

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

106 CMR 365.000: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: SPECIAL SITUATION HOUSEHOLDS

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365.030: Introduction

106 CMR 365.000 contains the SNAP policy and certification procedures for special situation households. Special certification procedures are prescribed when a household's receipt of income or other circumstances are substantially different from the typical SNAP household. These procedural deviations are intended to minimize any undue advantage or disadvantage to a household as a result of their unusual circumstances. Some examples of these procedural deviations are as follows:

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- (A) Averaging the income for certain self-employed individuals and seasonal employees instead of considering only that part of their income expected to be received during the certification period. Likewise, certain student income is averaged over the period it is intended to cover;
- (B) Allowing self-employed and student households deductions for certain expenses paid prior to the certification period in addition to those expenses paid during the certification period;
- (C) Requiring residents of drug or alcoholic treatment and rehabilitation centers to apply for and use SNAP benefits through an authorized representative;
- (D) Requiring households eligible for expedited service to provide verification of identity but also allowing for immediate certification and issuance for these households; and
- (E) Certifying households even if they include ineligible individuals, whether the ineligible individual is a non-household member or a disqualified non-household member. The case manager must evaluate the income and resources available to these households differently depending on whether the ineligible individual is a non-disqualified non-household member or a disqualified non-household member.

365.110: Definition of a Public Assistance (PA) Household

PA households are those households in which all members receive a cash grant under one of the following programs: Transitional Aid to Families with Dependent Children (TAFDC), or Emergency Aid to the Elderly, Disabled, and Children (EAEDC). Even though a TAFDC Full Employment Program (FEP) household may not receive a cash grant, the household will be considered a PA household.

The following households will also be considered PA households:

- (1) households including an SSI recipient(s) when all the other members receive cash assistance under TAFDC, or EAEDC; and
- (2) households including a child(ren) born after the Family Cap Date who is not included in the TAFDC grant when all other household members receive cash assistance under TAFDC, or EAEDC.

365.120: Determining Eligibility and Benefit Level

(A) PA households shall be allowed to apply for SNAP benefits at the same time they apply for other assistance. However, the household's eligibility and benefit level shall be based solely on SNAP eligibility criteria and the household shall be certified in accordance with notice, timeliness, and procedural requirements of the SNAP regulations. If a household's intent to apply for SNAP benefits is unclear, the worker shall determine at the interview, or in other contact with the household, whether or not the household also wants a PA application processed for SNAP purposes.

- (1) Joint Application Form. The TAFDC application and the EAEDC application shall contain all the information necessary to determine a household's SNAP eligibility and benefit level. These joint applications shall also have a place for the household to indicate if it does not wish to apply for SNAP benefits. The applicant shall not be required to fill out any additional application form for SNAP purposes.
- (2) Single Interview Requirement. The worker shall conduct a single interview at initial application for both cash assistance and SNAP purposes. PA households shall not be required to see a different worker or otherwise be subject to two interview requirements to obtain the benefits of both programs. Following the interview, the application may be processed by separate workers to determine eligibility and benefit levels for SNAP and cash assistance. A household's eligibility for a SNAP out-of-office interview does not relieve the household of any responsibility for a face-to-face interview for cash purposes.

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(3) Verification Standard.

(a) For households applying for both cash assistance and SNAP, the verification procedures described in 106 CMR 361.600 through 361.660 shall be followed for those eligibility factors that are needed solely for purposes of determining the household's eligibility for SNAP benefits. For those factors that are needed to determine eligibility for both cash assistance and SNAP, the worker shall follow cash assistance verification requirements. However, in no case shall the worker delay the household's SNAP benefits if, at the end of 30 days following the date the application was filed, the applicant has provided sufficient verification to meet the verification for SNAP purposes, even if there is insufficient verification to meet the cash assistance verification rules.

For example, a family applies for TAFDC and SNAP. The applicant timely submits verification of income and all other verification necessary for SNAP purposes. However, the applicant does not prove relationship which is necessary to establish TAFDC eligibility. In this case, the SNAP assistance shall not be delayed or denied because of the household's failure to comply with a TAFDC eligibility requirement.

(b) A household may be denied SNAP and cash assistance at the same time (based on the cash assistance processing standards) when all of the following conditions have been met:

1. The Department has provided the household with a statement of required verification and has assisted the household in obtaining verification, as necessary;
2. The Department has informed the household of the appropriate processing standard, in writing, at the time of the application and notified the household at the interview of the date by which any missing verification must be provided; and
3. The household has failed to provide verification of an eligibility factor that is required for both cash assistance and SNAP.

For example, if a family applies jointly for cash assistance and SNAP and fails to submit income verification by the cash assistance processing date, cash assistance and SNAP would be denied on the same day because income verification is required for SNAP as well as for cash assistance.

If the household provides the missing verification within the initial 30-day period, the Department must provide benefits from the date of application. If the household does not provide the missing verification or complete the application until the second 30 days, the Department must provide benefits from the date the household completes the application or furnishes the missing verification. If more than 60 days has elapsed from the date of initial application, the household would have to reapply for SNAP benefits.

(4) Timeliness Standard. The worker must make the SNAP eligibility determination in accordance with all the timeliness standards and procedures specified in 106 CMR 361.700 through 361.960, unless the household has failed to provide verification of an eligibility factor required for both cash assistance and SNAP benefits in accordance with 106 CMR 365.120(A)(3)(b).

(a) As a result of differences in application processing procedures and standards, the worker may have to determine SNAP eligibility prior to determining eligibility for PA payments. Action on the SNAP portion of the application shall not be delayed nor the application denied on grounds that the PA determination has not been made.

(b) Households whose PA applications are denied but who have provided all verifications necessary to determine SNAP eligibility shall not be required to file a new SNAP application. They shall, however, have their SNAP eligibility determined or continued on the basis of their original joint application and any other documented information obtained subsequent to the application that may have been used in the PA determination and that is relevant to SNAP eligibility or level of benefits.

(B) Asset Standards for PA Households. Asset standards for PA households shall be determined as specified in 106 CMR 363.110: *Asset Eligibility Limits*.

(C) Income Standards For PA Households.

(1) Countable Income. All income received by the PA household, including the cash grant, special allowances and all other income (unless excluded in accordance with 106 CMR 363.230: *Excluded Income*) shall be counted in determining the household's eligibility for SNAP benefits.

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- (2) Income Exclusions and Deductions. PA households will receive only the income exclusions and deductions provided in SNAP policy. The income exclusions and deductions allowed under cash assistance programs for the purposes of grant calculation shall not be allowed in determining income for SNAP purposes.
- (3) Special Allowances, Retroactive Lump Sum Payments and Protective Payments.
 - (a) Special Allowances. Special allowances, except for one-time payments (*e.g.*, the clothing allowance for TAFDC children) or vendor payments, are treated as countable income. This income may be averaged over the certification period or on a variable basis of issuance to cover the period when the allowance is received.
 - (b) Retroactive Lump Sum PA Payments. Retroactive lump sum payments are excluded as income and counted as an asset in the month received. If a PA client's first payment is delayed beyond the first month of eligibility, the retroactive portion of that check is considered a lump sum payment. For example, if a household applies in November and is eligible in November but receives its first check in December to cover both months, only the December benefit amount is considered as income.
 - (c) Protective Payments. Protective payments are any portion of the cash grant that is legally obligated and otherwise payable to the PA household, but diverted by the Department to a third party for a household expense (*e.g.*, vendor rent). Protective payments are countable as income when determining SNAP eligibility and benefit level.

365.130: Work Requirements for PA Households

Cash assistance recipients are exempt from the SNAP Program Work Requirements if subject to and complying with a cash assistance work requirement. PA households shall not receive an increase in SNAP benefits if a household member refuses to comply with the TAFDC or EAEDC work requirements.

365.140: Certification Period for PA Households

PA households shall be assigned a 12-month certification period. The certification period shall expire the month following the households's next scheduled PA redetermination or at the end of the 12-month certification period, whichever occurs first.

365.150: Recertification Requirements for PA Households

PA households shall be recertified for SNAP benefits, to the extent possible, at the same time they have their eligibility reviewed for the cash assistance program. If a PA household has not had its PA eligibility reviewed by the end of the 11th month following its initial SNAP certification or last eligibility review, a Notice of SNAP Termination shall be sent to the household.

365.160: Change Reporting Requirements for PA Households

Except for changes in grant amounts, PA households are subject to the same reporting requirements as SNAP Change Reporting households specified in 106 CMR 366.110: *Household Reporting Responsibilities* and shall use the SNAP Change Report Form. PA households that report a change in circumstances to the PA worker shall be considered to have reported the change for SNAP purposes.

365.170: Department Action on Reported Changes

Except as provided in 106 CMR 365.170, action shall be taken on reported changes in accordance with the notification and timeliness standards specified in 106 CMR 366.100 through 366.220. Public Assistance (PA) households must be notified whenever their SNAP benefits are altered as a result of changes in their PA benefits. They must also be informed whenever their SNAP certification period is shortened due to changes in household circumstances.

106 CMR 365.170(A) through (C) provide special instructions for handling PA households that, during their certification period, experience:

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- (1) a reduction in their PA benefits;
- (2) termination of their PA benefits; or
- (3) a change in household circumstances resulting in a change in their SNAP classification from PA to NPA.

106 CMR 365.170(D) provides special instructions for handling a change from PA to NPA status that is known to the Department at the time of a PA redetermination.

(A) Reduction in Public Assistance Benefits. When the household circumstance change results in a reduction in the household's PA benefits and a reduction or termination in its SNAP benefits within its SNAP certification period, notice of adverse action shall be issued for both the PA and the SNAP actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's SNAP benefits shall be continued on the basis authorized immediately prior to sending the notice. The hearing shall be conducted according to PA procedures and timeliness standards. However, the household must reapply for SNAP benefits if the SNAP certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective in the month following the expiration of the advance notice period, when possible.

When the household circumstance change requires a reduction in the household's PA benefits but an increase in its SNAP benefits, a PA notice of adverse action shall be issued. The notice shall inform the household of the proposed increase but no action shall be taken to increase SNAP benefits until the household decides whether to appeal the proposed action to reduce the cash assistance. If the household decides to appeal and its PA benefits are continued, the household's SNAP benefits shall continue at the previous level. If the household does not appeal, action shall be taken to make the SNAP change effective in accordance with the timeliness standards of 106 CMR 366.120: *Department Responsibility to Take Timely Action*. The time limits for acting on the change, however, shall be calculated from the date the PA notice of adverse action period expires.

(B) Termination of Public Assistance Benefits. When a household circumstance change results in termination of the household's PA benefits, members of the household who lose their SNAP work registration exemption must be advised of the SNAP work registration requirements, if applicable. When there is sufficient information to determine how the change effects the household's SNAP eligibility and benefit level, the following action shall be taken:

- (1) If the household's SNAP benefits will be reduced or terminated, notice of adverse action shall be issued for both the PA and the SNAP actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's SNAP benefits shall be continued on the basis authorized immediately prior to sending the notice. The hearing shall be conducted according to PA procedures and timeliness standards. However, the household must reapply for SNAP benefits if the SNAP certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective, when possible, in the month following the expiration of the PA advance notice period;
- (2) If the household's SNAP benefits will be increased, a PA notice of adverse action shall be issued. The notice shall inform the household of the proposed increase but no action shall be taken to increase the household's SNAP benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its PA benefits are continued, the household's SNAP benefits shall continue at the previous level. If the household does not appeal, the SNAP change shall be made effective in accordance with the timeliness standards in 106 CMR 366.120: *Department Responsibility to Take Timely Action*. The time limits for acting on the change, however, shall be calculated from the date the notice of adverse action period expires; or
- (3) When there is insufficient information to determine how a household circumstance change affects the household's SNAP eligibility and benefit level, a notice of adverse action shall be issued informing the household of the termination of its PA benefits. The notice shall also inform the household that its SNAP certification period will expire at the end of the month following the month the notice is sent, and that it must reapply if it wishes to continue to participate in SNAP. The notice shall explain that the certification period is expiring because of changes in the household's circumstances that may affect its SNAP eligibility and benefit level. The notice shall specify that the household, if eligible for benefits, shall be entitled to uninterrupted benefits if it files an application by the 15th day of the last month of its certification period and completes its recertification responsibilities. If the household requests a fair hearing and its PA benefits are continued pending the appeal, the household's SNAP benefits shall be continued at the same level.

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(C) Change in Classification from a PA to an NPA SNAP Household. When a household's SNAP classification changes from PA to NPA, Department procedures shall be followed to assure that the household's SNAP benefits are not terminated merely because case responsibilities are transferred from the PA to the NPA unit. The household's resources must be reevaluated under the resource eligibility criteria of the SNAP Program when the classification changes from PA to NPA or all members of the household are no longer receiving TAFDC benefits.

If there is sufficient information to determine how the change affects the household's SNAP benefits, notification and timeliness standards specified in 106 CMR 365.170 and in 106 CMR 366.120 through 366.220 shall be followed.

If there is insufficient information to determine the effect on the household's SNAP eligibility and benefit level, a Notice of SNAP Termination shall be sent. The notice must inform the household that its certification period will expire at the end of the month following the month the notice is sent, and that it must reapply if it wishes to continue to participate in SNAP. The notice shall explain that the certification period is expiring because of changes in circumstances which may affect the household's SNAP eligibility and benefit level. The notice shall specify that the household, if eligible for benefits, shall be entitled to uninterrupted benefits if it files an application by the 15th day of the last month of its certification period and completes its recertification responsibilities.

(D) Change from PA to NPA Status is Known to the Department at the Time of the Public Assistance Redetermination. When a change from PA to NPA status is known to the Department at the time of a public assistance redetermination, the household shall nevertheless be recertified for SNAP benefits, to the extent possible, at the same time it is redetermined for the public assistance program.

365.180: Categorically Eligible Households

(A) The following SNAP households are categorically eligible:

- (1) Any SNAP household in which all members receive or are authorized to receive SSI and/or Emergency Aid to the Elderly, Disabled and Children (EAEDC) benefits;
- (2) Any SNAP household in which all members receive or are authorized to receive TAFDC benefits;
- (3) Any SNAP household in which all members receive or are authorized to receive a combination of benefits listed in 106 CMR 365.180(A)(1) or (2);
- (4) SNAP-only Temporary Assistance for Needy Families (TANF) Service Family Households which include SNAP households:
 - (a) consisting solely of a pregnant woman;
 - (b) with a child younger than 19 years old living with a parent;
 - (c) with a child younger than 19 years old living with a caretaker relative; and
 - (d) with a child younger than 19 years old living with an adult caretaker exercising SNAP parental control pursuant to 106 CMR 361.200(A)(2): *Parental Control Rule*.

These households must meet the Gross Monthly Categorical Eligibility Income Standards at 106 CMR 364.976: *Gross Monthly Categorical Eligibility Income Standards*;

(5) SNAP-only TANF Service Elder/Disabled Households which include SNAP households consisting solely of non-SSI elders (60 years of age or older) and/or disabled individuals in accordance with SNAP disability standards at 106 CMR 361.210: *Elderly or Disabled Individuals*. These households must meet the Gross Monthly Categorical Eligibility Income Standards at 106 CMR 364.976: *Gross Monthly Categorical Eligibility Income Standards*; and

(6) SNAP-only TANF Service Adult Households include SNAP households consisting solely of adults between 19 and 59 years of age. These households must meet the Gross Monthly Categorical Eligibility Income Standards at 106 CMR 364.976: *Gross Monthly Categorical Eligibility Income Standards*.

For purposes of 106 CMR 365.180(A)(1) through (3), authorized to receive means that an individual has been determined eligible for benefits and has been notified of this determination, even if benefits have been authorized but not received, authorized but not accessed, suspended or recouped, or not paid because they are less than a minimum amount.

For purposes of 106 CMR 365.180(A)(4) through (6), a TANF Service includes receipt of the Commonwealth of Massachusetts' Help for Those in Need: A Resource Brochure.

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(B) SSI, TAFDC and TANF

(1) Ineligible Households. An SSI, TAFDC and/or TANF household shall not be considered categorically eligible if:

(a) the entire household is institutionalized as defined in 106 CMR 361.200: *Household Concept*;

(b) any member of that household is disqualified from receiving SNAP benefits for the reasons listed in 106 CMR 367.800: *Disqualification Penalties* or for failing to comply with SNAP Work Program requirements at 106 CMR 362.320: *SNAP Work Program*; or

(c) a household that is a TANF-service Household identified at 106 CMR 365.180(A)(4), (5) or (6) will not be considered categorically-eligible if the household's income exceeds the income standards at 106 CMR 364.976: *Gross Monthly Categorical Eligibility Income Standards*.

(2) Ineligible Household Members. No person shall be included as a member of an otherwise categorically eligible household if that person is:

(a) an ineligible noncitizen, in accordance with 106 CMR 362.220: *Noncitizens*;

(b) an ineligible student, in accordance with 106 CMR 362.400 through 362.410;

(c) institutionalized in a nonexempt facility, as defined in 106 CMR 361.240(B): *Residents of Institutions*; or

(d) ineligible because of failure to comply with the work requirements of the SNAP Program at 106 CMR 362.320: *SNAP Work Program* or 367.800: *Disqualification Penalties*.

(C) EAEDC.

(1) Ineligible Households. An EAEDC household shall not be considered categorically eligible if the household:

(a) refuses to cooperate in providing to the Department information necessary to make a determination of its eligibility or to complete any subsequent review of its eligibility, in accordance with 106 CMR 361.400: *Household Refusal to Cooperate*;

(b) is disqualified because the head of household fails to comply with SNAP Work Requirements at 106 CMR 362.300: *Work Requirements*; or

(c) is ineligible under striker provisions, in accordance with 106 CMR 361.240(E): *Strikers*.

(2) Ineligible Household Members. No person shall be included as a member of an otherwise categorically eligible household if that person is:

(a) an ineligible noncitizen, in accordance with 106 CMR 362.220: *Noncitizens*;

(b) an ineligible student, in accordance with 106 CMR 362.400 through 362.410;

(c) institutionalized in a nonexempt facility, as defined in 106 CMR 361.240(B): *Residents of Institutions*;

(d) disqualified for any of the reasons listed in 106 CMR 367.800: *Disqualification Penalties* or for failing to comply with SNAP Work Program requirements at 106 CMR 362.320: *SNAP Work Program*; or

(e) disqualified for failure to provide or apply for an SSN, in accordance with 106 CMR 362.500: *Social Security Numbers*.

(D) Asset Standards. Households that are categorically eligible, as defined in 106 CMR 365.180(A), are not subject to asset eligibility limits.

(E) Deemed Eligibility Factors. The following eligibility factors shall be deemed without further verification based on the household's categorical eligibility status:

(1) assets (except for transferred assets for EAEDC recipients);

(2) gross and net income eligibility standards in 106 CMR 364.950: *Maximum Gross Monthly Income Standards* and 364.970: *Maximum Allowable Monthly Net Income Standards* (TAFDC, EAEDC and SSI only);

(3) Social Security number information (TAFDC, EAEDC and SSI only);

(4) residency (TAFDC, EAEDC and SSI only); and

(5) sponsored noncitizen information (TAFDC, EAEDC, SSI and TANF Services Family Households only).

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(F) Verification Requirements.

- (1) The Department shall verify the following factors for SSI:
 - (a) each member receives SSI benefits or is authorized to receive, as specified in 106 CMR 365.180(A)(1);
 - (b) the household includes no individuals who have been disqualified in accordance with 106 CMR 365.180(B)(2);
 - (c) the SNAP household includes all persons who purchase and prepare food together regardless of whether or not they are separate units for SSI; and
 - (d) the household composition meets the definition of a household, as specified in 106 CMR 361.200: *Household Concept*.
- (2) The Department shall verify the following factors for EAEDC:
 - (a) each member receives EAEDC benefits;
 - (b) the household includes no individuals who have been disqualified for EAEDC, in accordance with 106 CMR 365.180(C)(2)(d) and (e); and
 - (c) the household composition meets the definition of a household, as specified in 106 CMR 361.200: *Household Concept*.
- (3) The Department shall verify the following factors, for TANF Services Households:
 - (a) the household is eligible for the Commonwealth of Massachusetts' Help for Those in Need: A Resource Brochure; and
 - (b) the income of the household does not exceed the appropriate standards for the SNAP Only TANF Services Household as outlined at 106 CMR 365.180(A)(5).
 - (c) the household includes no individuals disqualified in accordance with 106 CMR 365.180(B)(2); and
 - (d) the household composition meets the definition of a household, in accordance with 106 CMR 361.200: *Household Concept*.

(G) Determination of Eligibility.

(1) Pending SSI or EAEDC Eligibility. To determine if a household will be eligible due to its status as an EAEDC or SSI household, the SNAP eligibility determination may be temporarily postponed, within the 30-day processing timeframe, if the household is not entitled to expedited service and appears to be categorically eligible. However, denial of a potentially categorically eligible household shall only be postponed until the 30th. Upon approval of the EAEDC or SSI application, the household is considered categorically eligible if it meets all the criteria in 106 CMR 365.180(A) through (F).

(2) Denials. For a household filing a joint application for SNAP and EAEDC benefits or a household with an EAEDC or SSI application pending that is originally denied SNAP benefits, but is later determined eligible to receive EAEDC or SSI benefits and otherwise categorically eligible, the original application and any other pertinent information occurring after that application shall be used to determine benefits. A second interview is not required. However, the Department shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Denied applications of a potentially categorically eligible household must be easily retrievable.

If a determination of eligibility for EAEDC or SSI benefits is postponed beyond 30 days, or an application for EAEDC or SSI benefits is denied, the SNAP application should be processed immediately as an NPA case. Any changes shall be initialed and the updated application signed by the authorized representative or authorized household member. The Department shall act on reevaluating the original household's EAEDC or SSI eligibility. When applicable, the household shall be advised on the notice of denial to inform the Department if any pending application for EAEDC or SSI benefits is subsequently approved.

(3) Providing Benefits. Any household determined to be categorically eligible within the 30-day SNAP processing timeframe shall be provided benefits back to the date of the SNAP application or, in the case of a joint application, back to the date of the EAEDC or SSI application. Benefits shall be prorated in accordance with 106 CMR 364.650: *Prorating Initial Month's Benefits*.

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If a household whose determination of eligibility for EAEDC or SSI benefits has been postponed beyond 30 days and whose SNAP application has been processed as an NPA case subsequently gets approved for EAEDC or SSI benefits, the SNAP benefits must be recalculated based on the excess medical, uncapped shelter, and net income (elderly/disabled) provisions. Any SNAP benefits owed back to the date of the SNAP application or from the beginning date for which the EAEDC or SSI benefits are paid (whichever date is later) shall be issued.

Categorically eligible one-person and two-person households are entitled to a minimum of \$16 per month except in the initial month. Categorically eligible households with three or more members who do not qualify for a benefit because their income exceeds the level at which benefits are issued cannot be denied. These households' benefits must be suspended.

365.190: Transitional Benefits Alternative

When certain TAFDC households close, the Department provides Transitional Benefits Alternative (TBA) SNAP benefits for five months.

(A) Determining the TBA Benefit Amount. The Department will determine the TBA amount by recalculating the SNAP benefit without counting new income such as wages. The Department will count only the income the household had in the month the household's TAFDC benefits stopped, excluding the TAFDC grant.

For TBA purposes, closed cash cases with an associated NPA SNAP household will have their Transitional Support Services (TSS) income excluded when determining the SNAP benefit amount.

If at the time of the TAFDC closing, the household reports a change(s), the Department will recalculate the SNAP benefits.

- (1) If the recalculated SNAP benefit amount is less than or equal to the TBA amount, the Department will pay the TBA amount.
- (2) If the recalculated SNAP benefit amount is greater than the TBA amount, the Department will recertify the household and pay the increased SNAP benefit amount.

(B) The TBA Period. When TBA-eligible TAFDC households close, the Department will automatically assign a five-month SNAP certification period.

(C) Households Ineligible for TBA Benefits. TBA will not be provided to a former TAFDC household when the household or household member has:

- (1) failed to comply with a TAFDC program requirement;
- (2) failed to comply with a SNAP work requirement as defined in 106 CMR 362.300: *Work Requirements*; or
- (3) been disqualified due to an Intentional Program Violation in accordance with 106 CMR 367.525: *Definition of an Intentional Program Violation (IPV)* and 367.800: *Disqualification Penalties*.

(D) Change Reporting Requirements During the TBA Period. The TBA household is not required to report or provide verification of any changes in household circumstances during the TBA period. Any change(s) reported to the Department during the TBA period which results in eligibility for SNAP benefits greater than the TBA amount will be treated as a request to recertify.

- (1) If a TBA household reports a change during the TBA period, the Department will recalculate the SNAP benefits.
 - (a) If the change results in a SNAP benefit amount that is less than or equal to the TBA amount, the Department will continue to pay the current TBA amount for the remaining TBA period.
 - (b) If the change results in a SNAP benefit amount that is greater than the current TBA amount, the Department will recertify the household and pay the increased SNAP benefit amount.

If the household is determined to be over income based on the recalculation, the TBA case will close for that reason during the TBA period.

- (2) If the Department receives an income change from another program, such as, but not limited to, Social Security benefits, for the TBA household during the TBA period, the Department will recalculate the SNAP benefits.

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(a) If the change results in a SNAP benefit amount that is less than or equal to the current TBA amount, the Department will continue to pay the current TBA amount for the remaining TBA period.

(b) If the change results in a SNAP benefit amount that is greater than the current TBA amount, the Department will recertify the household and pay the increased SNAP benefit amount.

If the household is determined to be over income based on the recalculation, the TBA case will close for that reason during the TBA period.

(E) Recertification Requirements for TBA Households. The TBA household must recertify for SNAP at the end of the TBA period and will be notified to recertify in accordance with 106 CMR 366.310: *Notification to Recertify*.

365.200: Households with Boarders Who Are Not Household Members

The amount of payment a household receives from a boarder who is not a household member shall be considered self-employment income to the household and handled in accordance with the instructions in 106 CMR 365.200. Instructions for handling those households which own and operate a commercial boarding house as stated in 106 CMR 365.900.

When determining a household's eligibility and benefit level, boarders who are not members of the household shall have none of their income and resources considered available to the household.

(A) Income from Boarders. All direct payments to the household for room and meals, including contributions to the household's shelter expenses, shall be considered earned income to the household. Shelter expenses paid directly to a third party outside of the household, such as a landlord, shall not be counted as income to the household.

(B) Cost of Doing Business. After determining the income the household receives from boarders, the worker shall exclude from the income that portion which is the cost of doing business. The cost of doing business shall be equal to either of the following:

(1) The maximum allotment for a household size that is equal to the number of boarders; or

(2) The actual documented cost of providing lodging and meals if the actual cost exceeds the amount of 106 CMR 365.200(B)(1). If actual costs are used, only separate and identifiable costs of providing lodging and meals to boarders can be excluded.

However, the amount allowed as a cost of doing business can never exceed the amount of payment the household receives from the boarder.

(C) Deductible Expenses. The household's countable self-employment income from boarders (after excluding the cost of doing business) is added to any other earned income prior to applying the earned income deduction.

Shelter costs for households with boarders shall not include any shelter expenses paid by the boarder directly to a third party, such as the landlord or utility company.

365.400: Resident Farm Laborers, Migrant Farm Laborers, Migrant Households and School Employees

Because of the way resident and migrant farm laborers, migrant households and certain school employees receive income, special certification procedures are required.

365.410: Resident Farm Laborers

Resident farm laborers may work for one employer or for a number of employers during the year. The certification procedures for these households differ depending on how the household receives income.

(A) Stable Income. Some farm laborers are employed for the entire year and receive a regular monthly salary. These households can be certified for up to one year if its circumstances are not likely to change.

365.410: continued

(B) Irregular Income.

(1) One Employer. In some instances a farm laborer household resides year round on one farm, but is paid only during the work season. During the non-work season, the household may receive advance or deferred payments. The worker may have some difficulty in assigning an income figure to the farm worker whose income is high during the work season and correspondingly low during the non-work season when income is only from advance or deferred payments. Since the variation in income between the two cycles may be quite substantial, averaging income over the certification period might inhibit households from participating during the non-work period of low income. Even if income is prorated unevenly over the certification period to account for such variations, the income figure assigned during the low period might not be truly representative of the actual cash available to the household. For this reason, consideration should be given to certifying the household for lesser periods to take into account the income actually available to the household.

(2) More than One Employer. Farm laborer households which reside on one farm year round, but do not receive advance or deferred payments will most likely have income from another source during the non-work season. These households should be assigned shorter certification periods in accordance with the predictability of the receipt and amount of income.

(C) Work Requirements. Resident farm laborers must comply with work requirements during the non-work season unless exempt as specified in 106 CMR 362.310: *SNAP Employment and Training Program* or 362.320: *SNAP Work Program*.

365.420: Migrant Farm Laborers

(A) Definition. Seasonal migrant farm laborers are individuals who move from one region or locale to another to engage in or seek seasonal farm, land, or crop cultivation activities.

(B) Assets. Special care should be taken in dealing with migrants to determine if there are out-of-state assets or income from real property in the migrant's home-base area. For example, a migrant, who claims Texas as a home-base area and who is applying for SNAP in Massachusetts should be asked about the assets in both Texas and Massachusetts. Each applicant household is permitted one home and lot as an exemption from assets. If the applicant has a home and lot in Texas and does not own a residence in Massachusetts, the Texas home will be exempt as an asset. Shelter costs for the home when not occupied by the household because of employment may be allowed under certain circumstances. To be included in the household's shelter costs, the household must intend to return; the home must not be leased or rented; and the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes. Verification requirements for expenses of the home not occupied by the client are discussed in 106 CMR 364.450(B): *Other Expenses*. The worker should explore the possibility that out-of-state real property is being rented or is producing income in some way. If such property is producing income, such income must be added to all other household income in determining eligibility and basis of issuance.

(C) Income. Migrant households are subject to the normal income eligibility standards.

(D) Expedited Service. Migrant households may be eligible for expedited certification and issuance in accordance with 106 CMR 365.800.

(E) Work Registration. Employable members of migrant households who are not employed at least 30 hours a week or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours must register for and accept suitable employment as specified in 106 CMR 362.310: *SNAP Employment and Training Program* and 362.320: *SNAP Work Program*.

365.430: School Employees

Teachers and other school employees who work under a renewable annual contract will be considered to be receiving compensation for an entire year even though pre-determined non-work periods are involved and actual compensation is paid during the work periods only.

365.430: continued

(A) Annual Contract.

(1) Contract Renewal. The renewal process may involve signing a new contract each year, automatic renewal, or, as in cases of school tenure, rehire rights may be implied and thus preclude the use of a written contract altogether.

(2) Work - Non-work Cycle. The fact that a contract is in effect for an entire year does not mean that the contract will stipulate work every month of the year. Rather, there may be certain predictable non-work periods or vacations, such as the summer break between school years.

(3) Income. Income from an annual contract will be considered as compensation for a full year regardless of the frequency of compensation whether stipulated in the terms of the contract, determined at the convenience of the employer, or determined at the wish of the employee.

(B) Determining Eligibility and Benefit Level. School employees who derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income is not received on an hourly or piece work basis. To determine household eligibility, all other monthly income from other household members will be added to this average monthly income, and income exclusions and deductions applied in the normal manner. Once eligibility has been determined, the annualized income may either be averaged or prorated unevenly over the 12 months before adding it to other monthly income for determining the household's basis of issuance during the certification period.

(C) Certification Periods for School Employees. Certification periods shall be assigned as specified in 106 CMR 364.700: *Assigning Certification Periods.*

(D) Work Requirements. School employees must comply with work requirements during the non-work season unless exempt in accordance with 106 CMR 362.310: *SNAP Employment and Training Program* or 362.320: *SNAP Work Program.*

365.500: Households Living with Nonhousehold Members

Nondisqualified nonhousehold members as defined in 106 CMR 361.230(A) through (C) and (E) shall be treated in accordance with 106 CMR 365.510.

Disqualified nonhousehold members as defined in 106 CMR 361.230(D): *Disqualified Individuals* shall be considered in accordance with 106 CMR 365.520.

365.510: Nondisqualified Nonhousehold Members

Nondisqualified nonhousehold members shall be treated in accordance with the provisions of 106 CMR 365.510(A) through (C). If otherwise eligible, nondisqualified nonhousehold members may be eligible as separate SNAP households.

(A) Applying Financial Eligibility Standards The income and resources of the nondisqualified nonhousehold member shall not be considered available to the household.

(1) However, cash payments from the nonhousehold member to the household shall be considered countable income to the household.

(2) Vendor payments made by the nonhousehold member on behalf of the household shall be excluded as income to the household.

(3) If the SNAP household shares deductible expenses with a nonhousehold member, only the amount actually paid or contributed by the SNAP household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among all household members including the nonhousehold member(s) and only the SNAP household's prorated share deducted.

(4) For certain cases, the earned income of a household and the earned income of a nonhousehold member are combined into one wage. If the household's share can be identified, that portion shall be included in the household's earned income. If the household's share cannot be identified, the earned income shall be prorated among all those whom it was intended to cover and the portion attributed to household members shall be included in the household's earned income.

365.510: continued

(B) Determining Eligibility and Benefit Level. The nondisqualified nonhousehold member is excluded when determining the household's eligibility and benefit level.

(C) Actions Required for Certified Households with Nonhousehold Members. If a member of a certified household becomes a nonhousehold member, the worker shall review the household's eligibility and benefit level and issue a Notice of Adverse Action if the household's benefits are to be reduced or terminated.

365.520: Disqualified Nonhousehold Members

(A) Nonhousehold members disqualified for any reason in 106 CMR 367.800: failing to comply with the SNAP Work Program; failing to comply with the requirement to provide and verify a Social Security number at 106 CMR 362.500: *Social Security Numbers*; or disqualified due to an undetermined noncitizen status, nonimmigrant noncitizen status or Not Legally Residing noncitizen status shall be treated as follows:

(1) Assets. For noncategorical households, the countable assets of a disqualified nonhousehold member shall continue to count in their entirety for the remaining household members.

(2) Income. The countable income of a disqualified nonhousehold member shall continue to count in its entirety for the remaining household members.

(3) Deductible Expenses. A disqualified nonhousehold member's expenses, as listed in 106 CMR 364.400: *Determining Deductions*, shall continue to be deductible from the income of the remaining household members.

(4) Eligibility and Benefit Levels. A disqualified nonhousehold member shall not be included in determining the household's size except when calculating the household's entitlement. In no instance shall this disqualification result in an increased SNAP benefit for the remaining household members.

(5) Action Required. When a household's benefits are reduced or terminated because one of its members has been disqualified for any of the reasons described in 106 CMR 367.800: *Disqualification Penalties*; failing to comply with the SNAP Work Program; failing to comply with the requirement to provide and verify a social security number at 106 CMR 362.500: *Social Security Numbers*; or due to an undetermined noncitizen status, nonimmigrant noncitizen status, or not legally residing noncitizen status, the Department shall notify the remaining members of their eligibility and benefit level at the same time the nonhousehold member being disqualified is notified of the disqualification. The household is not entitled to a Notice of Adverse Action, but may request a fair hearing to contest the reduction or the termination of benefits, unless the household has already had a fair hearing consolidated with an ADH regarding the amount of the claim, or the household has filed a signed waiver in accordance with 106 CMR 367.660: *Waiver of an ADH*.

(B) Nonhousehold Members Disqualified from Federal Snap Benefits Due to Ineligible Legal Noncitizen Status Shall Be Treated as Follows:

(1) Assets. For noncategorical households, the countable assets of a nonhousehold member who is a legal noncitizen ineligible for SNAP benefits shall continue to count in their entirety for the household.

(2) Income.

(a) For purposes of calculating the maximum SNAP benefit amount the household would be entitled to if all members were SNAP-eligible, the countable income, including a common assistance grant, of a nonhousehold member who is a legal noncitizen ineligible for SNAP benefits shall be counted for the remaining household members, as specified in 106 CMR 364.600(C)(1): *Step One*.

(b) For purposes of calculating the SNAP benefits of the SNAP-eligible members, the countable income, including a common assistance grant, of a nonhousehold member who is a legal noncitizen ineligible for federal SNAP benefits shall not be counted for the remaining household members, as specified in 106 CMR 364.600(C)(2): *Step Two*.

(3) Deductible Expenses.

(a) For purposes of calculating the maximum SNAP benefit the household would be entitled to if all members were SNAP-eligible, all deductions shall be applied to the household in accordance with 106 CMR 364.600(C)(1): *Step One*.

365.520: continued

(b) For purposes of calculating the SNAP benefits of the SNAP-eligible household members:

1. The standard deduction shall be applied to the SNAP-eligible household;
2. The homeless deduction shall be applied to the SNAP-eligible household if the SNAP-eligible household meets the requirements at 106 CMR 364.400(F): *Homeless Shelter/Utility Deduction*;
3. The shelter expense deduction shall be applied to the SNAP-eligible household if the SNAP-eligible household has income;
4. The earned income deduction shall be applied as follows:
 - a. The earned income deduction of a SNAP-eligible member with earnings shall be applied to the SNAP-eligible household; and
 - b. The earned income deduction of a nonhousehold member with earnings who is a legal noncitizen ineligible for federal SNAP benefits shall not be applied to the SNAP-eligible household;
5. A deduction for child support paid shall be applied as follows:
 - a. A deduction for child support paid by an SNAP-eligible member shall be applied to the SNAP-eligible household.; and
 - b. A deduction for child support paid by a nonhousehold member who is a legal noncitizen ineligible for federal SNAP benefits shall not be applied to the SNAP-eligible household;
6. A deduction for dependent care costs paid shall be applied as follows:
 - a. A deduction for dependent care costs paid by an SNAP-eligible member shall be applied to the SNAP-eligible household; and
 - b. A deduction for dependent care paid by a nonhousehold member who is a legal noncitizen ineligible for federal SNAP benefits shall not be applied to the SNAP-eligible household; and
7. A deduction for medical expenses:
 - a. A deduction for medical expenses of a SNAP-eligible member shall be applied to the SNAP-eligible household; and
 - b. A deduction for medical expenses of a nonhousehold member who is a legal noncitizen ineligible for federal SNAP benefits shall not be applied to the SNAP-eligible household, in accordance with 106 CMR 364.600(C)(2): *Step Two*.

(4) Eligibility and Benefit Levels.

(a) For purposes of calculating the maximum SNAP benefit the household would be entitled to if all members were SNAP-eligible, a nonhousehold member who is a legal noncitizen ineligible for federal SNAP benefits shall be included in determining the household's size. *See* 106 CMR 364.600(C)(2): *Step Two*.

(b) For purposes of calculating the SNAP benefits of the SNAP-eligible members, a nonhousehold member who is a legal noncitizen ineligible for federal SNAP benefits shall not be included in determining the household size.

(5) Action Required. When a household's benefits are reduced or terminated due to the presence of a legal noncitizen ineligible for federal SNAP benefits, the case manager shall issue a Notice of Adverse Action informing the household that the individual is no longer eligible for SNAP benefits, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification, if applicable.

365.550: Residents of Shelters for Battered Individuals and Their Children

106 CMR 365.550 and the special provisions it contains, apply only to individuals residing in shelters for battered individuals and their children to whom the shelters provide meals.

(A) Definition. A shelter for battered individuals and their children is defined as a public or private nonprofit facility that provides meals and lodging to battered individuals and their children. If a facility also serves other individuals, a portion of that facility must be set aside on a long-term basis to house only battered individuals and their children.

Shelters that are authorized by the Food and Nutrition Service (FNS) of USDA to redeem SNAP benefits at a wholesale food store meet this definition. No further assessment of the eligibility of these centers is necessary.

365.550: continued

(B) Household Definition. Individuals or individuals with their children residing in a shelter shall be considered individual household units for the purpose of applying for and participating in the program.

(C) Residency and Participation. The restrictions in 106 CMR 362.100: *Residency* which prohibit an individual from participating as a member of more than one household or in more than one state in any given month do not apply to certain shelter residents. A shelter resident certified as a member of a household that contains the person who subjected him or her to abuse may apply for and, if eligible, receive an additional SNAP allotment as a separate household. Residents may receive an additional allotment as a separate household only once a month.

The Department shall take action to adjust the benefits of the resident's former SNAP household either by shortening that household's certification period and issuing a Notice of SNAP Termination (106 CMR 364.840: *Notice of SNAP Termination*) or by acting on the reported change and issuing a Notice of Adverse Action (106 CMR 364.860: *Notice of Adverse Action*).

(D) Financial Eligibility and Deductible Expenses. Shelter residents who apply as separate households shall be certified solely on the basis of their income, assets, and the shelter expenses for which they are liable. The income, assets, and shelter expenses of their former household shall be disregarded. Assets held jointly with members of the former household shall be handled in accordance with 106 CMR 363.120: *Jointly-owned Assets*. Room payments to the shelter shall be considered shelter expenses.

(E) Expedited Processing. Residents who are otherwise entitled to expedited certification and issuance shall be issued benefits in accordance with expedited issuance standards set forth in 106 CMR 364.900(A): *Initial SNAP Benefit Issuance*.

365.600: Residents of Drug and Alcohol Treatment Centers

Individuals, with or without their children, living in drug or alcohol treatment centers who are considered residents of institutions as specified 106 CMR 361.240: *Ineligible Households* may be eligible to participate in SNAP.

365.605: Residents of Group Living Arrangements

Residents of group living arrangements who are considered residents of institutions as defined in 106 CMR 361.240: *Ineligible Households* may be eligible to participate in the SNAP Program.

365.610: Drug and Alcohol Treatment Centers

A drug or alcohol treatment and rehabilitation program is one that is managed by a publicly operated community mental health facility under part B of Title XIX of the Public Health Service Act or by a private nonprofit organization or institution. The center shall receive and spend the SNAP benefit allotment for food prepared by and/or served to residents and their children.

Residents of drug or alcohol treatment centers shall apply and be certified for SNAP benefits on their own behalf. The resident must authorize the transfer of their monthly SNAP benefit allotment to the center through the use of an on-site Point of Sale (POS) Terminal or Electronic Benefit Transfer (EBT) Manual Voucher System.

365.620: Group Living Arrangements

A group living arrangement is defined as a community-based residential facility operated by a public or private nonprofit organization or institution authorized to serve no more than 16 residents. The facility shall be certified by an appropriate state agency under regulations issued pursuant to section 1616(e) of the Social Security Act, or under standards determined by the Secretary of Agriculture, to be comparable to standards implemented by appropriate state agencies under such section. To be eligible for SNAP benefits, residents of group living arrangements, not including Teen Parent Structured Living Programs (TLPs), must be blind or disabled as defined in 106 CMR 361.240: *Ineligible Households*.

365.620: continued

Before certifying a resident of a group living arrangement, the worker must verify that the facility is operated by a nonprofit organization or institution certified by the appropriate State agency and authorized to serve no more than 16 residents.

(A) Application Procedures for Group Living Arrangements Not Including Teen Parent Structured Living Programs (TLPs). Residents of group living arrangements, not including TLPs, may apply and be certified through the use of an authorized representative who is an employee of and designated by the facility; or apply and be certified on their own behalf or through the use of an authorized representative of their own choice. The facility shall make the determination whether a resident must apply through the facility's authorized representative, or may apply on his or her own behalf or through the use of an authorized representative of his or her own choice. The determination shall be based on the resident's physical and mental ability to handle his or her own affairs. All of the residents of the group living arrangement do not have to be certified using the same method.

(1) Group Living Arrangement as Authorized Representative. Residents that apply through the use of the facility's authorized representative shall have their eligibility determined as one-person households. The facility shall receive and spend the residents' SNAP benefit allotment for food to be prepared and served to the eligible residents, or may allow the residents to use any portion of their allotments on their own behalf.

(2) When a resident, or group of residents, applies and is certified on their own behalf or through the use of an authorized representative of their own choice, they must authorize the transfer of their monthly SNAP benefit to the facility through the use of an on-site POS Terminal or EBT Manual Voucher System. The facility shall receive and spend the residents' SNAP benefit allotment for food to be prepared and served to the eligible residents, or may allow the residents to use any portion of their allotments on their own behalf.

(B) Application Procedures for Teen Parent Structured Living Programs (TLPs). Residents shall either apply and be certified on their own or through the use of an authorized representative employed and designated by the TLP.

(1) If the facility has an on-site POS Terminal or EBT Manual Voucher System the resident or the facility as authorized representative must authorize the transfer of the monthly SNAP benefit allotment to the TLP. The TLP may either receive and spend the SNAP benefit allotment for food prepared by and/or served to the resident, or allow the resident to use all or any portion of the SNAP benefit allotment on his/her own behalf.

(2) If the facility does not have an on-site POS Terminal or EBT Manual Voucher System, the facility as authorized representative may either receive and spend the SNAP benefit allotment for food prepared by and/or served to the resident, or allow the resident to use all or any portion of the SNAP benefit allotment on his or her own behalf.

365.630: Certification of Residents of Group Living Arrangements and Treatment Centers

(A) Application Processing.

(1) Expedited Service. Residents of drug or alcohol treatment and rehabilitation centers and group living arrangements may be eligible for expedited service in accordance with 106 CMR 365.800. Eligibility of the facility, as defined in 106 CMR 365.610 and 365.620, shall be verified before providing expedited SNAP benefits.

(2) Normal Processing Standards. When normal processing standards apply, the case manager must complete the verification and documentation requirements before making an eligibility determination for the initial application.

(B) Determining Shelter Costs for Residents of Group Living Arrangements, Drug or Alcohol Treatment Centers. When residents of group living arrangements or drug and alcohol treatment centers make a combined payment for meals and lodging (shelter), the cost of shelter shall be equal to the difference between the amount of the room and board payment and the maximum SNAP benefit allotment for the appropriate SNAP household size.

(C) Recertification and Changes During the Certification Period. The case manager shall recertify these residents and process changes in household circumstances using the same standards that apply to all other SNAP households.

365.630: continued

(D) Rights of Certified Residents. Resident households have the same rights to notices of adverse action, fair hearings and entitlement to lost benefits as do all other SNAP households.

(E) Work Requirements. Individuals who regularly participate in a drug or alcohol treatment and rehabilitation program are exempt from the work requirements in accordance with 106 CMR 362.310: *SNAP Employment and Training Program* or 362.320: *SNAP Work Program*. Participation may be verified through the organization or institution operating the program before granting the exemption, if the information is questionable.

365.640: Treatment Center and Group Living Arrangement Responsibilities

(A) Monthly Reports. Each treatment center and group living arrangement shall give the Department a monthly list of currently participating residents. This list shall include a statement signed by a responsible facility official attesting to the validity of the list.

(B) Reporting Changes. Treatment centers and group living arrangements, when acting as an authorized representative, shall notify the Department of changes in the resident household's income or other circumstances. The facility shall also immediately notify the Department when a resident leaves the facility.

(C) Actions When a Resident Leaves the Facility.

(1) When a resident leaves a treatment center or a group living arrangement that is acting as the resident's authorized representative, 106 CMR 365.640(C)(1)(a) through (d) apply:

(a) If a household leaves the facility after the SNAP benefits are received and transacted, the facility shall provide the household with its full monthly allotment if no SNAP benefits have been used on behalf of that household. This applies at any time during the month.

(b) If a household leaves the facility before it is midway through their cyclical month and SNAP benefits have been spent on behalf of the household, the facility shall provide the household with ½ of its monthly allotment.

(c) If a household leaves the facility on or after midway through their cyclical month and any SNAP benefits have been spent on behalf of the household, the facility shall not provide the household with any additional SNAP benefits for that monthly allotment.

(d) Once a household leaves, the facility is no longer allowed to act as that household's authorized representative.

(2) When a resident or group of residents are certified on their own behalf, 106 CMR 365.640(C)(2)(a) and (b) apply:

(a) If the residents retain use of their SNAP benefits, they are entitled to keep the SNAP benefits when they leave the facility. If a group of residents has applied as a household and retains use of their SNAP benefits, a *pro rata* share of the remaining SNAP benefits shall be provided to any departing member.

(b) If a group of residents has been certified as a household and has returned their SNAP benefits to the facility to use, a departing member shall be given a *pro rata* share of one-half of the household's monthly allotment if leaving before the 16th of the month.

(3) The facility shall at the end of each month return to the Department any SNAP benefits not provided to departing residents.

(4) When a resident leaves a treatment center or a group living arrangement, the facility must credit the EBT/SNAP account of the departing resident through the POS Terminal or EBT Manual Voucher System.

(D) Change Report Form. The treatment center or group living arrangement shall, if possible, provide the household with a Change Report Form. The household is to use the form to report its new address and other circumstances to the Department after leaving the facility. The facility must advise the household to return the form to the appropriate office of the Department within ten days.

365.650: Liability of Facility as Authorized Representative

(A) Misrepresentation or Fraud. The organization or institution is responsible for any misrepresentation or fraud which it knowingly commits in the certification of residents. As an authorized representative, the organization or institution must be knowledgeable about the household's circumstances and should carefully review those circumstances prior to applying on its behalf. The organization or institution is strictly liable for all losses or misuse of SNAP benefits used on behalf of resident households and for all overissuances which occur while the households are residents of the facility.

(B) Claims for Overissuances. Whenever an overissuance is discovered, whether by the worker, the Department, or the United States Department of Agriculture (USDA), a claim determination shall be established against the organization or institution to recover the value of the overissuance.

365.660: Facility Penalties and Disqualifications

USDA may disqualify or penalize an organization or institution if it is determined administratively or judicially that SNAP benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The worker shall promptly notify SNAP Management, 600 Washington Street, Boston, MA 02111, when there is reason to believe that an organization or institution is misusing SNAP benefits in its possession. However, the Department shall not take any action against the organization or institution before USDA takes action.

365.670: Disqualified Treatment Centers and Group Living Arrangements

The Department shall suspend the authorized representative status of any treatment center or group living arrangement that is disqualified by USDA. The authorized representative status shall remain suspended for as long as the facility is disqualified.

365.680: Loss of State Agency Certification

A drug/alcoholic treatment center or a group living arrangement that loses its State agency certification may not participate in SNAP.

365.690: Residents of Disqualified and Decertified Facilities

(A) Drug/Alcoholic Treatment Centers. Residents of a drug/alcoholic treatment center that has its status as an authorized representative suspended or loses its State agency certification are ineligible to participate in SNAP.

(B) Group Living Arrangements. Residents of a group living arrangement that has its status as an authorized representative suspended or loses its State agency certification shall be ineligible unless they apply and are certified on their own behalf. These residents may still participate if otherwise eligible. However, SNAP benefits may not be turned over to said facility either to purchase food or for meals.

(C) Notice to Residents. Residents whose eligibility is terminated because the facility in which they live loses its State agency certification or has its status as an authorized representative suspended are not entitled to advance notice of adverse action. However, they shall receive a Notice of Ineligibility explaining the termination and when it will be effective.

365.700: Students

A student is an individual enrolled in any kindergarten, grade school, vocational school, technical school, training program, college or university at least half-time as defined by the institution. A student's status is not altered during temporary periods of time in which the school is not in session, such as summer vacations or semester breaks, provided he or she is enrolled for the next regular session.

106 CMR: DEPARTMENT OF TRANSITIONAL ASSISTANCE

365.700: continued

There are special procedures for the handling student income and the determination of eligibility. While such procedures are of primary importance in the certification of households consisting solely of students or where the student is the head of household, these special handling procedures are equally applicable to households where the student is a dependent member.

365.730: Assets

Student households are subject to the asset eligibility standards set forth in 106 CMR 363.000 through 363.150. In determining the assets of students, deferred payment loans and other monies that have been averaged as income as specified in 106 CMR 365.740 shall not be counted as an asset.

365.740: Income

Students as a rule have extremely uneven cash flows and have sources of income not normally available to other households.

(A) Income for Educational Purposes. Income for educational purposes includes scholarships, fellowships, educational grants, deferred payment loans for education, veterans' educational benefits and the like.

(B) Excluded Educational Expenses.

(1) The income described in 106 CMR 365.740(A) is excluded to the extent that it is made available for tuition, mandatory school fees, origination fees and insurance premiums on student loans, books, supplies, transportation, and any other expenses necessitated by school attendance, in accordance with 106 CMR 363.230(D): *Educational Loans, Grants and Scholarships*, at 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 the physically or mentally disabled.

365.800: Expedited Service

Each local office shall designate personnel to screen each application on the day it is made so that a determination can be made on that day as to whether the household is entitled to expedited service.

The expedited service households described in 106 CMR 365.810 are the only households entitled to expedited service at initial certification. These households may be entitled to expedited service at recertification if, before provision of expedited service, they have either:

- (1) completed any verification requirements postponed at the last provision of expedited service; or
- (2) been certified on a non-expedited basis since the last provision of expedited service in accordance with 106 CMR 365.810.

A household not entitled to expedited service shall have its application processed according to normal processing standards.

365.810: Expedited Service Households

To qualify for expedited service, an applicant household need only meet one of the following circumstances.

(A) \$150 Gross Income Household. A \$150 gross income household is a household whose gross income for the month of application does not exceed \$150 and whose liquid assets, as described in 106 CMR 363.100: *Assets*, do not exceed \$100.

(B) Destitute (Migrant) Household. A destitute household is a migrant or seasonal farmworker household whose liquid assets, as described in 106 CMR 363.100: *Assets*, do not exceed \$100 and who has little or no income in the month of application because an income source has been terminated, is new, or because one income source is new and one income source is terminated, as defined in 106 CMR 365.810(B).

365.810: continued

(1) Terminated Source. If a household is to be eligible for expedited issuance on the basis of a terminated source of income, the household must reasonably expect to receive no income from that source during the balance of the month of application and the next month if the household had been receiving income from this source monthly or more frequently. A household having received income less frequently than monthly, must reasonably expect to receive no income from this source when the next payment would normally have been received.

(2) New Source. If the household is to be eligible for expedited service on the basis of a new source of income, the income received or reasonably expected to be received during the periods of time described below must not exceed \$25:

(a) The ten days following the date of application; and

(b) The 30 days before the date of application if income is normally received monthly or more frequently than monthly, or during the last normal interval between payments if income is normally received less frequently than monthly.

(3) Terminated Source and New Source. If the household is to be eligible for expedited service during a month in which it has received income from both a terminated source and a new source, no income from the terminated source must be reasonably expected to be received during the balance of the month of application and not more than \$25 must be reasonably expected to be received from the new source during the ten days following the date of application.

A household member who has changed jobs and continues to work for the same employer shall be considered as still receiving income from the same source.

A household member's source of income shall be considered to be from the grower for whom the member is working and not from the crew chief. A member who travels with the same crew chief but moves from one grower to another shall be considered to have moved from a terminated income source to a new source.

Travel advances received from a new employer by a household to journey to the new employment shall be disregarded when determining whether a household is eligible for expedited service but may be considered when determining the household's eligibility and benefit level in accordance with 106 CMR 365.850.

(C) Special Expedited Service Households. A special expedited service household is a household whose combined monthly gross income and liquid assets are less than their combined monthly rent (or mortgage) and utilities. In determining the household's utility expense, the Standard Utility Allowance must be utilized in accordance with 106 CMR 364.400(F). The \$100 liquid asset limit does not apply to these households.

365.820: Expedited Service Processing Standards

(A) Issuance of Expedited Benefits. For households determined eligible, expedited SNAP benefits must be issued *via* the EBT System no later than the seventh calendar day after the application filing date.

(B) Office Interview not Required or Waived. When an office interview is not required or is waived, the case manager shall conduct a telephone interview by the first working day following the date the application was filed if the household can be reached by telephone. If the household cannot be reached by telephone, the worker shall send a notice to the household by mail by the first working day following the date the application was filed that the household must contact the office to be interviewed by telephone.

(C) Unsigned or Incomplete Application. If a household submits an application that is either unsigned or incomplete and is subsequently interviewed by telephone, the case manager shall complete the application during the interview. The completed application will be mailed to the household on the same day for signature. For these households, the expedited service processing standard begins on the date a completed and signed application is received rather than the date the application was filed. Households unable to appoint an authorized representative and not required to come into the office as part of the certification process shall have their SNAP benefits issued no later than six days after the receipt of the returned signed application. In some cases the case manager may discover a household is entitled to expedited service that the screening process failed to identify. For these households the expedited service processing standard begins on the date the case manager discovers the household is entitled to expedited service.

365.830: Expedited Service Verification Requirements

The household's identity is the only eligibility factor that must be verified before expedited service is provided. Readily available documentary evidence or collateral contact, in accordance with 106 CMR 361.640(A): *Documentary Evidence* and (B): *Collateral Contact*, may be used. Examples of acceptable documentary evidence include, but are not limited to, a driver's license, a work or school identification (I.D.) card, a voter registration card, a birth certificate, wage stubs or an I.D. for health benefits or for another assistance or social services program. Any documents that reasonably establish the applicant's identity must be accepted and no requirement for a specific type of document, such as a birth certificate, may be imposed.

The Social Security number requirements of 106 CMR 362.500: *Social Security Numbers* do not have to be met before expedited service is provided. These requirements must be met prior to the first full month of participation, unless good cause for not meeting these requirements is established in accordance with 106 CMR 362.500(C): *Determining Good Cause*.

The applicant must register for work if subject to SNAP Work Requirements in accordance with 106 CMR 362.300: *Work Requirements* unless exempt or unless the household has designated an authorized representative to apply on its behalf in accordance with 106 CMR 361.300: *Authorized Representatives*. Every household member required to meet SNAP Work Requirements must register for work before expedited service is provided (this requirement shall be waived for disaster SNAP benefits as defined in 106 CMR 366.600: *Disaster Certification*).

The worker should attempt to obtain as much required verification as possible during the interview, but should not delay the certification for expedited service until the sixth day if the worker has determined it is unlikely that other verification can be obtained within the expedited service processing time frame. Identity must always be verified before expedited service is provided.

365.840: Determining Eligibility and Benefit Level for Expedited Service Households

All income received or reasonably expected to be received in the month of application must be considered when determining SNAP eligibility and benefit level.

For Destitute (Migrant) Households, income already received during the month of application must be considered when determining eligibility and benefit level. Income anticipated to be received after the application has been made shall be disregarded. If a travel advance has been received during the month of application, it shall be disregarded if it is considered a reimbursement. If it is considered by written contract as an advance on wages to be earned later, the travel advance shall be considered income.

The provisions of 106 CMR 364.650: *Prorating Initial Month's Benefits* concerning the proration of initial month's benefits shall apply to all expedited service households.

365.850: Assigning Certification Periods to Expedited Service Households

(A) Verification Provided Prior to Certification. Households certified on an expedited basis that have provided all necessary verification prior to certification shall be assigned a certification period in accordance with 106 CMR 364.700: *Assigning Certification Periods*.

(B) Verification Postponed. Households that are certified on an expedited basis but have postponed providing verification shall be certified for the month of application only. They must be informed on the Notice of Eligibility that they will receive no further benefits until the verifications are provided. When these households provide the postponed verification, they shall be provided with their second month's benefits within seven working days from receipt of the verification or on the first day of the cyclical issuance period, whichever is later.

(C) Destitute Migrant Households. Destitute (migrant) households who have postponed verification from sources outside the state shall be issued a second month's benefits if verification from sources within the state has been received. The second month's benefits shall be provided within seven working days from receipt of the verification or on the first day of the cyclical issuance period, whichever is later.

Destitute (migrant) households must provide verification from sources outside the state before they are issued a third month's benefits. The third month's benefits shall be provided within seven working days from receipt of the verification or on the first day of the cyclical issuance period, whichever is later.

365.900: Households with Income from Self-employment

The following sections describe the procedures for handling income from self-employment and for determining the eligibility and benefit level of households when all or part of their income is from self-employment.

365.910: Roomer, Boarder, Rental Income

Income from roomers, rental property, and boarders of a commercial boarding house is considered self-employment income for Program purposes. A household's countable income from these self-employment enterprises should be determined in accordance with the instructions in 106 CMR 365.910. The income a household receives from a boarder, other than that received by a household who owns and operates a commercial boarding house, is also considered self-employment income in accordance with the procedures set forth in 106 CMR 365.200.

365.920: Work Requirements

When all or part of a household's income is from self-employment, the household members must comply with SNAP Work Requirements in accordance with 106 CMR 362.300: *Work Requirements* unless exempt.

(A) Exemptions.

(1) The household member shall be exempt from the SNAP Work Requirements if actively engaged in his or her self-employment enterprise at least 30 hours per week, or if not working 30 hours per week, receiving weekly earnings equal to the hourly federal minimum wage multiplied by 30 hours.

(2) If the household member does not meet the criteria in 106 CMR 365.920(A)(1) and is not otherwise exempt under the provisions of 106 CMR 362.310: *SNAP Employment and Training Program* or 362.320: *SNAP Work Program*, the household member must comply with the Work Requirements.

(B) Seasonal Work. The circumstances of household members engaged in seasonal self-employment shall be carefully reviewed to determine if the minimum requirement is met in the off-season.

(1) The seasonal employee shall be exempt from the SNAP Work Requirements if working an average of 30 hours per week, or if not working 30 hours per week, receiving weekly earnings equal to the hourly federal minimum wage multiplied by 30 hours.

(2) If the seasonal employment does not meet the criteria in 106 CMR 365.920(B)(1) and the household member is not otherwise exempt under the provisions of 106 CMR 362.310: *SNAP Employment and Training Program* or 362.320: *SNAP Work Program*, the seasonal worker must comply with the Work Requirements during non-work periods.

365.930: Special Income Considerations

(A) Income from Rental Property.

(1) The cost of doing business is always allowed, regardless of whether the income is classified as earned or unearned.

(2) Income from rental property is considered earned income and entitles the household to the earned income deduction only if a member of the household is actively engaged in the management of the property at least an average of 20 hours per week.

(B) Capital Gains as Income. The proceeds from the sale of capital goods or equipment related to the business is included when determining self-employment income. Even if only 50% of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the full amount of the capital gain shall be counted as income for SNAP purposes.

365.940: Allowable Costs of Producing Self-employment Income

Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of: labor (wages paid to an employee or work contracted out); stock (inventory); raw materials used to make a product; seed and fertilizer for farming; payments on the principal of the purchase price of the income-producing property and capital asset, equipment, machinery and other durable goods; interest paid to purchase income producing property; insurance premiums; taxes, assessments, and utilities paid on income-producing property; advertisement; licenses and permits; service and repair of income-producing property; legal and professional fees; and business supplies.

365.950: Expenses not Allowed as a Cost of Producing Self-employment Income

Expenses not allowed as a cost of producing self-employment income are as follows:

- (A) Payments on the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods. Interest payments are deductible;
- (B) Net losses from previous periods of time;
- (C) Federal, state and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work). These expenses are accounted for by the 20% earned income deduction; and
- (D) Depreciation.

365.960: Averaging Self-employment Income and Assigning Certification Periods

(A) Self-employment income that represents a household's annual support shall be averaged over a 12-month period, even if the income is received in a shorter period of time during that 12 months. For example, self-employment income received by farmers shall be averaged over a 12-month period if the income is intended to support the farmer on an annual basis. This self-employment income shall be annualized even if the household receives income from other sources in addition to self-employment. However, if the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the self-employment income shall be calculated on anticipated earnings. The worker shall not calculate self-employment income on the basis of prior income (documented by income tax returns) when the household has experienced a substantial increase or decrease in business.

365.970: Determining Eligibility and Benefit Level for the Self-employed

- (A) Averaged Income. For the period of time over which self-employment is determined, add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.
- (B) Anticipated Income. For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, add any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months except that a new average monthly amount shall be calculated for this 12 month period if the anticipated amount of capital gains changes. Then add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtract the cost of producing self-employment income. Except for depreciation, the cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income. Capital gains is the gain the household makes from the sale of a capital asset, such as real property used to carry out the household's business enterprise, in excess of the value of the property or cost of the property.

365.970: continued

(C) Determining Monthly SNAP Income. To determine the monthly SNAP income for households with income from self-employment enterprises, the monthly net self-employment income is added to any other earned income, or in the case of unearned rental income to other unearned income, received by the household.

If the cost of producing self-employment income of farmers exceeds the income derived from self-employment, such losses shall be offset against any other countable income in the household, provided that the farmer has received or is anticipating receiving annual gross proceeds of \$1000 or more from the farming enterprise; and provided that whatever base is used to determine any net income from self-employment farm operations, such as the previous year's tax return or current income, the same base is used in determining any net loss. Losses shall be prorated over the year in a manner comparable to that used to prorate farm self-employment income.

REGULATORY AUTHORITY

106 CMR 364.000: M.G.L. c. 18, § 10.

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