Withheld Wages. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid to the employee. However, wages held by the employer as a general practice, even if in violation of law, shall not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or the household anticipates that it will receive income from previously held wages not previously counted as income by the Department. When reasonably anticipated, advances on wages shall count as income in the month received.

364.350: Determining Income for Special Situation Households

Determining income for PA households, categorically eligible households, student households, striker households, households with income from self-employment and other households with special circumstances is discussed in 106 CMR 365.000: *Supplemental Nutrition Assistance Program: Special Situation Households.*

364.360 Child Support Income Counted in the Month after Receipt

Households with a TAFDC household member that receives a child support payment of up to \$50 monthly as a TAFDC Related Benefit from the DOR Child Support Enforcement Division as provided in 106 CMR 705.900: *Maximum \$50 Support Payment*, shall have the payment used in the calculation of benefits for the month after receipt.

364.370: Determining Eligibility Based on Gross Income

Households must meet the applicable gross income standard, except for households containing elderly or disabled members meeting the requirements of 106 CMR 361.210: *Elderly or Disabled Individuals* or public assistance categorically eligible households, in accordance with 106 CMR 365.180: *Categorically Eligible Assistance Units.* SNAP-only TANF Services categorically eligible households must meet the gross income standard at 106 CMR 364.976. Non categorically-eligible households must meet the gross income standard at 106 CMR 364.950.

The household's gross income minus the exclusions listed in 106 CMR 363.230: *Excluded Income* must be compared to the appropriate maximum gross monthly income standard for the household size in accordance with 106 CMR 364.950 and 364.976. If this countable gross income is greater than the standard, the household is ineligible. If the countable gross income is equal to or less than the standard, the household's net income eligibility must be determined in accordance with 106 CMR 364.550.

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Net income in accordance with 106 CMR 364.550 is the sole basis of eligibility for households with an elderly or disabled member who meet the above requirement and are not categorically eligible as provided in 106 CMR 365.180: *Categorically Eligible Assistance Units*.

364.400: Determining Deductions

There are seven deductions from income. No other deductions are allowed.

(A) Standard Deduction. The standard deduction varies according to household size. No household receives more than the standard deduction for a household size of six. The standard deductions are posted at www.mass.gov/dta. Paper copies are available upon request.

(B) Earned Income Deduction. 20% of gross monthly earned income is allowed as a deduction. No additional deductions from earned income shall be made. Excluded earned income and any portion of income earned under a wage supplementation or support program attributable to public assistance shall not be allowed as a deduction.

This deduction shall not be allowed in determining an overissuance if the household fails to report earned income in a timely manner and the failure to report the income is the basis for the claim.

(C) Excess Medical Deduction. A household that includes an elderly or disabled individual, as defined in 106 CMR 361.210: *Elderly or Disabled Individuals*, is allowed a medical deduction when the elderly or disabled individual incurs monthly unreimbursed medical expenses above \$35 a month. No other household members are eligible for this deduction, unless they are also elderly or disabled. Special diets are not an allowable medical expense. The amount of the allowable deduction is based on the amount verified, in accordance with 106 CMR 364.450(A). The following deductions are allowed:

Medical Expense Verified	Amount of Deduction
\$35/month or under	\$0
Over \$35.00 to \$190/month	\$155
Medical Expense Verified	Amount of Deduction
Over \$190/month	Actual amount over \$35

Allowable medical expenses include:

- (1) Medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner or other qualified health professional;
- (2) Hospitalization (inpatient or outpatient) or nursing home care in a State-recognized facility and nursing care. Payments made by the household for someone who was a SNAP household member immediately before entering a hospital or nursing home are an allowable deduction under 106 CMR 364.400(C);
- (3) Over-the-counter medical medication, including insulin, when approved by a licensed practitioner or other qualified health professional; and the cost of medical supplies, sickroom equipment (including rental) or other prescribed equipment;
- (4) The cost of prescription drugs prescribed by a licensed practitioner, including the cost of postage and delivery for mail order medications and/or medical supplies;
- (5) Health and hospitalization insurance policy premiums. The premiums for health and accident policies payable in lump sum settlements for death or dismemberment and the premiums for income maintenance policies such as those that continue mortgage and loan payments while the beneficiary is disabled are not deductible;
- (6) Medicare premiums and co-payments;
- (7) Any cost-sharing or spend-down expenses incurred by MassHealth recipients;
- (8) Dental services, dentures, dental adhesives, hearing aids and batteries, and prosthetics;
- (9) Securing and maintaining a Seeing Eye dog, hearing dog or service animal, including the cost of food and veterinarian bills;
- (10) Eye glasses, contact lenses, lens supplies and other vision aids or treatments prescribed by a physician skilled in eye disease or by an optometrist;

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(11) Reasonable cost of public or private transportation and lodging to obtain medical treatment, medications, medical supplies or services. The allowable rate for transportation shall be the federal mileage reimbursement rate; and

(12) Maintaining an attendant, homemaker, home health aide, housekeeper or child care services which are necessary due to age, infirmity, or illness. When these services can qualify as either a medical or a dependent care deduction, the expense is treated as a medical deduction. In addition to the actual expense of these services, an amount equal to a one-person SNAP benefit allotment shall be deducted if the household furnishes a majority of meals to the individual providing the service. The allotment for this meal-related deduction is that in effect at the time the household is given the deduction. If the allotment amount changes during a certification period, the total deduction amount must be updated to reflect the new allotment amount no later than the household's next scheduled recertification.

(D) Dependent Care Deduction. The actual costs of the care of a child or other dependent necessary for a household member to search for, accept or continue employment, comply with the SNAP Employment & Training Program requirements found at 106 CMR 362.310: *SNAP Employment and Training Program*, or to attend training or education preparatory to employment are deductible.

(E) Child Support Deduction. Legally obligated child support payments paid by a household member to or for a non-household member, which are verified in accordance with 106 CMR 361.610(J): *Legal Obligation and Actual Child Support Payments*, are allowed as a deduction. Households that fail or refuse to obtain necessary verification of their legal obligation or of their child support payments shall have their eligibility and benefit level determined without consideration of this deduction.

Legally obligated child support payments paid by a household member to a third party (*e.g.*, a landlord or utility company) on behalf of the non-household member in accordance with the support order shall be included as part of the child support deduction. Payments that are made by the household to obtain health insurance for their children shall also be included as part of the child support deduction.

The Department shall allow a deduction for amounts paid toward arrearages, even for households without a payment history.

Alimony payments made to or for a non-household member shall not be included in the child support deduction.

(F) Homeless Shelter/Utility Deduction.

(1) Households in which all members are homeless and reside in a homeless facility, as defined by 106 CMR 360.030, that incur or reasonably expect to incur any shelter and/or utility expenses during a month shall be eligible for the homeless shelter/utility deduction. The homeless shelter/utility deduction amount is posted at www.mass.gov/dta. This amount is indexed to inflation and will be adjusted by the United States Department of Agriculture/Food and Nutrition Service (USDA/FNS).

(2) Households in which all members are homeless and reside in the home of another that incur or reasonably expect to incur any shelter and/or utility expenses during a month shall also be eligible for the homeless shelter/utility deduction. Households that receive this deduction are not entitled to either the shelter deduction provided at 106 CMR 364.400(G) or the Standard Utility Allowance provided at 106 CMR 364.400(G)(2) since the homeless shelter/utility deduction already includes both shelter and utility costs.

(3) Households in which all members are homeless and reside in the home of another in accordance with 106 CMR 360.030 that verify shelter and/or utility expenses greater than the homeless shelter/utility deduction shall be eligible for both the shelter deduction and the applicable Standard Utility Allowance.

(G) Shelter Deduction. A deduction is allowed for monthly shelter expenses and utility costs in excess of 50% of the household's income after all the above deductions have been allowed. This shelter deduction amount is posted at www.mass.gov/dta. Paper copies are available upon request. This limit on the shelter deduction amount does not apply if the household contains a member who is elderly or disabled in accordance with 106 CMR 361.210: *Elderly or Disabled Individuals*.

364.400: continued

(1) Shelter Expenses.

(a) Continuing charges for the shelter occupied by the household, including rent and mortgage payments, or other continuing charges leading to the ownership of shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments, or condominium fees;

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(b) Property taxes, state and local assessments, and insurance on the structure itself, but not the separate expense of insuring furniture or personal belongings;

(c) Shelter expenses as described in 106 CMR 364.400(G)(1)(a) and (b) for a home not actually occupied by the household because of employment or training away from home, illness, or abandonment of the home due to natural disaster or casualty loss.

Shelter expenses for a vacated home shall be included in the shelter deduction if the household intends to return to the home, the current occupants of the home, if any, are not claiming a shelter deduction for SNAP purposes, and the home is not leased or rented during the absence of the household;

(d) One-time deposits shall not be included as shelter costs; and

(e) Charges for repair of a home substantially damaged in a natural disaster such as a fire or flood are allowed as a shelter deduction unless the repair charge has been, or will be reimbursed by private or public relief agencies, insurance companies or any other source.

(2) Utility Costs. A household that incurs utility costs separately and apart from its rent or mortgage is eligible for a utility allowance. A standard utility allowance (SUA) will be used in calculating the Shelter Deduction for the household, even in the event that actual expenses exceed the mandated amount. The applicable SUA will be determined based on the type of utility costs incurred by the household. There are three SUAs. The SUA amounts are listed at 106 CMR 364.945.

Only one of the following SUAs applies to any household based on the type of utility costs incurred by the household as described in 106 CMR 364.400(G)(2)(a) through (c):

(a) Heating/Cooling Standard Utility Allowance. The heating/cooling standard utility allowance applies to a household that incurs heating or cooling costs separate and apart from its rent or mortgage and that is billed for heating or cooling costs on a regular basis. The Heating/Cooling SUA includes the following expenses: heating; cooling; cooking fuel; electricity; water; sewerage; garbage and trash collection; the basic fee for one telephone and tax; and the initial utility installation fee.

A household living in a public housing unit that has central meters and that charges the household for excess heating or cooling costs shall be permitted to use this allowance.

A household that incurs electricity costs to power an electric blower that distributes heat or cooling from an oil or gas furnace shall not be permitted to use this allowance.

Recipients of energy assistance payments made under the LIHEAA of 1981 are entitled to use the heating/cooling SUA because they are deemed to have incurred out-of-pocket energy expenses.

A household that receives indirect energy assistance payments, made under a program other than LIHEAA, but continues to incur out-of-pocket heating expenses during any month covered by the certification period, is still eligible to use the heating standard utility allowance. A household that receives energy assistance payments (other than LIHEAA) shall have its energy assistance payments prorated over the entire heating season that the payments are intended to cover to determine whether the household incurs any out-of-pocket heating expenses;

(b) Nonheating Standard Utility Allowance. The Nonheating Standard Utility Allowance applies to a household that does not qualify for the the Heating/Cooling SUA because it incurs no heating or cooling costs separate from its rent or mortgage. The Nonheating SUA includes the following expenses: cooking fuel; electricity; water; sewerage; garbage and trash collection; the basic fee for one telephone and tax; and the initial utility installation fee, if applicable; or

(c) Telephone Standard Utility Allowance. The Telephone Standard Utility Allowance applies to a household that incurs a telephone cost but none of the following costs separate from its rent or mortgage: heating or cooling; cooking fuel; electricity; water; sewerage; and garbage and trash collection. The telephone SUA includes the basic fee for one telephone and tax, and the initial utility installation fee, if applicable.

(3) Treatment of the Standard Utility Allowance in Shared Living Situations. If a household lives with another SNAP household or households, each household that contributes to utility costs shall be entitled to the full applicable SUA.

(4) Standard Utility Allowance for Unoccupied Homes. Households that also incur utility expenses for a home that is unoccupied because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, will only be allowed one standard utility allowance, whichever is highest.

364.410: Determining Deductible Expenses

The Department will determine which claimed expenses are deductible and their amounts.

(A) Limitations on Deductible Expenses. The allowable expenses for medical care, dependent care, shelter and child support are provided in 106 CMR 364.400. Education expenses and the cost of doing business for the self-employed are income exclusions and handled in accordance with 106 CMR 363.230(D): *Student Households* and (J): *Self-employed Households*.

(B) Types of Nondeductible Expenses.

(1) No claimed expense is an allowable deduction unless the household makes a money payment for the service and the service is provided by someone outside the SNAP household.

(2) Any expense covered by a reimbursement or vendor payment which is excluded from income, except energy assistance vendor payments made under the Low Income Home Energy Assistance Act (LIHEAA), is not an allowable deduction. For example, if a household pays no rent because an excluded vendor payment is made to the landlord on behalf of the household, the rent expense is not an allowable shelter deduction. A utility expense which is reimbursed or paid by an excluded payment, including utility reimbursement from the Department of Housing and Urban Development and the Farmers Home Administration, shall not be deductible.

(3) A medical expense or that portion of a medical expense that is reimbursed is not an allowable medical deduction. For example, if a third-party insurer such as Medicare reimburses a recipient for 80% of the billed expense, only the nonreimbursable 20% of the expense is deductible. If the household reports an allowable medical expense at the time of certification but cannot provide verification, and if the amount of the expense cannot be reasonably anticipated based on available information about the recipient's medical condition and public or private insurance coverage, the household shall only have the non-reimbursable portion of the medical expense considered when the amount of the expense or portion is verified.

(C) Households With Disqualified Nonhousehold Members. Deductible expenses of households with disqualified nonhousehold members shall be determined in accordance with 106 CMR 365.500: *Households Living with Non-household Members*.

(D) Budgeting Child Support Payments. Child support payments shall be budgeted prospectively in the following manner.

For households with a history of three or more months of paying child support, average at least three months' payments (including arrearages), taking into account any change in the legal obligation, and use this average as the household's support deduction.

For households with either no or less than a three-month child support payment history, estimate the anticipated payments (excluding arrearages) and use this estimate as the household's support deduction.

364.420: Anticipating Expenses

The case manager must make a reasonable prediction of the amount the household expects to be billed during the certification period for allowable medical, dependent care, and shelter expenses. Anticipation of these expenses is based on the most recent month's bills unless the household is reasonably certain a change will occur.

At certification, the household shall report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on information reported and verified by the household, and any anticipated changes in the household's medical expenses that can be reasonably expected to occur during the certification period based on available information about the client's medical condition, public or private medical insurance coverage and current verified medical expenses. The household shall not be required to report its medical expenses during the certification period. If the household voluntarily reports a change in medical expenses, the Department shall verify the change in accordance with 106 CMR 366.100: *Changes During the Certification Period* if the change would increase the household's allotment. Verification of the change in medical expenses is required before the Department acts on the change. In the case of a reported change that would decrease the household's allotment, or make the household ineligible, the Department shall act on the change without requiring verification, though verification which is required by 106 CMR 366.100 shall be obtained prior to the household's recertification.

364.430: Expenses Deducted in the Month Due

Except for expenses the household elects to average, the expense is deducted in the month it is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month is included in the household's monthly shelter deduction even if the household does not pay the rent each month.

A particular expense may be deducted only once. Amounts carried forward from past billing periods are not deductible in a subsequent month even if included in the most recent billing or actually paid by the household in the most recent billing period.

364.440: Averaging Expenses

A household may elect to average fluctuating or one-time deductible expenses instead of taking a deduction in the month the expense is billed or otherwise becomes due.

(A) One-time-only expenses, other than medical expenses, are averaged over the entire certification period in which they are billed regardless of when the expense is reported by the household.

(B) Expenses billed less often than monthly are averaged forward over the interval between scheduled billings. If there is no scheduled interval between billings, the expense is averaged forward over the period the expense is intended to cover. For example, if a household receives a single bill in June for dependent care expenses for a three-month period, the household may elect to average the deductible amount over the months of June, July and August instead of taking a one-time deduction.

(C) For households certified less than 24 months, one-time-only medical expenses which are reported during a certification period may be taken as a one-time deduction or averaged forward over the remaining months of the certification period. If the household elects to average the expense, the averaging begins the month the change becomes effective.

(D) Households certified for 24 or more months that have one-time-only medical expenses may:

- (1) if the expense is incurred during the first 12 months, opt to:
 - (a) deduct the expense for one month;
 - (b) average the expense over the remainder of the first 12 months; or
 - (c) average the expense over the remaining months in the certification period.
- (2) if the expense is incurred after the 12th month of the certification period, opt to:
 - (a) deduct the expense for one month; or
 - (b) average the expense over the remaining months in the certification period.

(E) Expenses billed more often than monthly must be converted to a monthly amount. To convert these expenses to a monthly amount the worker must multiply weekly amounts by 4.333 and biweekly amounts by 2.167.

364.450: Verification of Deductible Expenses at Initial Certification

(A) Medical Expenses. The amount of allowable medical expenses, including the amount of reimbursement (for example, by a third-party insurer), must be verified before the initial certification, if use of the expenses would result in a deduction. Additional verifications relevant to the claimed medical expenses, such as whether the services provided are allowable, are not required unless the information provided by the applicant or recipient is questionable pursuant to 106 CMR 361.620: *Questionable Information*.

(B) Other Expenses. Other deductible expenses must be verified before initial certification only when questionable and use of the expense claimed by the household would actually result in a deduction.

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If a deductible expense must be verified, but obtaining the verification would delay the household's certification, the worker must inform the household that it may elect to be certified without receiving the deduction for the unverified expense. If the household subsequently provides the missing verification, the case manager shall treat the information as a reported change and provide increased benefits, if any, in accordance with the timeliness standards for reported changes. The household is not entitled to lost benefits unless the expense could not be verified within the 30-day application processing standard because the worker did not allow the household at least ten days from the date of the initial request to provide the verification or because the worker did not provide the household assistance when required. Households ineligible because a claimed, but unverified expense, is disallowed must be sent a Notice of Pending/Denial on the 30th day following the date of application.

364.500: Determining Net Income

The net monthly income of destitute (migrant) households is calculated in accordance with the provisions of 106 CMR 365.810: *Expedited Service Households*.

The following steps lead to the determination of net monthly income for all other households. Round down each income and allotment calculation that ends in .01 through .49 cents and round up each calculation that ends in .50 through .99 cents.

(A) Total Gross Earned Income. To determine gross monthly earned income, add the gross monthly income earned by all household members (including self-employment income) less income exclusions. Net losses from a self-employed farmer shall be offset in accordance with 106 CMR 365.970(C): *Determining Monthly SNAP Income*.

(B) Earned Income Deduction. Multiply the gross earned income by 80% to determine monthly earned income.

(C) Unearned Income. Add the total monthly unearned income of all household members, less income exclusions, to the net monthly earned income.

(D) Standard Deduction. Subtract the standard deduction for the household size. *See* 106 CMR 364.400.

(E) Medical Expenses. Total the allowable medical expenses, less reimbursements (for example, by a third-party insurer) for those household members who meet one of the requirements of 106 CMR 361.210: *Elderly or Disabled Individuals*.

If these costs exceed \$35 per month, go to the next step. If these costs are \$35 or less, go to 106 CMR 364.500(G).

(F) Medical Deduction.

(1) For medical expenses between \$35, and \$190 per month, subtract \$155.

(2) For medical expenses that exceed \$190 per month, subtract the amount that exceeds \$35.

(G) Dependent Care Deduction. Subtract the actual monthly dependent care expenses, if any, as provided in 106 CMR 364.400(D) and 364.410.

(H) Allowable Child Support Payments. Subtract allowable monthly child support payments.

(I) Allowable Homeless Shelter/Utility Deduction. Subtract the allowable homeless shelter/utility deduction, if applicable.

(J) Excess Shelter Expense. Total the allowable shelter expenses, unless a homeless shelter deduction was provided. Subtract 50% of the household's preliminary adjusted net income (monthly income after all the above deductions have been subtracted) from the total shelter expenses. The remaining amount, if any, is the excess shelter expense. If there is no excess shelter expense, the household's net monthly income has been determined. If there is excess shelter expense, go to the next step.

364.500: continued

(K) Shelter Deduction. Subtract the full amount of the excess shelter expense if the household contains an elderly or disabled member who meets one of the requirements of 106 CMR 361.210: *Elderly or Disabled Individuals*. For all other households, subtract the excess shelter expense up to the maximum deduction amount. This shelter deduction amount is posted at www.mass.gov/dta.

364.550: Determining Eligibility Based on Net Income

All households must meet the net income standard, except for categorically eligible households, in accordance with 106 CMR 365.180: *Categorically Eligible Assistance Units*.

Households that contain an elderly or disabled member meeting one of the requirements of 106 CMR 361.210: *Elderly or Disabled Individuals* must have their income eligibility based solely on net income standards.

To determine eligibility with regard to net income standards, the household's net income must be compared to the Maximum Allowable Monthly Net Income Standards for the appropriate household size in accordance with 106 CMR 364.970. If the net income is greater than the standard, the household is ineligible. If the net income is equal to or less than the standard, the household is eligible with regard to net income.

364.600: Determining the Benefit Level

Once a household has been determined eligible for SNAP considering both nonfinancial and financial eligibility standards, the case manager must determine the household's benefit level or monthly allotment.

(A) Household Size - One to Eight. Refer to 106 CMR 364.980 to find the monthly allotment based on the household's monthly net income (using dollars and cents) and household size. Categorically eligible one- and two-person households are entitled to a minimum benefit, except in the initial certification month. This minimum benefit amount, is posted at www.mass.gov/dta.

Categorically eligible households with three or more members who do not qualify for a benefit because their income exceeds the level for which benefits are issued cannot be denied. These households must be suspended in accordance with 106 CMR 365.180: *Categorically Eligible Assistance Units*.

(B) Household Size - Over Eight.

(1) Determine the maximum allotment for the household size by adding the amount posted at www.mass.gov/dta for each individual in excess of eight to the maximum allotment for an eight-person household.

(2) Determine the household's monthly net income in accordance with 106 CMR 364.500.

(3) Multiply the household's monthly net income (using dollars and cents) by 30%. Drop any digits beyond the second decimal place. If the result is not whole dollars, round the result up to the next whole dollar.

(4) Subtract this 30% amount from the maximum allotment for the household size.

The resulting amount is the household's monthly allotment. However, when the calculated amount is zero or less, the household is ineligible for benefits since its net income exceeds the level at which benefits are issued.

(C) For households containing both SNAP members and legal noncitizens ineligible for SNAP benefits, the Department will:

(1) Step One: Calculate SNAP benefits using all household members, all household members' income and full deductions to determine the maximum SNAP benefits the household would be entitled to if all members were SNAP eligible.

(2) Step Two: Calculate the SNAP benefits for SNAP members excluding the income and deductions of legal noncitizens ineligible for SNAP benefits.

(3) Step Three: Compare the results from Step One and Step Two.

(a) If the Step Two amount exceeds or is equal to the Step One amount, the Department will pay the Step One amount as the SNAP benefit.

(b) If the Step Two amount is less than the Step One amount, the Department will pay the Step Two amount as the SNAP benefit.

364.650: Prorating Initial Month's Benefits

SNAP benefits for a household's initial month shall be prorated.

The initial month is the first month for which a household is certified to participate in SNAP following any period of time during which the household did not receive SNAP, except for migrant and seasonal farmworker households. For migrant and seasonal farmworker households, the initial month is the first month for which a household is certified to participate in SNAP following any period of more than one month during which the household did not receive SNAP. A migrant or seasonal farmworker household that has received SNAP within the month before application is entitled to a full month's benefits.

Households which apply for initial benefits after the 15th day of the month and are determined eligible for expedited SNAP benefits in accordance with 106 CMR 365.800: *Expedited Service*, must be issued a combined allotment. A combined allotment includes the initial month's prorated benefits plus the second month's full allotment. Combined allotments must be issued within the seven-day expedited service time frame.

Proration is the issuance of that portion of a household's monthly SNAP benefit, as calculated in accordance with 106 CMR 364.600, which corresponds to the period of time from the date of application to the end of the month.

For a household with a monthly allotment of \$400 or less, the initial month's allotment is determined in accordance with 106 CMR 364.990. For a household with a monthly allotment greater than \$400, the initial month's allotment is calculated as follows:

(A) Count the number of days from the first day of the household's cyclical month through the date of application, inclusive, to determine the day of the cyclical month. If the day of the cyclical month is 31, use the number 30 instead of 31. Subtract the day of the cyclical month from 31.

Multiply the result by the household's monthly allotment. Divide the result of this by 30;

(B) If the result of 106 CMR 364.650(A) is not a whole dollar, round the result down to the next whole dollar by dropping cents; then

(C) If the result of 106 CMR 364.650(B), is less than \$10, no benefits shall be issued for the initial month.

364.700: Assigning Certification Periods

Definite time periods are established within which households are eligible to receive benefits. This is the certification period. At the end of the certification period, benefits will be terminated without the right to a pretermination hearing for any household that fails, without good cause, to timely comply with its responsibilities for recertification.

(A) Conformance with Cyclical Months. Certification periods shall conform to cyclical months. At initial application, the first month in the certification period is generally the month of application, even if the household's eligibility is not determined until a subsequent month.

(B) Length of Certification Periods. The certification period shall not exceed 12 months, except that a certification period may last up to 24 or more months if all adult household members are elderly or disabled and meet the requirements of 106 CMR 361.210: *Elderly or Disabled Individuals*. The Department must have at least one contact with each certified household every 12 months, unless contact is waived by FNS/USDA.

364.710: Household Certification Periods

Households shall be assigned certification periods based on the predictability of change in the household circumstances.

364.810: Notice of Eligibility

A Notice of Eligibility shall be sent to all applicant households determined eligible to participate in SNAP and shall contain the following information.

364.810: continued

- (A) The amount of the monthly allotment including any variations in the allotment based on changes. If the initial allotment contains benefits for both the month of application and the current month's benefits, the notice shall explain that the initial allotment includes more than one month's benefits, and shall indicate the allotment amount for the remainder of the certification period.
- (B) The notice shall advise Public Assistance (PA) households receiving SNAP benefits pending the approval of the PA grant that SNAP benefits will be decreased upon receipt of that PA grant.
- (C) The beginning and ending months of the certification period must be in the notice. For households certified one or two months, the Notice of Eligibility shall be combined with the Notice of Recertification. For households certified three months or longer, the notice shall include a reminder of the need to reapply for continued certification at the end of the certification period. For PA households, the notice shall state that the household's certification period will expire the month after the next PA redetermination or in one year, which ever occurs first.
- (D) The notice shall also advise the household of its rights to a fair hearing, the telephone number of the Department, and, if possible, the name of the individual to contact for additional information.
- (E) The notice shall advise the household if there is an individual or organization available that provides free legal representation and the notice shall also advise the household of the availability of such services.
- (F) The Department may include in the notice a reminder of the household's obligation to report changes in circumstance, or other information which would be useful to the household.
- (G) The notice shall inform households whose application is approved on an expedited basis without verification that the household must provide the needed verifications that were waived, and the consequences if the household does not provide the verification.

364.820: Notice of Pending/Denial

A Notice of Pending/Denial shall be sent to households when a household's application is incomplete because some action by the worker or the household or both is needed to complete the application process or when a household is ineligible for SNAP benefits. The Notice of Pending/Denial shall contain the following information.

- (A) If some action by the worker is needed to complete the application, the notice must inform the household that its application has not been completed and is being processed.
- (B) If some action by the household is needed to complete the application, the notice must inform the household that its application has not been completed and is being processed, and what action the household must take to complete the application and that if the action is not taken within 60 days of the date the application was filed, SNAP benefits will be denied with no further notice to the household.
- (C) If some action by both the household and the worker is needed to complete the application, the notice must inform the household that its application has not been completed and what action the household must take before the application can be completed. The notice must also inform the household that if the action is not taken within 60 days of the date of application, SNAP benefits will be denied with no further notice to the household.
- (D) For households found ineligible, the notice must contain the basis for the denial.
- (E) The household's right to request a fair hearing, the telephone number of the Department, and if possible, the name of the individual to contact for additional information.

364.820: continued

(F) If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of this service.

364.830: Notice of Increase

A Notice of Increase shall be sent to households when a change reported during the certification period results in an increase in the household's benefit level. The Notice of Increase shall include the following information:

(A) For changes that result in increased benefits, the notice shall inform the household of the new monthly allotment and of the date the new monthly allotment becomes effective. The notice shall also inform the household of the date by which the change must be verified and the consequences of not verifying the change; and

(B) The household's right to a fair hearing, the telephone number of the Department, and the name of the individual to contact for additional information.

364.840: Notice of SNAP Termination

A Notice of Expiration shall be issued to all SNAP households before the end of their certification period. For households certified for three months or longer, the notice shall be sent no earlier than the first day of the next to last month of certification or no later than the last day of the next to last month of certification. When the Department cannot provide the notice by this date, because the household is certified for two months or less, the notice shall be provided at the time of certification. The Notice of Expiration shall contain the following information:

(A) The date the current certification period ends;

(B) The date by which the household must file an application for recertification to receive uninterrupted benefits;

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

(D) Notice that the household is responsible for rescheduling any missed interview;

(E) Notice that the household must complete the interview process and provide all required verification in order to receive uninterrupted benefits;

(F) If applicable, the number of days the household has for submitting missing verification, after the Department informs the household at the interview of any further verification needed to receive uninterrupted benefits;

(G) The right to request an application and have it accepted by the Department as long as it is signed and contains a legible name and address;

(H) The address of the Department where the application must be filed;

(I) The consequences of not complying with the Notice of Expiration;

(J) The household's right to file the application by mail, fax, online or through an authorized representative;

(K) The household's right to a fair hearing; and

(L) The right to apply for SNAP recertification at an office of the Social Security Administration (SSA) if all members of the household are applicants or recipients of Supplemental Security Income (SSI).

364.850: Using the Change Report Form

The Change Report Form, shall be provided to all appropriate households at initial certification, whenever a Change Report Form is returned by a household, and at recertification, if the household needs a new Change Report Form.

364.860: Notice of Adverse Action

The Notice of Adverse Action shall be sent to all households prior to terminating or reducing benefits, except as provided in 106 CMR 366.210: *Changes not Requiring Advance Notice* to ensure timely and adequate advance notice of the proposed action. The Notice of Adverse Action shall include the following information:

- (A) The proposed action;
- (B) The reason for the proposed action;
- (C) The household's right to request a fair hearing;
- (D) The telephone number and, if possible, the name of the individual to contact for additional information;
- (E) The availability of continued benefits and the date by which a hearing request must be filed to ensure such continuation;
- (F) The liability of the household for any overissuance received while awaiting a fair hearing, if the hearing official's decision is adverse to the household; and
- (G) If there is an individual or organization that provides free legal representation, the notice shall also advise the household of the availability of the service.

364.870: Unintentional Program Violation Claim Demand Letter

The Unintentional Program Violation Claim Demand Letter shall be sent to all households whenever an overissuance of SNAP benefits occurs unless the amount of the claim is less than \$125 or the minimum recovery threshold established by the Department, whichever is higher, unless the household is currently receiving SNAP benefits or the household cannot be located. The Claim Demand Letter shall contain the following information:

- (A) The amount owed;
- (B) The reason for the claim;
- (C) The period of time the claim covers;
- (D) Any offsetting that was done to reduce the claim;
- (E) The household's right to a fair hearing if the household disagrees with the Department's determination;
- (F) How the claim was calculated;
- (G) The phone number to call for more information about the claim;
- (H) The right of the household to request a copy of or inspect records related to the claim; and
- (I) That the Department may reduce any part of the claim if the Department believes that the household is not able to repay the claim.

The household's repayment options shall be included in the Repayment Agreement in accordance with 106 CMR 367.495(E): *Collecting Claims for Unintentional Program Violation*.

364.880: Intentional Program Violation Claim Demand Letter

The Intentional Program Violation Claim Demand Letter shall be sent to households that have been found to have committed an Intentional Program Violation, by either an Administrative Disqualification Hearing or a court of appropriate jurisdiction, have filed a signed and accepted waiver, in accordance with 106 CMR 367.660: *Waiver of ADH* or entered into a consent agreement with a court. The Intentional Program Violation Claim Demand Letter must be sent even if the household has already received a Claim Demand Letter. The Intentional Program Violation Claim Demand Letter shall contain the following information:

- (A) The amount owed;
- (B) The reason for the claim;
- (C) The period of time the claim covers;
- (D) Any offsetting that was done to reduce the claim;
- (E) The household's right to a Fair Hearing if the household disagrees with the Department's determination of the amount of the claim, unless a fair hearing is consolidated with the Administrative Disqualification Hearing to determine the amount of the claim;
- (F) How the claim was calculated;
- (G) The phone number to call for more information about the claim;
- (H) The right of the household to request a copy of or inspect records related to the claim; and
- (I) That the Department may reduce any part of the claim if the Department believes that the household is not able to repay the claim.

The household's repayment options shall be included in the repayment agreement letter in accordance with 106 CMR 367.825(C).

364.895: Notice of Restoration of Lost Benefits

The Notice of Restoration of Lost Benefits shall be sent to all households entitled to restored benefits. The Notice of Restoration of Lost Benefits shall contain the following information:

- (A) The amount of benefits to be restored;
- (B) Any offsetting that was done;
- (C) The method of restoration;
- (D) The date the restoration will be completed; and
- (E) The household's right to a fair hearing if it disagrees with any aspect of the proposed restoration.

364.900: Delivery of Benefits

Eligible households shall be issued SNAP benefits for each month of eligibility.

SNAP benefits can be accessed by using an Electronic Benefit Transfer (EBT) card for food purchases at grocery and other participating stores and farmers markets.

(A) Initial SNAP Benefit Issuance.

(1) Expedited SNAP Benefit Issuance. The Department shall provide SNAP benefits to households that qualify for expedited service using expedited processing standards. The conditions for expedited eligibility are provided at 106 CMR 365.800 through 365.850.

(2) Normal SNAP Benefit Issuance. The Department shall provide SNAP benefits to households that do not qualify for expedited service using normal processing standards. The time frames for the delivery of Normal SNAP Benefits are provided at 106 CMR 361.080: *Prompt Action*.

364.900: continued

(B) Additional SNAP Benefit Issuance. The Department shall provide additional SNAP benefits, as well as the household's monthly SNAP benefit allotment, when the household qualifies for increased benefits because of certain changes in the household's circumstances. The conditions of eligibility and the time frames for the delivery of Additional SNAP Benefits are provided at 106 CMR 366.120(A): *Increases in Benefit Level Requiring Expedited Action.*

(C) Replacement of Benefits after Household Misfortune. The Department shall replace SNAP benefits when a household's food purchased with benefits has been destroyed in a household misfortune as defined in 106 CMR 360.030: *Definitions* when the following conditions are met.

(1) Conditions of Replacement.

(a) The household must report the destruction of food purchased with SNAP benefits to the Department within ten days of the date of the destruction.

(b) The household must sign a statement attesting to the destruction of the food purchased with SNAP benefits and the reason for the replacement. It shall also state that the household is aware of the penalties for intentional misrepresentation of facts, including the penalties for Intentional Program Violations and a charge of perjury for making a false claim.

The statement must be received by the Department within ten days of the date of the report. If the tenth day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the Department shall consider the statement timely received.

(c) The Department must verify the destruction occurred in a household misfortune through a collateral contact, documentation from a community agency (*e.g.*, fire department, police department, Red Cross), or a home visit.

(2) Restrictions on Replacement.

(a) The replacement allotment shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment for the household's size, unless the allotment includes restored benefits, which shall be replaced up to their full value.

(b) Where a federal disaster declaration has been issued and the household is eligible for disaster SNAP benefits, the household shall not receive both a disaster allotment and a replacement allotment for household misfortune.

(3) Time Frame for Delivery of Benefits.

(a) Replacement benefits shall be issued within ten days after the report of destruction or within two working days of receiving the signed household statement, whichever is later.

(b) The Department shall deny or delay replacement issuances in cases in which available documentation indicates that the household request for replacement is fraudulent.

(D) SNAP Benefits. Except as described in 106 CMR 364.900(C), SNAP benefits will not be replaced. It is the responsibility of the client or the authorized representative to keep the EBT Card and Personal Identification Number (PIN) safe from unauthorized users.

(E) Purging of SNAP Benefits. When the SNAP benefit account has not been accessed at all for a total of 274 days, the SNAP benefits issued 274 or more days prior will be permanently purged from the EBT system.

The Department shall mail the household to the address on file a notice that includes the date benefits will be expunged and what the household must do to prevent the expungement. This notice must be mailed no later than 30 days before the date of expungement.

(F) SNAP Benefit Issuance After Recertification. Households determined eligible after a timely recertification are entitled to uninterrupted SNAP benefits. SNAP benefits must be made available for the household on the household's normal issuance date.

364.910: Benefit Access Cards

(A) Requirements. The individual authorized to access the household's SNAP benefits shall have an Electronic Benefit Transfer (EBT) card issued by the Department. This individual may be the primary applicant, another household member or an authorized representative. When an EBT card is issued to someone other than the individual in whose name the SNAP benefits are

364.910: continued

issued, the EBT shall contain the name of the individual in whose name the SNAP benefits are issued and the name of the individual authorized to access the SNAP benefits. If requested by the individual in whose name the SNAP benefits are issued, an EBT card may be issued to both the head of household and the individual authorized to access the SNAP benefits.

The primary applicant and/or the individual authorized to access the SNAP benefits must be informed that the Department may conduct matches authorized by law for the purposes of verifying eligibility and the effective administration of the Department's programs.

(B) Emergency EBT Cards. Emergency EBT Cards shall be issued to the individual in whose name the SNAP benefits are issued, or the authorized representative. When the Department is unable to issue an initial or replacement EBT card because the Department's card issuance system is not functioning, the Emergency EBT Card will be valid for five days.

(C) Replacement Fee. The Department may charge a fee to replace EBT Cards. This fee shall be deducted directly from the recipient's cash assistance benefits, if any. If no cash assistance benefits are available, the Department may deduct the fee from the recipient's SNAP benefits.

106 CMR 364.910(C) does not apply to disaster SNAP EBT cards issued in accordance with 106 CMR 366.620(B)(4).

364.945: The Standard Utility Allowances (SUA)

The Standard Utility Allowances (SUAs) are updated periodically using a methodology approved by the (USDA/FNS). The SUA standards are posted at www.mass.gov/dta.

364.946: Disaster SNAP Maximum Gross Monthly Income and Asset Standard

The Disaster SNAP Maximum Gross Monthly Income and Asset Standards are based on household size and are adjusted annually by USDA/FNS. These standards are posted at www.mass.gov/dta. Paper copies are available upon request.

For more details on the Disaster SNAP Program, see 106 CMR 366.600: *Disaster Certification*.

364.950: Maximum Gross Monthly Income Standards

The Maximum Gross Monthly Income Standards are based on household size and are adjusted annually by USDA/FNS. These standards are posted at www.mass.gov/dta.

For more details on determining eligibility based on gross income, see 106 CMR 364.370.

Public Assistance categorically eligible households do not have to meet the gross income eligibility standards. SNAP-only TANF Services Households are subject to the Gross Monthly Categorical Eligibility Standards at 106 CMR 364.976.

364.970: Maximum Allowable Monthly Net Income Standards

The Maximum Allowable Net Income Standards are based on household size and are adjusted annually by USDA/FNS. These standards are posted at www.mass.gov/dta.

For more details on determining eligibility based on net income, see 106 CMR 364.550.

Public Assistance categorically eligible households do not have to meet either the gross or net income eligibility standards. SNAP-only TANF Services Households are subject to the Gross Monthly Categorical Eligibility Standards at 106 CMR 364.976.

364.975: Standards for Special Circumstances Involving an Elderly and Disabled Individual

The Standards for Special Circumstances Involving an Elderly and Disabled Individual are based on household size and are adjusted annually by USDA/FNS. These standards are posted at www.mass.gov/dta.

For more details on determining eligibility for special situations involving an elderly and disabled individual, see 106 CMR 361.200(B)(4)(a) and (b).

364.976: Gross Monthly Categorical Eligibility Income Standards

The Gross Monthly Categorical Eligibility Standards are based on household size and are adjusted annually based on the federal poverty level. These standards are posted at www.mass.gov/dta.

For more details on determining categorical eligibility, *see* 106 CMR 365.180: *Categorically Eligible Assistance Units*.

364.980: SNAP Issuance Tables

A client who is eligible for SNAP benefits will receive 100% of the SNAP benefit allotment listed in the Program Issuance Tables.

The standards in the SNAP Issuance Tables are based on household size and are adjusted annually by USDA/FNS. These standards are posted at www.mass.gov/dta.

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