

## **DEPARTMENT OF HUMAN SERVICES**

### **Supplemental Nutrition Assistance Program (SNAP)**

#### **RULE MANUAL VOLUME 4, SNAP**

##### **10 CCR 2506-1**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### **4.000 SNAP**

##### **4.000.1 SNAP DEFINITIONS**

“Able-Bodied Adult Without Dependents (ABAWD)” means an individual aged eighteen (18) through the age of fifty-four (54) without a physical or mental disability who lives in a household with no one under the age of eighteen (18).

“Administrative disqualification hearing (ADH)” means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain SNAP benefits.

“Administrative law judge (ALJ)” means a person that may preside over state-level fair hearings and administrative disqualification hearings.

“Administrative adjudicator” means a person who presides over state-level fair hearings and administrative disqualification hearings.

“Adverse action” means any action taken by a local office that causes a household’s SNAP benefits to be reduced, suspended, terminated, or denied.

“Adverse action period” means the period of time during the certification period prior to the adverse action becoming effective.

“Agency error claim” means that a debt has been established for the household to repay due to an over-issuance of SNAP benefits that was issued to the household resulting from an error made by the local office.

“Allotment” means the total amount of SNAP benefits a household is authorized to receive in a particular month.

“Appeal” means a request made by a household to have a decision about its case reviewed by an impartial third party to determine whether the decision was correct. The term appeal includes state level fair hearings and local-level dispute resolution conferences.

“Application” means a request on a state-approved form for public assistance which can include the electronic state-prescribed form.

“Application filing date” means the date an application for public assistance is received by the county office.

“Application for recertification” means an application submitted prior to the last month of the certification period to determine a household’s continued eligibility for the next certification period.

“Application process” means the required process a household must complete for purposes of determining eligibility for SNAP benefits at application or application for recertification.

“Authorized representative” means an individual who has been designated in writing by a responsible member of the household to act on behalf of or assist the household with the application process, obtaining SNAP benefits, and/or in using SNAP benefits at authorized retailers.

“Automated Child Support Enforcement System (ACSES)” means the automated computer system used by the state department’s child support services to record child support payments.

“Basic Categorical Eligibility (BCE)” means the status granted to any household that is not eligible for Expanded Categorical Eligibility and contains only members who receive, or are eligible to receive, benefits from Colorado Works, Supplemental Security Income (SSI), Old Age Pension, Aid to the Needy and Disabled, Aid to the Blind, or a combination of these programs.

“Basic Utility Allowance (BUA)” means a fixed deduction applied to a household that does not pay for heating or cooling and incurs at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone.

“Bifurcated appeal” means an appeal that involves more than one benefit program area and where the administrative adjudicator determines to divide the appeal so that a SNAP appeal is reviewed separate from the appeal of a different benefit program area appeal.

“Boarder” means an individual residing with others and paying reasonable compensation to others for lodging and meals.

“Boarding house” means an establishment that is licensed as a commercial enterprise and which offers meals and lodging for compensation, as described in 7 C.F.R 273.1(b)(3)(i), herein incorporated by reference. No later editions or amendments are incorporated. The regulation is available at no cost at the FNS, 3101 Park Center Dr., #906, Alexandria, VA 22302 or at <https://www.ecfr.gov>. This regulation is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Case record” means a combination of the physical case file that contains documents pertinent to a household’s case; similar documents maintained in an electronic database; and information about the household that is contained within the statewide automated system.

“Certification period” means the period of time for which a household has been certified to receive benefits.

“Civil union” means a legally binding partnership between two individuals without the legal recognition of these individuals as spouses.

“Claim” means a debt resulting from an over-issuance of SNAP benefits that a household is obligated to repay.

“Clear and convincing evidence” means evidence which is stronger than a preponderance of evidence and which is unmistakable and free from serious or substantial doubt.

“Client” means a current or past applicant or a current or past recipient of SNAP.

“Collateral contact” means a verbal or written confirmation of a household’s circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted, or by telephone.

“Colorado Department Of Human Services (CDHS)” means the same as defined in section 26-1-105, C.R.S., which is incorporated by reference. No later editions or amendments are incorporated. This regulation is available for public inspection and copying at The Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Colorado Electronic Benefit Transfer System (CO/EBTS)” means the electronic system that enables SNAP participants or their authorized representatives to redeem their SNAP benefits at point-of-sale terminals.

“Colorado Unemployment Benefits System (CUBS)” means the electronic system by which Unemployment Insurance Benefits (UIB) are determined by the Colorado Department of Labor and Employment.

“Combined appeal” means an appeal that involves both a SNAP appeal and an appeal concerning any other benefit program area (ex. A SNAP appeal plus a Colorado Works appeal that are filed as one appeal). Combined appeals will be bifurcated to allow the SNAP portion of the appeal to move on a faster track to comply with federal SNAP timeliness requirements.

“Communal dining facility” means an establishment approved by FNS that prepares and serves meals for persons aged sixty (60) and older, or for Supplemental Security Income (SSI) recipients, and their spouses. This also includes federally subsidized housing for persons aged sixty (60) and older at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate state or local agency to offer meals at concessional prices to persons aged sixty (60) and older or SSI recipients, and their spouses.

“Compromise” means a local office’s decision to reduce the amount of a claim that is owed by a household.

“Countable month” means a month in which an ABAWD received a full SNAP allotment but did not meet work requirements or have an exemption from those requirements.

“Demand letter”, see “notice of overpayment.”

“Disaster Supplemental Nutrition Assistance Program (D-SNAP)” means the assistance provided to the affected areas when a Presidential disaster declaration for individual assistance is declared and the decision to implement this program after a Presidential declaration shall be at the affected county’s discretion in coordination with the state SNAP office and FNS.

“Dispute Resolution Conference (DRC)” means an informal meeting between a household and the local office to review an action taken on a case and the relevant facts pertaining to such action.

“Disqualification Consent Agreement (DCA)” means the form that allows the individual(s) suspected of Intentional Program Violation/fraud to consent to his/her disqualification in cases of deferred adjudication, as described in 7 C.F.R. 273.169(h), which is herein incorporated by reference. No later editions or amendments are incorporated. The regulation is available at no cost at the FNS, 3101 Park Center Dr., #906, Alexandria, VA 22302, or at <https://www.ecfr.gov>. This regulation is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Disqualified individuals” means any individual who is ineligible to receive SNAP benefits due to having been disqualified for an Intentional Program Violation/fraud, failure to provide or obtain a SSN, ineligible non-citizens, individuals disqualified for failure to cooperate with work requirements, individuals disqualified for failure to cooperate with the state quality assurance division, and ABAWDs who already received three countable months of SNAP within thirty-six (36) months without meeting an exemption or ABAWD work requirements.

“Documentary evidence” means written information used to verify the income, expenses, and other circumstances of a household.

“Documentation” means the collection of documentary evidence, verification, case notes, and other information related to a household’s case upon which eligibility determinations and other decisions are based.

“Drug and Alcohol Treatment Center (DAA)” means any residential facility run by a private, nonprofit organization or institution, or a publicly operated community mental health center, under Part B of Title XIX of the Public Health Service Act (42 U.S.C 300x-1 through 300x-13) that provides rehabilitative treatment to persons participating in a drug or alcohol treatment program.

“Dual participation” means the receipt of SNAP benefits in more than one SNAP household or state in the same calendar month.

“EBT account” means the account linked to the EBT card where the state department deposits SNAP benefits.

“EBT card” means the card issued to persons authorized to receive SNAP to which the household’s allotment is credited. Used for SNAP purposes to purchase eligible foods at approved retailers.

“Eligibility has been determined” means a required interview was completed and all required verifications were received for a valid SNAP application and a determination of eligibility or ineligibility was made with a resulting notice of action.

“Employment and Training Program” means a program operated by the Department of Human Services consisting of work, training, education, work experience, and/or job search activities designed to help clients obtain gainful employment.

“Employment First (EF)” means Colorado’s Employment and Training Program.

“Energy Electronic Benefit Transfer (E-EBT)” means the fuel assistance payment to eligible SNAP households of at least \$20.01 that qualifies those households for the heating and cooling standard utility allowance.

“Evidence” includes but is not limited to an item, document, photograph, video recording, testimony, or other tangible object presented to an administrative adjudicator, administrative law judge, and/or during a dispute resolution conference to make the existence of a fact more or less valid.”

“Excess medical deduction” means a deduction from a household’s total gross income applied when a person with a disability or a person aged sixty (60) and older has medical expenses over a specified monthly amount.

“Exempt income” means income that is exempt from consideration when determining eligibility for SNAP.

“Expanded Categorical Eligibility (ECE)” means households that are exempt from having resources considered when determining eligibility for SNAP.

“Expedited service” means the method by which an application for SNAP is processed to ensure that the neediest households have access to benefits no later than the seventh (7th) calendar day following the date of application.

“Fair hearing” or “State-level fair hearing” means a hearing conducted in person or on the telephone by an administrative adjudicator to provide an impartial decision on a household’s appeal of a local office’s decision or action.

“Final agency decision” means a decision issued by the Office of Appeals after reviewing the initial decision issued by an administrative adjudicator.

“Financial criteria” means the set of rules governing gross and net income and resource standards and the proper methods for computing a household’s income and resources.

“Fleeing felon” means an individual who is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony under a state or federal law.

“FNS” means the Food and Nutrition Service of the U.S. Department of Agriculture.

“Fraud” means the same as described in section 26-2-305(1)(a), C.R.S.

“Full-time student” means a person who has a school schedule equivalent to a full-time curriculum as defined by the institution of higher education the person is attending.

“G-845” means the U.S. Citizenship and Immigration Services (USCIS) form submitted by SNAP to the USCIS to request immigration status verification for a SNAP client. Form G-845 was last modified on April 8, 2021 and is incorporated by reference. No later editions or amendments are incorporated. The form is available at no cost at <https://www.uscis.gov/g-845>. The form is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Good cause” except as defined in 4.308.1, means a waiver granted to a person or household a) excusing them from complying with a specific eligibility requirement because compliance could cause adverse consequences to the person or household, or b) providing the household with more time to comply with a specific eligibility requirement.

“Gross income” means the total of all non-exempt earned and unearned income added together before any deduction or disregard is considered.

“Group Living Arrangement (GLA)” means a public or private non-profit facility certified under Section 1616(e) of the Social Security Act which serves no more than sixteen (16) people.

“Head of Household (HOH)” means the person who is generally regarded as the person with the most knowledge of the household’s circumstances. The head of household is the person to whom the local office addresses correspondence and notices about the household’s case. This person is generally the individual who completes the application process and is responsible for obtaining and using the household’s EBT card.

“Heating/Cooling Utility Allowance (HCUA)” means a fixed deduction applied to any household that incurs a heating or cooling expense.

“Homeless meal provider” means:

1. A public or private nonprofit establishment that feeds persons experiencing homelessness; or,

2. A restaurant which contracts with an appropriate state agency to offer meals at concessional (low or reduced) prices to persons experiencing homelessness.

“Household” means a group of individuals who live together and customarily purchase and prepare food together for home consumption.

“Household income” means all earned and unearned income received or anticipated to be received by the household from all sources, unless specifically exempted for SNAP eligibility purposes.

“Inadvertent Household Error Claim (IHE)” means a debt that has been established for the household to repay due to an over-issuance of benefits that was issued to a household based on a misunderstanding or unintentional error on the part of the household.

“Income and Eligibility Verification System (IEVS)” means a system used to match client’s Social Security Numbers with the Social Security Administration, Internal Revenue Service, and the Department of Labor and Employment to obtain information about household income.

“Indigent non-citizen” means a sponsored non-citizen who, after considering all income and contributions provided by the sponsor and other sources in conjunction with the non-citizen’s own income, is unable to obtain food and shelter amounting to one hundred thirty percent (130%) of the federal poverty level (FPL), as defined in section 4.401.1, for the non-citizen’s household size. When a non-citizen is declared indigent, only the amount provided by the sponsor shall be deemed for the non-citizen. A declaration of indigence may last up to twelve (12) months but may be renewed at the end of such a period, if necessary. The local office must notify the U.S. Attorney General of each indigence determination, including the name of the sponsor and the sponsored non-citizen.

“Initial decision” means a decision issued by an administrative adjudicator after a state-level fair hearing.

“Initial application” means a household’s first application for assistance or an application for assistance that is received after the household has been off the program for any period following the end of a certification period.

“Initial month of application” means the first month for which the household is certified for participation in the program for those who have not received SNAP benefits in the state previously or following any break after the end of the certification period where the household was not certified for participation. If the household applies for recertification prior to the expiration of its certification period and is found eligible for the first month following the end of the certification period, that month shall not be an initial month.

“Institution of higher education” means institutions that normally require a high school diploma or equivalency certificate for a student to enroll, such as colleges, universities, and vocational or technical schools.

“Intentional” means a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission.

“Intentional Program Violation (IPV)” means when an individual has intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or committed or intended to commit any act that constitutes a violation of the federal SNAP program operated under the Food and Nutrition Act of 2008, the federal SNAP regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of SNAP benefits or EBT cards.

“IPV hearing”, see “Administrative disqualification hearing.”

“IPV hearing waiver”, see “Waiver of administrative disqualification hearing.”

“Issuance month” means the calendar month for which a benefit allotment is issued.

“Lawful Permanent Resident” means a non-citizen legally admitted into the United States to reside on a permanent basis.

“Level sanction” means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for SNAP.

“Liquid resources” means assets such as cash on hand or assets that can be easily converted to cash such as money in checking or savings accounts, saving certificates, or stocks and bonds.

“Live-in attendants” means individuals who reside with a household to provide medical, housekeeping, child-care, or other personal services.

“Local office” means the county Department of Social/Human Services that is responsible for administering SNAP. In those counties that have more than one office that administers SNAP, “local office” shall be inclusive of all local offices within the county that administer the program.

“Local-level dispute resolution conference”, see “Dispute resolution conference.”

“Low-Income Home Energy Assistance Program (LEAP)” means the Colorado program designed to help low-income clients pay a portion of their winter heating costs.

“Management Evaluation (ME) reviews” means state or federal reviews of each county’s administration of SNAP to determine each county’s adherence to federal- and state-mandated requirements. Such reviews are mandated by the Food and Nutrition Service of the USDA.

“Mass update” means a change in data or policy that affects the entire state-wide caseload or a portion of the caseload.

“Material fact” means information to which a reasonable person would attach importance when determining a course of action.

“Migrant farm worker” means a person who travels away from home on a regular basis to follow the flow of seasonal agricultural work.

“Minimum benefit” means the minimum amount of benefits issued to one- and two-person households that are eligible for assistance, but whose issuance calculates to less than the federally prescribed minimum allotment.

“Net income test” means the one hundred percent (100%) federal poverty level (FPL), as defined in section 4.401.2, under which a household’s income must fall after all allowable deductions are considered in order to be considered eligible. This level is specific to the household size as defined by FNS.

“Non-financial criteria” means the set of rules governing SNAP eligibility elements not related to a household’s gross and net income and resource standards.

“Non-liquid resources” means assets which cannot be easily converted into cash such as vehicles and real property.

“Notice of Action (NOA)” means the state-prescribed form sent to a household every time a local office increases or takes an adverse action impacting a household’s SNAP benefits. This form describes the action taken upon a household’s case and the resulting effect.

“Notice of Overpayment” means a notice sent to a household upon the establishment of a claim against the household for an overpayment of benefits.

“Office of Administrative Courts (OAC)” means the office within The Colorado Department of Personnel and Administration that The Colorado Department of Human Services may designate to hear state-level fair hearings as needed and as agreed to by The Office of Administrative Courts.

“Office of Appeals (OOA)” is an office within The Colorado Department of Human Services that issues final agency decisions on behalf of The Colorado Department of Human Services.

“On-the-job training (OJT)” means training provided to an employee after he or she is hired. Such training is designed for individuals who do not have the necessary work experience required for the job.

“One Utility Allowance (OUA)” means a fixed deduction given to any household that is not eligible to receive the HCUA or BUA and incurs only one (1) non-heating or non-cooling utility expense, such as electricity, water, sewer, trash, or cooking fuel. The OUA is not allowed if the household’s only utility expense is a telephone.

“Outdated” means information that is older than sixty (60) days from the point of eligibility determination or is no longer representative of a household’s circumstances.

“Over-issuance” means the amount of SNAP benefits issued to a household that exceeds the household’s correct allotment.

“PA households” means households that contain only persons who receive TANF/Colorado Works or Adult Financial cash grants.

“Parolee” means a non-citizen allowed into the United States for urgent humanitarian reasons or when the non-citizens entry is determined to be for significant public benefit as described in 8 U.S.C 1182(d)(5) and in 8 C.F.R. 212.5 (2019), herein incorporated by reference. No later editions or amendments are incorporated. The regulation is available at no cost at the U.S. Department of Homeland Security, 3801 Nebraska Avenue NW, Washington D.C., 20016 or at <https://www.ecfr.gov>. This regulation is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203. Parole does not constitute a formal admission to the United States and confers temporary status only, requiring parolees to leave when the conditions supporting their parole cease to exist.

“Payment Error Rate (PER)” means the sum of the overpayment error rate and the underpayment error rate, which is the value of all over and underpaid allotments expressed as a percentage of all allotments issued to the cases reviewed, excluding those cases processed by Social Security Administration (SSA) personnel or participating in certain demonstration projects designated by FNS.

“Period of ineligibility” means the period of time a person is ineligible to receive SNAP benefits as a result of a failure to cooperate with either a state or federal QA review.

“Periodic Report Form (PRF)” means the report that must be submitted by the household during the twelfth (12th) month of a twenty-four (24) month certification period. The purpose of this form is to allow the household to report any changes that occurred during the first half of the twenty-four (24) month certification period and for the local office to determine the household’s continued eligibility for the remaining twelve (12) months of the household’s certification period.



“Person experiencing homelessness” means an individual who lacks a fixed and regular nighttime residence or whose primary residence is: a supervised shelter designed for temporary accommodations; a halfway house or similar facility that provides temporary residence; a place not designed for or ordinarily used as regular sleeping accommodations for human beings; or a temporary accommodation in the residence of another individual for ninety (90) days or less.

“Person with disabilities” means a person who:

1. Receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or the Colorado Supplement, or Aid to the Needy and Disabled- Supplemental Security Income- Colorado Supplement (AND-SSI-CS), or Aid to the Blind- Supplemental Security Income- Colorado Supplement (AB-SSI-CS); or Disability or Blindness Payments under Title I, II, X, or IXV of the Social Security Act;
2. Is a veteran with a service-connected disability rated or paid as a total disability under Title 38 of the United States Code or is a veteran receiving a pension for a non-service connected disability;
3. Is a veteran considered by the Veterans Affairs (VA) to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;
4. Is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;
5. Is a surviving spouse or child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. “Entitled”, as used in this definition, refers to those veterans’ surviving spouses and children who are receiving the compensation or benefits or have been approved for such benefits but are not yet receiving them;
6. Has a disability considered permanent under Section 221(i) of the Social Security Act and receives a federal, state, or local public disability retirement pension;
7. Receives an annuity for disability from the railroad retirement board who is considered as a disabled person with disabilities by the SSA or who qualifies for Medicare as determined by the railroad retirement board; or
8. Is a recipient of interim assistance benefits pending the receipt of the Supplemental Security Income (SSI), disability-related medical assistance under Title XIX of the Social Security Act, or disability-based state assistance benefits provided that the eligibility to receive these benefits is based on disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act.

“Post high school education” means colleges, universities, and post-high school level technical and vocational schools.

“Preliminary determination” means an administrative adjudicator has determined in writing and at a hearing that the sole issue is one of federal law or regulation and that the household’s claim that the local office improperly calculated benefits, and/or misinterpreted or misapplied such law or regulation is invalid.

“Preponderance of evidence” means the legal burden of proof to show that the evidence is more likely to be true than not. Preponderance of evidence is a lesser burden of proof than that of clear and convincing evidence.

“Prospective budgeting” means the method of computing a household’s monthly allotment by using current circumstances and reasonably anticipated income for the month in which the allotment will be issued.

“Prudent Person Principle (PPP)” means a technician’s discretion to apply reasonable judgment when determining the proper course of action in specific situations in order to make an eligibility determination.

“Public assistance (PA)” means the same as section 26-2-103(7), C.R.S.

“Quality assurance (QA)” means the division of the Colorado Department of Human Services (CDHS) responsible for reviewing SNAP cases to determine if the proper eligibility determination was made and if the correct allotment was issued to a household in a given month.

“QA active case” means cases where a household was certified prior to or during the sample month and issued SNAP benefits for the sample month.

“QA negative case” means cases where a household was denied certification to receive SNAP benefits in the sample month or which had its participation in the program terminated during a certification period effective for the sample month.

“Qualified non-citizen” means an individual who meets the specific definition of “qualified alien” as defined by the Food and Nutrition Service, United States Department of Agriculture, in 7 C.F.R. 273.4(a)(5), (6)(1) (2019), and is herein incorporated by reference. No later editions or amendments are incorporated. The regulation is available at no cost at the FNS, 3101 Park Center Dr., #906, Alexandria, VA 22302, or at <https://www.ecfr.gov>. This regulation is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203. Qualified non-citizen for purposes of SNAP includes lawful permanent residents, asylees, refugees, parolees, individuals granted withholding of deportation or removal, conditional entrants, Cuban or Haitian entrants, battered immigrants and non-citizen victims of a severe form of trafficking. This term is not itself an immigration status, but rather includes a collection of immigration statuses. It is a term used solely for federal SNAP purposes. Qualified non-citizens are not automatically eligible for assistance, but rather must meet all other eligibility requirements.

“Quality control review” means a review conducted by CDHS of a statistically valid sample of active and negative cases to determine the extent to which households are receiving snap allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct.

“Quest card” means Colorado’s specific version of the EBT card.

“Questionable” means inconsistent or contradictory information, statements, documents, or case documentation that requires verification from the household to determine eligibility.

“Recoupment” means the withholding of a portion of a household’s monthly allotment to pay back an over-issuance.

“Repayment agreement” means the state department form sent to a household upon the establishment of a claim that outlines the household’s responsibility and options for repayment.

“Restoration” means a payment of benefits made to a household who was eligible to receive the amount in a past month but did not receive the payment.

“Roomer” means an individual to whom a household furnishes lodging, but not meals, for compensation.

“Sanction” means a specified period of ineligibility imposed against an individual who failed to take a required action as part of his or her eligibility for either SNAP or Colorado Works.

“Self-employment” means a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered and assumes the necessary business risks and expenses connected with the operation of the business.

“Shelter for battered women and children” means a public or private nonprofit residential facility that serves battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

“Simplified reporting” means SNAP households are required to report mid-certification changes that cause the household’s combined gross income to rise above one hundred thirty percent (130%) of the federal poverty level (FPL) as defined in section 4.401.1 for the applicable household size, when a member of the household wins substantial lottery or gambling winnings, and if an ABAWD’s work/volunteer hours fall below twenty (20) hours per week.

“SNAP” means Supplemental Nutrition Assistance Program, formerly known as the Food Assistance program, administered by the state department in Colorado.

“SNAP fair hearings unit” means the unit within the Office of Appeals at the Colorado Department of Human Services that may be designated by the Colorado Department of Human Services to hear SNAP appeals, the SNAP portion of a bifurcated appeal, combined appeals, and administrative disqualification hearings. The SNAP fair hearings unit generally operates under the supervision of the chief adjudicator of the Office of Appeals but acts independently and in a fair and impartial manner concerning the fair hearings process and the issuance of initial decisions.

“Sponsor” means any person(s) who executed an affidavit of support (USCIS form I-864A (March 6, 2018)) or another form deemed legally binding by the Department of Homeland Security on behalf of a non-citizen as a condition of the non-citizen’s date of entry or admission into the United States as a permanent resident. These forms are herein incorporated by reference. This rule does not contain any later amendments or editions. These forms are available at no cost from <https://www.uscis.gov/forms>. These forms are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

“Sponsored non-citizen” means those non-citizens lawfully admitted for permanent residence into the United States who have been sponsored by an individual for entry into the country.

“Standard Eligibility (SE)” means the set of rules applicable to households that do not fall under “Expanded Categorical Eligibility” or “Basic Categorical Eligibility.” Households considered under Standard Eligibility rules are subject to resource limits as a condition of eligibility.

“State department” means the office/division within the Colorado Department of Human Services that administers SNAP. Currently, this is the Food and Energy Assistance Division within the Office of Economic Security.

“State-level fair hearing” or “Fair hearing” means a review (hearing) requested by a client which is held before an administrative adjudicator to establish whether an adverse action or eligibility determination taken was correct.

“Striker” or “striking member” means an individual who is involved in a strike or other concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement and any concerted slowdown or other concerted interruption of operations by employees.

“Substantial lottery or gambling winnings” is a cash prize won in a single game, before taxes or other amounts are withheld, that is equal to or greater than the resource limit for persons aged sixty (60) and older and persons with disabilities.

“Supplement” means a payment of additional allowable SNAP benefits made for the current issuance month.

“Supplemental Security Income (SSI)” means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) Section 1616(a) of the Social Security Act; or (3) Section 212(a) of Pub. L. 93-66.

“Systematic Alien Verification for Entitlements (SAVE)” means the system allowing for the validation of immigration statuses of non-citizen clients through access to centralized U.S. Citizenship and Immigration Service (USCIS) data.

“Telephone allowance” means a fixed deduction given to any household not incurring utility expenses other than the expense for a telephone.

“Temporary Assistance for Needy Families (TANF) or Colorado Works (CW)” means the cash assistance program also known as Title IV-a of the Social Security Act.

“Temporary emergency” means an emergency caused by any natural or human-caused disaster, other than a major disaster declared by the President of the United States under the Disaster Relief Act of 1974, which is determined by FNS to have disrupted commercial channels of food distribution.

“Thrifty food plan” means the diet required to feed a family of four (4) persons, as defined by the FNS, as consisting of a man and a woman twenty (20) through fifty (50) years of age, a child six (6) through eight (8) years of age, and a child nine (9) through eleven (11) years of age, determined in accordance with the U.S. Department of Agriculture. The cost of such a diet shall be the basis for uniform allotments for all households regardless of their actual composition.

“Trafficking” means the same as defined in section 26-2-306, C.R.S. and 7 C.F.R. 271.2 (2019), which is incorporated by reference. No later editions or amendments are incorporated. The regulation is available at no cost at the FNS, 3101 Park Center Dr., #906, Alexandria, VA 22302, or at <https://www.ecfr.gov>. This regulation is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203.

“Unclear information” means unverified information that is known to the agency and requires verification, or information that is verified but the local office needs additional information to determine SNAP eligibility.

“Under-issuance” means the difference between the allotment the household was eligible to receive and the allotment the household received, which was lower than what the household was eligible to receive.

“Valid application” means a state-prescribed public assistance benefits form completed with name, address, and signature.

“Vendor payments” means money payments that are not payable directly to a household but are paid to a third party for a household expense.

“Verification” means confirmation of a household’s statements through written, verbal, or electronic means

“Verified upon receipt (VUR)” means information that is provided directly from the primary source and which is not questionable.

“Voluntary quit” means when a SNAP client voluntarily quit a job of 30 or more hours a week or reduced work effort to less than 30 hours a week without good cause.

“Voluntary work registrant” means an individual who chooses to participate in the program and is not mandated to participate by the state or federal regulations.

“Waiver of administrative disqualification hearing” means a waiver sent to individuals suspected of IPV which presents the individual with the option of waiving his or her right to an administrative hearing, accepting the appropriate disqualification without necessarily admitting the violation.

#### **4.100 SNAP INTRODUCTION**

This material sets forth rules, policies, and procedures concerned with eligibility determination and certification of persons who apply to participate in SNAP, and, if determined eligible, the requirements concerning the use of SNAP benefits. The rules and regulations herein are promulgated in accordance with Program regulations of the United States Department of Agriculture (USDA), 7 C.F.R. 271–274 (2021), as amended, which are incorporated by reference, and the State Plan of Operation. No later amendments or editions of the regulations are incorporated. Copies of the regulations are available at no cost at the FNS, 3101 Park Center Dr., #906, Alexandria, VA 22302, or at <https://www.ecfr.gov>. These regulations are also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado.

#### **4.110 USE OF THE SNAP MANUAL**

Below is a summary of the information contained in each section:

Section 4.000 contains SNAP specific definitions.

Section 4.100 contains general program information, confidentiality requirements, and complaint procedures (including complaints regarding alleged discrimination).

Section 4.200 sets forth policies and procedures for the application and recertification processes. Information contained in this section includes the process of filing an application and recertification, interview requirements, timely processing standards, determination of certification periods, and initial month allotment proration.

Section 4.300 outlines the non-financial criteria a household must meet to be eligible for SNAP. Non-financial criteria include identity of clients, Social Security Number (SSN) requirement, residency, household composition, citizenship and non-citizenship status, and work program requirements.

Section 4.400 sets forth the financial criteria a household must meet to be eligible for SNAP. Financial criteria include gross and net income standards, resource standards, and deductions from income.

Section 4.500 sets forth policies and procedures regarding the verification and documentation of a household's circumstances.

Section 4.600 outlines a household's obligation to report changes during the certification period, and how certain changes are handled by the local office.

Section 4.700 sets forth policies and procedures for issuing SNAP benefits, including restoration and replacement of issuances.

Section 4.800 outlines the rules and processes regarding claims, appeals, and fraud.

Section 4.900 outlines state and county administrative requirements.

#### **4.120 PURPOSE OF SNAP**

The purpose of SNAP is expressed by the United States Congress in Section 2 of the Food and Nutrition Act of 2008, Public Law No. 110-246 (codified at 7 USC 2011).

SNAP is designed to promote the general welfare and to safeguard the health and well-being of the nation's population by raising the levels of nutrition among low-income households.

#### **4.130 USING SNAP BENEFITS**

SNAP benefits received by an eligible household may be used at any time by the household or other persons whom the household selects to purchase eligible food for the household. SNAP benefits are issued through an Electronic Benefit Transfer (EBT) system in which benefit allotments are stored on an electronic benefit transfer card and used to purchase authorized items at a point-of-sale (POS) terminal. EBT cards shall be presented only to retailers authorized by USDA/FNS to accept food benefit payment for food purchases.

SNAP benefits must be used to pay for food currently purchased and cannot be used to pay for foods previously or subsequently secured or to pay back bills owed the grocer. The only exceptions are that SNAP benefits may be used to pay for food items such as milk or bakery goods that are delivered to the home on a regular basis, or for advance payment to a non-profit cooperative food venture when food purchased is to be delivered later.

##### **A. Expungement**

1. Upon approval of benefits, SNAP recipients are provided information in writing that any SNAP benefits issued to the EBT card that are unused after nine (9) months (274 days) will be expunged and removed from the account.
2. Upon approval of benefits, SNAP recipients are provided information in writing that if the EBT account goes inactive (no food purchases or returns) after nine (9) months (274 days), the inactive SNAP benefits will be considered expunged and removed from the account.

#### **4.130.1 WHERE HOUSEHOLDS CAN USE SNAP BENEFITS**

##### **A. Specified persons may use their SNAP benefits to purchase meals from the following:**

1. A meal delivery service approved by the USDA, Food and Nutrition Service (FNS);
2. A communal dining facility for persons aged sixty (60) years and older and/or SSI households;
3. An authorized drug or alcoholic treatment and rehabilitation center;
4. An authorized public or private, nonprofit group living arrangement facility; and
5. A shelter for battered women and children.

##### **B. Households containing persons experiencing homelessness shall be permitted to use their benefits to purchase prepared meals from an authorized public or private nonprofit provider for persons experiencing homelessness. A meal provider for persons experiencing homelessness means a public or private non-profit establishment, including, but not limited to, soup kitchens and temporary shelters which feed persons experiencing homelessness. To be considered a meal provider to persons experiencing homelessness, the meal provider must be approved as such by the USDA, FNS.**

Households containing persons experiencing homelessness may also purchase meals from restaurants if the restaurant offers discounts to or serves food to households containing persons experiencing homelessness at concessional (reduced) prices, and the restaurant is authorized by the USDA, FNS as a retailer.

#### **4.130.2 ELIGIBLE FOODS**

Households can only purchase eligible foods with SNAP benefits. Eligible foods include:

- A. Any food or food product intended for human consumption, except for alcoholic beverages, tobacco, and hot food, including hot food products prepared by the retailer and sold at above room temperature for immediate consumption.
- B. Seeds and plants to grow foods for personal consumption by eligible household members.

#### **4.140 CONFIDENTIALITY**

- A. If there is a written request by a responsible member of the household, the current authorized representative, or a person acting on behalf of the household to review materials contained in the case record, the material and information contained in the case record shall be made available to the requestor.
  - 1. The local office shall withhold confidential information, such as the names of persons who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal investigations or prosecutions.
- B. Use or disclosure of information obtained from a SNAP household or from any State or Federal agency included in the Income and Eligibility Verification System (IEVS), including the Internal Revenue Service (IRS), Social Security Administration (SSA) and Colorado Department of Labor and Employment (DOLE) exclusively for SNAP, shall be restricted to the following persons, as described in 7 C.F.R 272.1(C)(1). Incorporated by reference in section 4.100:
  - 1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs, federally- assisted State programs providing assistance on a means-tested basis to low-income individuals, or general assistance programs which are subject to the joint processing requirements in section 4.202.1.
  - 2. Employees of the Comptroller General's office of the United States for audit examination authorized by any other provision of law;
  - 3. Local, State or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information and his/her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested;

Local, State, or Federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a Federal or State law. The agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony or has violated a condition of probation or parole imposed under Federal or State law.



The agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. If a law enforcement officer provides documentation indicating that a household member is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole, the agency shall follow the procedures in 4.304.4 to determine whether the member's eligibility in the SNAP program should be terminated. A determination and request for information that does not comply with the terms and procedures in 4.304.4 is not sufficient to terminate the member's participation. The agency shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph.

4. Persons connected with the Parent Locator Service. Information made available to the Parent Locator Service must be restricted to the client's most recent address and place of employment;
  5. Persons directly connected with the administration of the Child Support Program under part D, title IV of the Social Security Act, in order to assist in the administration of their program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Titles II and XVI of the Social Security Act;
  6. Persons directly connected with the verification of immigration status of non-citizen SNAP clients through the Systematic Alien Verification for Entitlements (SAVE) system, to the extent the information is necessary to identify the individual for verification purposes;
  7. School authorities for the purpose of determining which children are from families who participate in SNAP. This information is used to determine eligibility for meals under the National School Lunch or Breakfast Program; and,
  8. Persons directly connected with the administration or enforcement of programs included in the Income and Eligibility Verification System (IEVS). Information obtained through the IEVS will be stored and processed so that no unauthorized personnel may acquire or retrieve the information for unauthorized purposes. All persons with access to information obtained pursuant to the IEVS requirements will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.
- C. SNAP is subject to the confidentiality requirements of section 26-1-114, C.R.S. to the extent the provisions of that section are not preempted by Federal law.

#### **4.150 RIGHT AND OPPORTUNITY TO REGISTER TO VOTE**

A client for SNAP benefits shall be provided the opportunity to register to vote. The local office shall provide to all clients the prescribed voter registration application.

The local office shall not:

- A. Seek to influence the applicant's political preference or party registration.
- B. Display any political preference or party allegiance.
- C. Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote.

- D. Make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

#### **4.150.1 Transmittal of Voter Registration Records**

A completed voter registration application shall be transmitted to the county clerk and recorder for the county in which the local office is located not later than ten (10) calendar days after the date of acceptance; except that, if a registration application is accepted within five (5) calendar days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk and recorder for the county not later than five (5) calendar days after the date of acceptance.

#### **4.150.2 Confidentiality of Voter Registration Records**

Records concerning voter registration and declination to register to vote shall be maintained for two years by the local office, and these records shall not be a part of the SNAP case record and are not subject to subpoena. The local office shall ensure the confidentiality of individuals registering or declining to register to vote. A voter registration application completed at the local office is not to be used for any purpose other than voter registration.

### **4.160 COMPLAINT REQUIREMENTS**

The local office shall be required to comply with complaint-reporting procedures set forth by the State Department. In addition, the local office shall advise any household wishing to file a complaint of the complaint procedure and assist in filing a complaint, as appropriate.

The State Department shall ensure that information concerning the complaint system, including the procedure for filing a complaint at the state or county level, is made available to client and any other interested parties. Such information shall be made available to clients and other interested parties through written materials and posters, including the relevant USDA "And Justice for All" poster. These materials shall be prominently displayed in all certification and issuance offices.

The local office shall make every effort to resolve all complaints, excluding complaints of discrimination, brought to their attention at the local level. All complainants shall be informed they have the right to contact the State Department if they are not satisfied with the action taken at the local level.

#### **4.160.1 State Department and Local Office Responsibility**

- A. The State Department shall maintain records of complaints received. These records shall be obtained via submission from local offices on a frequency set forth by the State Department. These records will be reviewed on an office-by-office basis at least annually. The local office shall analyze complaint records for any potential or actual patterns of deficiencies and shall include descriptions of those patterns with its submitted materials.

Complaints lodged directly with the State Department shall be triaged by the Department. Appropriate complaints shall be referred to the relevant local office for resolution.

- B. When requested by the State Department, the local office shall be responsible to respond to any complaint no later than the response date specified by the Department in the forwarded complaint. "Respond to" refers not only to acknowledgement of receipt, but also the successful completion of the resolution criteria outlined by the Department in the complaint.
- C. The State-level complaint system shall include notification to the complainant, either verbally or in writing, of the action taken in resolving the complaint. Notification to the complainant shall be accomplished within the following time frames:

1. Complaints involving expedited services shall be investigated and a response provided to the complainant no later than three (3) business days following the date the complaint was received by the State Department.
  2. All other complaints shall be investigated, and a response provided to the complainant no later than thirty (30) calendar days following the date the complaint was received by the State Department.
- D. If a complaint can be resolved through the fair hearing process, the State Department shall advise the complainant of the process for requesting a fair hearing and offer the complainant assistance to request a fair hearing. The State Department may require the local office to provide the same offer of assistance to the complainant.

#### **4.160.2 Non-Discrimination Complaint Requirements**

State and local offices shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of benefits, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity funded by the USDA. Discrimination in any aspect of program administration is prohibited. Local offices shall ensure that the nondiscrimination poster provided by FNS is prominently displayed. Posters may be obtained through the State Department.

The local office shall explain complaint procedures to each person expressing an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint under this procedure. Such information shall be made available within ten (10) calendar days from the date of request.

##### **4.160.21 Discrimination Complaint Procedure**

- A. Individuals who believe they have been subject to discrimination may file a written complaint with the USDA, FNS national office, the local office, and/or the State Department. All complaints of alleged discrimination shall be made in writing and shall be submitted to the FNS national office.

If allegations of discrimination are made verbally, and if the complainant is unable or unwilling to put the allegations in writing, the State or county employee to whom the allegation is made shall document the complaint in writing. The person accepting the complaint shall make every effort to secure the information specified in Subsection C, below.

- B. The complainant shall be advised that a complaint may be submitted to the State Department, FNS or both, and that a complaint shall not be investigated unless information specified in items C, 2, through C, 4, below, is provided. In addition, the complainant shall be advised that a complaint must be filed no later than one hundred eighty (180) calendar days from the date of the alleged discrimination. The local office shall date stamp or otherwise note the date the complaint is received by the office.
1. Complaints directed to the FNS national office shall be addressed to: U.S. Department of Agriculture, Director, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410; Fax: (202) 690-7442; Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).
  2. Complaints directed to the State Department shall be addressed to: Colorado Department of Human Services, SNAP, 1575 Sherman St., Denver, CO 80203.

- C. The complaint shall include the following information to facilitate investigations to be considered complete:
1. The name, address, and telephone number or other means of contacting the person alleging discrimination;
  2. The location and name of the office which is accused of discriminatory practices;
  3. The nature of the incident or action, or the aspect of Program administration that led the person to allege discrimination;
  4. The reason for the alleged discrimination;
  5. The name(s) and title(s), if appropriate, of person(s) who may have knowledge of the alleged discriminatory act; and
  6. The date(s) on which the alleged discriminatory action(s) occurred.

#### **4.160.22 Disposition of Discrimination Complaints**

When the local office receives a complaint of alleged discrimination and obtains a complete discrimination complaint, it shall transmit a copy of the complaint to the FNS national office and/or the State Department within five (5) working days. The State Department shall file the complaint with the FNS national office on behalf of the complainant if the local office does not file the complaint with the FNS national office.

### **4.200 APPLICATIONS AND RECERTIFICATIONS**

This section specifically discusses processing of initial applications and applications for recertification.

#### **4.201 APPLICATION PROCESSING**

- A. Local offices shall not apply additional conditions or processing requirements that are beyond those prescribed by State SNAP rules. The application process includes the filing and completion of an application form, being interviewed, and verifying certain information. Signs shall be posted in certification offices that explain the application processing standards and the right to file an application on the day of initial contact. Similar information about same-day filing shall be included in outreach materials and on the application form.
- B. The local office shall act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined to be eligible.
- C. Applications will be screened as they are filed, or as individuals come in to apply, to determine eligibility for expedited service or for normal processing. Applicants entitled to expedited service shall be informed immediately and given a same-day interview, whenever possible. Those eligible for expedited processing shall be served in accordance with Sections 4.205.1 and 4.205.11 while those eligible for normal processing shall be served in accordance with Section 4.205.2. Local offices shall not conduct any pre-eligibility screening process prior to securing the date of application.

- D. The household may voluntarily withdraw its application at any time prior to a determination of eligibility. Once a determination of eligibility is made, the household may voluntarily terminate its participation. Any reason given by the household for withdrawal or termination shall be documented in the case file. A Notice of Action form, indicating voluntary withdrawal of application or voluntary termination of participation, shall be sent to the household within ten (10) calendar days of the decision, to confirm the action taken. The household shall be advised of its right to reapply at any time after withdrawal.
- E. No household shall have its SNAP benefits denied solely based on its application to participate in another program being denied or its benefits under another program being terminated, without a separate determination by the local office that a household failed to satisfy a SNAP eligibility requirement.
- F. Households denied SNAP that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients. Residents of public institutions who apply jointly for SSI and SNAP benefits prior to their release from the institution shall not be eligible for SNAP until the individual has been released from the public institution.
- G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that SNAP benefits are distributed without regard to race, color, or national origin. Households that do not declare race and/or ethnicity information shall not be subject to additional observation or questioning to obtain such information. Under no circumstance should an eligibility technician challenge or change a self-declaration made by a household member.

#### **4.202 FILING AN APPLICATION**

- A. Regardless of what type of application system is used, the local office must provide a means for applicants to immediately begin the application process. The household shall be advised it may file an incomplete application form if the form contains a name, address, and is signed by a responsible household member or the household's authorized representative. Signatures include handwritten signatures, electronic signature techniques, recorded telephonic signatures, or documented gestured signatures. A valid handwritten signature includes a designation of an X. Local offices shall accept applications for SNAP during normal business hours and shall not be restricted to a certain day or time of day. The household shall be advised that it need not be interviewed before filing an application. The local office shall inform applicants that receiving SNAP will have no bearing on any other program's time limits that may apply to the household.
- B. Persons who request information for SNAP must be advised of expedited service provisions and encouraged to apply so that eligibility processing can begin. County local offices shall encourage the filing of an application form on the same day the household or its representative contacts the local office in person or by telephone and expresses interest in obtaining SNAP, or indicates the household is without food or the means to obtain food.
- C. Local offices shall make application forms readily accessible to applicant households, as well as to groups and organizations, and shall also provide an application form to anyone who requests the form. If a household contacting the local office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the local office shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for SNAP is received.

Application forms shall be made available in Spanish, or other appropriate languages for use in those counties where it has been determined in conjunction with the State local office that there are a significant number of households without an adult member fluent in English.

- D. The state or local office shall annotate the application form by recording the date the form was received. All valid applications which are paper, transmitted by fax or other electronic transmissions, are acceptable. When an application is submitted through such means outside of business hours, the application filing date shall be recorded as the next business day.
- E. Households must file applications by submitting the forms in person, through an authorized representative, by fax or other electronic transmission, by mail, or by completing an online electronic application. The local office must inform the applicant that they can obtain a copy of their application and provide the household with a copy of their completed application upon the request of the client. A copy of a completed application can be a copy of the information provided by the client that was used or will be used to determine a household's eligibility and benefit allotment. At the option of the household, this may be provided in an electronic format.
- F. Applications are valid for a period of sixty (60) calendar days or until eligibility has been determined, whichever is sooner. Once eligibility has been determined, households must submit a new application if the household:
  - 1. Failed to attend an interview in the first thirty (30) days of the application, or
  - 2. Was determined ineligible due to household circumstances.
- G. Local offices shall record in the automated system racial and ethnic data provided by an applicant household. The purpose of obtaining this information is not to affect the eligibility or the level of benefits, but rather to ensure that SNAP benefits are distributed without regard to race, color, or national origin. In those instances when the information is not provided voluntarily by the household on the application form, the local office shall use alternative means of collecting the ethnic and racial data on households, such as by observation during the interview. Under no circumstance should an eligibility technician challenge or change a self-declaration made by a household member.

#### **4.202.1 Public Assistance (PA) Applications and Processing**

- A. Households applying for PA shall be notified of their right to apply for SNAP at the same time and shall be allowed to apply for SNAP at the same time they apply for PA benefits.
- B. The local office shall provide benefits using the original application and any other pertinent information occurring after that application for any household filing a joint application for SNAP and PA benefits. The original application and relevant subsequent information shall also be used for households that are categorically eligible when they are determined eligible to receive PA after being denied for SNAP. The local office shall not re-interview the household but shall use mail or telephone contact to obtain information about any changes.
- C. Households whose PA applications are denied shall not be required to file a new SNAP application. The household shall have its SNAP eligibility determined or continued based on the applications filed jointly for PA and SNAP purposes and any other documented information obtained after the application that may have been used in the PA determination.

#### **4.202.2 Application Filing by Ineligible Individuals**

The ineligibility of certain individuals for SNAP benefits will not prohibit the remaining household members from applying for and receiving SNAP. Ineligible individuals living in an applicant household shall not be considered eligible household members for SNAP purposes; however, the ineligible individual's income and resources are considered in the household's eligibility determination and benefit allotment.

When the eligible members of a household are all unemancipated minors and the only adult is an ineligible individual, the ineligible individual may apply on behalf of the eligible minors without being considered as having applied for themselves. However, if there is any other eligible adult in the household, even though they would not normally be considered the head of household, that eligible person should file an application as the head of household.

**4.202.3 SSI Households Submitting SNAP Applications to the Social Security Administration (SSA)**

- A. Whenever a member of a household consisting only of SSI clients transacts business at an SSA office, the member has a right to apply for SNAP at the SSA office or the local office. The SSA office is not required to accept applications for SSI clients who are not members in a household consisting entirely of SSI clients unless a county has out stationed an eligibility technician at the SSA office. The SSA office will refer non-SSI households to the correct local office. An SSI client shall be informed at the SSA office of the availability of SNAP benefits and the availability of the SNAP application at the SSA office. The SSA office shall also complete joint SSI and SNAP applications for residents of public institutions who apply for SSI prior to their release from the institutions. The clients shall be permitted to apply for SNAP while they apply for SSI.
- B. The SSA office will accept and complete SNAP applications from SSI households and forward them, within one working day after receipt of a signed application, to the appropriate local office. The SSA will use the SNAP application. The application will be transmitted to the local office with documentation of verification obtained. When an SSA office sends a SNAP application and supporting documentation to an incorrect local office, the application and documentation shall be sent to the correct office within one working day.
- C. The SSA office is required to prescreen all SNAP applications for entitlement to expedited service and shall mark "expedited processing" on the first page of all applications of households that appear to be entitled to such processing. The SSA will inform households which appear to meet the criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the local office. The household may take the application from the SSA office to a local office for screening, interviewing, and processing of the application. Each local office shall furnish the SSA office(s) serving its geographical area with a street map and/or map defining its boundaries together with the addresses of the local offices in the project area.
- D. The local office shall prescreen all applications received from the SSA office for entitlement to expedited service on the day the application is received at the correct local office. All households entitled to expedited service shall be certified in accordance with Sections 4.205.1 and 4.205.11, except that the expedited processing time standard shall begin on the date the application is received at a local office in the correct county. To prevent duplication, the local office shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA office are currently participating in SNAP.

**4.202.31 SSI Telephone Applications and Recertifications Completed by the SSA**

- A. If an SSA office takes an SSI application or recertification on the telephone from a household consisting only of SSI clients, a SNAP application shall also be completed during the telephone interview and shall be mailed by the SSA office to the client for signature for return to the SSA office or to the local office. The SSA office shall then forward any SNAP applications it receives to the local office. The local office shall not require the household to be interviewed again. The local office may contact the household further to obtain additional information for the eligibility determination.
- B. The SSA office shall mail information of the client's right to file a SNAP application at the SSA office if all members or their household are SSI clients, or at their local office, and their right to an interview to be performed by the local office.

- C. For households consisting entirely of SSI clients who apply for SNAP certification at an SSA office, the application shall be considered filed for normal processing purposes when the application is received by the SSA.

#### **4.202.32 SSI and SNAP Joint Processing**

- A. In those instances where an application has been completed at the SSA office, the local office shall ensure that information required by Section 4.502 is verified prior to certification for households initially applying, and households entitled to expedited certification services shall be processed in accordance with Sections 4.205.1 and 4.205.11. In those cases where the SSI household submits its SNAP application to the local office rather than through the SSA office, all verification, including that pertaining to SSA program benefits, shall be provided by the household, by State Data Exchange (SDX) or Beneficiary Data Exchange (BENDEX), or obtained by the local office rather than being provided by the SSA.

For those cases in which SSI and SNAP are being processed simultaneously, the local office shall question the household and/or use SDX listings to obtain information on SSI determinations. If the information cannot be obtained through SDX listings and/or questioning the households, a written inquiry may be made to the SSA office to obtain information of the status of SSI determinations. Within ten (10) calendar days of learning of the determination of the SSI application, the local office shall act in accordance with Section 4.604.

- B. The expedited processing time standard for clients who filed prior to the release from a public institution will begin on the date that the individual is released from the public institution. The SSA shall notify the local office of the date of release of the client from the institution. Benefits shall be restored back to the date of a client's release from a public institution if, while in the institution, the client jointly applied for SSI and SNAP, but the local office was not notified on a timely basis of the client's release.

#### **4.202.33 Out Stationing Eligibility Technicians in SSA Offices**

If the local office, with the approval of the State Department, chooses to outstation eligibility technicians at SSA offices, with SSA's concurrence, the following actions shall be completed:

- A. SSA will provide adequate space for SNAP eligibility technician in SSA offices;
- B. The local office shall have at least one out stationed technician on duty at all time periods during which households will be referred for SNAP application processing. In most cases, this would require the availability of an out stationed technician throughout normal SSA business hours;
- C. The following households shall be entitled to file SNAP applications with, and be interviewed by, an out stationed eligibility technician:
  - 1. Households containing an SSI client.
  - 2. Households which do not have an SSI client but which contain an applicant for or recipient of benefits under Title II of the Social Security Act, if the county and the SSA have an agreement to allow the processing of such households at SSA offices.
- D. Households shall be interviewed for SNAP on the day of application unless there is insufficient time to conduct an interview. The county shall arrange for the out stationed technician to interview clients as soon as possible;



- E. The out stationed eligibility technician(s) shall not refuse to provide service to a client because they do not reside in the county or project area in which the SSA office is located, if they reside within the jurisdiction served by the SSA office and the State. The county is not required to process the applications of persons who are not residing within the SSA office's jurisdiction but who do reside within the county's jurisdiction, other than to forward the forms to the correct local offices;
- F. The county may permit the eligibility technician out stationed at the SSA office to determine the eligibility of households, or may require that completed applications be forwarded elsewhere for the eligibility determination;
- G. Applications from households entitled to joint processing through an out stationed eligibility technician shall be considered filed on the date they are submitted to that technician. Both the normal and expedited service time standards shall begin on that date; and,
- H. Households not entitled to joint processing shall be entitled to obtain and submit applications at the SSA office. The out stationed eligibility technician need not process these applications except to forward them to correct local office where they shall be considered filed upon receipt. Both the normal and expedited service time standards shall begin on that date.

#### **4.203 HEAD OF HOUSEHOLD AND AUTHORIZED REPRESENTATIVES**

Application for participation shall be made in the name of the household, by the head of the household, the spouse, another household member, or an authorized representative.

##### **4.203.1 Designating a Head of Household**

- A. The local office shall allow a household to select an adult parent of children (of any age) living in the household, or an adult who has parental control over children (under 18 years of age) living in the household, as the head of household provided that all adult members agree to the selection. The household may make this designation each time the household is certified for participation but may not change the designation during a certification period unless there is a change in the composition of the household.
- B. The local office shall not use the head of household designation to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the local office to apply for benefits. If the household is not able to select its head of household, or an eligible household does not choose to select its head of household, the local office may make a reasonable determination of the head of household with an understanding that the head of household is usually the household member who has the most knowledge of the household's financial circumstances. If the only adult living in the home is not eligible for SNAP nor required to be included in the household, they can be designated as the head of household and apply on behalf of the unemancipated minors in the home.

##### **4.203.2 Designating Authorized Representatives**

- A. The head of the household, spouse, or any other responsible household member may designate in writing someone to act on behalf of the household to apply, obtain an EBT card, and/or use the EBT card to purchase food for the household. In instances where a household needs an authorized representative but is unable to obtain one, the local office will assist such a household in finding one. The local office will assure that authorized representatives are properly designated; that is, the name of the authorized representative and the justification for appointing a person outside the household shall be maintained as part of the household's permanent case record.

1. Submitting an Application

The authorized representative must be a person who is sufficiently aware of relevant household circumstances. Whenever possible, the head of the household or spouse should prepare or review the application even though another household member or an authorized representative is the person interviewed.

The local office shall inform the household that the household will be held liable for any over-issuance which results from erroneous information given by the authorized representative.

2. Obtaining an EBT Card

An authorized representative may be designated to obtain an EBT card for the household at the time the household applies for participation. The authorized representative responsible for obtaining an EBT card may be the same individual designated to apply for the household or may be another individual. Even if a household member can apply and obtain an EBT card, the household should be encouraged to name an authorized representative responsible for obtaining an EBT card in case of illness or other circumstances which might result in an inability to obtain SNAP benefits.

3. Using an EBT Card

The authorized representative may use the household's EBT card to purchase food for the household's consumption provided the authorized representative is acting with the full knowledge and consent of the household.

4. Restrictions

An authorized representative may act on behalf of more than one household and limits shall not be placed on the number of households an authorized representative may represent, but such an arrangement should be approved only if there is a bona fide need. In determining such need, consideration shall be given to the proximity of the households to one another, the distance to the certification or issuance office, the availability of transportation, and the health of the household members involved. In the event employers, such as those that employ migrants, are designated as authorized representatives or that a single authorized representative has access to multiple EBT cards, the certification office should make certain that:

- a. The household has freely requested the assistance of the authorized representative;
- b. The household's circumstances are correctly stated and the household is receiving the correct amount of benefits; and,
- c. The authorized representative is properly using the EBT card.

- B. In the event the only adult living with a household is classified as a non-household member, that individual may be the authorized representative for the minor household members.

**4.203.21 Individuals Who Cannot Be an Authorized Representative**

The following individuals cannot be an authorized representative unless otherwise stated:

- A. Local office employees who are involved in Program eligibility determination and/or issuance processes, or the supervisors of such workers, unless the local office determines that no other representative is available.
- B. Employees of FNS-authorized retailers and meal services that are authorized to accept SNAP benefits, unless the local office determines that no other representative is available.
- C. An individual disqualified for IPV/fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the office is unable to arrange for another authorized representative. Local offices shall determine whether these disqualified individuals are needed to apply on behalf of the household, to obtain SNAP benefits for the household, and to use the household's SNAP benefits to purchase food.
- D. In no event may an authorized meal provider for persons experiencing homeless act as an authorized representative.

#### **4.203.22 Disqualification of an Authorized Representative**

An authorized or emergency authorized representative (section 4.203.3, below) may be disqualified from representing a household in SNAP for up to one (1) year if the local office has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household or has made improper use of SNAP benefits. The local office shall send written notification to the affected household(s) and to the representative thirty (30) calendar days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information.

This provision is not applicable in the case of drug and alcohol treatment centers or to the heads of group living arrangements that act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and that intentionally misrepresent households' circumstances, may be prosecuted under applicable state fraud statutes for their acts.

#### **4.203.3 Emergency Authorized Representatives**

The household may designate an emergency authorized representative during the certification period should the need arise. Such a person obtains the EBT Card for the household when neither a household member nor the previously designated authorized representative is able to obtain the EBT Card because of unforeseen circumstances. An emergency authorized representative must be designated in writing by the head of the household, spouse, or other responsible household member.

Local offices shall develop a system by which a household may designate an emergency authorized representative to obtain the household's benefits for a particular month. Households shall not be required to travel to a local office to designate an emergency authorized representative.

#### **4.204 Interviews**

- A. Interview Requirements

All applicant households shall undergo a phone or face-to-face interview with a qualified eligibility technician prior to initial certification and at least once every twelve (12) months. The State Department recommends phone interviews as the default option with face-to-face interviews only scheduled upon client request. If an individual does not list a working phone number on the application, then the local office must provide a number for the client to call the local office.

A household certified for twenty-four (24) months is not required to complete an interview at the 12-month Periodic Report Form (PRF) or at twenty-four (24) month recertification, unless the household either requests an interview, is potentially going to be denied for SNAP (24-month households only) or has any outstanding issues or questions about the recertification process.

The applicant may include any person(s) they choose for the interview. The individual interviewed may be the head of the household, spouse, or any other responsible member of the household, or an authorized representative.

A face-to-face interview may be conducted at the local office or a mutually acceptable location, including the household's residence upon household request. If the interview is to be conducted at the residence, it must be scheduled in advance. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

The eligibility technician shall not simply review the information entered on the application but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the household's responsibility to report changes. The interviewer must advise households that are applying for other PA programs that any time limits and other requirements for the receipt of other PA do not apply to the receipt of SNAP. Households may still qualify for SNAP if they have reached a time limit, begun working, or lost benefits from another PA program for another reason.

Upon determination that a person should be referred to an Employment First Unit, the local office shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failure to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to the work registration and at recertification.

**B. Scheduling Interviews**

The local office must schedule an interview for all applicant households who are not interviewed on the same day they apply to the local office. Interviews shall be scheduled for a specific date and time and an appointment letter must be provided to the client at the address on file. All interviews, including the date and time of the interview, shall be documented in the case record.

When scheduling interviews, the interview shall be scheduled as promptly as possible to ensure that eligible applicant households receive an opportunity to participate within SNAP's processing guidelines, as outlined in Section 4.205. When the interview is scheduled, the client shall be notified that if it a responsible member of the household or its authorized representative fails to attend the interview, the household will be responsible for rescheduling and attending an interview within thirty (30) days from the date of application and that failure to do so shall result in the denial of the application.

If the local office schedules an interview with the household before the thirtieth (30th) day from the application date and no later than the sixtieth (60th) day, the original application can be used, and benefits are issued from the original date of application.

If the household requests an interview date after the thirtieth (30th) day, the local office will deny the application on the thirtieth (30th) day and the household must file a new application.

**C. Missed Interviews**

If the household fails to attend its scheduled interview, the local office shall mail the household a notice of missed interview, informing the household that it missed the scheduled interview and that the household is responsible for rescheduling the interview. If the household does not schedule a subsequent interview for a date within thirty (30) calendar days after the application is filed, the application shall be denied by the local office on the thirtieth (30th) day following the date of application. The application shall not be denied before the thirtieth (30th) day.

If a household misses its first interview, the household forfeits its right to expedited service, unless the second interview is rescheduled for a date within seven (7) days following the date of application.

**D. Interviews for PA Households**

If a household is applying for both PA and SNAP, the local office shall conduct a single interview at initial application for both PA and SNAP purposes. The applicant household shall complete the combined application for PA and SNAP. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for SNAP and PA. A household's eligibility for an out-of-office interview for SNAP purposes does not relieve the household of any responsibility for a face-to-face interview for PA purposes. Except for households which may be eligible under basic categorical eligibility, the household's SNAP eligibility and benefit level shall be based solely on SNAP eligibility criteria, and all households shall be certified in accordance with the noticing, procedural, and timeliness requirements of the SNAP regulations. The PA applicant household shall indicate on the single purpose application if it does not wish to apply for SNAP.

**E. Interviews for SSI Households**

Households in which all members are SSI clients and are applying and being interviewed for SNAP by SSA, will not be required to see a SNAP eligibility technician or otherwise be subjected to an additional certification interview. The local office shall accept SSA documentation and shall not contact the household to obtain additional information for the eligibility determination unless the application is improperly completed, mandatory verification required by Section 4.502 is missing, or the local office determines that certain information on the application is questionable. In no event shall the client be required to appear at the local office to finalize the eligibility determination. Further contact made in accordance with this paragraph shall not constitute a second SNAP interview.

**4.205 Application Processing Standards**

All newly certified households, except those that are given expedited service, shall be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. Households entitled to expedited service shall have benefits available no later than the seventh calendar day following the date of application. For application processing purposes, day "one" (1) is the first calendar day after the application is received by a local office in the correct county.

If the local office does not determine a household's eligibility and provide an opportunity to participate within thirty (30) calendar days following the date the application was filed, the office shall determine whether the delay was caused by failure to act on the part of the household or on the part of the local office as outlined in Sections 4.205.3 through 4.205.4.

**4.205.1 Processing Standards for Expedited Service**

**A. The following households are entitled to expedited service:**

1. Migrant or seasonal farm worker households whose liquid resources do not exceed one hundred dollars (\$100) and who are destitute of income as defined in Section 4.406.
  2. Households whose liquid resources do not exceed one hundred dollars (\$100) and who reasonably expect to have less than one hundred fifty dollars (\$150) of gross monthly income in the calendar month of application.
  3. Eligible households whose combined monthly gross income and liquid resources are less than the household's anticipated monthly rent/mortgage and utilities. The appropriate utility standard, as defined in Section 4.407.31, shall be utilized when determining a household's utility costs.
- B. Households eligible for expedited service shall be able to access EBT benefits no later than the seventh (7<sup>th</sup>) calendar day following the date of application.
1. If a household is entitled to expedited service the local office shall conduct the interview, unless the household cannot be reached, and complete the application process within seven (7) calendar days.
  2. Households entitled to expedited service shall complete an interview prior to any determination of eligibility. If a household fails to complete the required interview within seven (7) calendar days following the date the application for assistance was filed, the household is no longer entitled to expedited benefits by the seventh (7<sup>th</sup>) day following the date of application.
- C. Households that apply for initial benefits after the fifteenth (15<sup>th</sup>) of the month under the expedited service procedures, which have completed the application and provided all verification within the expedited timeframe and have been determined eligible to receive benefits for the initial month and the subsequent month, shall receive the application month's prorated allotment and the next full month's allotment at the same time.
- Households applying for initial benefits after the fifteenth (15<sup>th</sup>) of the month for which verification has been postponed shall have the second month's benefits and the prorated allotment available on the seventh (7<sup>th</sup>) calendar day. The household must provide all postponed verification before the third month's benefits can be issued.
- D. Households not initially screened as requiring expedited service, but subsequently determined to be entitled to such service, shall be entitled to the expedited processing timeframes from the date such a determination was made.
- E. If Program benefits are reduced, suspended, or cancelled in accordance with Section 4.904.4, households eligible for expedited service shall receive expedited service in accordance with the following procedures:
1. Those households that receive expedited service in the month(s) in which reductions are in effect and are determined to be eligible shall be issued allotments that are reduced in accordance with the reduction in effect. These reduced allotments shall be made available to the households within the timeframes specified in this section.
  2. Those households that receive expedited service in month(s) in which suspensions are in effect and are determined to be eligible shall have benefits issued to them within the timeframes specified in this section. However, if the suspension is still in effect at the time issuance is to be made, the issuance shall be postponed until the suspension is ended.

3. Households eligible to receive expedited processing and who apply for Program benefits during months in which cancellations are in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be five (5) calendar days or the end of the month of application, whichever date is later. All other rules pertaining to expedited service contained in this section shall be applicable to these cases.

#### **4.205.11 Special Provisions for Expedite Service**

- A. Households requesting, but not entitled to, expedited service shall have their applications processed according to normal processing standards.
- B. The local office shall use the following procedures for expediting service:
  1. Prior to certification, the identity of the applicant shall be verified.
  2. Prior to certification of expedited benefits, all reasonable efforts shall be made to verify residency, income, or lack thereof, and other factors of eligibility. However, verification shall be postponed if it cannot be obtained in sufficient time to meet the expedited processing standards. If verification is postponed, the household shall be certified for expedited benefits, if determined eligible, for the month of application or, for those households applying after the fifteenth (15<sup>th</sup>) of the month, the month of application and the subsequent month.
    - a. Except for migrant households applying after the fifteenth (15<sup>th</sup>) of a month, when a household is certified for expedited benefits for an initial month of application and the subsequent month and verification is postponed, a request for verification form shall be annotated to indicate what verification is required in order for further benefits to be issued.
    - b. When households that apply for benefits on or before the fifteenth (15<sup>th</sup>) of the month provide the required postponed verification, the local office shall issue the second month's benefits within five working days from receipt of the verification or the first of the second month, whichever is later.

Households that apply after the fifteenth (15<sup>th</sup>) of the month and provide the postponed verification shall be issued the third month's benefits within five working days from receipt of verification, or the first of the third month, whichever is later.

Except for migrant households needing out-of-state verification, when the postponed verification is not completed within thirty (30) calendar days from the date of application, the local office shall terminate the household's participation on the thirtieth (30<sup>th</sup>) calendar day without providing a notice of adverse action.

- c. Migrants shall be entitled to a postponement of out-of-state verification only once each season. If a migrant household requesting expedited service has already received this exception during the current season, the local office shall grant a postponement of out-of-state verification only for the initial month's issuance and not for the second (2<sup>nd</sup>) month's issuance. Migrant households eligible for expedited service and applying after the fifteenth (15<sup>th</sup>) of a month which are assigned certification periods of longer than one month shall be issued a request for verification notifying them that they shall provide postponed verification from sources within the state before a second month's benefits are issued and shall provide all verification from out-of-state sources before being issued benefits for the third month. The notice shall also advise the household that if verification results in changes in the household's eligibility or level of benefits, such changes shall be acted on without providing an advance notice of adverse action.
- C. There is no limit to the number of times a household can be certified under expedited procedures, as long as prior to each expedited certification, the household either completes the verification requirements that were postponed at the last expedited certification or the household was certified under normal processing standards since the last expedited certification.

#### **4.205.2 Normal Processing Standards**

- A. The local office shall process applications as expeditiously as possible and provide eligible households a written notification of their eligibility. The applicant household must receive a Notice of Action form, which will indicate the household's period of eligibility and SNAP allotment. Eligible households shall be provided an opportunity to obtain benefits as soon as possible, but no later than thirty (30) calendar days following the date the application was filed. An application shall be considered filed the day a local office in the correct county receives a valid application containing the applicant's name, address, and signature.
- B. In cases where verification is incomplete, the local office shall provide the household with a statement of required verification on the state-prescribed notice form and offer to assist the household in obtaining the required verification. The office shall allow the household ten (10) calendar days to provide the missing verifications unless the household missed the first appointment. If the household misses the first appointment and the interview cannot otherwise be rescheduled until after the twentieth (20<sup>th</sup>) day but before the thirtieth (30<sup>th</sup>) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30<sup>th</sup>) day. A household can be found ineligible or eligible for the month of application and for the following month based on one (1) application if sufficient information for such determination is available. The state-prescribed Notice of Action form shall reflect specific months of eligibility and ineligibility.

#### **4.205.3 Delays in Processing Beyond Thirty (30) Days**

If the local office does not determine a household's eligibility and provide an opportunity to participate within thirty (30) calendar days following the date the application was filed, the office shall determine whether the delay was caused by failure to act on the part of the household or on the part of the local office. The following shall be used to determine causes of delay beyond thirty (30) calendar days in the application process:

- A. If a household has failed to complete a SNAP application form even though the local office offered to assist the client in its completion, the household shall be at fault. If the local office failed to assist the household, the local office is at fault. If the local office offered the household assistance in completing the application but the household failed to cooperate or failed to complete the application process, the local office shall document in the case record its attempt to assist the household.



- B. If a nonexempt household member failed to register for work even though the local office informed the household of the work requirements, the household shall be at fault unless paragraph D of this section applies. If the local office did not give the client at least ten (10) calendar days to supply information, the local office is at fault.
- C. If requested verification is missing even though the local office offered assistance and a written notice of needed verification was provided and the household was allowed ten (10) calendar days to supply necessary verification, the household shall be considered at fault unless paragraph D of this section applies. If the local office did not request necessary verification through a written notice, or assist the client as required by these regulations, or give the client time to provide information, then the local office is at fault.
- D. If the household failed to appear for the first (1st) interview, failed to schedule a second (2nd) interview and/or requested to postpone the interview until after the thirtieth (30th) day following the date of application, the delay shall be the household's fault.
- E. If the household missed both scheduled interviews and requests another interview, the delay shall be the fault of the household.
- F. If the local office failed to notify the household to schedule a second interview or failed to schedule a second interview within the thirty (30) calendar days following the date the application was filed or failed to request verification or other necessary action at the interview, the local office is at fault.

#### **4.205.31 Delays Caused by the Household**

Any time the household requests a postponement which delays the thirty (30) calendar day processing, it shall be the household's fault.

If the household provides requested verification after the thirtieth (30<sup>th</sup>) day and on or before the sixtieth (60<sup>th</sup>) day from the date of application, the local office shall reopen the case without requiring a new application and benefits will be prorated from the date the requested verification is provided. Any changes in the household situation must be considered for determining eligibility.

#### **4.205.32 Delays Caused by the Local Office**

Delays that are the fault of the local office include, but are not limited to, those cases in which the office has failed to take any of the actions listed in Section 4.205.3. Whenever a delay in the initial thirty (30) day period is the fault of the local office, the local office shall take immediate corrective action to complete the application process. The local office shall not deny the application if the local office caused the delay, but shall instead notify the household if there is any action the household must take to complete the application process.

Benefits retroactive to the month of application and prorated for an initial month of application in accordance with Section 4.207.2 shall be provided to the household if it is found to be eligible during the second thirty (30) day period. If the household is found to be ineligible, the application shall be denied and the household shall be sent a notice of action form when the eligibility determination is made.

#### **4.205.4 Delays in Processing Beyond Sixty (60) Days**

- A. If the local office is at fault for not completing the application process by the end of the second thirty (30) day period, and the case record is otherwise complete, the office shall continue to process the original application until an eligibility determination is made. If the household is found to be eligible, and the local office was also at fault for the delay in the initial thirty (30) days, benefits retroactive to the month of application shall be provided to the household. However, if the delay during the initial thirty days was the household's fault, benefits shall only be provided back to the month following the month of application (see Section 4.207.2).
- B. If the local office is at fault for not completing the application by the end of the second thirty (30) day period, but the case record is insufficiently complete to make an eligibility determination, the office shall deny the case and request the household to file a new application, if desired.
- C. If the household is at fault for not completing the application process by the end of the second thirty (30) day period, the application shall be denied and a new application required if the household wishes to participate. The household shall not be entitled to any lost benefits even if the delay in the initial thirty day period was the fault of the local office.

#### **4.206 CATEGORIES OF ELIGIBILITY**

- A. Households applying for SNAP must be determined eligible using one of the following categories of eligibility: Basic Categorical Eligibility (BCE), Expanded Categorical Eligibility (ECE) or Standard Eligibility (SE).
- B. SNAP households that are applying for or receiving benefits from other PA programs in addition to SNAP are still required to meet the resource limits and follow the reporting and verification requirements of the other PA program(s). Requests for information and verification to determine eligibility for other PA programs shall not affect or delay the determination of SNAP eligibility.
- C. Eligibility
  - 1. Basic Categorical Eligibility (BCE)
    - a. BCE households are:
      - 1) Households in which all members receive, or are authorized to receive, SSI, Colorado Works (CW), Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB) or a combination of these benefits. The CW, SSI, OAP, and/or AB program(s) need only to authorize benefits for the household to be considered for BCE. Clients who are authorized to receive a benefit from one or more of these programs, but who are not paid such benefits because the grant is less than a minimum benefit or the benefits are suspended or are being recouped, are still considered eligible under BCE rules.

Households not receiving, or authorized to receive, TANF, Title IV-A or SSI benefits, who are entitled to Medicaid only, shall not be considered SSI or Title IV-A participants.
      - 2) A household in which at least one (1) member receives services from the Family Preservation Program. This determination must be documented in the case record.

- b. Households eligible under BCE have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the local office must collect and verify eligibility factors, if these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to SNAP. This includes:
    - 1) Net income;
    - 2) Gross income;
    - 3) Resources;
    - 4) Residency;
    - 5) Social Security Number; and
    - 6) Sponsored non-citizen information.
  - c. A household cannot be considered under BCE rules if, at the time of application:
    - 1) Any member is disqualified for a SNAP IPV.
    - 2) Any member has been convicted of a drug-related felony where SNAP benefits were used to purchase drugs. Drug-related felony means the same as in 7 C.F.R. 273.11(m), which is incorporated by reference in section 4.100, above.
  - d. Households that are ineligible for SNAP benefits under BCE rules shall have their eligibility determined under ECE or SE rules.
- 2. Expanded Categorical Eligibility (ECE)
  - a. ECE households are:
    - 1) Households with a combined gross income at or below two hundred (200%) of the federal poverty level as defined in section 4.401.1; and
    - 2) Households who have been authorized to receive non-cash Temporary Assistance to Needy Families/Maintenance of Effort (TANF/MOE) funded service designed to further TANF Purpose Four (4) by “encouraging the formation and maintenance of two-parent families.” Language regarding the non-cash TANF/MOE funded program shall be provided on the application, application for recertification, periodic report form, and/or the statement of facts.
  - b. Households eligible under ECE have been deemed to have met the income and resource requirements of the program that confers eligibility; therefore, no further verification is required beyond that gathered by the program that confers eligibility. However, the agency must collect and verify eligibility factors, if these factors are not already collected and verified by the other program, are considered questionable, or are unavailable to SNAP. This includes:
    - 1) Net income;

- 2) Gross income;
    - 3) Resources;
    - 4) Residency;
    - 5) Social Security Number; and
    - 6) Sponsored non-citizen information
  - c. A household's eligibility cannot be determined using ECE rules if, at the time of application:
    - 1) Any member is disqualified for a SNAP IPV.
    - 2) Any member has been convicted of a drug-related felony where SNAP benefits were used to purchase drugs. Drug-related felony means the same as in 7 C.F.R. 273.11(m), which is incorporated by reference in section 4.100, above.
  - d. Households that are ineligible for SNAP benefits under ECE rules shall have their eligibility determined under SE rules.
3. Standard Eligibility (SE)
- a. SE rules shall only be applied to the following households:
    - 1) Households that include a member who is serving a disqualification for an IPV or a fraud conviction;
    - 2) Households that include a member who has been convicted of a drug related felony where SNAP benefits were used to purchase drugs. Drug-related felony means the same as in 7 C.F.R. 273.11(m), which is incorporated by reference in section 4.100, above;
    - 3) Households that do not meet the criteria to be considered under BCE or ECE rules.
  - b. Households having their eligibility reviewed under SE rules must meet the following criteria:
    - 1) Households that include a member who is aged sixty (60) and older or a person with a disability must have a combined net income, after all applicable deductions, at or below one hundred percent (100%) of the federal poverty level. The household must have resources below the limit prescribed in Section 4.408; or
    - 2) Households that do not include a member who is aged sixty (60) and older or a person with a disability must have a combined gross income at or below one hundred thirty percent (130%) of the federal poverty level. After all applicable deductions, the household's net income must be at or below one hundred percent (100%) of the federal poverty level as defined in section 4.401.2. The household must have resources below the limit prescribed in Section 4.408; or

- 3) Households must also meet nonfinancial eligibility criteria set out in Section 4.300.
- c. Households, as defined in Section 4.304, that are found ineligible under SE rules shall be considered ineligible for participation in SNAP.
- D. If the circumstances which allowed the household to meet the criteria to be considered under BCE or ECE rules change during the certification period or at the time of recertification or periodic report, the household's eligibility must be re-evaluated according to the appropriate category. If there is insufficient documentation to make an eligibility determination based on the new category of eligibility, the agency shall send the household a request for verification in accordance with Sections 4.604, Action on Reported Changes, and 4.604.1, Verification of Reported Changes.
- E. Substantial lottery or gambling winnings from an individual will disqualify the entire SNAP household from eligibility in the month the winnings are received. The next time such a household reapplies and is certified for SNAP after losing eligibility, the household must be considered under Standard Eligibility (SE) guidelines. After receiving SNAP as a SE household, the SNAP household will be re-evaluated for categorical eligibility at the next eligible certification period.

#### **4.207 AUTHORIZING BENEFITS**

##### **4.207.1 Newly-Certified and Ongoing Households**

- A. All households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month. The date on which a household receives its initial allotment after certification need not be the date that the household must receive any subsequent allotments.
- B. All newly certified households shall be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. Households eligible for expedited service shall be given an opportunity to participate no later than seven (7) calendar days following the date the application was filed. Day one (1) is the first calendar day after the application is received by a local office in the correct county. An opportunity to participate consists of providing households with an active EBT card and PIN, posting benefits to the household's EBT account, and making benefits available for spending.

Local offices shall utilize a mailing system to mail EBT cards and PINs, if applicable, by the twenty-eighth (28<sup>th</sup>) day to ensure that the benefits can be spent by the thirty (30) day standard. Local offices shall, at a minimum, use first class mail to send EBT cards to households.

- C. Households that apply for initial month's benefits after the fifteenth (15<sup>th</sup>) day of the month, that fulfill eligibility requirements, and are determined eligible to receive benefits for the initial month of application and the next subsequent month, shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. Expedited households applying for initial benefits after the fifteenth (15<sup>th</sup>) of the month for which verification has been postponed shall be entitled to a combined first (1<sup>st</sup>) and second (2<sup>nd</sup>) months' benefits in the same timeframes as above. The postponed verification shall be provided prior to the third calendar month or the application shall be denied.
- D. An eligible household shall have an opportunity to receive its benefits prior to the end of the period of intended use. The period of intended use is defined as the month in which benefits are issued. For households certified after the twentieth (20<sup>th</sup>) of the month, the period of intended use is the balance of the month for which benefits are authorized through the last day of the following month.

#### **4.207.2 Initial Month Allotment Prorating**

- A. The household benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and SNAP prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.
- B. The only exception to the proration policy shall be migrant and seasonal farm worker households who are in the job stream and the break in participation does not exceed thirty (30) days. These households are entitled to a full month allotment.
- C. The state automated system will utilize the exact number of days in the calendar month to determine the proration of benefits. The following formula shall be used to determine the amount of prorated benefits:
  - 1. Number of days in month plus one;
  - 2. Subtract the date of application;
  - 3. Multiply by the full month's benefits the household is eligible to receive;
  - 4. Divide by the number of days in the application month.

#### **4.207.3 Benefit Allotment**

- A. After eligibility has been established, the monthly SNAP benefit allotment will be determined. The state automated system will compute the household's allotment. The following formula shall be used to determine a household's benefit allotment.
  - 1. Multiply the net monthly income by thirty percent (30%)
  - 2. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in D below.
  - 3. Round the result down to the nearest dollar.
- B. If the calculation of benefits for an initial month yields an allotment of less than the federal minimum allotment referenced in 4.207.3(D), no benefits shall be issued to the household for the initial month.

For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the local office shall certify the household for a certification period beginning with the month of application.

Except for households that are eligible under BCE or ECE, households with three or more members who are entitled to zero benefits shall have their SNAP application denied. This provision does not apply if zero benefits are due to the pro-ratio requirements or due to the initial month's allotment being less than the federal minimum allotment referenced in 4.207.3(D).

- C. Except for an initial month, if the allotment for a one- or two-person household is less than the federal minimum allotment referenced in 4.207.3 D, round the allotment up to the minimum benefit allowed for a one- or two-person household.
- D. The SNAP maximum and minimum monthly benefit allotment tables will be adjusted as announced by the USDA, FNS.

Household Size	Maximum Monthly Allotment Effective October 1, 2024
1	\$292
2	\$536
3	\$768
4	\$975
5	\$1,158
6	\$1,390
7	\$1,536
8	\$1,756
Each additional person	+\$220

Household Size	Minimum Monthly Allotment Effective October 1, 2024
1-2	\$23

#### **4.208 CERTIFICATION PERIODS**

- A. Certification periods shall conform to calendar months. Households shall be assigned the longest certification period possible based on the predictability of the household's anticipated income and other circumstances. At the expiration of each certification period, entitlement to SNAP benefits ends. Further eligibility shall only be established on a newly completed application for recertification. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. The State-prescribed Notice of Action form provided to the applicant household shall indicate the period of certification if the household is determined to be eligible for benefits.
- B. Upon approval at the time of recertification, a household need not be assigned the same certification period as formerly but should be assigned a period of time based on a new review of the household's circumstances.
- C. A delinquent PA recertification shall not delay the SNAP recertification beyond the date of the household's SNAP certification period ending date.

##### **4.208.1 Certification Period Guidelines [Rev. eff. 4/1/16]**

Households will be assigned a six (6) month, or twenty-four (24) month certification period as follows:

- A. Twenty-Four (24) Month Certification Period
1. A twenty-four month (24) certification period shall be assigned to households that contain only members who are aged 60 and older and/or have a disability and have no earned income, as defined in Section 4.403 at the time of certification.

2. Households that are assigned a twenty-four (24) month certification period must complete a periodic report form at the twelfth (12th) month interval to report any changes that have occurred or to report that no changes have occurred since the most recent certification. The form shall be returned, or the case will be closed following the notice of adverse action period. The notice will state the reason for ending the certification period and that the certification period will end following the adverse action period.

**B. Six (6) Month Certification Period**

1. A household not assigned a twenty-four month certification period as outlined in subsection A of this section shall be assigned a six month certification period.

**4.208.2 Classification of Households as PA or Non-PA**

**A. PA Households**

PA households are those SNAP households that contain only persons who receive the following:

1. CW Basic Cash Assistance grant or any type of TANF payment or services under the CW Program. The household will be considered a PA household if one (1) member received cash assistance or services, but the entire household benefits from the receipt of this cash or services, such as when one (1) individual in a household is authorized for family preservation; or,
2. A State Grant (OAP-A, OAP-B, AND/AB); or,
3. Colorado Supplement to the SSI Grant

**B. Non-PA Households**

All other households are classified as Non-PA households.

County General Assistance (GA), SSI with no Colorado Supplemental payment, and medical-only programs are not considered PA benefits.

**4.209 RECERTIFICATION PROCESS REQUIREMENTS**

- A.** In order to enable timely receipt of an application for recertification, the local office shall provide each household with a notice that its certification is about to expire. Benefits will not be continued beyond the end of the certification period unless the household is recertified.

A notice of expiration, as prescribed by the State Department, shall be used by offices to advise households that their certification period is ending and that a new application must be filed.

- B.** A household shall receive the notice of expiration not less than thirty (30) calendar days and not more than sixty (60) calendar days prior to expiration of its current certification period. If mailed, the notice shall be sent for the same timely receipt, allowing two (2) extra days for delivery delay.

All households that file on or before the fifteenth (15th) of the last month of their certification period will have timely reapplied. Notices which are mailed must specify a date that allows at least two (2) days mail time and still gives the household fifteen (15) calendar days to respond. Households that submit an application for recertification by the date specified on their notice of expiration shall be considered to have timely reapplied to prevent an interruption in SNAP benefits.



- C. The local office shall conduct an interview with an adult member of the household or its authorized representative a minimum of once every twelve (12) months for households certified for six (6) months or less. The local office may choose not to interview the household at each recertification provided the household has completed an interview within the previous twelve (12) months.

The local office shall schedule the interview so that the household has at least ten (10) calendar days to provide verification before the certification period ends. If an interview is required and the household fails to attend the scheduled interview, the local office must mail the household a notice of missed interview and a notice of denial at the same time.

The local office may schedule an interview prior to the last month of the certification period or prior to the date the application is timely filed, but the household cannot be denied for failing or refusing to appear for such an interview. Rather, the local office shall send notice to the household in order to reschedule an appointment for an interview on or after the date the application is timely filed.

- D. The recertification process must elicit from the household sufficient information that, when combined with information in the case record, will ensure an accurate determination of eligibility. The local office shall provide the household with a notice of required verification and the date by which the verification must be provided.

#### **4.209.1 Recertification Processing Standards and Timeframes**

A. Timely Applications for Recertification

1. Households that file an application for recertification on or before the fifteenth (15th) of the last month of their certification period will have reapplied timely. A timely application for recertification shall be approved or denied prior to the end of the household's current certification period and shall provide eligible households with an opportunity to obtain their benefits by their normal issuance day of the month following the expiration of their certification period.
2. Households which have reapplied timely, but because of local office error are not determined eligible in sufficient time to permit normal issuance to the household in the following month, shall receive an immediate opportunity to participate upon being determined eligible. Such households shall be entitled to participate and receive a full month's allotment for the month following the expiration of the certification period.

B. Untimely Applications for Recertification

1. Households which file an application for recertification anytime between the sixteenth (16th) and the last day of the last month of the certification period shall not be considered as having timely reapplied. For households that have not timely reapplied, but have been found eligible, benefits may be delayed past the household's normal issuance day. The household shall be notified of approval or denial on a notice of action form within thirty (30) calendar days of when the application for recertification was submitted to the local office.

**C. Late Applications for Recertification**

1. If a household files an application form within thirty (30) calendar days after the end of the certification period, the application shall be considered and processed as an application for recertification and shall have the allotment for the initial month of application prorated from the day of application to the end of the month, unless the local office was at fault for the delay. For applications received within thirty (30) calendar days after the expiration of the certification period, verification requirements shall remain consistent with the verification requirements for applications that were filed prior to the expiration of the certification period as outlined in Section 4.502, B.

**D. If an application for recertification is denied for a failure of the household to take a required action, the local office shall reopen the case if the required action is taken by the end of the certification period and provide benefits for the first month of the new certification period.**

If the household takes the required action after the end of the certification period, but within the next thirty (30) calendar days, the local office shall reopen the case and provide benefits retroactive to the date that the action was taken by the household.

**E. A household shall lose its right to uninterrupted benefits if one of the following occurs after the fifteenth (15th) day of the last month of the household's certification period:**

1. A household fails to timely apply for recertification in accordance with Section 4.209.1, A; or,
2. A household timely files an application for recertification but fails to appear for a scheduled interview; or,
3. A household fails to submit all necessary verification by the date specified on the request for such verification. The request for verification shall allow the household no less than ten (10) days to provide the verification to prevent an interruption in benefits.

If the household is eligible after providing such verification(s), the county/district shall provide benefits within thirty (30) calendar days after the application was filed. If the local office is unable to provide benefits within thirty (30) calendar days due to the time allowed for providing verification, the office shall provide benefits within five (5) calendar days after the household supplies the missing verification. Households that refuse to cooperate in providing required information or taking the required actions to determine eligibility shall be denied.

**4.210 PERIODIC REPORTING REQUIREMENTS**

- A. A household consisting solely of members who are persons with a disability and/or members who are aged sixty (60) years and older with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four (24) month certification period are required to report changes at the twelve (12) month interim reporting period.**

- B. A PRF shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the PRF is not submitted to the local office by the fifth (5th) day of the twelfth (12th) month of the certification period, a reminder notice shall be sent advising the household that it has ten (10) calendar days plus one (1) calendar day for mailing to return the completed report. Households participating in ACP shall be afforded five (5) days mailing time. If the household has not submitted the completed form by the extended due date on the reminder notice, the SNAP case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a PRF or reports changes for any other PA program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be issued without proration from the beginning of the thirteenth (13th) month.
- C. The local office must act on all changes reported by those households filing a PRF. If the household files a complete PRF that results in a reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two (2) business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction.
- D. The household shall report changes in circumstances to the following items on the periodic report:
1. A change of more than \$100 in the amount of unearned income.
  2. A change in the source of income, including starting a job.
  3. All changes in household composition, such as the addition or loss of a household member.
  4. Changes in home address and any resulting changes in shelter costs.
  5. Acquisition of a licensed vehicle that is not fully excludable.
  6. A change in liquid resources, such as cash, stocks, bonds, and bank accounts that reach or exceed the resource limits for elderly or disabled households and for all other households, unless these assets are excluded.
  7. Changes in the legal obligation to pay child support.
  8. Whenever a member of the household wins substantial lottery or gambling winnings.
- E. If allowable medical expenses are reported and verified, the change should be acted upon for the remainder of the certification period but only if the change results in an increase in benefits.

#### **4.300 NON-FINANCIAL ELIGIBILITY CRITERIA**

Non-financial criteria for eligibility shall apply to all households (including those receiving PA) and shall be considered prospectively for the issuance month based on the eligibility technician's anticipation of circumstances at the time of application and when changes are made known to the local office. Non-financial criteria shall consist of:

- A. Identity of applicant; and
- B. Residency; and

- C. Social Security Number; and
- D. Citizenship and non-citizenship status; and
- E. Household composition, including student and striker eligibility; and
- F. Work registration and employment requirements.

#### **4.301 IDENTITY OF APPLICANT**

The identity of the person submitting an application shall be verified either through interfaces, collateral contact, or client provided verification. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified.

#### **4.302 SOCIAL SECURITY NUMBER REQUIREMENT**

##### **A. General Requirements**

1. As a condition of SNAP eligibility, each member of a household participating in or applying for participation in SNAP shall provide a Social Security Number (SSN), or proof that an application for an SSN has been submitted to the SSA. The local office shall not require any household member to submit a Social Security card or other official documents as a means of verifying an SSN. Household members who provide an SSN shall not be denied benefits for failure or inability to present a Social Security card or other official documentation. If individuals have more than one SSN, all numbers shall be required.
2. The local office shall explain that a member is not required to provide an SSN, but the failure to provide one shall result in disqualification of the individual(s) for whom the number is not provided. The member who does not provide an SSN shall still be required to provide other eligibility information such as income and resources that will affect eligibility of other members. The local office shall advise individuals that any SSN that is provided voluntarily will be used in the same manner as SSNs of eligible household members. The SSNs will be matched against federal and state databases to verify information. SSNs will be used for the initial application matching for duplicate participation.
3. If the household member required to provide an SSN either refuses to supply their SSN at the time of application or fails to provide the local office with a form or letter as proof of application for a SSN without good cause, they shall be ineligible to participate in SNAP. The disqualification applies to the individual(s) who refused to cooperate with the application process to obtain the SSN and not the entire household. The household member(s) disqualified may become eligible by providing the local office with an SSN, or by providing verification that an application for an SSN has been submitted to the SSA.

**B. Individuals and Newborns Without an SSN**

1. Those household members who do not have the required SSN shall obtain proof of application for an SSN prior to being certified as a member of the household unless the member is a newborn child. The applicant/recipient shall be instructed to obtain from the SSA proof that they have completed an application for an SSN and that the SSA has received that application. A specifically addressed letter from the SSA verifying that application for an SSN has been made is also acceptable proof of application for an SSN. The applicant/recipient shall be instructed to return the completed form as soon as possible to the eligibility technician. A copy of the form shall be maintained in the case record.
  - a. If the household is unable to provide proof of application for an SSN for a newborn, the household shall provide the SSN or proof of application at its next recertification within six (6) months following the baby's birth. The local office shall determine if the good cause provisions are applicable at the recertification.
  - b. If a participating household's benefits are reduced or terminated within the certification period because one or more of its members are required to provide a SSN is disqualified for failure to meet the SSN requirement, the local office shall issue a Notice of Adverse Action form. The notice shall inform the household that the non-cooperating individual(s) without an SSN is being disqualified and show the current eligibility and benefit level of the remaining members, as well as a statement that the disqualified member(s) may end disqualification by providing an SSN.
2. Household members who provide the eligibility technician with a copy of a form or a letter from SSA, or who demonstrate good cause for not providing the proof from SSA (e.g., difficulty in obtaining birth certificates) shall be allowed to continue to participate in SNAP as follows:
  - a. When an SSA form or letter is received by the local office or good cause for not providing proof is demonstrated, the household member in need of a SSN shall be allowed to participate so long as the household is not at fault for not providing proof of application with the SSA.
  - b. If the required SSNs are provided by the household, or it is demonstrated that good cause exists for not having applied for a SSN, the household member(s) without an SSN(s) shall remain eligible to participate. If the local office determines that the household is at fault for not having proof of application for the SSN(s), the member(s) without proof of application shall be disqualified and income shall be handled in accordance with Section 4.411.1.

**C. Determining Good Cause for Not Providing an SSN**

1. In determining good cause, the local office shall consider information received from the household member and/or the SSA. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply the SSA with the necessary information shall be considered good cause. If the household member can show good cause why an application has not been completed in a timely manner, that person shall be allowed to participate until good cause is no longer applicable or until the household's next recertification. If the household member(s) applying for an SSN has been unable to obtain the documents required by the SSA, the eligibility technician should assist the individual(s) in obtaining these documents.

2. If an individual refuses to provide an SSN based on a sincere religious objection, all members of the household may participate in SNAP, if otherwise eligible. In these situations, the local office may check with the SSA to see if the household members already have SSNs and may use any existing SSNs for verification and matching purposes without further notice to the household.

#### **4.303 RESIDENCY REQUIREMENT**

- A. Applicants shall live in the county or district in which they make application for the Program unless the local office has made arrangements to allow particular households to file an application in a nearby specified county/district office.
- B. Individuals may not participate in more than one (1) household in the same month unless they are a resident of a shelter for battered women and children, nor may a household participate in more than one (1) county or district in any month unless all household members are residents of a shelter for battered women and children.

Households on Indian reservations participating in the Commodity Food Distribution Program for a particular period shall not be allowed to participate in SNAP during the same period. Participation shall be limited to participation in the Commodity Food Distribution Program or SNAP.

- C. Applicants who maintain a residence in the county or district for any purpose other than a vacation, regardless of the length of time they have resided in the county or district, shall be considered eligible for the Program, provided other eligibility requirements are met.
- D. Applicants who reside in a county, without residing in a permanent dwelling nor having a fixed mailing address, shall be considered eligible for the Program, provided other eligibility requirements are met. Migrant campsites satisfy the residency requirement, as do shelters for the homeless. Homeless persons satisfy the residency requirement as long as dual participation in any month of eligibility is not allowed.
- E. In no instance shall there be a durational residency requirement imposed upon the applicant. Intent to permanently remain in the state shall not be a condition of eligibility.
- F. The application contains spaces for both a physical address and a mailing address. If the household has a mailing address that is different than the household's physical address, the certification worker should ensure that both addresses are given. For households residing in a permanent dwelling, a mailing address only, such as post office box or rural route, will not be sufficient, as it does not indicate the household resides in the county. In such cases, information should be given that can identify the location of the home. An exception to the requirement for physical location may be granted for residents of shelters for battered women and children and those that lack a permanent dwelling.

#### **4.304 HOUSEHOLD COMPOSITION**

- A. Determining Household Composition

It is possible for more than one SNAP household to live under the same roof, on the same property, or at the same address.

1. A household is a group of individuals who live together and customarily purchase and prepare food together for home consumption.

2. Each household may apply as a separate household if they are not mandatory household members due to their relationships or financial responsibility.
  - A. Individuals experiencing homelessness can be determined as a separate household under this provision.
3. If the client is currently purchasing and preparing with other individuals but upon approval of SNAP benefits intends to purchase and prepare separately, separate household status can be granted.

#### **4.304.1 MANDATORY HOUSEHOLD MEMBERS**

All mandatory household members who live together must be considered in the same household, even if the mandatory individuals declare they do not customarily purchase and prepare their food together for home consumption.

##### **A. Parents and Children**

1. A person aged twenty-one (21) years and younger living with their natural or adoptive parent(s) or stepparent(s).
  - A. If the child lives in the same home with both parents, regardless of marital status or whether or not the parents purchase and prepare their food together, both parents must be included in the SNAP household.
2. A child (other than a foster child) under eighteen (18) years of age who is living with and is under the parental control of a household member other than their parent.
  - A. A child under eighteen (18) years of age is considered to be under parental control of an individual if the child is financially or otherwise dependent on that individual member of the household unless emancipated as defined by state law.

##### **B. Spouses**

1. Spouses refer to:
  - A. Persons defined as married to each other under state law.
  - B. Persons living together who are free to marry and are representing themselves as spouses to relatives, friends, neighbors, or the larger community.
2. In situations where a spouse is in an established residence elsewhere but still contributes financially to the household, the value of the financial contribution will be counted as unearned income to the household in determining eligibility. Please refer to section 4.304.4 for more information.

##### **C. Persons aged sixty (60) and older experiencing a disability who live with others whose income exceeds 165% of the Federal Poverty Line (FPL)**

1. Persons aged sixty (60) and older who are also experiencing a disability who are unable to purchase and prepare their own meals and are residing with other individuals whose income exceeds 165% of the FPL must be in the same household.

2. When applying the 165% limit test, the spouse of an elderly person with disabilities is not to be considered a member of their household unless the spouse is the person purchasing and preparing meals. If the spouse is not a member of the household, the spouse's income and resources are excluded in calculating the household's eligibility.

#### **4.304.2 Children in Shared Custody Arrangements**

- A. In instances when different households apply for the same child, the household that applies for benefits for the child second must establish that it has majority custody and/or provide a majority of the child's meals.
- B. If the second requesting household provides verification that indicates that household possesses majority custody and provides the majority of meals, this constitutes unclear information as to the first household under which the child is currently receiving benefits.
  1. A request for contact (RFC) must be initiated on the first case if verification was not previously provided to establish majority custody and/or that the majority of meals are being provided. The confidentiality rules described in Section 4.140 must be followed when making this request.
- A. If the two different households applying for the same child cannot agree in which household the child shall receive benefits the household that provides the majority of meals to the child(ren) in question shall include the child(ren) in their household. Depending on the document being used to establish majority custody and majority of meals, the eligibility technician must ensure that they are considering a period of time of sufficient length to accurately capture the custody arrangement, taking into account disruptions to established arrangements such as holidays and school breaks. Eligibility technicians may have to look at a longer period of time than just the last calendar month.
  2. If the second requesting household provides verification that conclusively proves it has majority custody of the child and provides majority of meals as of the request to include the child(ren) in its household, the child(ren) should be removed from the first case and added to the second case as detailed in Section 4.604.G to avoid dual participation.
  3. If the two households provide an equal number of meals to the child(ren), then the SNAP household currently receiving benefits or who applied first shall receive benefits for the child(ren).
  4. If one household fails to provide verification of the percentage of meals they provide to the child(ren), the child(ren) shall remain in the household in which they first began receiving SNAP benefits.

#### **4.304.3 Optional Household Members**

The following individuals residing with a household shall not be considered household members in determining the household's eligibility or allotment, unless otherwise stated:

- A. Persons aged sixty (60) and older experiencing a disability who live with others whose income does not exceed 165% Federal Poverty Level (FPL).
  1. Persons aged sixty (60) and older who are also persons with disabilities who are unable to purchase and prepare their own meals and are residing with other individuals whose income does not exceed 165% of the FPL can be in a separate household.



2. When applying the 165% limit test, a person aged sixty (60) and older with disabilities' spouse is not to be considered a member of the household unless the spouse is the person purchasing and preparing meals. If the spouse is not a member of the household, the spouse's income and resources are excluded in calculating the household's eligibility.
- B. Foster children
1. If a foster parent chooses not to include a foster child in their SNAP household, the foster child not included will not have their income, resources/assets, or needs included in the eligibility determination for the SNAP household.
  2. If the foster parent chooses to include the foster child in their SNAP household, the foster child's income, and resources/assets, as well as their needs, are considered in the eligibility determination.
  3. The foster child, including a child and/or spouse of the foster child, may not apply for benefits separately from the foster family unless they are over eighteen (18) and no longer under the parental control of the foster parents.
- C. Boarders
1. Boarders are only considered members of a client's SNAP household if the household requests that they be considered household members.
  2. If a boarder is not considered a SNAP household member, the boarder's income and resources shall not be considered available to the household.
    - A. The amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the SNAP household.
  3. If the SNAP household requests to include the boarder as a household member, the boarder's income and resources/assets shall be considered available to the SNAP household and used in determining eligibility and allotment.
  4. Persons who only work and provide no monetary compensation in exchange for meals or who make payments to a third party on the household's behalf in exchange for meals would not be classified as boarders.
  5. Boarder status shall not be granted to individuals paying less than a reasonable monthly payment for meals. An individual not paying a reasonable monthly payment for meals will be considered a member of the household which provides the meals and lodging.
    - A. A reasonable monthly payment is one of the following:
      - 1) Boarders, whose board arrangement is for more than two (2) meals per day, shall pay an amount that equals or exceeds the maximum SNAP allotment for the number of persons in the boarder SNAP household.
      - 2) Boarders, whose board arrangement is for two (2) meals or fewer per day, shall pay an amount that equals or exceeds two-thirds of the maximum allotment for the number of persons in the boarder household.
    - B. When the boarder's payments for a room are distinguishable from their payments for meals, only the amount paid for meals will be considered in determining if reasonable compensation is being paid for meals.

#### **4.304.31 Non-Household Members**

The following individuals residing with a household shall not be considered household members in determining the household's eligibility or allotment unless otherwise stated in 4.304.3:

**A. Boarders**

Boarders are individuals residing with others and paying reasonable compensation for lodging and meals.

Boarders cannot participate in SNAP as separate households.

**B. Roomers**

Roomers are individuals to whom a household furnishes lodging, but not meals, for compensation.

Roomers who are otherwise eligible may participate in SNAP as separate households.

**C. Live-in Attendant**

Live-in attendants are individuals who live with a household to provide medical, housekeeping, childcare, or other similar personal services.

Live-in attendants, who are otherwise eligible may, participate in SNAP as separate households.

#### **4.304.32 Established Residence Separate and Apart**

Mandatory household members who live together must be included in the same household unless one of the mandatory individuals has established a residence separate and apart from the other mandatory household members.

A residence shall only be considered established as separate and apart from mandatory SNAP household members when the individual pays shelter expenses, supports the maintenance of the other residence, or has provided that separate address to other governmental organizations or an employer as their primary residence. Supporting the maintenance of another residence can be demonstrated through paying rent/mortgage, paying utilities, paying insurance, or other charges necessary to maintain the residence.

When it is determined that a person who would normally be considered a mandatory household member has established a residence separate and apart and is not required to be considered part of the SNAP household, any monies that person provides to the SNAP household should be considered as unearned income.

Examples include, but are not limited to:

**A.** A truck driver who is away from the household, returns at the end of each trip, and has not established a residence separate and apart must be considered a household member.

**B.** A spouse in the armed forces may be considered a non-household member if the spouse is away on assignment for a calendar month or longer and has established a residence separate and apart.

- C. Oil field workers living on-site while working away from the primary residence may be considered a non-household member if the spouse is away on assignment for a calendar month or longer and has established a residence separate and apart.

**4.304.4 Persons Disqualified or Ineligible to Participate in SNAP**

- A. Disqualified individuals shall not be allowed to participate in SNAP as separate households. "Disqualified individuals" are individuals disqualified for:
1. IPV/fraud;
  2. Failure to either provide or obtain an SSN;
  3. Being an ineligible non-citizen;
  4. Failure to comply with work requirements;
  5. Being an ABAWD who has been disqualified after receiving three (3) months of SNAP benefits within a period of thirty-six (36) months; or,
  6. Being a person with a felony conviction who is not in compliance with the terms of their sentence and was convicted as an adult for conduct that occurred after February 7, 2014 for any of the following crimes:
    - a. Aggravated sexual abuse under Section 2241 of Title 18, United States Code;
    - b. Murder under Section 1111 of Title 18, United States Code;
    - c. An offense under Chapter 110 of Title 18, United States Code;
    - d. A federal or state offense involving sexual assault, as defined in Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or
    - e. An offense under state law determined by the attorney general to be substantially similar to an offense described in clause (a), (b), or (c).
- B. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony shall not be considered eligible household members. If an individual is suspected of being a fleeing felon, either by their own admission or based on a report from law enforcement, the fleeing status must be verified in to determine if the client is eligible for SNAP.

The following four-part test must be used to determine if the individual would be considered a fleeing felon for SNAP:

1. There is an outstanding felony warrant for the individual by a Federal, State, or local law enforcement agency and the underlying cause for the warrant is for committing, or attempting to commit, a crime that is a felony under the law of the place from which the individual is fleeing or is a high misdemeanor under the law of New Jersey; and
2. The individual is aware of, or should reasonably have been able to expect that, the felony warrant has already or would have been issued; and
3. The individual has taken some action to avoid being arrested or jailed; and

4. The Federal, State, or local law enforcement agency is actively seeking the individual as provided in 4.304.4, C, 1.
- C. Individuals who are determined to be a parole or probation violator shall not be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by the agency, must determine that the individual violated a condition of his or her probation or parole imposed under Federal or State law, and that Federal, State, or local law enforcement authorities are actively seeking the individual to enforce the conditions of the probation or parole as outlined below.
1. For the purposes of this provision, actively seeking is defined as follows:
    - a. A Federal, State, or local law enforcement agency informs the local office that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within twenty (20) days of submitting a request for information about the individual to the local office; or,
    - b. A Federal, State, or local law enforcement agency presents a felony arrest warrant as provided in 4.304.4, B, 1; or,
    - c. A Federal, State, or local law enforcement agency states that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within thirty (30) days of the date of a request from a local office about a specific outstanding felony warrant or probation or parole violation.
- D. Residents of commercial and noncommercial boarding houses and institutions are not eligible to participate in the Program unless exempt in Section 4.304.41.
1. The household of the proprietor of a boarding house may participate in the Program separate and apart from the residents of the boarding house if that household meets all eligibility requirements for Program participation.
  2. An institution is a place which has not been authorized by FNS to accept SNAP benefits, but which provides its residents with more than fifty percent (50%) of their daily meals as a part of its normal services. Residents of a halfway house for persons with a disability are residents of an institution if they are provided meals as part of their regular service.
  3. Students who purchase meal plans through an institution of higher education shall be considered residents of an institution if the meal plan provides the student more than fifty percent (50%) of his/her meals, unless the individual is otherwise exempt from the institution provisions as provided in Section 4.304.41.

**4.304.41 EXEMPTIONS FROM THE BOARDING HOUSE AND INSTITUTION PROHIBITIONS**

- A. An individual who is a resident of federally subsidized housing for persons aged sixty (60) and older under 12 U.S.C. 1701Q or 12 U.S.C. 1715Z-1.
- B. Narcotic addicts or alcoholics and their children, who, for purposes of regular participation in a drug or alcoholic treatment and rehabilitation program, reside at a facility or treatment center.
- C. Residents of a public or private nonprofit group living arrangement facility, who are blind or a person with disabilities.
- D. Women or women and their children who are temporarily residing in a public or private nonprofit shelter for battered women and children.

- E. Residents of public or private nonprofit shelters for homeless persons.

#### **4.305 CITIZENSHIP AND NON-CITIZENSHIP STATUS**

Citizens of the United States are potentially eligible for participation in SNAP, provided they meet other eligibility requirements. Most non-citizens must be in a qualified non-citizen status and meet one (1) additional condition to be eligible for participation in the Program. Some classes of non-citizens are eligible for participation without having to meet an additional condition.

A. Citizens and Non-Citizen Nationals

1. The following individuals are considered United States citizens:
  - a. A person born in the United States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands or the Mariana Islands;
  - b. A person who has become a citizen through the naturalization process;
  - c. A person born outside of the United States to at least one (1) U.S. citizen parent; and
  - d. A child under eighteen (18) years of age adopted or born outside the U.S. with a parent who is a U. S. citizen, who has been admitted as a lawful permanent resident, and is in the legal and physical custody of a parent who is a U.S. citizen.
2. Although not considered U.S. citizens, non-citizen nationals have the same potential eligibility for SNAP as U.S. citizens. Non-citizen nationals are those individuals born in an outlying possession of the United States (either American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals.

B. Non-Citizens

Qualified non-citizens and certain groups of non-citizens who are not qualified are eligible for participation under certain conditions.

Some qualified non-citizens must also meet an additional condition, as outlined in Section 4.305, B, 3, to be eligible for participation. Each of the following categories of qualified non-citizens stands alone for the purposes of determining eligibility. If eligibility expires under one (1) eligible category, the local office shall determine if eligibility exists under another category.

1. Qualified Non-Citizen Status

The following classes of non-citizens, based on the immigration status of an individual, are defined as a qualified non-citizen. The non-citizen shall be qualified as listed below at the time the non-citizen applies for, receives, or attempts to receive SNAP benefits.

A non-citizen under the age of eighteen (18) that is in a qualified alien status, as outlined in paragraphs A and B of this subsection, shall be eligible for participation in the program without having to meet an additional requirement. Once the non-citizen turns eighteen (18), the eligibility of the non-citizen shall be reviewed.

- a. A non-citizen in one (1) of the following qualified non-citizen statuses is not required to meet an additional condition to be eligible for participation in the Program and is eligible for participation indefinitely from the date the non-citizen obtains qualified non-citizen status or enters the U.S. in a qualifying status.
  - 1) A refugee who is admitted to the United States under 8 U.S.C. 1157.
  - 2) Victims of trafficking, under the Trafficking Victims Protection Act of 2000, as amended, certified by the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR). This person shall have a certification letter.
    - a) ORR issues a letter of eligibility for adults and children under the age of eighteen (18). A trafficked minor shall have either an interim assistance letter or an eligibility letter from ORR to be eligible for SNAP. The local office shall accept these letters in place of Department of Homeland Security documentation.
    - b) Certification letters and eligibility letters do not expire; however, interim assistance letters that are provided to children are valid for ninety (90) calendar days from the effective date of the letter. ORR may extend the interim eligibility an additional thirty (30) calendar days. Children with an interim assistance letter can only receive SNAP benefits until the expiration of the period established in the interim letter.
    - c) The local office can verify the status of these individuals through SAVE.
  - 3) Asylees granted asylum under Section 208 of the INA, which is codified throughout Title 8 of the United States Code. The U.S. Code does not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection as defined in 4.000.
  - 4) A non-citizen whose deportation is being withheld under 8 U.S.C. 1224(H) as in effect prior to April 1, 1997, or whose removal is withheld under 8 U.S.C. 1231(B)(3).
  - 5) Retroactive to August 22, 1996, Cuban or Haitian entrants under 8 U.S.C. 1522(E).
  - 6) Retroactive to August 22, 1996, Amerasians under 8 U.S.C 1612..
  - 7) Iraqi and Afghan Special Immigrants (SIV)  
  
Special immigrant status under 8 U.S.C. 1101(A)(27) may be granted to Iraqi and Afghan nationals who have worked on behalf of the U.S. Government in Iraq or Afghanistan. The Department of Defense Appropriations Act of 2010 (DODAA), P.L. 111-118, Section 8120 enacted on December 19, 2009 provides that SIVs are eligible for all benefits to the same extent and the same period as refugees.

- b. Non-citizens in one (1) of the following qualified non-citizen statuses are required to meet an additional condition (see Section 4.305, B, 3) to be eligible for participation in the Program.
- 1) Lawfully Admitted for Permanent Residence (LPRs) under the Immigration and Nationality Act (INA). LPRs are holders of Green Cards. If a non-citizen is in a qualified non-citizen status as outlined in paragraph a. of this section and later adjusts to LPR status, the non-citizen does not have to meet an additional condition to be eligible for participation and shall remain eligible based on the previous qualified status.
  - 2) Paroled into the United States under 8 U.S.C. 1182(d)(5) for at least one (1) year.
  - 3) Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7) as in effect before April 1, 1980.
  - 4) A non-citizen who has been battered or subjected to extreme cruelty in the U.S. by a family member with whom the non-citizen resides, such as by a spouse, a parent, or a member of the spouse or parent's family. This qualified alien status also extends to a non-citizen whose child has been battered or subjected to battery or cruelty or to a non-citizen child whose parent has been battered.

To establish eligibility, the local office shall determine that the non-citizen has satisfied three (3) requirements. Spouses and children who have applied for or have been granted protection under the Violence Against Women Act will meet these requirements.

- a) The battered non-citizen(s) shall show that he/he has an approved or pending petition which makes a prima facie case for immigration status in one (1) of the following categories:
  - i) United States Citizenship and Immigration Services (USCIS) Form I-130, last modified July 20, 2021, petition for alien relative, filed by their spouse or the child's parent, which is incorporated by reference. No later editions or amendments are incorporated. This form is available at no cost from the USCIS at <https://www.USCIS.gov/I-130>. The form is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado 80203;
  - ii) Form I-130, as incorporated by reference above, petition as a widow(er) of a U.S. citizen;

- iii) Self-petition under the Violence Against Women Act (including those filed by a parent on behalf of an abused child), USCIS Form I-360, last modified June 9, 2020, which is incorporated by reference. No later editions or amendments are incorporated. This form is available at no cost from the USCIS at <https://www.USCIS.gov/I-360>. The form is also available for public inspection and copying at the Food and Energy Assistance Division Director, Colorado Department of Human Services, 1575 Sherman Street, 3rd Floor, Denver, Colorado, 80203; or,
  - iv) An application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.
- b) There is substantial connection between the battery or extreme cruelty and the need for SNAP benefits; and
- c) The battered non-citizen, child, or parent no longer resides in the same home as the abuser.

**2. Eligible Non-Citizens Not in a Qualified Status:**

The following classes of non-citizens are not defined as having a qualified status but are potentially eligible for participation in SNAP without having to meet an additional condition (see Section 4.305, B, 3). All other classes of non-citizens that are not in a qualified status are not eligible for participation in SNAP.

**a. Certain American Indians Born Abroad**

American Indians born abroad in Canada living in the U.S. under Section 289 of the INA or non-citizen members of a federally recognized Indian tribe under Section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(B)(E) who are recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians.

This provision was intended to cover Native Americans who are entitled to cross the U.S. border between Canada and/or Mexico. It was intended to include but is not limited to the St. Regis Band of the Mohawk in New York State, the Micmac (also known as Mi'kmaq) in Maine, the Abenaki in Vermont, and the Kickapoo in Texas.

**b. Hmong or Highland Laotian Tribal Members**

An individual lawfully residing in the U.S. who was a member of a Hmong or Highland Laotian tribe that rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (August 5, 1964 – May 7, 1975). This category includes:

- 1) Spouse or surviving spouse of a deceased Hmong or Highland Laotian Tribal Member who is not remarried; and/or,
- 2) Unmarried dependent child of Hmong or Highland Laotian Tribal Member who is: under the age of eighteen (18) or a full-time student under the age of twenty-two (22);



- 3) Unmarried child under the age of eighteen (18) or a full-time student under the age of twenty-two (22) of a deceased Hmong or Highland Laotian Tribal Member, provided the child was dependent upon them at the time of the Hmong or Highland Laotian tribal member's death; or,
- 4) Unmarried child with disabilities age eighteen (18) or older if the child with disabilities had a disability and was dependent on the person prior to the child's eighteenth (18th) birthday.
  - A) For purposes of this paragraph, "child" means the legally adopted or biological child of the person described in this section as a Hmong or Highland Laotian Tribal Member.

3. Additional Conditions

Non-citizens in a qualified status as outlined in subsection 4.305, B, 1, are required to meet one additional condition to be eligible for participation in the Program. At the time the non-citizen applies for SNAP, they need only satisfy one of the following conditions to be eligible:

a. Five (5) Years of Residence

The non-citizen has lived in the U.S. in a qualified non-citizen status for five (5) years. The five (5) year waiting period begins on the date the non-citizen obtains status as a qualified non-citizen or enters the U.S. in a qualifying status.

b. Forty (40) Qualifying Work Quarters

A person shall have satisfied this additional condition if they are lawfully admitted for permanent residence while already possessing credit for forty (40) qualifying work quarters as defined under Title II of the Social Security Act. In some cases, an applicant may have work from employment that is not covered by Title II of the Social Security Act, but which is countable toward the forty (40) quarters test, and there are also cases in which SSA records do not show current year's earnings. Such quarters are still countable for the forty (40) quarter test, but the individual non-citizen shall be responsible for providing evidence needed to verify the quarters.

1) The sum of work quarters can include:

- a) Quarters the non-citizen worked;
- b) Quarters credited from the work of a parent of such a non-citizen while the non-citizen was under eighteen (18), which includes quarters worked before the non-citizen was born or adopted; or
- c) Quarters credited from the work of the non-citizen's spouse. Quarters are only creditable to the non-citizen for work performed by his or her spouse if the couple is still legally married, or if the spouse becomes deceased while married to the non-citizen, and the work being credited to the non-citizen was performed after the marriage began.

If a couple divorces prior to determination of SNAP eligibility, a spouse may not get credit for quarters of their spouse. However, if the local office determines eligibility of a non-citizen based on the quarters of the spouse, and then the couple divorces, the non-citizen's eligibility continues until the next re-certification. At that time, the local office shall determine the non-citizen's eligibility without crediting the non-citizen with the former spouse's quarters of coverage.

2) The sum of work quarters cannot include:

- a) Quarters in which not enough income was earned to qualify, or,
- b) Quarters earned after December 31, 1996, cannot be counted if the non-citizen, during the quarter, received SNAP or any other federal means-tested public benefits, such as Medicaid, SSI, TANF, or state Children's Health Insurance Program.

c. Children Under Eighteen (18)

A non-citizen under eighteen (18) years of age in a qualified non-citizen status who lawfully resides in the U.S. When the non-citizen turns eighteen (18), non-citizen eligibility shall be reviewed.

d. Blind or Person with Disabilities

A non-citizen who is blind or a person with a disability if the non-citizen is receiving benefits or assistance for their condition regardless of entry date.

e. Born on or before August 22, 1931 who lawfully resided in the U.S. on August 22, 1996.

f. Military Connection

- 1) Qualified non-citizens with a military connection, including an individual who is lawfully residing in a state and is on active duty, other than training, in the military, excluding national guard; or,
- 2) An honorably discharged veteran, as defined in Section 101 of Title 38, U.S.C, whose discharge is not because of immigration status, who fulfills the minimum active-duty service requirements. This includes an individual who died in active military duty, naval or air service. This provision extends to the spouse, un-remarried surviving spouse, and unmarried dependent children. A discharge "under honorable conditions," which is not the same as an honorable discharge, does not meet this requirement.
- 3) The definition of "veteran" shall also include:
  - a. An individual who served before July 1, 1946, in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts; or,

- b. An individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, or the spouse of such a person; or,
  - c. The spouse of a veteran who served at least twenty-four (24) months in the Armed Forces. This includes the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried; or
  - d. An unmarried dependent child of a veteran who is under the age of eighteen (18) or, if a full-time student, under the age of twenty-two (22); or,
  - e. Unmarried dependent child of a deceased veteran provided such child was dependent upon the veteran at the time of the veteran's death; or an unmarried child with disabilities age eighteen (18) or older if the child with disabilities was disabled and dependent upon the deceased veteran prior to the child's eighteenth (18th) birthday.
- 1. For purposes of this provision, "child" means the legally adopted or biological child of the veteran.

#### **4.305.1 Non-Citizens Ineligible for Participation in SNAP**

The following non-citizens are not eligible to participate in SNAP as a member of any household.

- A. Non-citizens who are lawfully present in the U.S. but not in a qualified status, such as students and H-1B Visa workers;
- B. Undocumented non-citizens (e.g., individuals who entered the country as temporary residents and overstayed their visas or who entered without a visa);
- C. Non-citizen visitors;
- D. Tourists;
- E. Diplomats;
- F. Students who enter the U.S. temporarily with no intention of abandoning their residence in a foreign country;
- G. Individuals granted temporary protection status (TPS), unless in some other qualifying status;
- H. Citizens of nations under Compact of Free Association agreements (Palau, Micronesia, and the Marshall Islands) who have been admitted under those agreements are not qualified non-citizens. These individuals may otherwise reside, work, and study in the U.S.; and,
- I. Individuals with U Visas, including minor children under the age of eighteen (18), are ineligible as they have temporary status and are not considered qualified non-citizens. However, if the individual adjusts to qualified non-citizen status, such as LPR or battered immigrant status, then the individual's non-citizen eligibility shall be reviewed under the new status.

**4.305.2 Households Containing a Sponsored Non-Citizen Member**

- A. The provisions of this section apply only to those non-citizens for whom a sponsor has executed an affidavit of support (INS Form I-864 or I-864A) on behalf of the non-citizen pursuant to Section 213A of the Immigration and Nationality Act (INA) on or after December 19, 1997. Prior to this time, affidavits of supports, known as I-134s, were not legally binding; therefore, the sponsor could not be legally compelled to support the non-citizen based on an affidavit of support signed prior to December 19, 1997.
- B. Definition of a Sponsor
1. Sponsored non-citizens are those non-citizens lawfully admitted for permanent residence into the United States who have been sponsored by an individual for entry into the country.
  2. A sponsor is a person who executed an affidavit(s) of support (INS Form I-864 or I-864A) or another form deemed legally binding by the Department of Homeland Security on behalf of a non-citizen as a condition of the non-citizen's entry or admission to the United States as a permanent resident. Date of entry or admission means the date established by the Immigration and Naturalization Service (INS) as the date the sponsored non-citizen was admitted for permanent residence.
- C. Only when a sponsored non-citizen is an eligible non-citizen will the local office consider the income and resources of the sponsor and sponsor's spouse available to the household. For purposes of determining eligibility and benefit level of a household of which an eligible sponsored non-citizen is a member, the local office shall deem the income and resources of the sponsor and the sponsor's spouse, if they have executed USCIS Form I-864 or I-864A, as the unearned income and resources of the sponsored non-citizen.
- D. Calculating Sponsor Income
1. The total gross income and resources of a sponsor and sponsor's spouse shall be considered as unearned income and resources of a sponsored non-citizen for a period until the person's citizenship is obtained; or until the non-citizen has worked or can receive credit for forty (40) work quarters under Title II of the Social Security Act; or the sponsor dies.  
  
The spouse's income and resources shall be counted even if the sponsor and spouse were married after the signing of the agreement.
  2. The monthly income of the sponsor and the sponsor's spouse to be considered toward the non-citizen shall be the total monthly earned and unearned income of the sponsor and spouse at the time the household containing the sponsored non-citizen member applies for or is recertified for Program participation and shall be calculated as follows:
    - a. Reduced by an amount equal to twenty percent (20%) of the earned income of the sponsor and the sponsor's spouse; and,
    - b. An amount equal to the SNAP monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes; and,

- c. If a sponsored non-citizen can demonstrate to the local office's satisfaction that his or her sponsor is the sponsor of other non-citizens, the local office shall divide the deemed income and resources of the sponsor and the sponsor's spouse by the number of such sponsored non-citizens.
  - 3. If the sponsored non-citizen has already reported gross income information on his/her sponsor in compliance with the sponsored non-citizen rules of another state assistance program, and the local office is aware of the amounts that income amount shall be used for SNAP deeming purposes. However, the local office shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the non-citizen. The only reduction will be twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse and an amount equal to the SNAP monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes.
  - 4. Actual money paid to the non-citizen by the sponsor or the sponsor's spouse shall not be considered as income to the non-citizen unless the amount paid exceeds the amount already considered as income as above. Only the portion that exceeds the income already considered shall be added to that income.
  - 5. If the non-citizen changes sponsors during the certification period, a change shall be processed to consider the new sponsor's income and resources toward the non-citizen as soon as possible after the information is verified. The previous sponsor's income and resources shall be used until such determination; however, should any present sponsor become deceased, that sponsor's income and resources shall not be attributed to the non-citizen.
  - 6. Total resources of the sponsor and the sponsor's spouse shall be considered as resources to the non-citizen reduced by one thousand five hundred dollars (\$1,500).
- E. The counting of a sponsor's income and resource provisions do not apply to a non-citizen who is:
- 1. A member of his or her sponsor's SNAP household;
  - 2. Sponsored by an organization or group as opposed to an individual;
  - 3. Not required to have a sponsor under the Immigration and Nationality Act (INA), such as a refugee, a parolee, an asylee, or a Cuban or Haitian entrant;
  - 4. Considered as an "indigent" non-citizen;
- An indigent non-citizen is a non-citizen who has been determined to be unable to obtain food and shelter which totals to an amount exceeding one hundred thirty percent (130%) of the federal poverty level, as defined in section 4.401.1. A non-citizen who is receiving in-kind benefits that exceed the gross income level for the household size shall not be considered indigent. The noncitizen's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor, will be counted in making this determination.

For purposes of this provision, the sum of the eligible sponsored non-citizen household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance from the sponsor and others, shall not exceed one hundred thirty percent (130%) of the poverty income guideline for the household's size. The local office shall determine the amount of income and other assistance provided in the month of application. If the non-citizen is below one hundred thirty percent (130%) of the federal poverty level, the only amount that the local office shall consider deemed to such a non-citizen will be the amount provided by the sponsor for a period beginning on the date of such determination and ending twelve (12) months after such date. Each determination is renewable for additional twelve (12) month periods. The local office shall notify the U.S. attorney general of each such determination, including the names of the sponsor and the sponsored non-citizen involved.

5. A child of a battered parent is exempt from the provision of sponsorship. A battered non-citizen spouse, non-citizen parent of a battered child, or child of a battered non-citizen will not have sponsor's income and resources counted during a twelve (12) month period after the local office determines that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer. After twelve (12) months, the local office shall not deem the batterer's income and resources if the battery is recognized by a court or the INS and has a substantial connection to the need for benefits, and the non-citizen does not live with the batterer;
6. Had been sponsored but has since obtained citizenship;
7. A person whose sponsor has died; or,
8. Who has worked or can receive credit for a total of forty (40) work quarters under Title II of the Social Security Act.

**F. Verification Requirements**

The local office shall verify the following information at the time of initial application and recertification:

1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if the spouse is living with the sponsor) at the time of the non-citizen's application for SNAP.
2. The names (and alien registration numbers) of other non-citizens for whom the sponsor has signed an affidavit of support or similar agreement.
3. The number of dependents who are eligible to be claimed for federal income tax purposes by the sponsor and the sponsor's spouse.
4. The name, address, and phone number of the non-citizen's sponsor.

**G. Awaiting Verification**

1. Until the non-citizen provides information or verification necessary to determine eligibility, the sponsored non-citizen shall be ineligible. When such verification is provided, the local office shall act on the information as a reported change in household circumstances. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible non-citizen (excluding the attributed income and resources of the non-citizen's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member as set forth in Section 4.411.1 and considered available in determining the eligibility and benefit level of the remaining household members.

2. If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, other adult members of the non-citizen's household shall be responsible for providing and/or verifying the information. If the information or verification is subsequently received, the local office shall act on the information as a reported change. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the needed information is provided and/or verified. The local office shall assist the non-citizen in obtaining verification provided the household is cooperating with the local office.

**H. Sponsored Non-Citizen's Responsibility**

1. During the period the sponsored non-citizen is subject to deeming, the eligible sponsored non-citizen shall be responsible for obtaining the cooperation of their sponsor, for providing the local office, at the time of application and/or recertification, the information and/or documentation necessary to calculate income and resources attributable to the non-citizen's household. The eligible sponsored non-citizen shall be responsible for providing the names (or other identifying factors) of other non-citizens for whom the non-citizen's sponsor has signed an agreement to support. The local office shall attribute the entire amount of income and resources to the eligible sponsored non-citizen until they provide the information required.
2. The local office will determine how many of such non-citizens are SNAP applicants or participants and initiate appropriate proration. The eligible sponsored non-citizen shall also be responsible for reporting the required information about the sponsor and sponsor's spouse should the non-citizen obtain a different sponsor during the certification period. The eligible sponsored non-citizen shall report changes in income should the sponsor or sponsor's spouse change or lose employment or become deceased during the certification period. The local office shall act on the information as a reported change in household circumstances as set forth in Section 4.604.

**4.305.3 Reporting Undocumented Non-Citizens**

- A. The local office shall immediately inform the local USCIS office whenever personnel responsible for the certification or recertification of households determine that any member of a household is ineligible to receive SNAP because the member is present in the United States in violation of immigration laws.
- B. In determining whether the member is present in the United States in violation of immigration laws, caution shall be exercised to ensure that the determination is not made merely on the non-citizen's inability or unwillingness to provide documentation of non-citizen status. When a person indicates an inability or unwillingness to provide documentation of non-citizen status, the local office shall not continue efforts to obtain documentation other than that necessary to obtain information on the income and resources to be made available to remaining members of the household.
- C. Because many non-citizens who are legally present in the United States are not eligible for SNAP, eligibility technicians are cautioned that a determination that a person is an ineligible non-citizen is not equivalent to a determination that a person is a non-citizen present in the United States in violation of immigration laws.
- D. When and if a SNAP eligibility technician is able, based on information that becomes available to him/her in the process of reviewing a household's eligibility for SNAP, to determine that a member or members of that household are in fact non-citizens present in the United States in violation of the immigration laws, the eligibility technician will report the determination to their supervisor. The report to USCIS, if made, shall be in writing.

This rule does not permit the reporting to USCIS on mere suspicion or prejudice. Firm evidence that a household is illegally in the U.S. would be required. A person known to be a non-citizen in the United States in violation of the Immigration and Nationality Act is only known to have such status when they are found in this country and are known to have a final order of deportation outstanding against them. An outstanding order of deportation is final when it is not subject to appeal because the relevant statutory appeal period of ten (10) days has expired or because there are no lawful grounds upon which an appeal may be based or because the available administrative and/or judicial appeals have been exhausted, and the order is not subject to review under the limited standards of reopening for consideration.

- E. The failure to report a non-citizen illegally present in the United States in violation of immigration laws to USCIS will not be considered a quality assurance error or assessed as an administrative deficiency.

#### **4.306 STUDENT ELIGIBILITY**

- A. Any person who is age eighteen (18) through forty-nine (49) and enrolled at least half time in an institution of higher education shall not be eligible to participate in the SNAP unless the person meets one of the exemption criteria outlined at 4.306.1.
- B. The following individuals are not considered under student eligibility criteria:
  - 1. Persons aged seventeen (17) or under;
  - 2. Persons aged fifty (50) or over;
  - 3. Persons enrolled less than half time;
  - 4. Persons enrolled full time in schools and training programs that are not institutions of higher education;
  - 5. Persons attending high school;
  - 6. Persons participating in an on-the-job training program. On-the-job training is defined as training in an employment environment and does not include an internship, field work, or practical experience associated with a course of higher education.
- C. The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Once a student enrolls in an institution of higher education, such enrollment shall be deemed continuous through normal periods of class attendance, vacation, and recess unless the student graduates, is suspended or expelled, drops out or does not intend to register for the next normal school term (excluding summer session). It is possible for a student to enroll prior to the beginning of the school term. However, for eligibility purposes, enrollment starts when the student starts classes.

##### **4.306.1 Student Exemption Criteria**

To be eligible to participate in SNAP, a student must meet at least one (1) of the following exemptions:

- A. Be physically or mentally unfit for employment (including students participating through or in a vocational rehabilitation program).



If mental or physical unfitness for employment is claimed and the unfitness is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits or a statement from a physician or licensed psychologist.

- B. The student is employed for an average of twenty (20) hours per week and is paid for such employment. The student shall be employed an average of twenty (20) hours each week, regardless of wages received.

If the student is self-employed, the student shall work an average of twenty (20) hours a week and have earnings after allowable business expenses are deducted equal to at least the federal minimum wage multiplied by twenty (20) hours.

The weekly employment of twenty (20) hours may be based on an average number of hours worked per month, so long as the student is employed for eighty (80) hours per month.

- C. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for SNAP. The work-study shall be approved for the school term and the student shall anticipate working during that time. The student qualifies for this exemption the month the school term in which the work-study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break.
- D. The student is responsible for more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12). The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same SNAP household as the child. A full-time student in the same SNAP household with a child who is under their parental control may qualify if they do not reside with their spouse.
- E. The student is responsible for more than half of the physical care of a dependent household member who has reached the age of six (6) but is under the age of twelve (12) where the local office has determined that adequate childcare is not available to enable the individual to attend class and satisfy the requirement of item B or item C, above.
- F. The student is receiving a Title IV-A TANF cash grant. The student's needs shall be included in the grant to be eligible under this provision. Family Preservation is not considered a TANF cash grant.
- G. The student is assigned to or placed in an institution of higher education through a program under the Workforce Innovation and Opportunity Act (WIOA), Employment First (EF), a program under Section 236 of the Trade Act of 1974 (19 U.S.C. 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the SNAP EF Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.

Self-initiated placement during the period the person is enrolled in one of these employment and training programs shall comply with the requirements of the employment and training program in which the person is enrolled. This placement is considered in compliance provided that the Employment and Training program has a component for enrollment in an institution of higher education and that the Employment and Training program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the Employment and Training program shall also qualify for the exemption.

- H. The student is participating in an on-the-job training program. A person is participating in an on-the-job training program only during the period the person is being trained by an employer.

#### **4.307 STRIKER ELIGIBILITY**

- A. Households containing a striking member, as defined in section 4.000.1, shall not be eligible for SNAP unless the household was eligible for the Program the day before the strike and are otherwise eligible at time of the strike. Households where the striking member was exempt from work registration the day before the strike shall not be subject to these provisions and shall be certified if otherwise eligible unless the exemption was based on the employment.
- B. Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two (2) to the current income of the non-striking household members during the month of application. The higher income will be used in determining benefits.

##### **4.307.1 Households Not Affected by the Striker Provisions**

- A. Employees whose work place is closed by an employer (i.e., lockout),
- B. Employees unable to work as a result of other striking employees (e.g., a paper strike closes operations at a printing company; therefore, pressmen are out of work),
- C. Employees not wanting to cross a picket line due to fear of personal injury or death (this does not include persons sympathetic to the strike who refuse to cross the picket line),
- D. Persons who were exempt from work registration the day before the strike such as the caretaker of a child under six (6) years of age (other than those exempt solely on the ground that they were employed).

#### **4.308 VOLUNTARY QUIT**

- A. No individual who quit his or her most recent job without good cause or reduces work effort and, after the reduction, is working less than thirty (30) hours each week, without good cause, or earning less than the federal minimum wage multiplied by thirty (30) hours, shall be eligible for participation in SNAP. At the time of application, the eligibility technician shall explain to the applicant the potential penalties if a household member quits his or her job or reduced hours or wages without good cause or if another member joins the household if that individual has voluntarily quit employment.

- B. When a household files an application, or when a participating household reports the loss of a source of income or reduction in hours, the local office shall determine whether any household member voluntarily quit or reduced his or her hours or income. Benefits shall not be delayed pending the outcome of this determination. A sanction shall be imposed if the quit or reduction in hours or wages occurred within sixty (60) calendar days prior to the date of application or anytime thereafter, and the quit or reduction was without good cause. An employee of the federal government, or of a state or local government who participates in a strike against such government and is dismissed from his or her job because of participation in the strike, shall be considered to have voluntarily quit his or her job without good cause. If an individual quits a job, secures new employment at comparable wages or hours, and, through no fault of his or her own loses the new job, the earlier quit shall not be a basis for disqualification.
- C. In the case of an applicant household, the local office shall determine whether any currently unemployed household member who is required to register for work or was exempt from registration for being employed has voluntarily quit his or her most recent job within the last sixty (60) days. If the local office learns that a household has lost a source of income after the date of application but before the household is certified, the local office shall determine whether a voluntary quit occurred.

The nonexempt individual who quit or reduced work hours will be ineligible to participate for the sanction period if the household is determined eligible for SNAP. The individual will be required to comply with EF following the sanction period unless the individual becomes exempt from work requirements.

- D. In the case of the participating household, the local office shall determine whether any household member voluntarily quit his or her job while participating in the Program. If a household is already participating when a quit that occurred prior to certification is discovered, the household shall be regarded as a participating household.
- E. Upon a determination that the individual voluntarily quit employment, reduced work hours below thirty (30) hours, or reduced wages to the point at which the person is earning less than the federal minimum wage multiplied by thirty (30) hours, the local office shall determine if the voluntary quit was with good cause.

If an individual voluntarily quits or reduces work hours/wages without good cause, the individual will be disqualified in the same manner as individuals failing to comply with work registration or EF requirements.

- F. If the local office determines that the individual voluntarily quit his or her job or reduced his or her work hours without good cause while participating in SNAP, the local office shall provide the household with a Notice of Adverse Action within ten (10) calendar days after the determination of a voluntary quit is made. The notice shall contain the act of noncompliance, the proposed period of disqualification, the action to be taken at the end of the disqualification and shall specify that the individual may be included in the household after the disqualification period if the individual meets other work requirements.
- G. Individuals have the right to a fair hearing to appeal a disqualification due to a determination that the individual quit his or her job without good cause or reduced his or her work hours without good cause. If a participating household requests a fair hearing and the local office determination is upheld, the disqualification period shall begin the first of the month after the hearing decision is rendered.

#### **4.308.1 Good Cause for Quitting or Reducing Work Hours**

Upon a determination that the individual voluntarily quit employment, the local office shall determine if there was good cause which shall include, but not be limited to, any of the following:

- A. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin, or political beliefs;
- B. Work demands or conditions that render continued employment unreasonable such as working without being paid on schedule;
- C. Acceptance by the individual of employment; or enrollment of at least half-time in any recognized school, training program, or institution of higher education, that requires the individual to leave employment;
- D. Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program, or institution of higher education in another county or political sub-division which requires the household to move and thereby requires the individual to leave employment;
- E. Resignations by persons under the age of sixty (60) that are recognized by the employer as retirement;
- F. Resignation from employment that does not meet suitable criteria specified in Section 4.310.7;
- G. Because of circumstances beyond the control of the individual, accepted full time employment subsequently either does not materialize or results in employment of less than thirty (30) hours a week or weekly earnings of less than the federal minimum wage multiplied by thirty (30) hours;
- H. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work, even though employment at the new site has not actually begun;
- I. Illness of the head of household;
- J. Illness of another household member requiring the presence of the head of household;
- K. A household emergency;
- L. The unavailability of transportation; or,
- M. Employer demands a reduction in participant's work effort or salary through no fault of the employee.
- N. Lack of adequate child care for children who have reached age 6 but are under age 12.

#### **4.309 HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES**

The following sections explain the application of SNAP criteria and certification procedures to the eligibility determinations for households with special circumstances pertaining to:

- A. Dining Facilities and Homeless Meal Providers;
- B. Shelters for Battered Women and Children;

- C. Drug and Alcohol Treatment and Rehabilitation Centers;
- D. Residents of Group Living Arrangements.

#### **4.309.1 Dining Facilities and Homeless Meal Providers**

Households with special circumstances, such as a person with disabilities, persons aged sixty (60) and older, or group living arrangements, may be authorized to use SNAP benefits to buy food from authorized communal dining facilities, meals on wheels, drug and alcohol treatment and rehabilitation centers, and shelters for battered women and children.

Households experiencing homelessness may also use SNAP benefits to purchase prepared meals from approved restaurants. SNAP households experiencing homelessness may use food benefits for meals prepared for and served by an authorized provider (for example, a soup kitchen or temporary shelter) that feeds persons experiencing homelessness.

#### **4.309.2 Shelters for Battered Women and Children**

There are no restrictions on how long a center shall be in operation or on the number of residents served by the shelter. The local office shall determine a shelter's status as a shelter for battered women and children and shall document the basis for their determination. The rules within this subsection apply specifically to centers which provide meals to their residents. Centers which do not provide meals are not to be considered institutions and their residents' eligibility will be determined using the standard rules for eligibility.

##### **4.309.21 Residents of Shelters for Battered Women and Children**

Women or women with their children who are temporarily residing in a shelter for battered women and children (which serves over fifty percent (50%) of their meals) shall be considered exempt from the prohibition against residents of institutions.

- A. They shall be allowed to apply and be considered for eligibility as individual (parent/child) units, rather than considered as part of a household consisting of all shelter residents.
- B. In many instances battered women and their children who were previously certified in the household of an abuser may not have access to their allotment. Therefore, these individuals shall be allowed to participate in one (1) additional project area and/or household so long as one of the two households with which they are participating contains the individual who abused them. These persons may receive an additional allotment only once in a month.
- C. The local office should act promptly to reflect the changes in household composition and shall act on the change to reduce or terminate benefits to the applicant's former household as appropriate.
- D. Shelter residents who apply as separate households shall be certified solely on the basis of their income and resources and the expenses for which they are responsible. They shall be certified without regard to the income, resources, and/or expenses of their former household. Jointly held resources shall be considered inaccessible to the household if access to such resources is dependent upon the agreement of a joint owner who still resides in the former household.

**4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers (Center)**

- A. Residents of publicly operated community mental health centers or private non-profit organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in SNAP. Applications shall be made through an authorized representative who is employed by the drug or alcohol treatment or rehabilitation facility and designated by the facility for that purpose. Individuals residing in a for-profit facility are considered residents of an institution per Section 4.304.4(E), above.

- B. The center shall be approved by the Colorado Department of Human Services (CDHS), Office of Behavioral Health (OBH) before its residents are eligible for SNAP participation. The OBH will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction.

Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer and is certified by the OBH. Proof of OBH certification may be provided in the form of a license or an approval letter issued to the center by that agency, or proof that the center is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x-1 through 300x-13).

- C. Residents and their children residing in a certified center must voluntarily elect to participate in SNAP. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. Children of the residents in a center who live with their parents in the treatment center will qualify for SNAP. Meals served to the children are eligible for purchase with SNAP benefits. The local office shall certify residents of centers by using the same provisions that apply to other applicant households.
- D. Residents of centers may be receiving public assistance or SSI benefits or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed.
- E. Any applicant household containing a member who regularly participates in a drug and alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined. The household must complete the application process through the head of household or through an authorized representative and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their SNAP benefits to purchase food prepared for or served to the individual during the program, provided the program has been authorized by FNS for such purposes.

**4.309.31 Responsibilities of the Center**

Drug or alcohol treatment and rehabilitation centers will be responsible for the following:

- A. The drug or alcohol treatment center employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and Personal Identification Number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility.

The resident's EBT card shall be stored in a secure area while the resident receives treatment at the facility. The drug or alcohol treatment center shall not have access to, or knowledge of, the PIN for the resident's own EBT card.

- B. Each treatment and rehabilitation center shall provide the certification office with a certified list of currently participating residents and their children residing with them in the center. The certification office shall require the list on a monthly or semimonthly basis. In addition, the certification office shall conduct periodic, random, onsite visits to the center to ensure the accuracy of the listings and that the local office's records are consistent and up-to-date. The frequency of periodic visits is left to the discretion of the local office but once each year is recommended.

- C. The center shall also report when the resident leaves the center. The center shall return to the issuing office any benefits received after the household has left the center.

The center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the center, the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf.

If benefits have been issued and any portion has been spent on his/her behalf and the resident leaves prior to the sixteenth (16th) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16th), if benefits have already been used, the resident shall not receive any benefits.

Under no circumstances shall the center pull benefits from an EBT card after the resident has left the facility. The center shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure.

The center shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local office within ten (10) days of any change the household is required to report.

- D. The center shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. The organization or institution shall be knowledgeable about household circumstances when serving as an authorized representative. The organization or institution should carefully review those circumstances with residents prior to applying on their behalf.
- E. The center may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The local office shall promptly notify the state department when it has reason to believe that a center is misusing SNAP benefits in its possession. However, no action shall be taken against the center prior to an FNS investigation. The local office shall establish a claim for over-issuance of SNAP benefits held on behalf of center residents if any over-issuances are discovered because of an FNS investigation or hearing. If FNS disqualifies a center as an authorized drug and alcohol rehabilitation and treatment center, the local office shall suspend its authorized representative status for the same period.

#### **4.309.4 Residents of Group Living Arrangements**

A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person must be a person with disabilities. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents and is certified as a group living arrangement by the Colorado Department of Public Health and Environment and the state department under Section 1616(e) of the Social Security Act (codified at 42 U.S.C. 1382e(e)). FNS may also certify under standards determined by the USDA that are comparable to standards implemented by the state under 1616(e) of the Social Security Act. Individuals residing in a for-profit facility are considered residents of an institution per Section 4.304.4(E).

B. Residents of group living arrangements must voluntarily elect to participate in SNAP.

Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for SNAP on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs.

1. If residents apply using the group living facility's authorized representative, eligibility shall be determined as a one-person household. The group living arrangement may either:
  - a) Receive and spend the allotment on food prepared by and/or served to the eligible resident, or
  - b) Allow the eligible resident to use all or any portion of the allotment on his/her own behalf.
2. The group living facility employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and Personal Identification Number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility.
3. The resident's EBT card shall be stored in a secure area while the resident resides in the group living facility. The group living facility shall not have access to, or knowledge of, the PIN for the resident's personal EBT card.
4. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as a one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement.

C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other SNAP households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued.



- D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other SNAP households, and resident households shall be afforded the same rights all other SNAP households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.

**4.309.41 Responsibilities of Group Living Arrangements**

- A. Each group living arrangement shall provide the local office with a list of currently participating residents. The local office shall require the list on either a monthly or semimonthly basis and the list shall be signed by a responsible center official attesting to the validity of the list. In addition, the local office shall conduct periodic random onsite visits to ensure the accuracy of the list and that the local office's records are consistent and up to date.
- B. If the resident has applied on his/her own behalf, the household is responsible for reporting changes to the local office in accordance with Section 4.603. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the local office of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.
- C. When the household leaves the group living facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement prior to the sixteenth (16th) of the month, the facility shall provide the resident with one half of his/her monthly allotment. If the household leaves on or after the sixteenth (16th) of the month and the benefits have already been issued and used, the household does not receive any benefits.

Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. Under no circumstances shall the group living arrangement pull benefits from an EBT card after the resident or group of residents have left the group living facility. The facility shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure.

The group living arrangement shall provide the household with a change report form as soon as it has knowledge of the household plan to leave the facility and advise the household to return the form to the local office within ten (10) days of any change the household is required to report.

- D. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of group living facility residents. The facility shall be knowledgeable about household circumstances as an authorized representative and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the group living facility. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household.

- E. The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at a central location as part of the group living arrangement services, or if meals are prepared at a central location for delivery to the individual residents. If residents purchase and/or prepare food for individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's SNAP benefits are used for meals intended for that resident. If the resident retains use of their own allotment, they may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.

#### **4.309.42 Disqualification of the Group Living Arrangements**

A group living arrangement facility authorized by FNS may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The local office shall promptly notify the state department when it has reason to believe that a facility is misusing benefits. However, the local office shall take no action prior to FNS action against the facility. The local office shall establish a claim for over-issuances of SNAP benefits held on behalf of resident clients if any over-issuances are discovered during an investigation or hearing procedure for redemption violations.

If the group living facility loses its authorization from FNS to accept SNAP benefits or is no longer certified by the Colorado Department of Public Health and Environment as a group living arrangement, residents using the facility as an authorized representative shall no longer be able to participate. The residents are not entitled to a Notice of Adverse Action but shall receive a written notice explaining the termination and when it shall become effective.

Residents applying on their own behalf shall still be able to participate, if otherwise eligible.

#### **4.310 GENERAL WORK REQUIREMENTS**

As a condition of eligibility for SNAP, each household member not determined to be exempt must comply with the following work requirements:

- A. Register for work at the time of initial application and at every recertification by signing the application for assistance or recertification. The application must be signed by the member required to register, an authorized representative, or by another adult household member; and
- B. Provide the eligibility technician with sufficient information regarding employment status or availability for work; and
- C. Cannot commit an act of voluntary quit; and
- D. Accept an offer of suitable employment; and
- E. Report to an employer if referred by the local office if the potential employment is suitable employment.

##### **4.310.1 Work Requirements and Verification**

Client statements are considered acceptable verification unless questionable.

If verification is requested from the client because client statement is considered questionable, case documentation must thoroughly explain why the original client statement was considered questionable.

- A. Examples of verification that can be obtained to resolve questionable information can include but is not limited to:

1. Receipt of temporary or permanent disability benefits issued by government or private sources; or
2. Persons may provide a statement from a physician, physician's assistance, nurse, nurse practitioner, designated representative of the physician's office, or a licensed or certified psychologist. A county agency may determine other licensed medical personnel appropriate to provide verification that a work registrant is physically or mentally unfit for employment; or
3. A statement from a licensed social worker or a social worker employed by or acting on behalf of a 501(C)(3) non-profit organization or government entity.

#### **4.310.2 Informing the Household of General Work Requirements**

At the point of initial application and recertification, when an interview is required, SNAP households must receive from the eligibility technician a written notice and a verbal explanation of:

- A. The SNAP general work requirements;
- B. The rights and responsibilities of household members subject to work requirements;
- C. The consequences of failure to comply with these work requirements; and
- D. The availability of additional employment and training programs and services, outside of Employment First (EF), within their community.

When an interview is not required at recertification, the written statement of these requirements to the work registrants in the household is sufficient.

#### **4.310.3 General Work Requirement Exemptions**

At all determinations of eligibility including initial, ongoing, and recertification, eligibility technicians must explore if the household member meets an exemption rather than placing the burden solely on the household member to self-report.

General work requirement exemptions include:

- A. A person 15 years of age or younger or a person 60 years of age or older;
  1. A person age 16 or 17 who is not the head of a household, or who is attending school, or is enrolled in an employment training program, on at least a half-time basis, is also exempt.
- B. A parent or other household member responsible for the care of a dependent child under 6 or an incapacitated person;
- C. A person physically or mentally unfit for employment;

Examples of being physically or mentally unfit for employment can include but are not limited to:

1. Persons experiencing homelessness, as defined in 4.000.1
2. Recently released from an institution
3. Person with disabilities as defined in 4.100 and includes but is not limited to:

- a. Persons with self-declared temporary conditions that would prevent successful participation in work activities
  - b. Persons receiving temporary or permanent disability benefits issued by government or private sources
  - c. Persons participating in vocational rehabilitation
  - d. Persons applying for and/or appealing SSI benefits
- 4. Persons unable to maintain employment
- 5. Persons impacted by domestic violence
- D. A student enrolled at least half-time, as defined by the educational facility, in any accredited school, training program, or institution of higher education;
  - 1. A student who is enrolled in an institute of higher education must meet student eligibility requirements to receive SNAP.
  - 2. Students who are eligible for SNAP remain exempt from work requirements during normal periods of class attendance and school breaks.
  - 3. Persons who are not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to register for the next normal school term (other than summer), shall not be eligible for this exemption.
- E. Employed or self-employed individuals who are working a minimum of thirty (30) hours per week or receiving weekly earnings at least equal to the federal minimum wage multiplied by thirty (30) hours;
  - 1. This shall include migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days.
  - 2. Persons working in action programs, including VISTA, are exempt from work requirements if they work at least thirty (30) hours per week even if the compensation is not consistent with prevailing community wage, since an employer-employee relationship can be documented.
- F. A person applying for or receiving Unemployment Insurance Benefits (UIB). The local office shall verify application for or receipt of UIB, if questionable. A person who has been denied UIB and who is appealing the decision is exempt;
- G. A regular participant in drug or alcohol treatment or rehabilitation program;
- H. A person subject to and complying with CW or the Colorado Refugee Services Program (CRSP) work programs.

#### **4.310.4 Changes in Exemption Status**

Individuals exempt from work requirements are not required to report changes in their exemption status during their certification period. At recertification, all individuals subject to work requirements will be reassessed for work requirement exemptions.

If an individual loses their exemption status during their certification period, they shall retain their original work requirement exemption through their certification period unless they are considered an ABAWD.

#### **4.310.5 Voluntary Quit**

- A. When a household files an initial application or recertification, the local office must determine if any household member who is not exempt from work requirements voluntarily quit his or her job of 30 or more hours a week or reduced his or her work effort to be less than 30 hours a week without good cause. Benefits must not be delayed beyond the normal processing times pending the determination of voluntary quit.
- B. A level sanction as described in section 4.3108, below, will be imposed if voluntary quit occurred within sixty (60) calendar days prior to the date of application or after the date of application but prior to eligibility determination and the voluntary quit was without good cause as defined in section 4.308.1.
  - 1. Individuals who voluntary quit are ineligible to participate in SNAP and shall be treated as a disqualified member. If the disqualified member joins another household, the ABAWD disqualification period for that individual shall continue until the ABAWD disqualification period is completed.
- C. An employee of the federal, state, or local government who participates in a strike against such a government and is dismissed from his or her job because of participation in the strike, will be considered to have voluntarily quit his or her job without good cause.

If an individual quits a job, secures new employment at comparable wages or hours, and, through no fault of his or her own loses the new job, the prior voluntary quit will not be a basis for disqualification.

#### **4.310.6 Suitable Employment**

Employment will be considered suitable, unless any of the following apply:

- A. The wages offered are less than the higher of:
  - 1. The applicable federal or state minimum wage.
  - 2. Eighty percent (80%) of the federal minimum wage if neither the federal or state minimum wage is applicable.
- B. The employment offered is on a piece-rate and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wage specified above.
- C. The household member, as a condition of employment, is required to join, resign from, or refrain from joining any legitimate labor organization.
- D. The work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under the Labor Management Relations or the Railway Labor Act.
- E. The household member that can demonstrate or the local office becomes aware that:
  - 1. The degree of risk to the health and safety is unreasonable.
  - 2. The client is physically or mentally unfit to perform the employment as established by documentary medical evidence or reliable information obtained from other sources.

3. The employment offered is not in his/her major field experience unless, after a period of thirty (30) calendar days from registration, job opportunities in his/her major field have not been offered.
4. The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting.
5. The daily commuting time exceeds two (2) hours per day, not including the transporting of a child or children to and from a child care facility.
6. The distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site.
7. The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

#### **4.310.7 Good Cause for Voluntary Quit and Suitable Employment**

The local office is responsible for determining good cause when a non-exempt individual appears to have voluntarily quit or failed to accept an offer of suitable employment. Good cause and/or lack of good cause must be clearly documented in the case file.

Good cause for voluntary quit includes circumstances beyond the household member's control, such as, but not limited to:

- A. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;
- B. Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
- C. Acceptance by the individual of employment; or enrollment of at least half-time in any recognized school, training program, or institution of higher education, that requires the individual to leave employment;
- D. Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program, or institution of higher education in another county or political subdivision which requires the household to move and thereby requires the individual to leave employment;
- E. Resignations by persons under the age of sixty (60) that are recognized by the employer as retirement;
- F. Resignation from employment that does not meet suitable employment;
- G. Because of circumstances beyond the control of the individual, accepted full time employment subsequently either does not materialize or results in employment of less than thirty (30) hours a week or weekly earning of less than the federal minimum wage multiplied by thirty (30) hours;
- H. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work, even though employment at the new site has not actually begun;
- I. Illness of the individual;

- J. Illness of another household member requiring the presence of the individual;
- K. A household emergency;
- L. Unavailability of transportation;
- M. Employer demands a reduction in participant's work effort or salary through no fault of the employee; and
- N. Lack of adequate child care for children who have reached age 6 but are under age 12.

#### **4.310.8 Level Sanction Periods**

- A. If the local office determines that an individual has voluntarily quit or failed to accept suitable employment without good cause, that individual shall be ineligible to participate in SNAP and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed.
  - 1. The first (1st) time, the individual shall be disqualified for a period of one (1) month after the date the individual became ineligible.
  - 2. The second (2nd) time an individual fails without good cause to comply with work requirements, the individual shall be disqualified for a period of three (3) months after the date the individual became ineligible.
  - 3. The third (3rd) or subsequent time an individual fails without good cause to comply with work requirements, the individual shall be disqualified for a period of six (6) months after the date the individual became ineligible.
- B. The disqualification period shall begin the month following the expiration of the Notice of Adverse Action unless a fair hearing is requested.
- C. If the level sanction disqualified individual is the sole member of the SNAP household and then becomes exempt, the newly exempt individual can reapply for benefits. The newly exempt individual will be eligible based on the date of the application or if in the case of reinstatement, the date exemption information was provided to the local office.
- D. If the level sanction disqualified individual is in a SNAP household with other eligible members and then becomes exempt, the newly exempt individual will be eligible based on the date exemption information was provided to the local office.

#### **4.311 ABAWD WORK REQUIREMENTS**

ABAWDs must fulfill an ABAWD work requirement in addition to the general work requirements. For the remainder of this section, client statement is considered acceptable verification unless questionable. If verification is requested from the client, case documentation must thoroughly explain why the original client statement was considered questionable.

- A. The following individuals are not considered ABAWDs and are therefore not subject to the ABAWD work requirement:
  - 1. Aged seventeen (17) or younger.
  - 2. Aged fifty-five (55) or older.

3. Determined to be medically certified as physically or mentally unfit for employment. An individual is medically certified as physically or mentally unfit for employment if they:
    - A. Are receiving temporary or permanent disability benefits issued by governmental or private sources;
    - B. Are obviously mentally or physically unfit for employment as determined by the local office; or
    - C. Provide a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other qualified health professional as defined in 12-200-101 through 12-315-126, C.R.S., that the client is physically or mentally unfit for employment.
  4. Residing in the same physical household with an individual who is under the age of eighteen (18). The minor individual does not have to be included in the same SNAP household for this exclusion to apply.
- B. To fulfill the ABAWD work requirement, the ABAWD must be:
1. Working 20 hours per week or averaged monthly for a total of 80 hours a month; or
    - a. Working includes:
      - i. Work completed in exchange for money (compensated work); or
      - ii. Work completed in exchange for goods or services (in-kind work); or
      - iii. Unpaid work verified by the provider of the unpaid work; or
      - iv. Any combination of compensated work, unpaid work, or in-kind work.
  2. Participating in and complying with the requirements of a work program 20 hours per week or averaged monthly for a total of 80 hours a month; or
    - a. A work program includes:
      - i. A program of employment and training operated or supervised by the CDHS program other than a job search program or a job search training program;
      - ii. A program under the Workforce Innovation and Opportunity Act (WIOA);
      - iii. A program under Section 236 of the Trade Act of 1974 (19 USC 2296, "Trade Adjustment Assistance").
  3. In any combination of working and participating in a work program for a total of 20 hours per week or averaged monthly for a total of 80 hours a month; or
  4. Participating in and complying with the Colorado Workfare program.

Failure to meet the ABAWD work requirement will result in the ABAWD losing eligibility if they accrue three countable months within a thirty-six (36) calendar month period.



#### **4.311.1 ABAWD Exemptions**

Any individual who meets the definition of an ABAWD can be exempt from the ABAWD work requirement by meeting one of the follow exemptions:

- A. Exempt from the general work requirements;
- B. Pregnancy;
- C. A person experiencing homelessness, as defined in Section 4.000.1;
- D. Veterans;
- E. Aged twenty-four (24) years and younger and in Foster Care on their eighteenth (18th) birthday;
- F. Exempt under a waiver approved by the USDA, FNS; or
- G. Exempt using Colorado defined state exemptions as identified in the current SNAP Employment and Training State Plan.

#### **4.311.2 Changes in ABAWD Exemption Status**

ABAWDs are not required to report changes in their exemption status during a certification period. However, if the ABAWD loses their exemption status during a certification period, the months the ABAWD was not exempt will count toward their three countable months in a thirty-six (36) calendar month period. Any remaining months of benefits received during that certification period are not considered over-issuances and claims will not be established.

#### **4.311.3 ABAWD Time Limits**

ABAWDs are not eligible to participate in SNAP if they have received SNAP benefits for more than three countable months during a thirty-six (36) month period.

However, ABAWDs may be eligible for up to three additional consecutive months after regaining eligibility in accordance with paragraph (C) of this section.

- A. Countable months
  - 1. Countable months are accrued when an ABAWD received SNAP benefits for the full benefit month but did not:
    - A. Meet an exemption; or
    - B. Fulfill their work requirements.
  - 2. When an individual turns eighteen years old (18) and enters ABAWD status, they do not accrue a countable month in the month they turn eighteen (18). If they do not meet an ABAWD exemption, they will begin to accrue countable months in the month after the month in which they turn eighteen (18).

- B. Good cause for countable months

If an ABAWD would have worked an average of twenty (20) hours per week but missed some work for good cause, the ABAWD shall be considered to have met the work requirement if the absence from work is temporary and the individual retains work.

Good cause for countable months shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

C. The ABAWD time limit clock:

1. Counts accrued countable months for all ABAWDs who are not in compliance with work requirements and do not have an exemption; and
2. Resets accrued countable months and ABAWD disqualifications, regardless of start date, for all ABAWDs every thirty-six (36) calendar months starting July 1, 2023.

D. Regaining Eligibility

1. An individual who is denied eligibility under this provision can regain eligibility if in a thirty (30) calendar day period, the individual:
  - a. Worked eighty (80) or more hours;
  - b. Participates in and complies with the requirements of a work program for eighty (80) or more hours;
  - c. Participates and complies with the Workfare Program as described in section 4.313; or
  - d. Becomes exempt.
2. The individual will be reinstated if otherwise eligible and will continue to be eligible if the individual continues to meet the work requirement or is exempt.
3. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the local office. The individual can only have this provision applied for a single three-month period in the thirty-six (36) calendar month period.

**4.312 Employment First (EF)**

In Colorado, the Employment and Training program is called EF. The purpose of the program is to assist members of households participating in SNAP in gaining skills, training, work, or experience that will increase their ability to obtain employment.

CDHS must submit an annual Employment and Training State Plan for approval by the USDA, Food and Nutrition Service. A copy of the CDHS Employment and Training plan is available at <https://cdhs.colorado.gov/benefits-assistance/employment-assistance/colorado-employment-first>.

The EF program is a voluntary work program for SNAP applicants and recipients. Failure to participate with the EF program will not result in a work requirement disqualification.

**4.312.1 County Administration Requirements for EF**

Local offices choosing to administer an EF program shall submit a county plan as prescribed by CDHS and shall operate their EF program in alignment with the CDHS Employment and Training plan. Failure to adhere to the requirements as described in the CDHS Employment and Training plan will result in a Corrective Action Plan (CAP).

Local offices may enter into a contractual agreement for all or any part of the EF program service delivery. These contractual agreements shall be reviewed by CDHS for adherence to the program requirements before implementation.

- A. Every EF program must monitor ABAWDs who choose to use EF to meet their ABAWD work requirement to ensure they are meeting ABAWD work requirements. This monitoring may include obtaining employment or volunteer working hours information and/or ensuring the ABAWD is participating in an allowable Employment First component as set forth in the annual CDHS Employment and Training plan and the specific county EF plan.
- B. The EF provider shall:
  - 1. Deliver case management services as prescribed in the CDHS EF State Plan;
  - 2. Compile data and submit required reports within prescribed timeframes;
  - 3. Coordinate program operations with the state EF staff, in accordance with the annual CDHS Employment and Training plan as well as the specific county EF plan;
  - 4. Ensure that participants receive the appropriate reimbursement for participation, such as actual costs of transportation or other costs as outlined in the CDHS Employment and Training plan;
  - 5. Utilize required forms as prescribed or approved by the state;
  - 6. Attend scheduled EF program meetings and training as required;
  - 7. Ensure that all funds expended are allowable program costs per the annual CDHS Employment and Training plan;
  - 8. Ensure program services are not suspended for longer than fourteen (14) consecutive days for any reason;
  - 9. Ensure that any exemptions discovered through working with participants are communicated to county eligibility

#### **4.313 Colorado Workfare Program**

In Colorado, the Section 20 Workfare Program of the Food and Nutrition Act of 20018 (codified at 7 USC 2029) is called the Colorado Workfare Program.

CDHS must submit an annual Section 20 Workfare State Plan for approval by the USDA, FNS. A copy of the CDHS Section 20 Workfare plan is available at <https://cdhs.colorado.gov/benefits-assistance/employment-assistance/colorado-employment-first>.

##### **4.313.1 County Administration Requirements for Workfare**

Local offices choosing to administer a Colorado Workfare program shall submit a county plan as prescribed by CDHS and shall operate their Workfare program in alignment with the CDHS Section 20 Workfare plan. Failure to adhere to the requirements as described in the CDHS Section 20 Workfare plan will result in a Correct Action Plan (CAP).

#### **4.400 FINANCIAL ELIGIBILITY CRITERIA**

Income shall be considered prospectively for the issuance month based on the eligibility technician's determination of the household's reasonably anticipated monthly income, and for households eligible under Standard Eligibility as outlined in Section 4.206, the value of its resources is considered.

##### **4.401 Income Eligibility Standards**

- A. Income eligibility is determined based on the composition of the household. A household shall meet the gross and net monthly income eligibility standards as outlined in this section. See section 4.401.1 and 4.401.2 for the gross and net percentages of the Federal Poverty Levels.
1. ECE households must have gross income below two hundred percent (200%) of the federal poverty level.
  2. BCE households shall be deemed as having met gross and net income limits.
  3. Households that are not considered ECE or BCE and are instead subject to SE rules shall meet income eligibility standards as follows:
    - a. Households that do not include a member who is aged sixty (60) and older or a person with a disability shall have gross income at or below one hundred thirty percent (130%) of the federal poverty level and have a net income at or below one hundred percent (100%) of the federal poverty level.
    - b. Households that include a member who is aged sixty (60) and older or a person with a disability shall have a net income at or below one hundred percent (100%) of the federal poverty level.
  4. For household members who are persons that are aged sixty (60) and older and/or have a disability, who are unable to purchase and prepare meals because they suffer from a disability considered permanent under the Social Security Act, or a non-disease related, severe, permanent disability, may be considered, together with his or her spouse if the spouse is living in the same home, a separate household from the others with whom the individual lives. The combined income of the others with whom the individual who is aged sixty (60) and older and a person with disabilities resides (excluding the income of the individual who is aged sixty (60) and older and a person with disabilities and his or her spouse) must not exceed one hundred sixty-five percent (165%) of the poverty level.
- B. Ineligible students and household members who are ineligible due to citizenship status, intentional program violation, failure to cooperate with work programs, or failure to provide or apply for a Social Security Number, shall be excluded when determining the household size and the appropriate income eligibility maximum and/or level of benefits.

##### **4.401.1 Gross Income Limits**

Effective October 1, 2024, the gross income levels for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size are as follows:

Household Size	130% Gross Income Level	200% Gross Income Level	165% Gross Income Level
1	\$1,632	\$2,510	\$2,071
2	\$2,215	\$3,408	\$2,811
3	\$2,798	\$4,304	\$3,551
4	\$3,380	\$5,200	\$4,290
5	\$3,963	\$6,098	\$5,030
6	\$4,546	\$6,994	\$5,770
7	\$5,129	\$7,890	\$6,510
8	\$5,712	\$8,788	\$5,712
Each additional person	+\$583	+\$898	+\$740

#### 4.401.2 Net Income Levels

Effective October 1, 2024, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

Household Size	100% Net Income Level
1	\$1,255
2	\$1,704
3	\$2,152
4	\$2,600
5	\$3,049
6	\$3,497
7	\$3,945
8	\$4,394
Each additional person	+\$449

#### 4.402 HOUSEHOLD INCOME ELIGIBILITY

##### A. Determining Income

- Income eligibility shall be determined prospectively based on the eligibility technician's anticipation of income at the time of application and when changes are made known to the local office.
- When determining if a household is eligible under gross and/or net income limits, households shall have income converted to a monthly amount by using a conversion as specified below. When a full month's income is anticipated any cents in the gross weekly or biweekly earnings shall be used in converting income to a monthly amount.

Pay Frequency	Conversion
Weekly	Multiply Weekly Average by 4.3.
Bi-Weekly (Every Two Weeks)	Multiply Bi-Weekly Average by 2.15.
Semi-Monthly (Twice a Month)	Multiply Semi-Monthly Average by 2.
Every Other Month	Multiply Average by 0.5.
Quarterly	Multiply Average by 0.333333.
Twice a Year	Multiply Average by 0.166666.
Annual	Multiply Average by .083.

3. Household income shall mean all earned and unearned income received or anticipated to be received by household members from whatever source, unless specifically exempted for Food Assistance eligibility and budgeting purposes, per Section 4.405. Income of household members, including the amount of the disqualified person's income attributed to the household, shall be counted as income in the month received or the month it becomes available, unless the income is averaged over the certification period.

**B. Variations in Date of Pay**

1. Regular ongoing earned income that is received early or late by a household due to a holiday, a weekend, or pay dates being changed will have income counted based on the regular pay schedule instead of the actual date of pay.
2. Households receiving monthly benefits such as public assistance or social security payments shall not have their monthly income varied merely because mailing cycles resulted in two (2) payments in one month and none in the next month.
3. Households containing a member of the Armed Services of the United States shall not have their monthly income varied merely because the first day of the month falls on a holiday or weekend which resulted in two (2) payments in the month and none in the subsequent month.

**C. Wage Data**

1. With respect to income or resource information originating with the Internal Revenue Service (IRS) and provided through the income and eligibility verification system (IEVS), as well as wage data obtained through the DOLE or IEVS, the local office must verify such information from another source and must verify applicant/participant access to that income/resource. The local office may not take adverse action on such information until independent verification is obtained, or until the applicant has been found to have failed to cooperate in providing the required verification. The information must also be verified prior to establishing a claim for an over-issuance of benefits.

**4.402.1 Prospective Budgeting**

- A. Prospective budgeting is the process of computing a household's allotment based on anticipated income and circumstances during the issuance month. All SNAP households and all situations require prospective budgeting determinations, including Public Assistance (PA) households under the TANF /Colorado Works Program.
- B. If the date of receipt or the amount of any anticipated income is uncertain, such as a new job or a PA application, that portion of income shall not be considered. Only the portion of income which can be anticipated with reasonable certainty concerning the amount and month in which monies will be received shall be counted as income.
- C. Income received within the past thirty (30) days may be used as an indication of the income that will be received in the issuance month unless changes in income have occurred or can be anticipated which require proper adjustment. Income used to determine prospective eligibility shall be representative of the household's current circumstances.

If the verified income does not provide an accurate indication of anticipated income, a longer period of past time may be used if it will provide a more accurate indication of anticipated income. If a household's income fluctuates seasonally, it may be appropriate to use the last season rather than the last thirty (30) days, although precaution must be taken to account for possible fluctuations or new circumstances. Except for eligible strikers, no household shall have the amount of any past income automatically attributed to it.

#### **4.402.2 Averaging Income**

To obtain a household's average monthly income, income intended to cover a specific period of time is divided by the number of months the income is intended to cover.

**A. Income shall be averaged for:**

1. Households who derive their annual income from self-employment. These households shall have their income annualized over a twelve (12) month period even if the income is received within a shorter period of time.
2. Households who derive their annual income from contract income shall have that income averaged over a twelve (12) month period. (This requirement is not applied to income from a contract received on an hourly or piecework basis.)
3. Households receiving educational income as defined in Section 4.404, D. The income is prorated over the period of time it was intended to cover.
4. Other households not previously mentioned, such as migrant or seasonal workers, may elect to have their fluctuating income averaged over the period of time the income is intended to cover.

Self-employment income, contract income, and fluctuating income intended to cover a specific period of time shall not be averaged or annualized for migrant households that are destitute of income as defined in Section 4.406.

**B. The types of households listed above shall have their self-employment income, contract income, or educational monies annualized or prorated, and added to other household income to determine monthly income for SNAP.**

**C. To average income prospectively, the eligibility technician shall use the household's anticipation of income, considering fluctuations, to obtain a monthly average amount for the period of certification. The number of months used to arrive at the average income need not be the same as the number of months in the certification period, such as the known income from two (2) previous months may be averaged and projected for each month of a certification period that is longer than two (2) months. Refer to Section 4.403.11 for more information on computing self-employment income.**

Fluctuating income that has been averaged may be adjusted if verification of a change in circumstances is received.

#### **4.403 COUNTABLE EARNED INCOME**

The following shall be considered as earned income:

**A. Wages and Salaries**

1. All payments for services as an employee, including garnishments, or money payments legally obligated to the employee and diverted to a third party for the employee's household expenses. Countable income from employment received by students in institutions of higher education while participating in state work-study programs or a fellowship with a work requirement shall not be considered earned income.
2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving SNAP benefits when they joined VISTA. If the client was not receiving SNAP benefits when they joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in SNAP participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period where a household or individual missed a full month of benefits, excluding instances where the lapse in benefits is due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1.
3. 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 by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer.

When an advance on wages is subsequently repaid from current wages, only the wages received is considered as income. The amount of repayment is disregarded, even if the wage-earner was not a SNAP participant at the time of the advance.

4. Payment for sick leave, vacation pay, and bonus pay shall be considered as earned income, if the person was still employed while receiving the pay.

**B. Training Allowances**

1. Payments from vocational and rehabilitation programs recognized by federal, state, or local governments, such as the Job Opportunities and Basic Skills (JOBS) Program, to the extent they are not a reimbursement, except for allowances paid under the Workforce Innovation and Opportunity Act (WIOA).
2. Earned income will include earnings to individuals who are participating in the on-the-job training under Section 204(5), Title II, of the Workforce Innovation and Opportunity Act (WIOA). This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member. Earnings include monies paid by the Workforce Innovation and Opportunity Act (WIOA) and monies paid by an employer.

**C. Title I Monies**

Payments received under Title I (VISTA-University Year of Action) of the Domestic Volunteer Service Act of 1973 shall be considered earned income and subject to the earned income deduction, excluding payments made to those households specified in Section 4.405.2.



**D. Income of Strikers**

Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two to the current income of the non-striking household members during the month of application.

**E. Self-Employment**

The method of ascertaining the self-employment income to be considered for SNAP purposes is often difficult and the guidelines set forth in Sections 4.403.1–4.403.12 are meant to clarify and aid the process.

In determining gross self-employment income, all income received by the self-employment household must be considered. Self-employment income includes:

1. Monies received from rental or lease of self-employment property. Rental property shall be considered a self-employment enterprise. However, the income will be considered as earned income only if the household member (or disqualified person) actively manages the property at least an average of twenty (20) hours per week.
2. Monies received from the sale of capital goods, services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains.

The term “capital gains”, as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self-employment enterprise; or securities, real estate, or other real property held as an investment for a set time period. For SNAP purposes, the total amount received from the sale of capital goods shall be counted as income to the household.

**F. Owners of Limited Liability Corporations (LLC) and S-Corporations**

For SNAP purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. The income from these types of corporations should be treated as regular earned income, not self-employment income.

If the owner of the LLC or S-Corporation takes a draw, the total business income minus all expenses will count as earned income for the client. If the owner receives a salary, we count all payments for services as an employee as regular earned income. There are situations where the owner of an LLC or S-Corporation may receive a salary and a draw, so both sources of income must be counted.

Client statement of LLC and S-Corporation income is acceptable, unless questionable. If the income meets the SNAP definition of questionable, verification can be provided in the form of pay stubs, bank records, the LLC or S-Corporation owner's individual form 1040, or any other document that sufficiently establishes countable earned income for the owner.

G. Boarder Income

The income of boarders shall include all direct payments to the household for room and meals, including contributions to the household for shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household. See Section 4.403.2 regarding calculating income from a boarder.

**4.403.1 Self-Employment**

See Section 4.403, E, for a description of what is considered self-employment income.

- A. Self-employment is defined as a situation where some or all income is received from a self-operated business or enterprise in which the individual retains control over work or services offered, and assumes the necessary business risks and expenses connected with the operation of the business.

Households in which one or more members are engaged in an enterprise for gain either as an independent contractor, franchise holder, or owner-operator must be considered as self-employed, provided that the members are actively engaged in the enterprise on a day-to-day basis. In instances where the members hire or contract for another person or firm to handle the day-to-day activities of such enterprise, the members will have self-employment income but will not be considered as self-employed for purposes of work registration. The self-employed individual need not own one hundred percent (100%) of the company to be considered self-employed.

- B. The receipt of income from self-employment, which may constitute all or only a portion of the income of the household, does not automatically exempt the members from the work registration requirement. This determination will be made based on the assessment of the eligibility technician and the household's declaration that the self-employment enterprise requires thirty (30) hours of work per week or averages annually thirty (30) hours per week.

**4.403.11 Determining Monthly Income from Self-Employment**

The amount of income considered from self-employment in the month of application shall be the gross amount of anticipated income plus capital gains less anticipated costs of doing business.

- A. To determine average income from self-employment, the worker first must determine the gross amount of income, actual or anticipated, including capital gains, for the period of time over which the self-employment income is being considered. The allowable costs of producing the self-employment income are excluded and the net income divided by the number of months over which the income is intended to cover. For federal income tax purposes, only fifty percent (50%) of the proceeds from the sale of capital goods is taxed. Therefore, if income tax forms are used to determine household income, the eligibility technician must be aware that the full amount of the capital gains is counted as income.
- B. Allowable costs of doing business include, but are not limited to: identifiable costs of labor; stock; raw materials; seed; fertilizer; payments on the principal of the purchase price of income producing real estate; capital assets, equipment, machinery and other durable goods; interest paid to purchase income-producing property; insurance premiums; taxes paid on income-producing property; and, other similar items that are necessary costs of doing business.
- C. The following shall not be allowed as a deduction for business costs:
1. Any amount that exceeds the payment a household receives from a boarder for lodging and meals is not allowable as a cost of doing business.

2. Any amount claimed as a net loss sustained in any prior period.
3. Federal, state, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as meals). These expenses are accounted for by the earned income deduction. However, any taxes paid by the business for employees (such as the business share of social security taxes) are allowed as a business deduction.

**D. Anticipating Capital Gains and Other Self-Employment Income**

When self-employment income is calculated on an anticipated basis, any capital gains that the household anticipates receiving in the next twelve (12) months, beginning with the date the application is filed, are added, and divided by twelve (12). This amount is used in successive certification periods over the next twelve months unless a change occurs. A new average monthly amount must be calculated over this twelve-month period if the anticipated amount of capital gains changes. The anticipated monthly amount of capital gains and the anticipated monthly self-employment income then are added and the anticipated cost of producing the income deducted. The cost is calculated by anticipating the monthly allowable costs of producing the self-employment income.

The monthly net self-employment income will be added to any other earned and unearned income received by the household to determine eligibility of self-employed SNAP applicants.

For those households with self-employment income, which is not annualized, the eligibility technician shall anticipate income. Any anticipated proceeds from the sale of capital gains shall be used as income in the month the proceeds are anticipated to be received.

**4.403.12 Averaging Self-Employment Income**

Self-employment income must be averaged over the period for which the income is intended to cover, as outlined below:

**A. Self-Employment as Primary Annual Support**

When a household receives its annual support from self-employment income, such income is to be averaged over twelve (12) months to determine the household's average monthly income from this source. This policy applies even if the income is received in only a short period of time or the household receives income from other sources in addition to the self-employment income.

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 worker must calculate the self-employment income on anticipated earnings and not on the basis of prior income.

**B. Self-Employment as Partial Support**

Households may receive income from self-employment that represents only a part of their annual income. Such self-employment income must be averaged over the self-employment months rather than over a twelve (12) month period.

**C. Self-Employment Income Received Monthly**

Self-employment income received on a monthly basis and representing a household's annual support normally will be averaged over twelve (12) months. If the monthly average does not accurately reflect the household's actual financial situation because of a substantial increase or decrease in business, the worker must calculate self-employment income based on the household's anticipated earnings.

**D. Self-Employment Income from a New Source**

Income from a self-employment enterprise that has been in business less than a year is to be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

**E. Self-Employment Income of a Farmer**

1. If after deducting all allowable business expenses from gross income received from self-employment as a farmer, the costs of producing the income exceed the income derived, such losses shall be offset against other income received by the household. Steps to take in offsetting the loss shall be as noted below. The net losses shall be prorated over the period intended and the monthly prorated amount deducted from other monthly income.
2. For purposes of applying this rule, an individual shall be considered a self-employed farmer if they receive or expect to receive gross annual income of one thousand dollars (\$1,000) or more from the farm enterprise. In addition, the following steps shall be taken when determining eligibility and benefits levels of the self-employed farmer.
  - a. The monthly prorated loss shall be deducted first from any other "self-employment" income.
  - b. Any remaining loss will then be deducted from other earned income into the household. This total shall be the figure from which the earned income deduction shall be calculated.
  - c. Finally, any other income shall be added, and this total shall be the amount used to compare the household's gross income to income eligibility standards for the appropriate-sized household.

**4.403.2 Boarder Income**

Persons paying a reasonable amount for room and board shall be excluded from the household when determining the household's eligibility and benefit level. The income of households owning and operating a commercial boarding house shall be handled as described in Section 4.403.11. For all other households, payments from the boarder shall be treated as self-employment income and the household's eligibility determined as follows:

- A. The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household for shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household.
- B. After determining the income received from the boarders, the local office shall exclude that portion of the boarder payment which is the cost of doing business. The cost of doing business shall be equal to either of the following costs, provided that the amount allowed as a cost of doing business shall not exceed the payment the household received from the boarder for lodging and meals.

1. The value of the maximum allotment for the household size that is equal to the number of boarders;
  2. The actual documented cost of providing room and meals if the actual cost exceeds the appropriate maximum allotment. If actual costs are used, only separate and identifiable costs of providing room and meals to boarders shall be allowed as a cost of doing business; or,
  3. If the boarder income received is from foster care payments, the entire amount of the payment will be disregarded as a cost of doing business.
- C. The monthly net income (after subtracting costs of doing business) from self-employment shall be added to other monthly earned income and the twenty percent (20%) earned income deduction shall be applied to the total dollar amount.
- D. Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction. However, the shelter costs shall not include any shelter expenses paid directly by the boarder to a third party, such as to the landlord or the utility company.

#### **4.403.3 School Employee Income**

The provisions of this section are intended to apply primarily to teachers and other school employees.

- A. Households with members who receive income other than that which is paid on an hourly piece-work basis from employment under a contract which is renewable on an annual basis will have such income averaged over a twelve (12) month period to determine household eligibility.
- B. Such members will be considered to be receiving compensation for an entire year, even though predetermined non-work periods are involved or actual compensation is scheduled for payment during work periods only. The renewal process may involve a signing of a new contract each year, be automatically renewable, or, as in cases of school tenure, rehire rights may be implied and thus preclude the use of a written contract altogether. The fact that such a contract is in effect for an entire year does not necessarily 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.
- C. Income from such a contract will be considered as compensation for a full year, regardless of the frequency of compensation as stipulated in the terms of the contract, as determined at the convenience of the employer, or as determined at the wish of the employee.
- D. The annual income household members receive from contractual employment described above shall be averaged over a twelve (12) month period to determine the member's average monthly income. To determine household eligibility all other monthly income from other household members will be added to this average monthly income.

#### **4.404 Countable Unearned Income**

Unearned income shall include, but not be limited to, the following:

**A. Assistance Payments**

Payment from federal or federally aided public assistance programs, such as Supplemental Security Income (SSI), or Colorado Works/Temporary Assistance to Needy Families (TANF)/Title IV-A, or other assistance programs based on need, including payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves.

**B. Retirement and Disability Payments**

Payments from annuities; pensions; retirement; veterans or disability benefits; workmen's or unemployment compensation; old age, survivors, or Social Security benefits; and strike benefits.

**C. Support and Alimony Payments**

Support and alimony payments made directly to the household from non-household members for normal living expenses.

**D. Rental Income**

Rental income is total income, less the cost of doing business, from rental property in which a household member (or disqualified individual) is not actively managing the property an average of at least twenty (20) hours a week.

**E. Income of Non-Citizen Sponsors**

Income of non-citizen sponsors shall be considered as unearned income to households containing sponsored non-citizens.

**F. Vacation Pay, Sick Pay, and Bonus Pay**

If vacation pay, sick pay, or bonus pay is received in installment payments after a person has terminated employment, it is considered unearned income. If the pay is received in a lump sum, it shall be considered as a resource in the month received.

**G. Gifts**

Gifts from nonprofit organizations that exceed three hundred dollars (\$300) in a quarter or gifts from other sources of any amount, if they can be anticipated.

**H. Other Gain or Benefits**

Dividends, interest, royalties, and all other nonexempt direct money payments from any source that can be construed to be a gain or benefit.

Monies withdrawn from trust funds are income in the month received. Dividends that the household has the option of either receiving as income or reinvesting in the trust must be considered as income in the month they are available to the household.

**I. Substantial Lottery or Gambling Winnings**

Substantial lottery or gambling winnings as defined in section 4.000.1 will be counted as unearned income in the month received. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the SNAP household would be counted in the eligibility determination.

#### **4.405 Exempt Income**

Income from certain sources will be excluded for SNAP eligibility purposes under mandate of law. Only the following will not be considered as income:

**A. Irregular Income**

Any income in the certification period that is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty dollars (\$30) in three (3) months.

**B. Monies Intended for Non-Household Members**

Monies received and used for the care and maintenance of a third-party beneficiary who is not a household member. If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member shall be excluded. If the non-household member's portion cannot be readily identified, the payment shall be evenly prorated among the intended beneficiaries and the exclusion applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

**C. Earnings of Children**

The earned income of children who are under eighteen (18) years of age, who live with their natural parent, adoptive parent, stepparent, or are under the parental control of another household member other than a parent and are students at least half-time in elementary school, high school, or classes to obtain a General Equivalency Diploma (GED), will be considered exempt income.

If the student becomes eighteen (18) years of age in the month of application, the income shall be excluded for the month of application and counted the following month. If the student turns eighteen (18) during the certification period, their income shall be excluded until the month following the month in which the student turns eighteen (18).

**D. Recoupments**

The following recoupments or repayments from any nonexempt income source shall be exempt as income as follows:

1. Monies withheld from an assistance payment, earned income, or monies received from any nonexempt income source that is voluntarily or involuntarily returned to repay a prior overpayment received from that income source. Only the net income received from these sources shall be considered countable income. However, monies withheld from a federal, state, or local means-tested program (such as Title IV-A, State Old Age Pension), for purposes of recouping an overpayment which resulted from the household's intentional failure to comply with that program's requirements, shall not be exempted as income, and the gross income received from these sources shall be considered countable income. See Section 4.705 for specific instructions.
2. Child support payments received by Title IV-A participants that the household must transfer to the agency administering Title IV-D of the Social Security Act, in order to maintain their Title IV-A eligibility.

**E. Non-recurring Lump Sum Payments**

Money received in the form of non-recurring lump sum payments, includes, but is not limited to, income tax refunds, rebates, or credits; retroactive lump-sum Social Security, SSI, public assistance, railroad retirement benefits or other payments; or retroactive lump-sum insurance settlements; or any money an inmate receives upon release from prison, including earnings from work performed while incarcerated and accumulated over the length of the incarceration.

State and county diversion payments under Colorado Works shall be excluded as a non-recurring lump sum payment if the payment does not cover more than ninety (90) days of expenses and is not expected to occur again in a twelve (12) month period.

Non-recurring lump sum payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other federal laws. Any funds remaining in subsequent months shall be considered a resource.

**F. Loans**

1. All loans from private individuals as well as commercial institutions shall not be considered as income, including educational loans.
2. Monies received from a Reverse Annuity Mortgage (RAM) loan program should be treated as a loan and excluded from income. These loans meet the accepted definition of a loan since there is a verifiable agreement to repay with interest.

**G. In-Kind Benefits**

An in-kind benefit is any gain or benefit received by the household that is not in the form of money such as meals, clothing, public housing, or produce from a garden.

**H. Vendor Payments**

A payment made on behalf of a household shall be considered a vendor payment whenever a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. Vendor payments are excludable as follows:

1. Such payments include subsidies paid to the households and legally obligated to the landlord, rent or mortgage payments made directly to landlords or mortgagees by the Department of Housing and Urban Development (HUD), or payments by a government agency to a child-care institution to provide day care for a household member are also excluded as vendor payments.
2. Monies that are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third party for household expense, shall be counted as income and not excluded as a vendor payment. The distinction is whether the person or organization making the payment on behalf of a household is using funds that otherwise would need to be paid to the household.
3. Any emergency Public Assistance (PA) or General Assistance (GA) payment that is provided to a third party on behalf of the migrant or seasonal farm worker household, while the household is in the job stream, shall be excluded as income and considered as a vendor payment. These payments would normally be considered as income since the payment is legally obligated to the household.



4. Wages earned by a household member that are garnished or diverted by an employer and paid to a third party for a household's expenses, such as rent, shall be considered as income. However, if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages, this rent payment shall be excluded as a vendor payment. In addition, if the employer provides housing to an employee, the value of the housing shall not be counted as income.
  5. Assistance provided to a third party on behalf of a household by the state or local program shall be considered money payable directly to the household if the assistance is provided in lieu of:
    - a. A regular benefit payable to the household for living expenses under a program funded under Part A of the Social Security Act; or,
    - b. A benefit payable to the household for housing expenses under a state or local general assistance program or other assistance program comparable to general assistance.
  6. Assistance payments made to a third party for medical, child-care, or emergency/special assistance would be excluded as a vendor payment. Assistance payments provided by a state or local housing authority would also be excluded as income.
  7. Energy assistance payments, other than for the Low-Income Energy Assistance Program (LEAP) or a one-time payment under federal or state law for weatherization or to repair/replace an inoperative furnace or other heating or cooling device, that are made under a state or local program shall be counted as income. The exclusion will still apply if a down payment is made and is followed by a final payment upon completion of work. If a state law prohibits the household from receiving a cash payment under state or local general assistance (or comparable program), the assistance would be excluded. This applies to either an energy assistance payment or other type of payment.

Energy assistance payments for an expense paid on behalf of the household under a state law shall be considered an out-of-pocket expense incurred and paid by the household. Energy assistance payments made under Part A of Title IV of the Social Security Act (42 U.S.C. 601 through 42 U.S.C. 619) are included as income.
  8. Vendor payments which would normally be excluded as income but are converted in whole or in part to a direct cash payment under the approval of a federally authorized demonstration project (including demonstration projects created by a waiver of the provisions of federal law) shall be excluded from income.
  9. Monies from alimony or a court-ordered child support payment which are required by a court order (or other legally binding agreement) to be paid to a third party rather than to the household shall be excluded from income as a vendor payment, even if the household agrees to the arrangement.
  10. Payments more than the amount specified in a court order (or other legally binding agreement) which are paid to a third party in addition to a court-ordered vendor payment shall also be treated as a vendor payment.
- I. Reimbursements
1. Reimbursement for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household shall not be considered income.

To be excluded, the reimbursement must be provided specifically and used for an identified expense, other than normal living expenses, and used for the purpose intended. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are not exempt.

2. No portion of benefits provided under Title IV-A of the Social Security Act, to the extent such benefit is attributed to an adjustment for work related or child care expenses, except for payment or reimbursement for such expenses made under an education, employment, or training program initiated under such Title after September 18, 1988, shall be considered exempt under this provision.
3. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses unless the provider or the household indicates the amount is excessive.
4. Types of reimbursement for expenses include:
  - a. Reimbursement or flat allowances for job or training related expenses, such as travel, per diem, uniforms, and transportation to and from the job or training site including migrant travel.
  - b. Reimbursements for out of pocket expenses of volunteers incurred in the course of their work.
  - c. Medical or dependent care reimbursements.
  - d. Reimbursements received by households to pay for services provided by Title XX of the Social Security Act.
  - e. Reimbursements made to the household for expenses necessary for participation in an education component under the Employment First program.

**J. Verification**

Documentation of exempt income may explain a household's ability to maintain itself. Verification of exempt income is necessary only if the income is questionable. For example, when it is questionable that money received is a loan, a simple statement signed by both parties must be obtained which states that the money is a loan and that a repayment is being made or will be made.

If the household receives payments on a regular basis from the same source but claims that payments are loans, it may be required that the provider of the loan sign an affidavit stating that repayments are being made or will be made in accordance with an established repayment schedule.

**4.405.1 Loans and Reimbursements to Students**

All education assistance including grants, scholarships, fellowships, work-study, veteran's educational benefits, and any other money received specifically for educational expenses are exempt from consideration as income.

#### **4.405.2 Income Excluded by Other Federal Statutes**

The following government payments are received for a specific purpose and are excluded as income.

**A. General**

1. P.L. No. 89-642, Section 11(b) of the Child Nutrition Act of 1966, as amended, excludes the value of assistance to children under this Act.
2. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, (P.L. No. 91-646, Section 216).
3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113).

Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving SNAP or PA at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in SNAP participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving PA or SNAP at the time they joined VISTA shall have these volunteer payments included as earned income.

4. P.L. No. 101-610, Section 17(d), 11/16/90, National and Community Service Act (NCSA) of 1990, as amended, provides that Section 142(b) of the Job Training Partnership Act (JTPA) applies to projects conducted under Title I of the NCSA as if such projects were conducted under the JTPA. Title I includes three Acts:
  - a. Serve-America: the Community Service, Schools and Service-Learning Act of 1990, as amended.
  - b. American Conservation and Youth Service Corps Act of 1990, as amended.
  - c. NCSA, as amended.

There are approximately forty-seven (47) different NCSA programs and they vary by state. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program. The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a one thousand dollar (\$1,000) post-service educational award. The National and Community Service Trust Act of 1993 (P.L. No. 103-82) amended the NCSA but did not change the exclusion.

P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for SNAP purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

Payments made to homeless people with funds from Federal Emergency Management Assistance (FEMA) to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision.

6. Payments, allowances and earnings under the Workforce Innovation and Opportunity Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for SNAP. On-the-job training payments for members under nineteen (19) years of age who are participating in WIOA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income.
7. P.L. No. 99-425, Section(e), the Low-Income Home Energy Assistance Act, 1986. Payments or allowances made under any federal laws for the purpose of energy assistance. P.L. No. 104-193 states that any payment or allowances made for the purpose of providing energy assistance under a federal law other than Part A of Title IV of the Social Security Act (42 U.S.C. 601 through 42 U.S.C. 619), or a one-time payment, or allowance made under federal or state law for the cost of weatherization, or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device is excluded from income.
8. Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and under the Title IV of the Comprehensive Employment and Training Act Amendments of 1978 (P.L. No. 95-524).
9. P.L. No. 100-175, Section 166, Older Americans Act. Funds received by persons fifty-five (55) years of age and older under the Senior Community Service Employment Program under Title V of the Older Americans Act are excluded from income. State agencies and eight organizations receive funding under Title V. The eight organizations are: Green Thumb, National Council on Aging, National Council of Senior Citizens, American Association of Retired Persons, U.S. Forest Service, National Association for Spanish Speaking Elderly, National Urban League, National Council on Black Aging.
10. Payments in cash donations, based upon need, from one or more private, nonprofit charitable organizations, but not exceeding three hundred dollars (\$300) in the aggregate, per fiscal quarter (P.L. No. 100-232).
11. The portion of a military retirement payment, which goes to an ex-spouse under a divorce decree property settlement, is not counted as income to the retiree. (P.L. No. 97-252, Uniform Service Former Spouse Protection Act.) These payments are excluded as vendor payments.

12. Military combat payments received by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from the household income for the duration of the member's deployment as long as the additional payment was not received immediately prior to serving in a combat zone.
13. Mandatory deductions from military pay for education purposes while the individual is enlisted. (P.L. No. 99-576, Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Section 303(a) (1)). Section 216 of P.L. No. 99-576 authorizes stipends for participation in study of Vietnam-Era veterans' psychological problems which are not excluded from income.
14. Payments to U.S. citizens of Japanese ancestry and resident Japanese non-citizens of up to twenty thousand dollars (\$20,000) each and payments to certain eligible Aleuts of up to twelve thousand dollars (\$12,000) each (P.L. No. 100-383, Civil Liberties Act of 1988).
15. Emergency assistance payments made by a state or local agency for migrants or seasonal farm-workers in the job stream (P.L. No. 100-387).
16. Benefits received from the special supplemental food program for women, infants and children (WIC), including benefits that can be exchanged for food at farmers' markets or part of a WIC demonstration project (P.L. No. 92-443). This payment is excluded as an in-kind benefit (P.L. No. 100-435, Section 501, amended, Child Nutrition Act).
17. P.L. No. 100-485, Section 301, the Family Support Act, 10/31/88 which amended Section 402(g)(1)(E) of the Social Security Act. The value of any child-care payments made under Title IV-A of the Social Security Act, including transitional child-care payments, are excluded from income.
18. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income retroactive to January 1, 1989.  
  
The veteran with disabilities will receive yearly payments. Survivors of deceased veterans with disabilities will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company.  
  
P.L. No. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service-connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law.
19. P.L. No. 101-508, Section 5801, which amended Section 402(i) of the Social Security Act, 11/5/90. At-risk block grant child care payments made under section 5801 are excluded from being counted as income for SNAP purposes and no deduction may be allowed for any expense covered by such payments.
20. P.L. No. 101-508, the Omnibus Budget Reconciliation Act of 1990, Title XI Revenue Provisions, Section 11111, Modifications of Earned Income Tax Credit, subsection (b) provides that any earned income tax credit shall not be treated as income. This provision is effective with taxable years beginning after December 31, 1990.

21. Any payment made to an Employment First participant for costs that are reasonably necessary and directly related to participation in the Employment First Program. These costs include, but are not limited to, dependent care costs, transportation, other expenses related to work, training or education, such as uniforms, personal safety items, or other necessary equipment, and books or training manuals. These costs shall not include the cost of meals away from home. Also, the value of any dependent care services provided for or arranged by the Employment First Unit is excluded.
22. Amounts necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act (P.L. No. 102-237). This money may be spent in accordance with an approved PASS or deposited into a PASS savings account for future use.
23. Any money received from the Radiation Exposure Compensation Trust Fund pursuant to P.L. No. 101-426 as amended by P.L. No. 101-510.
24. P.L. No. 102-586, Section 8, amended the Child Care and Development Block Grant Act Amendments of 1992 by adding a new Section 658S to exclude the value of any child-care provided or arranged, or any amount received as payment for such care or reimbursement for costs incurred for such care from income for purposes of any other federal or federally assisted program that bases eligibility, or the amount of benefits, on need.
25. P.L. No. 101-625, Section 22(i), Cranston-Gonzales National Affordable Housing Act, (42 U.S.C.S. 1437t(i)), provides that no service provided to a public housing resident under this section (Family Investment Centers) may be treated as income for purposes of any other program or provision of state or federal law.

This exclusion applies to services such as child-care employment training and counseling, literacy training, computer skills training, assistance in the attainment of certificates of high school equivalency, and other services. The exclusion does not apply to wages or stipends.

P.L. No. 101-625, Section 522(i)(4), excludes most increases in the earned income of a family residing in certain housing while participating in HUD demonstration projects authorized by P.L. No. 101-625. Demonstration projects are authorized by P.L. No. 101-625 for Chicago, Illinois, and three other locations. The affected offices will be contacted individually regarding these projects.

26. P.L. No. 103-286, Section 1(a), Section 1(a), provides in part that payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any federal or federally assisted program which provides benefits or services based, in whole or in part, on need.
27. Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provides in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay:
  - a. Such crime victim compensation program shall not pay that compensation.
  - b. The other program shall make its payments without regard to the existence of the crime victim compensation program.

Based on this language, payments received under this Program must be excluded from income for SNAP purposes.

28. P.L. No. 104-204, requires that allowances paid under this law to children of Vietnam veterans who were born with spina bifida be excluded from income.

**B. American Indian or Alaska Native**

Usually a law will specify payments to members of a tribe or band, and the law will apply to the members enrolled in the tribe or band wherever they live. The individuals should have documentation showing where the payments originate.

1. P.L. No. 92-203, section 29, dated 1/2/76, the Alaska Native Claims Settlement Act, and Section 15 of P.L. No. 100-241, 2/3/88, the Alaska Native Claims Settlement Act Amendments of 1987 - All compensation, including cash, stock, partnership interest, land, interest in land, and other benefits, received under this Act are excluded.
2. P.L. No. 93-134, the Judgment Award Authorization Act, as amended by P.L. No. 97-458, Section 1407, 11/12/83 and P.L. No. 98-64, 8/2/83, the Per Capita Distribution Act. P.L. No. 97-458 required the exclusion of per capita Payments under the Indian Judgment Fund Act (judgment awards) of two thousand dollars (\$2,000) or less from income. The exclusion applies to each payment made to each individual. P.L. No. 98-64 extended the exclusion to cover per capita payments from funds which are held in trust by the Secretary of Interior (trust fund distributions).

P.L. No. 93-134, the Indian Tribal Judgment Fund Use or Distribution Act, Section 8, 10/19/73, as amended by P.L. No. 103-66, Section 13736, 10/7/93, provides that interest of individual Indians in trust or restricted lands up to two thousand dollars (\$2,000) per year received by individual Indians that is derived from such interests shall not be considered income in determining eligibility for assistance under the Social Security Act or any other federal or federally assisted program. The two thousand dollar (\$2,000) limit is based on calendar years from January through December.

3. P.L. No. 93-531, section 22 - Relocation assistance payments to members of the Navajo and Hopi Tribes are excluded from income and resources.
4. P.L. No. 94-114, section 6, 10/17/75 - Income derived from certain sub-marginal land held in trust for certain Indian tribes is excluded from income. The tribes that shall benefit are:
  - a. Bad River Band of the Lake Superior Tribe of Chippewa
  - b. Indians of Wisconsin
  - c. Blackfeet Tribe
  - d. Cherokee Nation of Oklahoma
  - e. Cheyenne River Sioux Tribe
  - f. Crow Creek Sioux Tribe
  - g. Lower Brule Sioux Tribe
  - h. Devils Lake Sioux Tribe

- i. Fort Belknap Indian Community
  - j. Assiniboine and Sioux Tribes
  - k. Lac Courte Oreilles Band of Lake Superior Chippewa Indians
  - l. Keweenaw Bay Indian Community
  - m. Minnesota Chippewa Tribe
  - n. Navajo Tribe
  - o. Oglala Sioux Tribe
  - p. Rosebud Sioux Tribe
  - q. Shoshone-Bannock Tribes
  - r. Standing Rock Sioux Tribe
- 5. P.L. No. 94-189, Section 6, 12/31/75 - Funds distributed per capita to the Sac and Fox Indians or held in trust are excluded from income. The funds are divided between members of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa. The judgments were awarded in Indian Claims Commission dockets numbered 219, 153, 135, 158, 231, 83, and 95.
  - 6. P.L. No. 94-540 - Payments from the disposition of funds to the Grand River Band of Ottawa Indians are excluded from income.
  - 7. P.L. No. 95-433, section 2 - Indian Claims Commission payments made pursuant to this Public Law to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation are excluded from income.
  - 8. P.L. No. 96-420, section 9(c), 10/10/80, Maine Indian Claims Settlement Act of 1980 - Payments made to the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet are excluded from income.
  - 9. P.L. No. 97-403 - Payments to the Turtle Mountain Band of Chippewas, Arizona, are excluded from income.
  - 10. P.L. No. 97-408 - Payments to the Blackfeet, Grosventre, and Assiniboine tribes, Montana, and the Papago, Arizona, are excluded from income.
  - 11. P.L. No. 98-123, Section 3, 10/13/83 - Funds distributed to members of the Red Lake Band of Chippewa Indians are excluded from income. Funds were awarded in docket number 15-72 of the United States Court of Claims.
  - 12. P.L. No. 98-124, Section 5 - Per capita and interest payments made to members of the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana, under this Act are excluded from income. Funds were awarded in docket 10-81L.



13. P.L. No. 98-500, Section 8, Old Age Assistance Claims Settlement Act, provides that funds made to heirs of deceased Indians under this Act shall not be considered as income nor otherwise used to reduce or deny SNAP benefits except for per capita shares more than two thousand dollars (\$2,000). The first two thousand dollars (\$2,000) of each payment is excluded.
14. P.L. No. 99-146, Section 6(b), 11/11/85 - Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior are excluded from income. Judgments were awarded in Dockets Numbered 18-S, 18-U, 18-C, and 18-T.
  - a. Dockets 18-S and 18-U are divided among the following reservations:
    - 1) Wisconsin
    - 2) Bad River Reservation
    - 3) Lac du Flambeau Reservation
    - 4) Lac Courte Oreilles Reservation
    - 5) Sokaogon Chippewa Community
    - 6) Red Cliff Reservation
    - 7) St. Croix Reservation
    - 8) Michigan
    - 9) Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert, and Ontonagon Bands)
    - 10) Minnesota
    - 11) Fond du Lac Reservation
    - 12) Grand Portage Reservation
    - 13) Nett Lake Reservation (including Vermillion Lake and Deer Creek)
    - 14) White Earth Reservation
  - b. Under dockets 18-C and 18-T funds are given to the Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, the Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, and the St. Croix Chippewa Indians of Wisconsin.
15. P.L. No. 99-264, White Earth Reservation Land Settlement Act of 1985, 3/24/86, Section 16 excludes moneys paid from income. This exclusion involves members of the White Earth Band of Chippewa Indians in Minnesota.
16. P.L. No. 99-346, Section 6(b) (2) - Payments to the Saginaw Chippewa Indian Tribe of Michigan are excluded from income.

17. P.L. No. 99-377, Section 4(b), 8/8/86, - Funds distributed per capita to the Chippewas of the Mississippi or held in trust under this Act are excluded from income. The judgments were awarded in Docket Number 18-S. The funds are divided by reservation affiliation for the Mille Lac Reservation, Minnesota; White Earth Reservation, Minnesota; and Leech Lake Reservation, Minnesota.
18. P.L. No. 101-41, 6/21/89, the Puyallup Tribe of Indians Settlement Act of 1989, Section 10 (b) provides that nothing in this Act shall affect the eligibility of the Tribe or any of its members for any Federal program. Section 10(c) provides that none of the funds, assets, or income from the trust fund established in section 6(b) shall at any time be used as a basis for denying or reducing funds to the tribe or its members under any Federal, State, or local program. (The Puyallup Tribe is located in the State of Washington.)
19. P.L. No. 101-277, 4/30/90, funds appropriated in satisfaction of judgments awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission are excluded from income except for per capita payments in excess of two thousand dollars (\$2,000). Payments were allocated to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida.
20. P.L. No. 101-503, Section 8(b), Seneca Nation Settlement Act of 1990, dated November 3, 1990, provides that none of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income derived therefrom shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any federal program.
21. P.L. No. 103-436, 11/2/94, Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, Section 7(b) provides that payments made pursuant to the Act are totally excluded from income.

#### **4.406 HOUSEHOLDS DESTITUTE OF INCOME**

Migrant or seasonal farm worker households may be considered destitute of income upon initial certification or recertification, but only for the first month of each certification period.

- A. Migrant or seasonal farm worker households may have little or no income at the time of application even though they receive income at some time during the month of application. Such households will be considered destitute and thereby entitled to expedited application processing if their only income is from a terminated and/or new source under the following circumstances:
  1. The household's only income for the month of application was received from a terminated source prior to the date of application.
    - a. Income is considered to be from a terminated source if it is normally received on a monthly or more frequent basis and is not expected to be received again from the same source during either the remainder of the month of application or the month following (i.e., migrant work ended with one grower).
    - b. Income that is normally received less often than monthly is considered to be from a terminated source if it is not anticipated to be received during the month in which it would normally be received (i.e., quarterly income not received in the normal third month).

2. The household's only income for the month of application is more than twenty-five dollars (\$25) from a new source and it will not be received by the tenth (10th) calendar day after the filing date of an application for initial certification, or by the tenth calendar day after the household's normal issuance cycle if the application is for recertification.
    - a. Income is considered to be from a new source if the income of more than twenty-five dollars (\$25) is normally received on a monthly or more frequent basis but has not been received from that source within thirty (30) calendar days prior to the filing date of application.
    - b. Income is considered to be from a new source if the income of more than twenty-five dollars (\$25) is normally received less often than monthly but was not received within the last normal interval between payments.
  3. The household's only income is a combination of that received from a terminated source prior to date of application and income of more than twenty-five dollars (\$25) received in the month of application from a new source, which will not be received by the tenth (10th) calendar day after the date of initial application, or by the tenth (10th) calendar day after the household's normal issuance cycle if application is for recertification.
- B. A migrant farm worker's source of income shall be considered to be the particular grower, and not the crew chief. A migrant who moves from one grower to another shall be considered to have moved from a terminated source to a new source.
- C. There is no limit on the number of times a household can be considered destitute of income provided that before each subsequent expedited certification, the household either has completed the verification requirements that were postponed at the last expedited certification or the household was certified under normal processing standards since the last expedited certification.

#### **4.406.1 Income Calculation When Destitute of Income**

- A. Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only that income received between the first of the month and the date of application. If it is an initial month application, the first application or an application received after the household's last certification period expired, the allotment for the initial month shall be prorated to cover days from date of application to the end of the month.
- B. If income of more than twenty-five dollars (\$25) from a new source has not been received or is not anticipated within ten (10) calendar days from the date of initial application or within ten (10) calendar days after the household's normal issuance cycle if applying for recertification, it shall be disregarded.
- C. Travel advances provided by an employer to reimburse travel costs of relocation of a new employee is exempt income and does not affect the destitute status of a household. If the travel advance is, by written contract, an advance of wages that will be subtracted from wages later earned by the employee, the money is considered as income but shall not affect the determination of whether subsequent payments from the employer are from a new source of income nor whether the household shall be considered destitute.

#### **4.407 DEDUCTIONS AND EXCLUSIONS FROM INCOME**

- A. Allowable deductions are subtracted from total monthly gross income to determine the household's monthly net SNAP income.

Allowable expenses will not be deductible if covered by vendor payments such as HUD, or reimbursements, such as insurance. An expense which is covered by an excluded vendor payment that has been converted to a direct cash payment under a federally authorized demonstration project shall not be deductible.

- B. Households may elect to have fluctuating monthly expenses averaged over the certification period. Also, households have the option of having expenses that are billed less often than monthly averaged over the period the expense is intended to cover. Households may elect to have medical expenses averaged as described in Sections 4.407.6 and 4.407.61. Expenses that have been averaged are subject to the reporting requirements contained in Section 4.603.
- C. Actual or averaged expenses that result in deductions for medical, dependent care, and shelter costs shall be anticipated. Households who expect changes cannot have their expenses averaged solely on the basis of the last several bills. Expenses that are billed on a weekly or biweekly basis shall be converted to a monthly figure utilizing the conversion outlined in Section 4.402.
- D. Legally obligated child support is considered an income exclusion.
- E. The following subsections contain the only deductions allowed from a household's monthly income. The deductions are as follows:
  - 1. Standard deduction
  - 2. Earned income deduction
  - 3. Excess shelter deduction
  - 4. Dependent care deduction
  - 5. Excess medical deduction

#### **4.407.1 Standard Deduction**

A standard deduction of 8.31% of the federal poverty income guidelines for the household size as described in Section 4.401.2 will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by FNS, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction.

Standard Deduction Amount				
Household Size	1-3	4	5	6+
Effective October 1, 2024	\$204	\$217	\$254	\$291

#### **4.407.2 Earned Income Deduction**

- A. A household with earned income shall receive a deduction of twenty percent (20%) of its gross nonexempt earned income. The twenty percent (20%) deduction shall also apply to prorated income earned by the disqualified member and attributed to the household.
- B. The earned income deduction will not be applied to any portion of income earned under a work supplementation or work support program that is attributable to a federal, state, or local public assistance program.

An Inadvertent Household Error (IHE) claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction

#### **4.407.3 Excess Shelter Deduction**

- A. Households shall receive a deduction for the allowable monthly shelter costs that are in excess of fifty percent (50%) of the household's income after all other deductions. Shelter expenses are allowed as billed to a household member or as paid or billed to a disqualified individual. Shelter costs that are paid by or billed to a person disqualified for fraud shall be allowed as a deduction for eligible members in their entirety. Shelter costs, paid or billed to a person disqualified for being an ineligible non-citizen or for failure to provide a Social Security Number shall be divided evenly among all household members and the disqualified individual. All except the disqualified person's pro rata share is counted as a shelter cost of the household.
- B. A shelter deduction cap, as specified below, applies to households that do not contain a person who is aged sixty (60) and older or a person with a disability as defined in Section 4.000.1. Those households containing a person who is aged sixty (60) and older and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

<b>Shelter Deduction Cap</b>	
Effective October 1, 2024	\$712

- C. Households in which all individuals are experiencing homelessness and are not receiving free shelter throughout the calendar month shall be entitled to use a standard estimate of shelter expenses.

The FNS, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted. The Homeless Shelter Deduction is as follows:

<b>Homeless Shelter Deduction</b>	
Effective October 1, 2024	\$190.30

All households experiencing homelessness that incur, or reasonably expect to incur, shelter costs during a month shall be eligible for the estimate, unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate.

Households experiencing homelessness that incur no shelter costs during the month shall not be eligible for the homeless shelter deduction.

If a household experiencing homelessness has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person principle in determining if verification obtained is adequate.

- D. A household may claim both the costs of its actual residence and those for a home that is not occupied by the household because of: employment or training away from home; illness; or abandonment caused by a natural disaster or casualty loss.

For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes; and the home must not be leased or rented during the absence of the household.

- E. Allowable shelter costs shall include only the following:
1. Continuing charges for the shelter, including rent, mortgages, condo, and association fees or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.
    - a. If a homeowner has drawn money down in a reverse mortgage and now wants to make monthly payments to repay some of the amount drawn, the repayment shall be considered a charge leading to the ownership of a home, such as a loan repayment. To be deductible, the charge must be continuing. If the household expects to make monthly payments, the client's charges are considered to be continuing, and the repayments shall be allowed as a shelter cost. If the repayment is not continuing, it does not meet the requirement and the payments shall not be allowed as a shelter deduction.
    - b. Payments on loans secured by a lien placed on the property by the lending institution, such as a second mortgage or home equity loan, shall be considered a continuing charge for shelter. Payments on unsecured loans or personal loans are not considered shelter costs.
    - c. Expenses incurred to keep a pet that are billed separately from the household's rent are not allowable as shelter deductions.
  2. Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.
  3. Charges to repair or rebuild a home substantially damaged or destroyed due to a natural disaster such as a fire or flood. Allowable expenses are those that have not been, and will not be, reimbursed by private or public relief agencies, insurance companies, or any other source.
  4. Utility costs which include charges for heating and cooking fuel; water and sewer; well installation and maintenance; septic tank installation and maintenance; garbage and trash collection fees; and, fees charged by the utility provider for initial installation of the utility.
  5. A telephone allowance for one telephone or the cost of telephone service that is associated with a specific device, which includes land-line service or cellular service, including disposable cell phones, and voice over internet protocol (VOIP). Households are not allowed to deduct the cost of pay phones and of phone cards that are not associated with a specific device. One-time deposits shall not be included as shelter costs. With regard to VOIP, only the cost of VOIP is deductible; other charges such as Internet connectivity fees and monthly cable/internet fees are not deductible.

#### **4.407.31 Four-Tiered Mandatory Standard Utility Allowance**

Effective October 1, 2008, a four-tiered mandatory standard utility allowance deduction was implemented in determining a household's excess shelter deduction. Households cannot claim actual utility expenses and are only entitled to one (1) of the four (4) utility allowances. The four (4) utility allowances shall be reviewed annually and adjusted each year, based on federal approval, to reflect Colorado's cost of utilities. No utility expenses can be allowed as an income exclusion for self-employed households when a mandatory utility allowance is given to the household.

When determining expedited eligibility, the appropriate utility allowance shall be applied when establishing the household's shelter costs.

The four (4) allowances are as follows:

**A. Heating and Cooling Utility Allowance (HCUA)**

1. “Cooling costs” are defined as utility costs relating to the operation of air conditioning systems, room air conditioners, swamp coolers, or evaporative coolers. Fans are not an allowable cooling cost. A heating and cooling utility allowance (HCUA) is available only to households which:
  - a. Incur or anticipate heating or cooling costs separate and apart from their rent or mortgage;
  - b. Received a Low-Income Energy Assistance Program (LEAP) or an Energy Electronic Benefit Transfer (E-EBT) payment within the previous twelve (12) month period, regardless of whether the individual is still residing at the address for which they received the LEAP or E-EBT payment;
  - c. Live in private rental housing and are billed by their landlords on the basis of individual usage or charged a flat rate separately from their rent for heating and cooling;
  - d. Share a residence and incur at least a portion of the heating or cooling cost, in which case each household will be entitled to the full HCUA; or,
  - e. Live in public housing and are responsible for excess heating and/or cooling costs.
2. A SNAP household, which incurs or anticipates heating or cooling costs on an irregular basis, may continue to receive the HCUA between billing periods.
3. Operation of a space heater, electric blanket, heat lamp, cooking stove and the like when used as a supplemental heating source are allowable costs when determining eligibility for the basic utility allowance (BUA), but do not qualify a household for the HCUA.
4. The HCUA standard is as follows:

HCUA Standard	
Effective October 1, 2024	\$578

**B. Basic Utility Allowance (BUA)**

1. The Basic Utility Allowance (BUA) is mandated for any households that are not entitled to the HCUA and that incur at least two (2) non-heating or non-cooling utility costs, such as electricity, water, sewer, trash, cooking fuel, or telephone.
2. If more than one SNAP household shares in paying non-heating or non-cooling utility costs of the dwelling, the full BUA will be allowed for each assistance group sharing in the utility costs.
3. The BUA standard is as follows:

BUA Standard	
Effective October 1, 2024	\$367

**C. One Utility Allowance (OUA)**

1. The OUA is mandated for any household that is not entitled to the HCUA or BUA but is responsible for only one (1) non-heating or one (1) non-cooling utility expense. The OUA is not allowed if the household's only utility expense is a telephone.
2. If more than one (1) SNAP household shares in paying one (1) non-heating or one (1) non-cooling utility cost of the dwelling, the full OUA will be allowed for each assistance group sharing in the utility cost.
3. The OUA standard is as follows:

OUA Standard	
Effective October 1, 2024	\$69

**D. Telephone allowance**

1. The telephone allowance is available to households whose only utility cost is for a telephone. If more than one SNAP household shares in paying the telephone costs and that is the only utility costs of the dwelling, the full phone standard will be allowed for each assistance group sharing in the telephone costs.
2. The telephone allowance is as follows:

Telephone Standard	
Effective October 1, 2024	\$94

**4.407.4 Dependent Care Deduction**

Refer to Section 4.407.6 if the attendant care is for a household member who is age sixty (60) or older or who receives SSI or Social Security disability payments. The attendant costs, including meals provided, shall be considered as a medical expense.

- A. Dependent care expenses, as billed to a household member or as paid by or billed to a person disqualified for being an ineligible non-citizen or failure to provide or apply for a SSN, for the care of a child or dependent with disabilities shall be considered when the dependent care expenses are necessary for a household member to accept or continue employment, seek employment, or attend training or pursue education which is preparatory to employment. Dependent care expenses that are paid by or billed to the disqualified person shall be divided equally among all household members and the disqualified person. All except the disqualified member's pro rata share is considered for a deduction.

The dependent care deduction that is paid by or billed to individuals disqualified for intentional Program violation/fraud will be allowed in its entirety.

Allowable dependent care costs include:

1. The cost of care given by an individual care provider or care facility;
2. Transportation costs to and from the care facility. Mileage expenses must be calculated based on the prevailing Internal Revenue Service (IRS) business rate published annually at <https://www.irs.gov/tax-professionals/standard-mileage-rates>; and
3. Activity or other fees associated with the care provided to the dependent that are necessary for the household to participate in the care.



- B. The total dollar amount that the household is responsible to pay for dependent care expenses is deductible.
- C. Only direct monetary payments to an agency or a person outside of the household will be allowable. The value of in-kind benefits paid to an attendant, such as meals, is not considered for a dependent care deduction.
- D. A child care expense which is reimbursed or paid for by the JOBS program under Title IV-F of the Social Security Act or the Transitional Child Care (TCC) program shall not be a deductible expense.

#### **4.407.5 Child Support Expense Exclusion**

- A. A household shall receive an exclusion from income for legally binding child support payments made to or for non-household members. The child support exclusion will be made from the household's total countable gross income and prior to any gross income test to determine eligibility. The court-ordered amount and the most recent amounts that have been paid must be verified by the household. Legally obligated child support paid by a household member under the age of eighteen (18) shall be an allowable exclusion, even if the income of the child is considered exempt under Section 4.405, C.
- B. If the noncustodial parent makes child support payments to a third party non-household member (e.g., a landlord, utility company, or health insurance organization) in accordance with the support order, the payment shall be included in the child support exclusion.
- C. A deduction for amounts paid toward arrearage will be allowed. Alimony payments will not be allowed as an exclusion.
- D. Households with a history of three (3) or more months of paying child support shall have the support payments averaged taking into account any anticipated changes in the legal obligation and shall use that average as the household's support exclusion.
- E. For households with less than a three (3) month record, the local office shall estimate the anticipated payments and use that estimate as the household's support exclusion.
- F. If the household does not report and verify its monthly child support payment or a change in its legal obligation, the child support exclusion shall not be allowed.

#### **4.407.6 Excess Medical Deduction**

A household shall receive a deduction for total medical expenses more than thirty-five dollars (\$35) per month, incurred by any household member(s) who is aged sixty (60) and older or a person with disabilities. Other household members who are not aged sixty (60) and older or a person with disabilities, including spouses and dependents, cannot claim costs of their medical treatment and services.

- A. The following medical costs, less the cost of reimbursements from another source, are allowable:
  - 1. Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner or other qualified health professional as defined in 12-200-101 through 12-315-126, C.R.S.
  - 2. Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the Colorado Department of Public Health and Environment.

3. Prescription drugs when prescribed by a licensed practitioner authorized under state law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional. Costs of medical supplies, sickroom equipment (including rental), or other prescribed equipment may also be allowable.
4. Health and hospitalization insurance policy premiums, Medicare premiums, and any cost-sharing expenses incurred by medical recipients.
5. Dentures, hearing aids, prosthetics, and eyeglasses prescribed by a physician skilled in eye disease or by an optometrist.
6. Securing and maintaining a service animal, such as a seeing eye or hearing dog, including cost of food and veterinarian fees. The costs of caring for these animals may be deducted only when the animal has received special training to provide a service to the client.
7. Reasonable transportation and lodging to obtain medical treatment or services. Mileage expenses shall be calculated based on the prevailing Internal Revenue Service (IRS) commercial mileage rate.
8. Wages to an attendant, homemaker, home health aide, child-care services, or a housekeeper necessary due to age, infirmity, or illness. In addition, an amount equal to the maximum allotment for one (1) person is allowed if the household furnishes the majority of the attendant's meals. The allotment shall be the one in effect at the time of certification with an appropriate adjustment at the next certification.

If attendant care costs qualify under both medical and dependent care deduction, the costs shall be allowed as a medical expense.

In cases when the household claims a deduction for billed medical expenses and the household is unable to verify whether any reimbursement will be received, no medical expense deduction shall be allowed until the household either receives reimbursement for all or part of the expense or is able to verify that reimbursement will not be provided. When such reimbursement is received and/or verified, the non-reimbursed portion of the claimed medical expense is allowed.

**B. Non-allowable medical costs include, but are not limited to:**

1. Special diet expenses;
2. Premiums for health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or policies for income maintenance such as those that continue mortgage or loan payments while the beneficiary is a person with disabilities;
3. Medical expenses that are reimbursable by insurance or other public or private sources;
4. Medical marijuana;
5. Vitamins and supplements unless prescribed by a physician; and
6. Medical expenses carried forward from past billing periods unless one (1) of the following conditions is met:
  - a. The amount is being carried forward pending reimbursement information; or,

- b. The household has arranged to make monthly installments on the past due bills. The past due amount must be due to missed payments under a previous repayment agreement with the medical provider, and the payment plan is now being renegotiated with the provider. The negotiation of a payment plan with a collection agency will not be accepted as a renegotiated payment plan; or,
- c. Households that become categorically eligible for SNAP by reason of becoming a pure SSI household shall be entitled to excess medical expenses for the period for which they are authorized to receive SSI or from the date of the SNAP application, whichever is later. Restored benefits shall be issued if appropriate; or,
- d. Medical expenses that occur after the application filing date and reported at the subsequent application for recertification or periodic report shall be considered if the medical expense has not previously been reported and allowed as a medical deduction. If at recertification the household provides previously unreported medical expenses that occurred prior to the last certification period that are past due, the local office shall review the medical expenses under provisions a through c of this subsection.

**4.407.61 Determining Monthly Medical Expenses**

- A. A household that contains a member who is eligible for a medical expense deduction is eligible for a deduction using either the Standard Medical Expense Deduction (SMED) or using actual medical expenses. Beginning October 1, 2016, the SMED is one hundred sixty-five dollars (\$165).

The SMED is used if the total verified medical expenses are greater than thirty-five dollars (\$35) and less than or equal to the SMED. The household may claim actual expenses if the total verified expenses, after deducting the first thirty-five dollars (\$35), exceed the SMED.

At ...	Then allow ...	And verify ...
Application, if the household has medical expenses greater than \$35 and less than or equal to the SMED,	The SMED,	The household has medical expenses greater than \$35. verification must be received to allow the SMED.
Application, if the household has monthly medical expenses greater than the SMED after subtracting the first \$35,	Actual medical expenses,	The actual monthly medical expense(s). If the household chooses not to provide verification of expenses exceeding the SMED, then allow the SMED instead of actual expenses. Verification of expenses exceeding \$35 must be received to allow the SMED.
Recertification, if: <ul style="list-style-type: none"> <li>The household already has actual medical expenses greater than \$35 and less than or equal to the SMED, and</li> <li>There is no change, or there is a change in the amount but the monthly medical expense is still greater than \$35 and is less than or equal to the SMED,</li> </ul>	The SMED,	No verification is required unless the household's declaration is questionable.
Recertification, if the household does not already have the SMED allowed and the household states an eligible member has medical expenses greater than \$35 and less than or equal to the SMED,	The SMED,	The household has medical expenses greater than \$35. Verification must be received to allow the SMED.
Recertification, if the household does not already have actual medical expenses budgeted and the household states an eligible member has medical expenses greater than the SMED after subtracting the first \$35,	Actual medical expenses,	The actual monthly medical expense(s). If the household chooses not to provide verification of expenses exceeding the SMED, then allow the SMED instead of actual expenses. The household must provide proof of expenses exceeding \$35 to receive the SMED.
Recertification, if: <ul style="list-style-type: none"> <li>The household has actual medical expenses greater than the SMED already allowed, and</li> <li>There is a change in the monthly amount of more than twenty-five dollars (\$25),</li> </ul>	<ul style="list-style-type: none"> <li>The SMED if the new total is greater than \$35 and less than or equal to the SMED, or</li> <li>Actual medical expenses if the new total exceeds the SMED after deducting the first \$35</li> </ul>	The change in medical expenses.

- B. Expenses incurred weekly or biweekly shall be converted to a monthly amount using exact dollars and cents and the conversion method outlined in Section 4.402, A. The excess over thirty-five dollars (\$35) per month is allowed as a monthly deduction.

- C. At the time of application and recertification, the household may elect to have one-time-only costs deducted in one month as a lump sum or averaged over the certification period to obtain a monthly amount. If the household elects to average the expenses over the certification period, the thirty-five dollar (\$35) deduction shall be taken for each month of the certification period.

When a one-time-only medical expense is reported during a certification period, the amount may be deducted in a lump sum or averaged over the remainder of the certification period. Averaging would begin the month the change would be effective. If the household elects to average the expenses over the remainder of the certification period, the thirty-five dollar (\$35) deduction shall be taken for each remaining month of the certification period.

When averaging the medical expenses, the SMED is allowed for each month of the certification period, as long as the household's allowable averaged monthly medical expense is greater than \$35. If the expense recurs monthly or more often, and the medical expense exceeds \$35 and is less than or equal to the SMED each month, the SMED is allowed for each month of the certification period. When allowable medical expenses for the household exceed the SMED after deducting the first \$35, the actual medical expenses are budgeted. The following chart is used to determine when to allow the SMED or actual medical expenses.

If the expense ...	THEN ALLOW THE ...
Recurs less often than monthly and the amount averaged for each month is less than or equal to \$35,	Actual amount of verified actual medical expense in the month billed, or use the SMED in the month billed if the medical expense is greater than \$35 and less than or equal to the SMED.
Recurs less often than monthly and the amount averaged for each month is greater than \$35 and less than or equal to the SMED each month,	SMED for each month of the certification period.
Recurs less often than monthly and the amount averaged for each month is greater than the SMED,	Averaged amount of actual verified medical expenses for each month. Allow the SMED only if the household chooses to use the SMED or fails to provide enough verification to qualify for actual medical expenses.
Occurs one time and the amount averaged over the certification period is less than or equal to \$35 a month,	Actual amount of verified medical expenses in the month billed, or use the SMED in the month billed if the medical expense is greater than \$35 and is less than or equal to the SMED.
Occurs one time and the amount averaged over the certification period is greater than \$35 and less than or equal to the SMED each month,	SMED for each month of the certification period.
Occurs one time and the amount averaged over the certification period is greater than the SMED each month,	Averaged amount of the actual medical expenses for each month. Allow the SMED only if the household chooses to use the SMED or fails to provide enough verification to qualify for actual medical expenses.

#### **4.408 RESOURCE ELIGIBILITY STANDARDS**

- A. The local office shall consider households eligible under either expanded or basic categorical eligibility exempt from the resource eligibility criteria of this section.
- B. Households that do not meet expanded or basic categorical eligibility criteria shall have their nonexempt resources, as anticipated to be available in the issuance month, used to determine household eligibility.

The resources of a sponsor and spouse considered toward a non-citizen household shall be the sponsor's total resources less two thousand dollars (\$2,000).

- C. The value of liquid resources, as declared by the household, shall be utilized in the determination of expedited eligibility for all applicant households.
- D. As a result of the Food, Conservation and Energy Act of 2008, adjustments to the SNAP resource limit will be subject to change annually according to the Consumer Price Index. There are currently two (2) resource limits:
  - 1. One established for households that do contain a member who is aged sixty (60) and older and/or a person with a disability; and,
  - 2. Another established for households that do not contain a member who is aged sixty (60) and older and/or a person with a disability.

- E. The resource limits are as follows:

Effective October 1, 2024, the resource limit for households that include a member who is aged sixty (60) and older and/or a person with a disability is four thousand and five hundred dollars (\$4,500). The resource limit for households that do not include a member who is aged sixty (60) and older and/or a person with a disability is three thousand dollars (\$3,000).

##### **4.408.1 Determining the Value of Resources**

The value of nonexempt household resources at the application filing date must be determined from applicant statements, documents, and/or from collateral contacts when household assessment is uncertain or questionable.

- A. Valuation of Liquid Resources

The value of liquid resources is the current redemption rate less encumbrances.

- B. Valuation of Non-Liquid Resources

Except for real property, non-exempt non-liquid resources shall have a fair market value as determined from the best source available (such as, but not limited to, blue book, local dealer, or equivalent verifiable Internet web site) less verified encumbrances. If warranted, the eligibility technician worker should adjust the market value for poor or unusable condition of the property before assigning a resource value. The eligibility technician worker shall annotate the case record to show source and computation used to determine resource value.

The value of real property, such as buildings, land, or vacation property, unless exempt as income producing, may be obtained by using the actual value reported by a county assessor or, if not reported, the current assessed valuation, accomplished in accordance with state law, and dividing the value by the appropriate percentage rate of assessment for real property to derive fair market value and subtracting the amount the household currently owes on the property.

#### **4.408.2 Transfer of Resources**

At the time of application, households not eligible under expanded or basic categorical eligibility rules shall be asked to provide information regarding any resources which any household member, ineligible non-citizen, or disqualified person whose resources are being considered available to the household has transferred within the three (3) month period immediately preceding the date of application. Households that have transferred resources knowingly for the purpose of qualifying or attempting to qualify for SNAP benefits shall be disqualified from participation in the program for up to one (1) year from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three (3) month period prior to application, or if they are transferred knowingly after the household is determined eligible for benefits.

- A. Eligibility for the program shall not be affected by the following transfers:
1. Resources that would not otherwise affect eligibility, such as resources consisting of excluded person property such as furniture, or of money that when added to other household resources, totaled less at the time of the transfer than the allowable resource limits.
  2. Resources that are sold or traded at, or near, fair market value.
  3. Resources that are transferred between members of the same household including ineligible non-citizens or disqualified individuals whose resources are being considered available to the household.
  4. Resources that are transferred for reasons other than qualifying or attempting to qualify for SNAP benefits, for example a parent placing funds into an educational trust fund.
- B. In the event the local office establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for SNAP, the household shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action has expired unless the household has requested a fair hearing and continued benefits.
- The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable resource limits.
- C. The following chart shall be used to determine the period of disqualification for transfer of resources.

Amount in Excess of the Resource Limit	Period of Disqualification
\$1 to \$249	1 month
\$250 to \$999	3 months
\$1,000 to \$2,999	6 months
\$3,000 to \$4,999	9 months
\$5,000	12 months

#### **4.409 COUNTABLE RESOURCES**

**A. Liquid Resources**

Liquid resources are assets such as cash on hand, money in checking or savings accounts, saving certificates stocks or bonds, or lump sum payments as specified in Section 4.405, F.

**B. Non-Liquid Resources**

A non-liquid resource is any tangible real property such as buildings, land, and vacation homes.

The value of non-liquid resources, unless exempt under Section 4.410 or specified under Section 4.408.1 shall be the equity value. The equity value is the fair market value minus the verified amount owed.

**C. Jointly Owned Resources**

Nonexempt liquid and non-liquid resources owned jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that it does not have access to such resources. If only a portion of the resource is accessible, that portion which is available to the household is considered as a resource. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, ineligible non-citizens or disqualified individuals residing with the household shall be considered household members.

**D. Co-Mingled Resources**

Exempt monies that are kept in a separate account and that are not commingled in an account with non-excluded funds shall retain their resource exclusion for an unlimited period of time. Those excluded shall retain their exemption for six (6) months from the date they are commingled. After six (6) months from the date of commingling, all funds in the commingled account shall be counted as a resource.

#### **4.410 EXEMPT RESOURCES**

In determining the resources for a household, the following shall be excluded from consideration.

**A. Vehicles**

All of a household's licensed and unlicensed automobiles, motorcycles and vehicles, including recreational vehicles and seasonal vehicles, shall be totally exempt as a resource.



**B. Home and Property**

The home and surrounding property, which is not separate from the home by intervening property owned by others, will be an exempt resource. Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or not habitable as a result of casualty or natural disaster, if the household intends to return. The property owned or being purchased by households that currently do not own a home and on which the household intends to build or is building a permanent home shall be exempt.

**C. Prorated Income**

Monies that have been prorated and considered as income for eligibility purposes will be an exempt resource. Prorated student and self-employment income is exempt as a resource as long as a portion is still being counted as income.

**D. Household Goods, Personal Effects, and Retirement Accounts**

1. Household goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.
2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:
  - a. Pension or traditional defined benefit plan;
  - b. 401(K) plan and simple 401(K);
  - c. 501C(18);
  - d. 403(A) and 403(B) plans;
  - e. 408 plans including traditional individual retirement accounts (Roth IRA, SIMPLE IRA, and myRA), traditional Individual Retirement Annuities
  - f. 457 plan;
  - g. Federal employee thrift savings plan;
  - h. Keogh plan;
  - i. 529A funds including funds in a qualified ABLE program
  - j. Simplified employer plan;
  - k. Profit sharing plan; and,
  - l. Cash balance plans.
3. All tax deferred education accounts are exempt resources. The two types of tax deferred education savings accounts are:

- a. Section 529 qualified tuition programs, which allow owners to prepay a student's education expenses or to contribute to an account to pay those expenses.
    - b. Coverdell education savings accounts and IRA type of account designed to pay a student's education expense.
  4. One bona fide pre-purchased funeral agreement per household member, which may include one burial plot per household member, shall be excluded provided that the agreement does not exceed one thousand five hundred dollars (\$1,500) in equity value; the equity value over one thousand five hundred dollars (\$1,500) is counted as a resource. If a burial plot is included in the agreement, the burial plot portion will be exempted prior to determining the equity value of the funeral agreement.
- E. Income-Producing Property, Including Vehicles
  1. Any property that is producing an annual income consistent with its fair market value in the community, even if it is used only on a seasonal basis, shall be an exempt resource. Such property includes farmland and rental homes, or work-related equipment, such as the tools of a tradesman or the machinery of a farmer, and vehicles which are essential to the employment or self-employment of a household member such as semi-tractor/trailer, boat, motor home, utility trailer, or seasonal or recreation vehicles used for income-producing purposes. Such property also includes livestock.
  2. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value shall be an exempt resource. The exclusion shall also apply to the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property retained by the seller.
  3. Income-producing vehicles such as, but not limited to, a taxi, tractor, fishing boat, a vehicle used for deliveries, motor home, snowmobile, or camper is an exempt resource if it annually produces income consistent with its fair market value, even if only used on a seasonal basis. The exemption will apply when the vehicle is not in use because of temporary unemployment. This exemption also applies to ineligible non-citizens or disqualified persons whose resources are being considered available to the household.
  4. Property essential to the self-employment of a household member engaged in farming (including land, machinery, equipment, and supplies) shall be excluded for one (1) year from the date the household member terminates his or her self-employment from farming.
- F. Inaccessible Resources
  1. Resources having a cash value which is not accessible to the household include, but are not limited to, irrevocable trust funds, property in probate, or property prohibited from sale by a creditor holding a lien, and real property which the household is making a good faith effort to sell at a reasonable price, and which has not been sold. In such cases, the local office shall establish that the property is for sale and that the household will accept a reasonable offer.
  2. Non-exempt, non-liquid resource, as defined in Section 4.408.1, B, that would have a net return of one thousand five hundred dollars (\$1,500) or less if sold, shall be considered an inaccessible resource. The equity value shall be used to determine this amount. The equity value is fair market value less verified encumbrances (amount owed).

3. Any funds in a trust or transferred to a trust, and the income produced by that trust shall be considered inaccessible to the household if:
  - a. The trust arrangement will not likely cease during the certification period, and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period; or
  - b. The trustee administering the funds is either a court, an institution, corporation, or organization which is not under the direction or leadership of any household member; or an individual appointed by the court who has court-imposed limitation placed on his/her use of funds which meet requirements of this section; or
  - c. The trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; or
  - d. The funds held in irrevocable trust are either established from household's own funds and are used solely to make investments on behalf of the trust or to pay educational or medical expenses of persons named by the household creating the trust; or established from non-household funds by a non-household member; or
  - e. Monies which are withdrawn from trust and dividends that are or could be received by the household shall be considered as income.

**G. Resources with No Significant Return**

Resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great and shall be considered inaccessible. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification of the value of a resource to be excluded shall not be required unless the eligibility worker determines that the information provided by the household is insufficient to permit a determination of the resource value or the technician believes that the information is questionable.

This provision regarding no significant return does not apply to negotiable financial instruments (as defined in C.R.S section 4-3-104). A significant return or a significant amount of funds shall be any return/funds after estimated costs of sale or disposition and considering the ownership interest of the household. A significant return or a significant amount of funds is an amount that is estimated to be more than one thousand five hundred dollars (\$1,500).

**H. Resources of Battered Women in Shelters**

Residents of shelters for battered women and children may not have been able to retain access to all the resources of their former household. Therefore, in cases where access to a resource, such as jointly held bank accounts requiring both signatures, vehicles, and property, is dependent upon the agreement of a person who still resides in the household where the woman was abused, the resource shall be considered inaccessible to the applicant.

**I. Resources Used by Household Members**

Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible non-citizen or disqualified person whose resources are being counted as part of the household's resources.

**J. Government Payments**

The following government payments are received for a specific purpose or services and shall be excluded as a resource for SNAP eligibility.

1. P.L. No. 89-642. Section (11b) of the Child Nutrition Act of 1966 excludes the value of assistance to children under this Act from resources for SNAP purposes.
2. Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under Youth Employment and Demonstration Act of 1977 (P.L. No. 95-93) and extended under Title IV of the Comprehensive Employment and Training Amendments of 1978 (P.L. No. 95-524). (Note: Does not include other payments under the Comprehensive Employment and Training Act (CETA) or payments under the Youth Adults Conservation Corps.)
3. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended: for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration, Section 312(d) of Disaster Relief Act of 1974.

The Disaster Relief Act of 1974. P.L. No 93-288 as amended by P.L. No. 100-707, Section 105(i). the Disaster Relief and Emergency Assistance Amendments of 1988. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income or resources for SNAP purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

4. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. No. 91-646. section 216).
5. Benefits received from the special supplemental food program for women, infants and children (WIC) (P.L. No. 92-443). This payment is excluded as an in-kind benefit.
6. Payments or allowances made under any federal laws for the purpose of energy assistance, other than Part A of Title IV of the Social Security Act (42 U.S.C. 601 through 42 U.S.C. 619), or a one-time payment or allowance made under federal or state law for the cost of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device is exempt as a resource.
7. HUD rental refund payments made pursuant to settlement of a series of class action lawsuits such as Underwood v. Harris, originally brought in the District of Columbia Federal District Court, are excluded in the month received and the following month.
8. Mandatory deductions from military pay for educational purposes while the participant is enlisted. (P.L. No. 99-576, Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, Section 303(a) (1)) Section 216 of P.L. No. 99-576 authorizes stipends for participation in study of Vietnam-Era veterans' psychological problems that are not excluded from income.

9. Payments to U.S. citizens of Japanese ancestry and resident Japanese non-citizens for up to twenty thousand dollars (\$20,000) each and payments to certain eligible Aleuts of up to twelve thousand dollars (\$12,000) each. P.L. No. 100-383. Section 105(f)(2) Civil Liberties Act of 1988.
10. P.L. No. 100-435, Section 501, amended Child Nutrition Act to allow under WIC demonstration projects, benefits that may be exchanged for food at farmers' markets.
11. Payments made from the Agent Orange Settlement Fund (P.L. No. 101-201). All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income retroactive to January 1, 1989. The veteran with disabilities will receive yearly payments. Survivors of deceased veterans with disabilities will receive a lump-sum payment. These payments were disbursed by the AETNA insurance company.
12. A federal earned income tax credit received either as a lump sum or as payments under Section 3507 of the Internal Revenue code for the month of receipt and the following month for the individual and that individual's spouse (P.L. No. 101-508).  
  
A federal, state, or local Earned Income Tax Credit (EITC) would be exempted for twelve (12) months from receipt for any household member if the individual receiving the EITC was participating in SNAP when the EITC was received and participation continues for twelve (12) months. Temporary non-participation due to administrative reasons, such as a delayed recertification, shall not affect the twelfth (12th) month participation requirement (P.L. No. 103-66, Mickey Leland Childhood Hunger Relief Act of 1993).
13. Any money received from the Radiation Exposure Compensation Trust Fund, pursuant to P.L. No. 101-426 as amended by P.L. No. 101-510.
14. P.L. No. 103-286, Section 1(a) provides, in part, that payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for, and the amount of, benefits or services to be provided under any federal or federally assisted program which provides benefits or services based, in whole or in part, on need.
15. Amendments to Section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) provide in part that, notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a federal program or a federally financed state or local program would otherwise pay:
  - a. Such crime victim compensation program shall not pay that compensation;
  - b. The other program shall make its payments without regard to the existence of the crime victim compensation program.  
Based on this language, payments received under this program must be excluded from income for SNAP purposes.
16. P.L. No. 104-204 requires that allowances paid under this law to children of Vietnam veterans who were born with spina bifida be excluded from resources.
17. P.L. No. 111-312 and The American Taxpayer Relief Act of 2012 requires that Federal income tax refunds received beginning January 1, 2010 must be disregarded as a resource for twelve (12) months from the date of receipt by the client.

#### **4.411 TREATMENT OF INCOME AND RESOURCES OF DISQUALIFIED, SANCTIONED, AND NON-HOUSEHOLD MEMBERS**

##### **4.411.1 Treatment of Income and Resources of Disqualified and/or Sanctioned Members**

- A. Individual household members may be disqualified for being ineligible non-citizens, for failure or refusal to obtain or provide a Social Security Number (SSN), for Intentional Program Violation (IPV)/fraud, for being a fleeing felon, for failing to comply with a work requirement, or for being a sanctioned ABAWD (Able Bodied Adult Without Dependents) who has received three (3) months of SNAP benefits within a thirty-six (36) month period.
- B. During the period in which a household member is disqualified, the eligibility and benefit level of any remaining members shall be determined as follows:
1. Households containing members disqualified for IPV or fraud, or a work requirement sanction, or classified as a fleeing felon:
    - a. Income, Resources, and Deductible Expenses

The income and resources of the disqualified household member(s) shall be counted in their entirety. Resources shall only be considered if the household is required to meet the resource standard. The allowable earned income, standard, medical, dependent care, and shelter deductions shall be allowed in their entirety.
    - b. Eligibility and Benefit Level

The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified household member will not be included when determining the household size for comparison against any eligibility standard; this includes the gross income and net income eligibility limits, or the resource eligibility limits.
  2. Households containing members disqualified for being an ineligible non-citizen, for failure or refusal to obtain or provide a SSN, or sanctioned as an ABAWD who has received three (3) months of SNAP benefits in a thirty-six (36) month period:
    - a. Resources

The resources of the disqualified and/or sanctioned member(s) shall be counted in their entirety to the remaining household members if the household is required to meet the resource standard.
    - b. Income

A pro rata share of the nonexempt income of the disqualified and/or sanctioned member(s) shall be counted as income to the remaining members. This pro rata share is calculated by dividing the income evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as income to the remaining household members. If an ineligible non-citizen is also an ineligible student and purchases and prepares food with the household, the individual's income shall be prorated under the ineligible non-citizen provisions.

c. Deductible Expenses

The earned income deduction shall apply to the prorated income earned by the disqualified and/or sanctioned member that is attributed to the household. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member shall be divided evenly among the household members, including the disqualified member. Legally obligated child support payments are deducted before prorating income. The shelter expense will be prorated except for the standard utility allowance (SUA). The full SUA will be added to the other prorated shelter components if the household qualifies for the SUA. All but the disqualified member's share is counted as a deductible expense for the remaining household members.

d. Eligibility and Benefit Level

The disqualified and/or sanctioned member shall not be included when determining the household's size for purposes of assigning a benefit level to the household. The disqualified or sanctioned household member will not be included when determining the household size for comparison against any eligibility standard, which includes the gross income, the net income eligibility limits, and the resource eligibility limits.

**4.411.2 Treatment of Income and Resources of Other Non-Household Members**

- A. For those non-household members that have not been disqualified, such as live-in attendants and ineligible students, the income and resources of the non-household member shall not be considered available to the household. Cash payments from the non-household member to the household will be considered as income to the household. Vendor payments, as defined in Sections 4.405, H and 4.405, I, shall be excluded as income. Except for the mandatory telephone allowance, if the household shares deductible expenses with the non-household member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expenses and only the household's pro rata share deducted.

If an ineligible non-citizen is also an ineligible student and purchases and prepares food with the household, the individual's income shall be prorated under the ineligible non-citizen provisions.

- B. When the earned income of one or more household members and the earned income of a non-household member are combined into one wage, the income of the household members shall be determined as follows:
1. If the household's share can be identified, the local office shall count that portion due to the household as earned income.
  2. If the household's share cannot be identified, the local office shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.
- C. A person who is an ineligible student for SNAP purposes shall be treated as a non-household member. The other members of a household containing the ineligible student may be certified. The income and resources of the ineligible student shall not be considered available to the other household members for determining the household's income resources and deductions nor shall the student be considered in determining the household's allotment.

#### **4.500 VERIFICATION AND DOCUMENTATION**

- A. Verification is the use of documentary evidence or a contact with a third party to confirm information and to establish the accuracy of statements provided by the household.
- B. The case record shall consist of statements and documentation regarding the sources and results of verification used to determine a household's eligibility. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility technician's determination. When ineligibility is determined, the case record must clearly indicate the reason for denial or termination of SNAP benefits and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record.

The case record shall also contain all correspondence pertaining to fair hearings and administrative disqualification hearings (ADH).

Information to retain in the case record for fair hearings shall include, at a minimum, the household's request for a fair hearing, the scheduling notice with the hearing date and time, all decisions pertaining to the fair hearing, and any formal objections to the court's ruling (known as exceptions) filed by the local office or the household.

Information to retain in the case record for an ADH shall include, at a minimum, the notice to the individual of the alleged intentional program violation (IPV)/fraud, any notice given to the household waiving the household's right to an ADH, the scheduling notice of the ADH if the waiver is not signed and returned, all decisions issued regarding the outcome of the ADH hearing, and the disqualification notice sent to the household notifying the individual of the disqualification period.

- C. The local office shall provide each household at the time of application for initial certification, recertification, and periodic report form with a notice that informs the household of verification requirements that the household must meet as part of the application, recertification, or periodic report process. The notice will inform the household that the local office will assist the household in obtaining verification, provided the household is cooperating with the office. The notice shall be written in clear and simple language and shall meet bilingual requirements.
- D. The household has the primary responsibility for providing documentary evidence for required verification and to resolve questionable information. The local office shall assist the household to obtain the necessary documentation provided the household is cooperating with the local office.
- E. The household shall also be determined ineligible if it refused to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review.

#### **4.501 Prudent Person Principle**

The rules contained herein are intended to be sufficiently flexible to allow the eligibility technician to exercise reasonable judgment, also known as PPP, in executing his/her responsibilities when determining SNAP eligibility.

In making an eligibility decision, the eligibility technician should consider whether their judgment is reasonable, based on their experience with and knowledge of SNAP.



**4.502 VERIFICATION REQUIREMENTS AT APPLICATION, RECERTIFICATION, AND PERIODIC REPORT**

**A. Verification Requirements at Application**

**1. Expedited Service Requirements**

Only verification of the identity of the head of household is required. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. No requirement for a specific document may be imposed. Client declaration of Social Security Number(s) (SSNS) and residency shall be accepted. Client declaration of other household circumstances shall be accepted when determining eligibility for expedited service, and verification of any client-declared information shall be postponed and verified prior to certification.

**2. The following information shall be verified prior to certification:**

- a. Identity of the head of household;
- b. Household's gross nonexempt income;
- c. Information available through IEVS, including SSNs for all household members;
- d. Non-citizen status of persons identified as non-citizens on the application;
- e. Residency, except for homeless households, or households newly arrived in the state or county for whom third-party verification cannot reasonably be obtained.

**3. The household shall be given a reasonable opportunity to submit verification of certain expenses to receive expense deductions and exclusions.**

If a deductible expense must be verified and obtaining verification may delay the household's certification, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction or exclusion for the claimed but unverified expense.

If the expense cannot be verified within thirty (30) calendar days of the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction or exclusion for the unverified expense. These expenses are:

- a. Allowable medical expenses less reimbursement;
- b. Legally obligated child support payments;
- c. Dependent care expenses; and,
- d. Shelter expenses, if questionable and verification has been requested.

4. For households eligible under basic or expanded categorical eligibility rules, verification of resources, gross and net income, SSN information, sponsored non-citizen information, and residency beyond that gathered by the Public Assistance (PA) program that confers eligibility shall not be required unless these eligibility factors are not already collected and verified by the other PA program, are considered questionable, or are unavailable to SNAP. The local office shall verify that each member receives benefits or services from the program that confers basic or expanded categorical eligibility.
5. For households subject to an asset test, the household's written declaration of resources that declares more than the resource limit is an acceptable form of verification.

**B. Verification Requirements at Recertification**

1. Eligibility factors not verified by the Income and Eligibility Verification System (IEVS) should be verified at recertification only if they are incomplete, inaccurate, questionable, inconsistent, or outdated and would affect a household's eligibility or benefit level. Unchanged information shall not be verified unless the information is outdated.
2. A change in total monthly income of fifty (\$50) or more for each member must be verified at recertification. If the source of income has not changed and if the amount is unchanged or has changed by fifty dollars (\$50) or less, verification is not required unless the information is unclear, questionable, or outdated.
3. At recertification, all households shall verify the following information if the source has changed, or the amount has changed by more than twenty-five dollars (\$25) since the last time they were verified:
  - a. Dependent care expenses; and
  - b. Allowable medical expenses; and
  - c. Legally obligated child support.
4. A reported SSN not verified at initial certification and newly obtained SSNs shall be verified through the IEVS or State On-Line Query Internet (SOLQ-I).
5. For households subject to an asset test, the household's written declaration of resources that declares more than the resource limit is an acceptable form of verification.
6. If there has been a change in a deductible expense that must be verified and obtaining verification delays the household's redetermination processing, the local office shall advise the household that the household's eligibility and benefit level will be determined without providing a deduction for the claimed but unverified expense.

**C. Verification Requirements at Periodic Report**

1. The household shall verify the following changes in circumstances at the time of periodic report:
  - a. A change of more than \$100 in the amount of unearned income.
  - b. A change in the source of income, including starting a job.
  - c. Acquisition of a licensed vehicle that is not fully excludable, if resource limits apply.

- d. A change in liquid resources, unless excluded, if resource limits apply.
  - e. Changes in the legal obligation to pay child support.
  - f. If a member of the household won substantial lottery or gambling winnings.
  - g. Allowable medical expenses to receive an increase in the allowed expense or add a medical expense.
2. Previously reported medical and shelter expenses used to establish the twenty-four (24) month certification should continue through the end of twenty-four (24) month certification period unless:
- a. An increase in medical expenses is verified, or
  - b. An increase in shelter expenses is reported.

#### **4.503 Case Documentation**

The case record shall consist of statements and documentation regarding the sources and results of verification used to determine eligibility and ineligibility. Such statements shall be entered into a physical case file and/or the statewide automated system. Such statements must be sufficiently detailed to support the determination of eligibility or ineligibility and to permit a reviewer to determine the reasonableness of the eligibility technician's determination. When ineligibility is determined, the case record must clearly indicate the reason for denial or termination and the verification used in making the decision. If information is considered questionable or if an alternate source of verification was requested, the reason for additional verification shall be documented in the case record.

The case record shall show the names of the employers and others contacted; the dates and amounts of wage stubs and statements; the figures used to arrive at monthly gross income; the household's responsibility to pay utilities; and the method of verifying other information, including non-citizen status, if applicable.

A notation shall be made to indicate which household members completed work registration forms and the date completed.

#### **4.504 Sources of Verification**

The local office shall accept any pertinent documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application, during recertification, in the PRF, or in any reported changes. Local offices shall accept the minimum verification requirements outlined throughout this document, unless questionable. If written verification cannot be obtained, the eligibility technician shall substitute an acceptable collateral contact.

##### **4.504.1 Documentary Evidence**

Documentary evidence consists of written confirmation of a household's circumstances. Households may supply documentary evidence in person, through the mail, by facsimile or other electronic device, or through an authorized representative. The local office shall not require the household to present verification in person at the office.

#### **4.504.2 Collateral Contacts**

- A. A collateral contact is a verbal confirmation of a household's circumstances by a person outside the household, made either in person, in writing, or by telephone. Acceptable collateral contacts include, but are not limited to: employers, landlords, social/migrant service agencies, and neighbors of the household who can be expected to provide accurate third-party verification. The name of the individual contacted, the individual's contact information, and the information provided shall be documented in the case record.
- B. Confidentiality shall be maintained when talking with collateral contacts. The local office shall disclose only the information that is necessary to get information being sought. When talking with collateral contacts, the local office must not state that an individual or household has applied for SNAP.
- C. If the household fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility technician, the technician may select a collateral contact that can provide information that is needed.
- D. The local office shall not determine the household to be ineligible when a person outside the household fails to cooperate with a request for verification. Household members who are disqualified or in an ineligible status shall not be considered individuals outside the household.
- E. In cases in which the information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.

#### **4.504.3 Home Visits**

For the purposes of determining eligibility, home visits shall be used as verification only if documentary evidence cannot be obtained and the visit is scheduled in advance with the household. Home visits are to be used on a case-by-case basis where the supplied documentation or verification is insufficient.

#### **4.504.4 Systematic Alien Verification Entitlement (SAVE)**

The U.S. Citizenship and Immigration Service (USCIS), Systematic Alien Verification for Entitlement (SAVE) system will verify the alien status of applicant non-citizens. The use of SAVE shall be documented in the case record. The record will contain the date the primary or secondary request was submitted, along with a copy of the Form G-845 when applicable, and any response to the request for verification.

#### **4.504.5 Colorado Income Eligibility Verification System (IEVS)**

- A. The Colorado Income and Eligibility Verification System (IEVS) provides for the exchange of information on SNAP clients with the Social Security Administration (SSA), Internal Revenue Service (IRS), and the Colorado Department of Labor and Employment (DOLE).
- B. At initial certification and recertification, all applicants for SNAP shall be notified through a written statement provided on or with the application form that contains the following information:
  - 1. Information available through the IEVS will be requested and verified through collateral sources when discrepancies are found by the local office.
  - 2. Information available through the IEVS shall be used and that such information will be used and may affect the household's eligibility and level of benefits.

- C. With respect to all household members, including any excluded household members for whom a Social Security Number (SSN) is available, the agency shall be responsible for requesting verification through the IEVS or directly from locally accessed automated information. All such information shall be requested at the first available opportunity after the date of application.
- D. The local office shall at a minimum, prior to approval of benefits at initial application, recertification, and periodic report, verify potential earnings or unemployment benefits through the DOLE for all applicants.
- E. Determination of a household's eligibility and benefit level shall not be delayed past the application processing time standards if verification of information is not available nor shall determination be delayed awaiting verification from the IEVS.
- F. The local office is required to act upon information received from IEVS within forty-five (45) calendar days of the receipt of that information, except for UIB information received from the DOLE, which must be acted upon in accordance with Section 4.604.
- G. Some information received through the IEVS is not considered verified and is subject to independent verification by the local office. Benefits shall not be delayed pending receipt of verification from a collateral source, such as an employer, when independently verifying information received from the IEVS. Such verification of IEVS information may include contacting the household in writing informing them of the information received from the IEVS data source and requesting a response within ten (10) calendar days, or by appropriate collateral contact. The following Information received through the IEVS shall be treated as not verified and subject to independent verification by the local office:
  - 1. Wage data from the Colorado Department of Labor and Employment.
  - 2. Internal Revenue Service unearned income information.
- H. Through the IEVS, participant SSNs will be matched with source agency records on a regular basis to identify potential earned and unearned income and resources and assets from the following sources:
  - 1. Social Security Administration (SSA)

Information received from the Social Security Administration includes:

    - a. Wages, payments of retirement income, Title II Social Security benefits, Title XVI Social Security benefits, pensions, and federal employee earnings maintained by the SSA.
    - b. Federal retirement, survivors disability, SSI, and related information available from SSA through BENDEX (Beneficiary Data Exchange) and SDX (State Data Exchange).
  - 2. State Data Exchange (SDX) and Beneficiary Data Exchange (BENDEX)

Death information, SSI benefit amounts, and social security benefit information may be obtained verified through SDX AND BENDEX. See Section 4.504.6, E, for what information from SSA is considered verified upon receipt.
  - 3. Colorado Department of Labor and Employment (DOLE)

- a. Information received from the DOLE includes wage and unemployment insurance benefits (UIB). Wage data received from the DOLE shall not be considered as verified upon receipt and shall be subject to independent verification. Unemployment information reported through the IEVS shall be verified through the DOLE or by the household. Verification of unemployment compensation insurance benefits, including beginning dates, duration of payments and amount of payments can be obtained from the Colorado Department of Labor and Employment.
  - b. The local office shall at a minimum, prior to approval of benefits at initial application, recertification, and periodic report, verify potential earnings or unemployment benefits through the DOLE for all applicants, including ineligible and disqualified members' SSNs. With respect to all members of a participant household, the local office shall use UIB information received through the Income and Eligibility Verification System (IEVS). Participant SSNs will be matched at least monthly with the DOLE, UIB records.
4. Internal Revenue Service (IRS)
- Unearned income information received from the IRS includes, but is not limited to, interest on checking and savings accounts, dividends, royalties, winnings from betting establishments, and capital gains. Unearned income information from the IRS that is reported through the IEVS shall not be considered as verified upon receipt and shall be subject to independent verification.

#### **4.504.6 Information Considered Verified Upon Receipt**

- A. Verified upon receipt (VUR) is a term given to a state-prescribed list of specific information that comes directly from the primary source of the information and is free from question.
- B. Information that is considered VUR shall be acted upon for all households. Information considered VUR shall be acted on at the time of application, recertification, periodic report, and during a household's certification period if the information causes a change in the SNAP benefit amount. A household shall not be convicted of fraud for not reporting a change in the information it is not required to report.
- C. Information considered VUR shall be considered verified unless the office has reason to believe that the information may be inaccurate. Advance notice of adverse action shall be given when acting on information that is considered VUR, except as noted in Section 4.608.1.
- D. The local office shall consider only the following information as VUR:
  1. Social Security and SSI benefit amounts obtained from SSA.

SSI and benefit amounts obtained from the SSA are considered reported and verified on the day the information is first known to the agency, either through the IEVS, SDX, BENDEX or another automated interface of information, whichever is sooner.
  2. Death information received from the Burial Assistance program.

Death information received from the Burial Assistance program is considered reported and verified on the day the information is first known to the agency.
  3. Unemployment insurance benefits (UIB) that are reported through the IEVS and obtained through the Department of Labor and Employment (DOLE).

The UIB information shall be considered reported and verified on the date of the IEVS notification. Advance notice of adverse action shall be given when acting on the change in information.

4. PA benefit amounts (Colorado Works, Aid to the Needy Disabled (AND) program consisting of AND-State Only (AND-SO) and AND-Colorado Supplement (AND-CS), Home Care Allowance (HCA), and Old Age Pension (OAP), obtained from the State Department.
5. Information that is reported and verified to a PA program which results in a change to the PA benefit amount and that meets SNAP verification requirements.

Such information shall be considered reported and verified on the day the PA program processes the change and authorizes the new PA benefit amount.

6. Child support income and expense amounts obtained through the ACSES.

Such information is considered reported and verified on the day the information is reported through an automated interface with ACSES.

7. Non-compliance information obtained from EF agencies of the failure of an ABAWD to meet work requirements.
8. Colorado IPV's.
9. Information obtained from the SAVE system regarding non-citizen status.
10. Changes in household composition that are reported and verified and result in one (1) or more members being removed from one (1) SNAP household and added to a new or existing SNAP household.  
  
Duplicate benefits shall not be issued for a particular individual when removing that individual from one SNAP household and adding them to a new SNAP household.
11. Changes in household composition that are reported and verified by child welfare agencies and result in a child being removed from one SNAP household and added to a new or existing SNAP household.
12. The disqualification of a household member who is determined to be a fleeing felon.

**4.504.61 Information Not Considered Verified Upon Receipt (VUR)**

- A. Some information received from sources other than the household are not considered VUR. Such information shall be subject to independent verification prior to taking adverse action against a household's SNAP benefits during the certification period.
- B. The following sources of information shall not be considered as VUR:
  1. Death information received from a source other than the Burial Assistance program.
  2. Veterans Assistance (VA) benefit amounts obtained through the IEVS.
  3. Wage data obtained through the IEVS and the DOLE.
  4. IRS income and asset information obtained through the IEVS.

5. Information regarding railroad retirement benefits obtained through the IEVS.
6. Information received from the Public Assistance Reporting and Information System (PARIS).
7. Prisoner information received during the certification period.
8. Information received from the National Directory of New Hires (NDNH).
9. Social Security benefit amounts reported via an award letter given by the household.
10. IPV/disqualification data from another state as reported through the disqualified recipient database.

#### **4.505 VERIFICATION OF NON-FINANCIAL INFORMATION**

- A. Some information received from sources other than the household are not considered verified.

Such information shall be subject to independent verification prior to taking adverse action against a household's SNAP benefits during the certification period.

##### **4.505.1 Verification of Identity**

- A. The identity of the person making an application shall be verified. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified.
- B. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact or through electronic information received from the Colorado Department of Revenue, Division of Motor Vehicles (DMV). Acceptable documentary evidence that the applicant may provide includes, but is not limited to, a driver's license, a work or school ID, an ID for health benefits or for another assistance or social services program, a voter registration card, wage stubs, or a birth certificate. No requirement for a specific type of document, such as a birth certificate or picture ID, may be imposed.
- C. When obtaining an Electronic Benefit Transfer (EBT) card, a household shall not be required to provide verification beyond what was utilized to establish identity when determining SNAP eligibility. This includes verification through a collateral contact.

##### **4.505.2 Verification of Social Security Numbers (SSN)**

- A. All SSNs provided by the household, including multiple SSNs issued by the Social Security Administration (SSA), shall be verified through the SSA in accordance with the Income and Eligibility Verification System (IEVS) procedures established by the State Department. The State On-Line Query Internet (SOLQ-I) may also be utilized to verify an SSN. Certification of an otherwise eligible household member shall not be delayed verifying the SSN provided by the client. Household members who provide an SSN shall not be denied benefits for failure or inability to present a social security card or other official documentation. Eligibility determinations and benefits will not be delayed to otherwise eligible households while awaiting a response from the IEVS. For basic categorically eligible clients, the local office shall accept SSNs as verified by the categorically eligible programs.
- B. When the local office receives notification through the IEVS that a participant's SSN cannot be verified or is otherwise discrepant, such as the name or number does not match SSA records, the local office shall:



1. Conduct a case record review to confirm that the SSN in the case record matches the SSN submitted to the SSA for verification. If an error occurred in the original submittal, such as digits transposed or an incorrect name submitted, the local office shall correct the error and the SSN will be resubmitted through the IEVS for verification.
2. If no error is identified as outlined in 1, above, the local office shall advise the household in writing that a member's SSN could not be verified and instruct the household to contact the local office to resolve the discrepancy. This notice shall not constitute advance notice of adverse action.
3. The local office shall make every effort to assist the household in resolving the discrepancy, including referral to the appropriate SSA office and assisting the household in obtaining documents available to the local office which may be required by the SSA.
4. Should the household or participant fail or refuse to cooperate in resolving the discrepancy, the individual whose SSN cannot be verified may be disqualified as having failed to provide an SSN until such time as the household/participant cooperates, unless good cause exists. Disqualification shall be effective the month following the expiration of the notice of adverse action.

#### **4.505.3 Verification of Residency**

- A. Except for basic categorically eligible households, residency shall be verified prior to certification, except in unusual cases when verification cannot reasonably be accomplished, such as for homeless households, some migrant farm worker households, or households newly arrived to an area. Verification of residency should be accomplished to the extent possible when verifying other information, such as identity or income. Any documents or collateral contacts which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed.
- A. If the eligibility technician and client have made reasonable efforts to verify residency and it has proved impossible, the household may be certified, if otherwise eligible. If an individual's county residency cannot be verified, but the individual's Colorado residency is not questionable, then the individual shall be certified if otherwise eligible and not participating in another SNAP household.
- C. The client may supply the verification through driver's license, rent receipt, utility or other recently received bill, voter registration, or similar means. If the client is unable to supply documentary evidence, information may be obtained from a telephone or city directory or detailed area map. If documentary evidence is not available, a collateral contact, such as a landlord or neighbor, may provide verification. In the absence of documentary evidence or collateral contact, a scheduled home visit may be feasible.

#### **4.505.4 Verification of Household Composition**

- A. Local offices shall accept the household's statement, without requiring verification, regarding household composition unless the statement is questionable or there is unclear information, as defined in section 4.000.1.
- B. Persons aged sixty (60) and older experiencing a disability as described in Section 4.304.3.A, declaring separate household status from others in the household shall be responsible for providing necessary income information of other household members and medical statements that the individual(s) cannot purchase and prepare their own meals if questionable and requested by the local office.

- C. A household that requests benefits for a child that is already receiving benefits in another household is responsible for verifying that they provide the child with the majority of his or her meals prior to receiving benefits for that child as described in Section 4.304.1.B.

#### **4.505.5 Verification of U.S. Citizenship**

- A. If questionable, U.S. citizenship may be verified by one of the following:
1. A U.S. birth certificate;
  2. Possession of a U.S. passport;
  3. A certificate of U.S. citizenship (INS form N-560 or N-561);
  4. A certificate of naturalization (INS form N-550 or N-570);
  5. A certificate of birth abroad of a citizen of the United States (Department of State forms FS-545 or DS-1350);
  6. Identification Cards for U.S. citizens (INS-I-179 or INS-I-197); or,
  7. Information obtained through the Colorado Vital Information System (COVIS).
- B. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the local office shall accept a signed statement from a third party having personal knowledge of the person's status and who declares, under penalty of perjury, that the member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud.

#### **4.505.51 Verification of Questionable Citizenship**

- A. The following guidelines shall be used in considering whether a client's statement of citizenship is questionable:
1. The claim of citizenship is inconsistent with statements made by the client.
  2. The claim of citizenship is inconsistent with information received from another source.
- B. Application of the above criteria by the eligibility technician must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or American Indians shall not be targeted for special verification. The eligibility technician shall not rely on a surname, accent or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility technician rely on a lack of English speaking, reading, or writing ability as grounds to question a claim to citizenship.
- C. The member whose citizenship is in question shall be ineligible to participate until proof of citizenship is obtained, except as provided in Section 4.505.6, E. Until proof of citizenship is obtained, the member whose citizenship is in question shall have his or her income, less a prorated share, and all of his or her resources considered available to any remaining household members.
- D. The method used to document verification of citizenship and the result of the verification shall be included in the case record.

**4.505.6 Verification of Non-citizen Status**

- A. All SNAP clients shall be notified on the application form that the non-citizen status of any household member will be subject to verification by the U.S. Citizenship and Immigration Service (USCIS) through the submission of information from the application to the USCIS. The information received from the USCIS may affect the household's eligibility and level of benefits. The application shall contain a statement signed by an adult representative from each household which attests, under penalty of perjury, to citizenship or non-citizen status of each member.
- B. The local office shall verify the eligibility status of non-citizens by submitting the noncitizen registration number through the USCIS Systematic Alien Verification for Entitlement (SAVE) system. The office shall use the information from USCIS SAVE to determine eligibility for benefits. The use of SAVE shall be documented in the case record. If a non-citizen does not wish the office to verify his or her immigration status, the local office shall give the household the option of withdrawing its application or participating without that member.
- C. The SAVE system will verify the alien status of non-citizens. The use of SAVE shall be documented in the case record. The record will contain the date that the primary or secondary request was submitted, along with a copy of the Form G-845, as incorporated by reference in section 4.000.1, when applicable, and any response to the request for verification.
  - 1. If the non-citizen status is not verified in the primary SAVE verification process, a USCIS Form G-845 will be submitted with a photocopy of the non-citizen's document to the Colorado Refugee Service Program (CRSP).
  - 2. If the proper USCIS documentation is not available, the non-citizen may state the reason and submit other conclusive verification. The local office shall accept other forms of documentation or corroboration from the USCIS that the non-citizen is classified pursuant to Section 207 (8 U.S.C. 1157), Section 208 (8 U.S.C. 1158), or Section 243(h) (8 U.S.C. 1253(h)) of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act.
- D. If a non-citizen is unable to provide any USCIS document, such as an INS form I-94, the local office has no authority or responsibility to contact the USCIS.
- E. The local office shall provide an applicant non-citizen up to the thirtieth (30th) calendar day following the date of application to submit acceptable documentation of their non-citizen status or at least ten (10) calendar days from the date of the local office's request for an acceptable document.
- F. A non-citizen who has been given a reasonable opportunity to submit acceptable documentation and has not done so within the normal processing time shall not be certified for benefits until acceptable documentation is available, except as provided below. However, when the local office fails to provide a non-citizen applicant with a reasonable opportunity as of the thirtieth (30th) calendar day following the date of application, the local office must provide the household with benefits back to the date of application, provided the household is otherwise eligible. A non-citizen is ineligible to participate until acceptable documentation is provided, except as provided below:

1. The local office has submitted a copy of a document provided by the household to the USCIS or other federal agency for verification that bears on the individual's eligible alien status. In such instances, the local office must certify the individual for up to six (6) months from the date of the original request for verification pending the results of the investigation. Pending such verification, the individual's benefits will not be delayed, denied, reduced or terminated based on the individual's immigration status while awaiting a response to the request for verification.
  2. The local office has submitted a request to the SSA for information regarding the number of quarters of work that can be credited to the individual; or SSA has responded that the individual has fewer than forty (40) quarters, and the individual provides documentation from the SSA that the SSA is conducting an investigation to determine if more quarters can be credited. If the SSA indicated that the number of qualifying quarters that can be credited is under investigation, the local office shall certify the individual, pending the results of the investigation, for up to six (6) months from the date of the original determination of insufficient quarters.
- G. If the office determines that the documentation presented by the household is questionable or the documents that are used to determine eligibility are not issued by the USCIS, the office will use a secondary SAVE process. The secondary verification process will also be used when primary verification is not available through SAVE.
- The secondary verification process will consist of submitting a photocopy of the documentary evidence presented, with form G-845, to the U.S. Citizenship and Immigration Service.
- H. If the local office determines, after complying with the requirements of this section, that the non-citizen is not in an eligible alien status, the office shall take action, including sending proper notices to the household, to terminate, deny or reduce benefits. The household will have the opportunity to request a fair hearing prior to any adverse action taking effect.
- I. If verification of eligible non-citizen status is not provided on a timely basis, the household has the option of withdrawing its application or requesting that the eligibility of the remaining household members be determined. The income and resources of the individual whose non-citizen status is unverified shall be considered available in determining the eligibility of the remaining household members. If verification of eligible non-citizen status is subsequently received the local office shall act on the information as a reported change in household membership in accordance with timeliness standards. The non-citizen shall not be entitled to retroactive benefits.
- J. When any person in a household indicates inability or unwillingness to provide documentary evidence of non-citizen status, either for themselves or any other household member, the household has the option of withdrawing its application or participating with the member in question classified as an ineligible non-citizen. In such cases the local office shall not continue efforts to obtain that documentary evidence.

#### **4.505.61 Verification of SSA Forty (40) Work Quarters**

The SSA Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for forty (40) qualifying quarters. If the individual does not have documentation, they cannot participate until verification of forty (40) quarters of work is received from either the SSA or the individual.

If the SSA determines that its existing records do not verify that an individual claiming forty (40) credits or quarters has the forty (40) credits or quarters and the individual believes the SSA records are not correct, the SSA will work with the individual to determine whether the additional credits or quarters can be established. The individual should be advised that they have the option of working with the SSA and that if they exercise this option and obtain a statement from the SSA indicating that the number of credits or quarters is under review, they can continue to receive SNAP benefits for up to six (6) additional months from the date of the original determination of insufficient quarters.

- A. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to a non-citizen if the non-citizen, parent of the non-citizen, or spouse of such non-citizen received any federal means-tested public benefit during the period for which such qualifying quarter of coverage is so credited.
- B. The local office must evaluate quarters of coverage and receipt of federal means-tested public benefits on a calendar year basis. The local office must first determine the number of quarters creditable in a calendar year, then identify those quarters in which the non-citizen (or the parent(s) or spouse of the non-citizen) received federal means-tested public benefits and then remove those quarters from the number of quarters of coverage earned or credited to the non-citizen in that calendar year. However, if the non-citizen earns the fortieth (40th) quarter of coverage prior to applying for SNAP or any other federal means-tested public benefit in that same quarter, the local office must allow that quarter toward the forty (40) qualifying quarters total.
- C. Receipt of federal means-tested public benefit shall not include the following:
  - 1. Medical assistance under Title XIX of the Social Security Act (or any successor program to such Title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in Section 1903(v)(3) of such Act) of the non-citizen involved and are not related to an organ transplant procedure, if the non-citizen involved otherwise meets the eligibility requirement for medical assistance under the State Plan approved under such Title (other than the requirement of the receipt of aid or assistance under Title IV of such Act, supplemental security income benefits under Title XVI of such Act, or a state supplementary payment)
  - 2. Short-term non-cash, in-kind emergency disaster relief.
  - 3. Assistance or benefits under the National School Lunch Act.
  - 4. Assistance or benefits under the Child Nutrition Act of 1966.
  - 5. Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.
  - 6. Payments for foster care and adoption assistance under Parts B and E of Title IV of the Social Security Act for a parent or a child who would, in the absence of Subsection (q), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in Section 431 of the Social Security Act).
  - 7. Programs, services, or assistance (such as soup kitchens, crises counseling and intervention, and short-term shelter) specified by the U.S. Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, that:

- a. Deliver in-kind services at the community level, including through public or private nonprofit agencies,
  - b. Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources, and,
  - c. Are necessary for the protection of life or safety.
- 8. Programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965.
- 9. Means-tested programs under the Elementary and Secondary Education Act of 1965.
- 10. Benefits under the Head Start Act.
- 11. Benefits under the Workforce Investment Act.

**4.505.7 Verification of Non-citizen Sponsorship**

- A. The local office shall verify the following information at the time of initial application and recertification:
  - 1. The income and resources of the non-citizen's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the non-citizen's application for SNAP.
  - 2. The names and alien registration numbers of other non-citizens for whom the sponsor has signed an affidavit of support or similar agreement.
  - 3. The number of dependents who are claimed or who could be claimed for federal income tax purposes of the sponsor and the sponsor's spouse.
  - 4. The name, address, and phone number of the non-citizen's sponsor.
- B. Until the non-citizen provides information or verification necessary to determine eligibility, the sponsored non-citizen shall be ineligible. When such verification is provided, the local office shall act on the information as a reported change in household circumstances.
- C. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible non-citizen, excluding the attributed income and resources of the non-citizen's sponsor and sponsor's spouse, shall be considered available in determining the eligibility and benefit level of the remaining household members.

If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, other adult members of the non-citizen's household shall be responsible for providing and/or verifying the information. If the information or verification is subsequently received, the local office shall act on the information as a reported change. If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as the needed information is verified. The local office must assist the non-citizen in obtaining verification provided the household is cooperating with the local office.

#### **4.505.8 Verification of Disqualified Member Data**

At the time of application and when adding a new member to a SNAP household, the office shall verify data with the national IPV/disqualification database for all household members aged eighteen (18) or older to determine if any members have an active IPV / disqualification from another state which requires a portion, or the entirety of, the disqualification period to be served in Colorado. Application processing shall not be delayed while awaiting verification from another state.

The local office shall ensure that:

- A. Disqualifications from another state due to a drug-related felony, as defined in 7 C.F.R. 273.11(m), which is incorporated by reference in section 4.100, above, or any other disqualification that is not pursued in Colorado due to a waiver or state statute shall not be acted upon;
- B. IPV/disqualifications from another state must be independently verified with the originating state prior to taking any adverse action against a household's SNAP benefits, if the client is unable to attest to the accuracy of the disqualification;
- C. States shall be given twenty (20) calendar days to respond to a request for verification. If verification cannot be provided by the other state, then the disqualification shall not be acted upon. Local offices shall be given twenty (20) calendar days to respond to another state's request of obtaining verification of a Colorado IPV. If the local office cannot provide verification, then steps shall be taken to remove the IPV from the national database.
- D. Once independent verification is received, advance notice of adverse action shall be granted prior to benefits being reduced, suspended, denied, or terminated; and,
- E. The disqualified individual shall be provided an opportunity to appeal any adverse action.

If benefits are issued by the local office to an individual while awaiting verification of an IPV disqualification, the benefits issued while awaiting such verification may be reclaimed by the local office if it is determined that the individual was disqualified from the program at the time the benefits were issued.

#### **4.506 VERIFICATION OF INCOME**

Monthly, gross nonexempt income shall be verified prior to initial certification, unless the household is entitled to expedited service and postponed verification for one month. Income is also verified at recertification when a household reports that the amount of income has changed more than fifty dollars (\$50), or the source of income has changed.

- A. Responsibility
  - 1. Clients are primarily responsible for furnishing income verification documents, a collateral contact, or the authorization needed to secure sufficient information to allow written or verbal verification by the eligibility technician. For PA recipients, the PA case record will normally be used as the source of verification.
  - 2. Means of income verification include pension award letters, check stubs, employer letters, and collateral contacts with employers, agencies, or other persons having knowledge of the household's circumstances.

3. When a collateral contact designated by the household cannot be expected to provide accurate third-party verification, the local office shall ask the household to designate an acceptable collateral contact, provide an alternative form of verification, or substitute a home visit.
4. In some instances, however, all attempts to verify income may be unsuccessful because the person or organization has failed to cooperate with the household. A cooperating client shall not be denied solely because a third-party refuses to provide verification. The eligibility technician shall, in consultation with the client or other sources, arrive at a figure to be used for certification purposes and annotate the household's case record with information used to make an eligibility determination.

**B. Continuing Employment**

When the client has continuing employment, the previous month's income is the best indication and source of verification of the amount of income the household may expect to receive. If information, such as probable salary raise, overtime pay, or layoff supplied by the household or collateral contact reveals that future income will differ substantially from the previous month's income, a reasonable estimate of income shall be made based on information obtained from the household members and/or collateral contacts. The method of determining and computing income shall be fully annotated in the case record.

**C. Self-Employment**

A household's statement of self-employment income shall be accepted unless questionable. Should verification be requested, no specific verification shall be required. Self-employment verification may consist of tax documents, self-employment ledgers maintained by the household, receipts, or other documents used for verifying and documenting the household's self-employment income and expenses. If at the time of initial certification, a household is recently self-employed or does not have adequate documentation of the household's self-employment income and expenses, the eligibility technician shall use the best information available to determine the household's monthly income. The household shall be encouraged to keep records of income and expenses for subsequent certifications.

**D. Educational Assistance**

All educational income and financial aid are considered exempt income and does not require verification to determine a household's monthly income.

**E. Verification of Terminated Employment**

1. If information regarding the termination of employment is questionable, verification is necessary. The primary responsibility for providing verification rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the local office shall offer assistance.
2. Acceptable sources of verification include, but are not limited to, the previous employer, employee associations, union representatives and grievance committees, and the Colorado Department of Labor and Employment (DOLE). Whenever documentary evidence is not available, a collateral contact shall be used.
3. If the household and the local office are unable to obtain verification for a questionable claim of resignation from employment due to discrimination practices or unreasonable demands by an employer because an employer cannot be located, the household shall not be denied.



**F. Cases of No Reported Income**

The existence of resources, unpaid bills, and/or credit might be an explanation of how the household exists with no income or income so low as to place them at the maximum benefit level without consideration of deductible expenses. The client's statement of no income is acceptable, unless otherwise questionable.

**4.507 VERIFICATION OF EXPENSES**

**A. Verification of Dependent Care**

Verification of dependent and child care expenses is required to grant a deduction.

**B. Verification of Shelter and Utility Costs**

1. A household's declaration of its responsibility to pay shelter and utility costs, as well as the amount the household is responsible to pay, shall be considered an acceptable source of verification, unless questionable, to grant the household a deduction for the amount the household declares it is responsible for paying.
2. Households that wish to claim shelter costs for a home that is unoccupied because of employment or training away from the home, illness or abandonment caused by a natural disaster or casualty loss must provide verification of actual utility costs if the costs would result in a deduction. These households are also responsible for providing verification of any other shelter costs if the cost is questionable and it would result in a deduction. The local office is not required to assist households in obtaining verification of this expense if the verification needs to be obtained from a source outside the county.
3. If shelter expense is questionable and verification cannot be verified within thirty (30) calendar days from the date of application, the local office shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense.
4. If the household subsequently provides the missing verification for questionable shelter costs, the information will be handled as a reported change. The household shall be entitled to restoration of any lost benefits as a result of the disallowance of the expense which could not be verified within the thirty (30) day period, only if the client was not given at least ten (10) calendar days to provide verification or less than ten (10) calendar days if a necessary second interview could only be scheduled between the twentieth (20th) and thirtieth (30th) day of the processing period.

**C. Verification of Medical Expenses**

1. The amount of medical bills and the portion that is reimbursable shall be verified prior to initial certification. At recertification, total medical expenses shall be verified if the source has changed or the total amount has changed more than twenty-five dollars (\$25) since the last time they were verified, or the information is incomplete, inaccurate, inconsistent, or outdated.

2. The household's monthly medical deduction for the certification period shall be based on the information reported and verified by the household, 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 recipient's medical condition public or private insurance coverage and current verified medical expenses. If the change cannot be reasonably anticipated, the household shall have the non-reimbursable portion of the medical expense considered at the time the amount of the expense or reimbursement is reported and verified.
3. If the household reports a change in its medical expenses, the local office shall verify the change and act on the change during the certification period if it will result in an increase to the household's benefit allotment. The household shall not be contacted to verify a change discovered through another source.
4. Households certified for twenty-four (24) months that incurred a one-time medical expense during the first twelve (12) months shall have the option of deducting the expense for one month, averaging the expense over the remainder of the first twelve (12) months of the certification period, or averaging the expense over the remainder of the certification period. One-time expenses reported after the twelfth (12th) month of the certification period will be deducted as a one-time monthly expense or averaged over the remaining months in the certification period, at the household's option.

**D. Verification of Child Support Expenses**

1. The local office shall accept any document that verifies the household's legal obligation to pay child support, such as a court or administrative order or legally enforceable separation agreement.
2. The local office shall accept documentation verifying a household's actual payment of child support including, but not limited to, cancelled checks, wage withholding statements, verification of withholding from unemployment compensation and statements from the custodial parent regarding direct payments or third party payments that the noncustodial parent pays or expects to pay on behalf of the custodial parent.
3. Documents that are accepted as verification of the household's legal obligation to pay child support shall not be accepted as verification of the household's actual monthly child support payments.
4. In addition to requiring verification from the household, the local office shall be responsible for obtaining verification of the household's child support payments if the payments are made to the child support services agency. The local office shall give the household an opportunity to resolve any discrepancy between household verification and the verification received from the child support services agency.
5. At recertification or periodic report, the local office shall require the household to re-verify the amount of legally obligated child support that a household member pays to a non-household member and the actual monthly child support payments made.

**4.601 GENERAL REQUIREMENTS FOR REPORTING CHANGES**

- A. Households are only required to report and verify if the household's combined gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Level (FPL) for its household size.

- B. Households shall be required to report any increase in income no later than ten (10) calendar days from the end of the calendar month in which the change occurred.
- C. The household shall be allowed to report changes in person, by telephone, in writing, or through the online system.

#### **4.602 WHEN CHANGES ARE CONSIDERED REPORTED**

- A. A change shall be considered to be reported as of the date the local office is notified of the change, if the required verification is received within ten (10) calendar days from the date the change is considered reported.

If verification is obtained after the ten (10) calendar day timeframe, or during the adverse action period, the office shall consider the change reported on the day the verification is received.

#### **4.603 HOUSEHOLD RESPONSIBILITY TO REPORT CHANGES**

- A. Households shall report all changes related to their SNAP eligibility and benefits at the certification interview, including any changes that occurred between the date an application is submitted and the date of the interview. If a change is reported in an initial month and the application has not yet been processed, the local office shall act on the most current information.
- B. Households are required to report all changes in household circumstances when filing a recertification and periodic report.
- C. Able-Bodied Adults Without Dependents (ABAWD), as defined in Section 4.100, that do not meet an exemption, as outlined in Section 4.310.3, are required to report any changes in work hours that bring the individual below twenty (20) hours per week, averaged monthly.
- D. Households who have no gross income threshold or who are eligible to be certified with a gross income level of up to two hundred percent (200%) of the federal poverty level, as applicable to the household size, who are initially certified with income above one hundred thirty percent (130%) FPL shall not be required to report increases in the household's combined gross income during the certification period.
- E. Households who have no gross income threshold or who are eligible to be certified with a gross income level of up to two hundred percent (200%) of the FPL, as applicable to the household size, who are initially certified with income below 130% FPL are required to report when the household's combined gross income exceeds one hundred thirty percent (130%) FPL applicable to the household size. After the household reports its first increase in income above one hundred thirty percent (130%) FPL, the household shall not be required to report further increases in the household's combined gross income for the remainder of the certification period.
- F. When a household submits a recertification or periodic report form and an interview is not conducted because one has been completed in the previous twelve month period, any changes that occur after the recertification or periodic report form was submitted are not required to be reported unless the change causes the household to exceed one hundred thirty percent (130%) FPL applicable to the household size. If an interview is scheduled with the household, then the household is required to report any changes that occur between the time the household submitted the recertification application or periodic report form and the date of the interview.
- G. Upon benefit approval at initial application, recertification and periodic change report, the household shall be provided with a notice of the gross income level that applies to its household size.

- H. All applicant and ongoing SNAP households are responsible to report whenever a member of the SNAP household wins substantial lottery or gambling winnings.

#### **4.604 ACTION ON REPORTED CHANGES**

Changes shall be acted on in accordance with the following guidelines:

A. General Requirements

Changes to a household's circumstances shall be acted on prospectively and processed within ten (10) calendar days from the date the change is reported. Changes reported by households shall be documented in the SNAP case record to indicate the change and the date that the change was reported. If the reported change causes a change to the household's allotment, a notice of action form shall be issued to inform the household of a new basis of issuance and/or a supplemental allotment. If a supplemental allotment is to be issued, the amount of the supplemental allotment shall be the difference between the allotment the household is eligible to receive, due to the reported change, and the allotment the household received for the current month. The household's total monthly allotment shall be increased for all subsequent months of the certification period that are affected by the change.

B. Changes Reported at Recertification and Periodic Report

The local office shall act on all changes reported by households filing a recertification or periodic report. When a household reports information during the certification period that it was not required to report, the local office shall document the information in the case record. If the information is not acted upon because it would cause a reduction in benefits, and it does not meet the criteria outlined in D below, the local office shall review the information at the time of the household's subsequent certification, or at the twelve (12) month periodic report for those households certified for twenty-four (24) months, to determine if the change should be acted upon when processing the recertification or periodic report.

C. Changes Resulting In an Increase

1. The local office shall act on any change reported by the household that will increase benefits. The increased allotment shall be made no later than the first allotment issued ten (10) or more calendar days after the change is reported. Any increase in benefits resulting from a change shall take effect the month following the month the change is considered reported. Therefore, if such a change is reported after the twentieth (20th) of a month, and it is not possible to adjust the following month's allotment before the household's next normal issuance day, a supplemental allotment (in addition to the previously authorized monthly allotment) must be issued within ten (10) calendar days from the date the change was reported. A supplemental allotment shall not be issued for the month in which the change occurred.
2. Changes that result in increased SNAP benefits for a household must be verified by the household within ten (10) calendar days from the date the change is reported. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Changes that result in increased SNAP benefits for a household must be verified prior to adjusting the household's allotment.

**D. Changes Resulting in Allotment Decreases**

Changes that result in a decreased allotment shall be processed within ten (10) calendar days from the date the change is considered reported and made effective on the last day of the month in which the advance Notice of Adverse Action (NOAA) expires. The NOAA expires eleven (11) calendar days from the date it is issued or fifteen (15) calendar days for households participating in the address confidentiality program (ACP).

The county local office shall not act on changes during the certification period that would decrease benefits, unless:

1. The head of household requests that their case be closed;
2. The head of household requests that any member be removed;
3. An adult member requests to be removed from the case;
4. An adult member requests themselves and their children be removed from the case;
5. The agency has information about the household's circumstances considered verified upon receipt;
6. There has been a change in the household's public assistance grant;
7. The agency is acting on a mass change;
8. A household who has no gross income threshold or who is eligible to be certified with a gross income level up to two hundred percent (200%) FPL as applicable to the household size, which is initially certified with income below one hundred thirty percent (130%) FPL has a change in income that causes the household's combined gross monthly income during the certification period to exceed one hundred thirty percent (130%) FPL; or
9. The agency has received information from the Prisoner Verification System or the Deceased Matching System that a household member is no longer residing in the home and the household has failed to respond to the notice of match, provided insufficient evidence to the contrary, or has confirmed the match.

**E. Changes Resulting in Ineligibility**

Changes that result in the household becoming ineligible shall be processed within ten (10) calendar days from the date the change is considered reported unless the change does not require adverse action. Changes resulting in ineligibility shall be made effective on the last day of the month in which the Notice of Adverse Action expires.

**F. Changes in Categorical Eligibility**

When a household reports a change during the certification period that results in it no longer meeting the criteria of the categorical eligibility tier for which it was originally certified, the household's eligibility must be re-evaluated using the next appropriate category. If the reported change has not been verified, or is considered questionable, and it cannot be determined whether basic categorical eligibility, expanded categorical eligibility, or standard eligibility criteria should be used, a request for verification shall be initiated.

**G. Changes in Household Composition**

1. Changes in household composition shall be acted on prospectively for the following month when the local office is able to affect the change prior to the determination of the household's allotment for that month. Anticipated income, deductions and other financial and non-financial criteria of the new member shall be considered in the prospective determination. The anticipated income, deductions, and other financial and non-financial criteria of a removed member shall no longer be considered when determining the household's eligibility.
2. Individuals Disqualified During the Certification Period

When an individual is disqualified during the household's certification period, the local office shall determine the eligibility or ineligibility of the remaining household members based on information contained in the case record. If information in the case record is insufficient, additional information shall be obtained as needed.

- a. If a household's benefits are reduced or terminated within the certification period because one or more of its members was disqualified for intentional program violation/fraud, the local office shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member(s) is notified of his or her disqualification.
- b. If a household's benefits are reduced or terminated within the certification period because one or more of its members is disqualified for being an ineligible noncitizen, noncompliance with a work requirement, or for failure or refusal to obtain or provide a Social Security Number, the local office shall send a Notice of Adverse Action which informs the household of the disqualification, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the disqualified member must take to end the disqualification.

**H. Changes Reported During the Certification Period That the Household Is Not Required To Report**

When a household reports information during the certification period that it was not required to report, the local office shall document the information in the case record. If the information is not acted upon because it would cause a reduction in a household's benefit allotment and it does not meet the criteria outlined in D above, the local office shall review the information at the time of the household's subsequent certification, or at the twelve (12) month periodic report for those households certified for twenty-four (24) months to determine if the change should be acted upon at that time.

**4.604.1 Verification of Reported Changes**

Before action is taken on reported changes and to determine the effect on benefits, additional verification is required in the following instances:

**A. Unclear Information**

1. If the local office receives information about changes in a household's circumstances but cannot determine if or how the change will affect the household's benefits and the unclear information is:
  - a. Fewer than sixty (60) days old relative to the current month of participation; and
  - b. Was required to have been reported per simplified reporting rules; or

- c. Appears to present significantly conflicting information about the household's circumstances from that used by the local office at the time of certification, including changes to the household's categorical eligibility tier, then:

The local office shall send a verification request notice requesting the household to provide the specific information or verification within ten (10) calendar days plus one (1) additional calendar day for mailing. Households participating in the Address Confidentiality Program (ACP) shall receive five (5) additional calendar days for mailing time. The local office shall assist the client in obtaining the verification if the household cannot obtain the information.

If the household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar days plus one (1) additional calendar day for mailing timeframe, or five (5) additional calendar days mailing time for ACP households, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days.

2. If the information is more than sixty (60) days old relative to the current month of participation, was not required to be reported, or does not present significantly conflicting information from that used by the agency at the time of certification, the local office shall not act on this information or require the household to provide the information until the household's next recertification or periodic report.
3. Changes which result in increased SNAP benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained.

**B. Computer Matches Not Considered Verified Upon Receipt**

When information is received from a Prisoner Verification System indicating an individual is currently being held in a federal, state, or local detention or correctional institution for more than thirty (30) days or information is received from a Deceased Matching System indicating a household member has recently died, a notice of match shall be sent to the affected household prior to taking action to adjust or terminate the household's benefits.

The notice of match shall explain what information is needed to challenge the match and the consequences of failing to respond. The notice shall provide the household with ten (10) calendar days plus one (1) additional calendar day for mailing time to respond. Households participating in the ACP shall be provided five (5) additional calendar days for mailing time.

If the household substantiates the match, fails to respond to the notice, or fails to provide sufficient verification to challenge the match results, the local office shall remove the subject individual from the SNAP household and adjust benefits accordingly following the procedures outlined in Section 4.604.

If the household provides sufficient verification that the match is invalid, no further action shall be taken to remove the subject individual or adjust the household's benefits. The case record shall be documented accordingly.

#### **4.605 FAILURE TO REPORT CHANGES**

If SNAP benefits are over-issued because a household fails to timely report changes as required, a claim shall be established. Upon the establishment of a claim, a notice of overpayment, a detailed explanation of why the claim was established, and a repayment agreement will be mailed to the household. If the discovery is made within the certification period, the household must be given advance notice of adverse action if its benefits are to be reduced.

#### **4.606 PUBLIC ASSISTANCE (PA) HOUSEHOLD CHANGES**

- A. Households that receive PA benefits which report a change in circumstances to the PA technician shall be considered to have reported the change for SNAP purposes. Information that is reported and verified to a PA program which results in a change to the PA benefit amount and that meets the SNAP rules for verification shall be considered VUR. The date the change is considered reported and verified is the date the PA program processes the change and authorizes the new PA benefit amount. When acting on information considered verified upon receipt (VUR), advance Notice of Adverse Action is required, except as noted in Section 4.608.1.
- B. When there is a change in a PA case and the local office has sufficient information to make the corresponding SNAP adjustment, the local office shall follow the guidelines listed below.
  - 1. If the change in household circumstances requires a reduction or termination of both PA and SNAP, the following action will be required:
    - a. Send Notices of Action for both programs simultaneously with both notices bearing the same effective date.
    - b. If a household requests a fair hearing any time prior to the effective date of the Notice of Adverse Action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action, unless the household specifically waives continuation of benefits. Continued benefits shall not be issued for a period beyond the end of the current certification period.
    - c. If the household appeals only a PA adverse action and is granted interim relief, SNAP benefits authorized prior to the adverse action shall continue or be restored. However, the household must reapply if the SNAP certification period expires before the hearing process is completed.
    - d. If the household does not appeal the adverse action to decrease the PA or SNAP benefits within the adverse action period, the changes shall be made in accordance with timeframes outlined in Section 4.603.
  - 2. If the change requires a reduction or termination of PA benefits and/or increases in SNAP benefits, the following action will be required:
    - a. A PA Notice of Adverse Action shall be issued to the household and SNAP benefits shall not be increased until the adverse action period expires. If the household does not appeal, the increase shall be effective in accordance with Section 4.604. The time limit for taking the action to increase SNAP benefits shall be calculated from the date the PA Notice of Adverse Action expires. The Notice of Adverse Action expires eleven (11) calendar days from the date it is issued or fifteen (15) calendar days for households participating in the address confidentiality program (ACP).



- b. If the household requests a PA appeal and is granted interim relief, the household is entitled only to SNAP benefits that were authorized immediately prior to the PA adverse action and action must be taken to correct the current basis of issuance. A SNAP claim must be made against the household if there was an over-issuance for the period pending the appeal decision.
  3. When there is a change in a PA case which results in a termination of PA but there is insufficient information to determine SNAP eligibility, the local office shall follow the guidelines listed below:
    - a. The PA Advance Notice of Adverse Action and a verification request notice are issued simultaneously. The PA notice makes the action effective on the last day of the month the notice is sent (or the last day of the following month, as appropriate, to allow for the required advance notice period). The routine extension on SNAP notices allows the household time to reapply for benefits at the appropriate local office.

The verification request notice shall advise the household of the information that needs to be verified for the household to continue to receive SNAP benefits. The eligibility technician shall not take any further action until the PA Notice of Adverse Action period expires or until the household requests an appeal. If the household does not appeal the PA action and request a continuation of benefits, the agency may resume action on the reported change.

Depending on the response or non-response to the verification request, the eligibility technician shall adjust the household's benefits if the verification of the household circumstances is received, or issue a Notice of Adverse Action to close the household's case if the household does not respond or refuses to provide information.
    - b. Households requesting a SNAP appeal may be entitled to continued benefits.
    - c. If the household requests only a PA state appeal and is granted interim relief, SNAP benefits authorized immediately prior to the adverse action will continue or be restored.
  4. If the situation does not require a PA Notice of Adverse Action, the local office shall act based on the normal change reporting processing time frames and provide proper noticing as described in this section.
- C. Local offices shall ensure that there is no increase in SNAP benefits to households as the result of a penalty being imposed for an IPV or failure to comply with program requirements for a federal, state, or local means-tested program that distributes publicly funded benefits.

The local office shall calculate the SNAP allotment using the benefit amount that would be issued by the federal, state, or local means-tested program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in SNAP benefits shall also not be affected by these provisions.

#### **4.607 MASS CHANGES**

There are certain changes that occur which are not caused by the household, and which affect a mass portion of the SNAP caseload simultaneously. Such adjustments go into effect for all households at a specific point in time, and the local office will have full prior knowledge of the change. Such changes are generally initiated because of a change in state or federal regulations. When such changes occur, the local office shall be responsible for making the appropriate adjustments in the household's eligibility or allotment as directed by the State Department and noticing the client as outlined below:

- A. Federal adjustments to eligibility standards, allotments, and deductions; state adjustments to the Standard Utility Allowance; and any federal reduction, cancellation, or suspension of SNAP benefits.

These mass changes shall not require Advance Notice of Adverse Action to affected households; however, households shall be notified of such changes through the news media; posters in certification or issuance offices, or other locations frequented by participating households; or general notices mailed to participating households. Adjustments to federal standards and state adjustments to utility standards shall be implemented prospectively.

- B. Mass changes in PA grants, such as state-only OAP and AND; and Cost of Living Adjustments (COLA), increases in federal Retirement, Survivors, and Disability Insurance (RSDI), SSI benefits (Title XVI), and amendments to the Social Security Act (Title II).

These mass changes shall require a Notice of Adverse Action when SNAP benefits are decreased or terminated. Such Notice for these mass changes shall be provided to the household as much before the household's scheduled issuance date as reasonably possible, although the Notice need not be given any earlier than the time required for advance Notice of Adverse Action, per Section 4.608. Mass changes shall be processed prospectively for all households.

1. At a minimum, affected households shall be informed of:
  - a. The general nature of the change;
  - b. Examples of the change's effect on household's allotments;
  - c. The month in which the change will take effect;
  - d. The household's right to a fair hearing;
  - e. The household's right to receive a continuation of benefits if the following criteria are met:
    1. The household has not specifically waived its right to a continuation of benefits;
    2. The household requests a fair and the request for a hearing is based upon improper computation of SNAP eligibility or benefits, or upon misapplication or misinterpretation of state rules, or federal law or regulation.
  - f. The household's liability for any over-issued benefits if the hearing decision is adverse to the household
  - g. General information on whom to contact for additional information.

2. Processing Mass Changes in PA

PA grant cost-of-living increases and Social Security Act/SSI cost-of-living increases are treated as mass changes in SNAP. Mass changes shall be processed prospectively for all households. SNAP benefits shall be recalculated, and the change shall be effective in the same month as the change in the PA grant. If the local office has at least thirty (30) calendar days' advance knowledge of the amount of the PA adjustment, the SNAP benefits shall be recalculated, and the change shall be effective in the same month as the change in the PA grant. In cases where the local office does not have thirty (30) calendar days' advance notice, the SNAP change shall be made effective no later than the month following the month in which the PA grant was changed.

**4.608 ADVANCE NOTICE OF ADVERSE ACTION**

- A. The local office shall notify a household of any change from its prior benefit level, the reason for the action and the date the action becomes effective on the Notice of Action form except as specified in Section 4.608.1. The Notice of Overpayment form is used as the Notice of Adverse Action for claims and the resulting recoupment for failure to respond.
- B. Households shall receive advance Notice of Adverse Action, giving at least ten (10) calendar days advance notice, plus one additional calendar day for mailing time, before any adverse action, such as a benefit reduction, suspension, termination or denial, becomes effective during the certification period, except as specified in Section 4.608.1. Households participating in the address confidentiality program (ACP) shall receive five (5) additional calendar days for mailing time.

When acting on a change, if the ten (10) calendar day advance notice period, plus the additional calendar day(s) for mailing time, can be given in the month the Notice of Adverse Action is sent, the notice shall be effective on the last day of the month the notice is sent.

If the ten (10) calendar day advance notice period, plus the additional calendar day(s) for mailing, extends into the following month, the notice shall be effective on the last day of the month the notice expires. The notice of adverse action expires eleven (11) calendar days from the date it is issued or fifteen (15) calendar days for households participating in the ACP. The notice shall explain the reason for the proposed action and the date the action becomes effective.

If the advance notice period ends on a weekend or holiday and a request for a fair hearing and continuation of benefits are received the business day after the weekend or holiday, the request shall be considered timely received.

For changes that result in a decreased allotment or ineligibility, the local office shall issue a notice of adverse action within ten (10) calendar days of the date the change is considered reported, which will affect the next regularly scheduled allotment after the month in which the advance Notice of Adverse Action period expires.

- C. Prior to the effective date of the Notice of Adverse Action, a participant household may request a conference with the staff of the certification office responsible for the decision to take the adverse action, or the household may file an appeal of such action.
- D. The participant household may also, prior to the effective date of the Notice of Adverse Action, either before or after the conference, appeal the proposed action. Households that timely request a hearing may be entitled to continued benefits. The eligibility technician shall explain to the household that a demand will be made for any benefits determined by the hearing officer to have been over-issued.

#### **4.608.1 Changes Not Requiring Advance Notice of Adverse Action**

Advance Notice of Adverse Action may be given, but is not required in the following situations:

- A. The state department initiates mass changes outlined in Section 4.607, A. Such changes must be publicized in advance. Announcements may be handed out or mailed to affected participant households.
- B. The local office determines based on reliable information that meets verification requirements that all members of a household have died.
- C. The local office determines based on reliable information that meets verification requirements that the household has moved from the project area.
- D. The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.
- E. The household's allotment varies from month to month within the certification period to consider changes that were anticipated at the time of certification, and the household was notified at the time of certification.
- F. The household applied for PA and SNAP jointly and has been receiving SNAP benefits pending the approval of the PA grant and was notified at the time of certification that SNAP benefits would be reduced upon approval of the PA grant.
- G. The certification office has elected to assign a longer certification period to a household certified on an expedited basis and for whom verification was postponed provided the household has received prior written notice that verification may result in a reduction in benefits.
- H. As a result of the facility's loss of state or USDA/FNS authorization, the local office terminates eligibility of those residents in a drug or alcohol treatment center or group living arrangement, who are certified with the facility acting as authorized representative.
- I. A household member is disqualified for an IPV/fraud or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.
- J. Converting a household from cash and/or SNAP repayment for claims to allotment reduction because of a failure to make agreed-on repayments.
- K. The household was issued a repayment agreement for a claim and failed to respond. For households participating in the program that do not respond to the repayment agreement, benefit recoupment will be initiated.
- L. A change that is reported at recertification for a household certified for six (6) months, or at periodic report for a household certified for twenty-four (24) months, which results in a decrease to the household's SNAP allotment.

#### **4.609 TRANSITIONAL SNAP (T-SNAP)**

##### **4.609.1 GENERAL ELIGIBILITY GUIDELINES**

- A. Households that receive SNAP and Colorado Works (CW) basic cash assistance that become ineligible for continued receipt of CW basic cash assistance because of changes in household income are eligible to receive T-SNAP, as provided for within this section. CW diversion payments are not considered basic cash assistance. CW basic cash assistance is defined in CDHS regulations at 9 CCR 2503-6.
- B. Households that are eligible to receive T-SNAP will have the SNAP allotment continued for five (5) months. The household's SNAP allotment will be continued in an amount based on what the household received prior to when the household's income made them ineligible for CW basic cash assistance. Only the following four (4) changes will be acted upon when determining the SNAP allotment that is to be continued.
  - 1. The loss of the CW cash grant;
  - 2. Changes in household composition that result in a household member leaving and applying for SNAP in another household;
  - 3. Updates to the SNAP eligibility standards that change each October 1 because of the annual cost-of-living adjustments (see Section 4.607); and,
  - 4. Imposing an IPV disqualification.
- C. When the SNAP allotment is continued, the household's existing certification period shall end, and the household shall be assigned a new five (5) month certification period. The recertification requirements that would normally apply when the household's certification period ends must be postponed until the end of the five (5) month transitional certification period.
- D. Households who are denied or not eligible for T-SNAP must have continued eligibility and benefit level determined in accordance with Section 4.604.
- E. The following households are not eligible to receive T-SNAP:
  - 1. Households leaving the CW program due to a CW sanction; or,
  - 2. Households that are ineligible to receive SNAP because all individuals in the household meet one of the following criteria:
    - a. Disqualified for IPV;
    - b. Ineligible for failure to comply with a work requirement;
    - c. Ineligible student;
    - d. Ineligible non-citizen;
    - e. Disqualified for failing to provide information necessary for making a determination of eligibility or for completing any subsequent review of its eligibility;
    - f. Disqualified for receiving SNAP benefits in more than one household in the same month;

- g. Disqualified for being a fleeing felon; or
- h. ABAWDs who fail to comply with the requirements of Section 4.310.

**4.609.2 HOUSEHOLD CHANGES DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]**

- A. The household is not required to report any changes during the five (5) month transitional period, including changes that put the household over one hundred thirty percent (130%) of the Federal Poverty Level (FPL).

**4.609.3 CLOSING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]**

In the final month of the transitional period, the household must undergo the recertification process to determine the household's continued eligibility and benefit amount.

**4.609.4 HOUSEHOLDS WHO RETURN TO COLORADO WORKS (CW) DURING THE TRANSITIONAL PERIOD**

If a household receiving T-SNAP returns to CW during the transitional period, the local office shall complete the recertification process for SNAP to determine the household's continued eligibility and benefit amount. If the household remains eligible for SNAP, the household shall be assigned a new certification period.

**4.609.5 HOUSEHOLDS WHO REAPPLY FOR SNAP DURING THE TRANSITIONAL PERIOD [Rev. eff. 2/1/16]**

- A. At any time during the transitional period, the household may apply for recertification to determine if the household is eligible for a higher SNAP allotment. In determining if the household is eligible for a higher allotment, all changes in household circumstances shall be acted upon.
  - 1. If the household is determined eligible for a benefit lower than its transitional benefit, the local office shall encourage the household to withdraw its application for recertification and continue to receive transitional benefits. If the household chooses not to withdraw its application, the local office shall deny the application and allow the transitional period to run its course.
  - 2. If the household is eligible for benefits higher than its transitional benefit amount, the increased benefits shall take effect with the first day of the month following the month in which the reapplication was received. The transitional certification period shall be ended, and the household shall be assigned a new certification period that begins with the first day of the month following the month in which the household submitted the application for recertification.
- B. If a household applies for recertification during its transitional period, the local office shall observe the following procedures:
  - 1. The local office must schedule and complete an interview if one has not been completed within the previous 12 months.
  - 2. The local office must provide the household with a notice of required verification and provide the household a minimum of ten (10) calendar days to provide the required verification.
  - 3. Households shall be notified of their eligibility or ineligibility as soon as possible, but no later than thirty (30) calendar days following the date the application was filed.

- a. If the local office does not determine a household's eligibility within thirty (30) calendar days following the application date, then the local office shall continue processing the application while continuing the household's transitional benefits.
- b. If the application process cannot be completed because the household failed to take a required action, the local office may deny the application at that time or at the end of the thirty (30) calendar days.
- c. If the household is determined to be ineligible, the local office shall deny the household's application for recertification and continue the household's transitional benefits to the end of the transitional benefit period, at which time the local office shall recertify the household in accordance with Section 4.209.

#### **4.609.6 TRANSITIONAL NOTICE REQUIREMENTS**

When a household is approved for T-SNAP, the household shall be notified of the following information:

- A. A statement informing the household that it will be receiving transitional benefits and the length of its transitional period;
- B. A statement informing the household that it has the option of applying for recertification at any time during the transitional period. The household must be informed that if it does not apply for recertification during the transitional period, then at the end of the transitional period the household must undergo the recertification process;
- C. A statement that if the household returns to CW during its T-SNAP period, the household must undergo the recertification process to determine the household's continued eligibility and new SNAP allotment;
- D. A statement explaining any changes in the household's benefit amount due to the loss of Colorado Works basic cash assistance or due to changes outlined in Section 4.609.1, B and C;
- E. A statement informing the household that it is not required to report and provide verification for any changes in household circumstances until the household completes the recertification process; and,
- F. A statement informing the household that the local office will not act on changes that the household reports during the transitional period and that if the household experiences a decrease in income or an increase in expenses or household size prior to that deadline, the household should apply for recertification.

#### **4.610 REINSTATEMENT OF BENEFITS**

A household may be eligible for a reinstatement of benefits, without filing a new application, during the remaining month(s) of the certification period if the reason for the original closure has been resolved and eligibility may be reestablished.

The local office may reinstate the household if the household reports and verifies a reported change in circumstances that reestablishes the household's eligibility within 30 calendar days following the date of ineligibility. Within standard processing timeframes, the local office will review the case to determine if the household continues to meet all other eligibility requirements.

If eligible for reinstatement, the local office will prorate SNAP benefits from the date the household took all required action(s) to reestablish eligibility.

If the certification period has already ended or will end during the month the household is attempting to reestablish eligibility, a new application is needed.

#### **4.700 SNAP BENEFIT ISSUANCE**

CO/EBTS will allow electronic debiting of benefits onto an EBT card for certified eligible households. Every household must be informed of the issuance accommodations that are available.

Local offices must provide an adequate number of issuance locations and hours of operation to allow all eligible households to receive their EBT) cards.

As SNAP is a national program, benefits issued to eligible households may be used for the purchase of eligible food in every state.

#### **4.701 PROVIDING BENEFITS TO PARTICIPANTS**

- A. Local offices are responsible for the timely and accurate issuance of benefits to certified eligible households. All newly certified households, except those that are given expedited service, shall be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. Day one (1) is the first calendar day after the application is received by a local office in the household's county of residence. An opportunity to participate consists of providing households with an active EBT card and Personal Identification Number (PIN), posting benefits to the household's EBT account, and having benefits available for spending. Local offices utilizing a mailing system must mail EBT cards and pins, if applicable, in time to assure that the benefits can be spent after they are received but before the thirty (30) day standard if the EBT card or pin is mailed on the twenty-ninth (29th) or thirtieth (30th) day. For households entitled to expedited service, the local office shall make benefits available to the household not later than the seventh (7th) calendar day following the date of application, and for mail card issuance, the EBT card shall be mailed no later than the end of the fifth (5TH) calendar day. Local offices that issue EBT cards by mail shall, at a minimum, use first-class mail and sturdy non-forwarding envelopes or packages to send EBT cards to households, and the EBT card and PIN must be mailed separately from one another.
- B. Those households composed of persons who are: aged sixty (60) and older; or persons with a disability who have difficulty reaching issuance offices, as described in section 4.707, D; households which do not reside in a permanent dwelling or have a fixed mailing address; and those in remote, rural areas shall be given assistance in obtaining their EBT card. The local office shall assist these households by arranging for the mail issuance of EBT cards to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.
- C. The eligibility technician shall be sufficiently familiar with issuance operations to answer any questions the household may have about when, where, and how to access one's benefits from the EBT card.

#### **4.701.2 EBT Cards**

- A. Certification units of local offices shall issue a Colorado Electronic Benefits Transfer System (CO/EBTS) debit card to each certified household. All cards shall be issued under the Social Security Number or client ID number of the household member or authorized representative who is authorized to receive the household's issuance as designated by the household.



- B. The household, or the authorized representative, shall present the household's Colorado Electronic Benefits Transfer System (CO/EBTS) debit card at issuance points, retail outlets, or meal services in order to transact the allotment authorization or when exchanging benefits for eligible food.
- C. The EBT card shall contain a space for the name and signature of the household member to whom the allotment is to be issued or for any authorized representatives designated by the household.
- D. The local office shall limit issuance of EBT cards to the time of initial certification, with replacements made only in instances when the EBT card is lost, mutilated, destroyed, or if there are changes in the person authorized to obtain benefits, or when the local office determines that a new EBT card is needed. Whenever possible, the local office shall collect the EBT card that it is replacing. The issuance unit must be notified of a replacement EBT card to assure that only the most recently issued EBT card is used for benefit issuance.
- E. EBT cards can be used in the following circumstances:
  - 1. Eligible household members sixty (60) years of age or over or members who are housebound, physically handicapped, or otherwise a person with disabilities to the extent that they are unable to adequately prepare all their meals, and their spouses, may use benefits to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by USDA/FNS.
  - 2. Eligible household members sixty (60) years of age or over and their spouses may use benefits issued to them to purchase meals prepared especially for them at communal dining facilities authorized by USDA/FNS for that purpose.
- F. EBT cards shall be kept in secure storage with access limited to authorized personnel only.

#### **4.702 RESTORATION OF LOST BENEFITS**

##### **4.702.1 Eligibility for Restoration of Lost Benefits**

- A. To be eligible for restored benefits, the household must have had its SNAP benefits wrongfully delayed, denied, or terminated. Delay shall mean that an eligibility determination was not accomplished within processing timeframe standards.
- B. A restoration of benefits is warranted when a household has received fewer benefits than it was eligible to receive due to:
  - 1. An error by the local office;
  - 2. A court decision overturning or reversing a disqualification for IPV; or
  - 3. A determination by a court that the household should have received more benefits than it received during a given issuance period.
- C. In the event that a restoration is warranted, benefits shall be restored for not more than twelve (12) months prior to whichever of the following occurred first:
  - 1. The date the local office was notified, in writing or orally, by the household or by another person or agency that a household received fewer benefits than it was eligible to receive;

2. The date the local office discovers through the normal course of business that an error occurred which lead to the loss of benefits for a specific household; or,
3. The date the household requested a fair hearing to contest the adverse action that resulted in the loss.

When determining the months for which a household may be entitled to restorations, month one (1) shall be the month prior to the month in which the error was discovered.

- D. If the restoration is the result of a judicial action, the amount to be restored shall be determined as follows:
1. If the judicial action is the first action the household has taken to obtain a restoration of lost benefits, then benefits shall be restored for a period of not more than twelve (12) months prior to the date the court action was initiated.
  2. If the judicial action is a review of an action taken by the local office, the benefits shall be restored for a period of no more than twelve (12) months prior to the first of either:
    - a. The date the local office was notified by the household or by another person or agency in writing, or orally, of the possible loss to the household, or,
    - b. The date the household requested a fair hearing.
- E. In no case shall benefits be restored for more than twelve (12) months prior to the date the local office is notified of, or discovers, the loss. Benefits shall be restored even if the household is currently ineligible.
- F. In the event that the State orders a reduction or cancellation of benefits, those households whose allotments are reduced or cancelled as a result of the enactment of those procedures are not entitled to restoration of lost benefits. If the Secretary of Agriculture directs the State to restore reduced or cancelled benefits, the local office shall work promptly to issue such benefits.

#### **4.702.2 Disputed Benefits**

- A. If a household does not agree with any action taken by the local office to restore lost benefits or the amount of benefits determined to have been lost, the household may request a fair hearing within ninety (90) calendar days of the notice to the household of entitlement to a restoration. If such a request is made before or during the time period for which lost benefits are being restored, the local office will continue to issue the under-issued benefits pending the decision of the fair hearing. Once a final decision is reached, the local office shall restore benefits in accordance with the decision.
- B. If the household requests a fair hearing to dispute the local office's determination that the household is not eligible for restored benefits, restored benefits for the period in question shall not be issued to the household while awaiting the final agency decision.

#### **4.702.3 Lost Benefits Due to Fraud Reversal**

Individuals disqualified for intentional Program violation/fraud are not entitled to a restoration of any benefits lost during the months they were disqualified unless the decision which resulted in disqualification is subsequently reversed. For each month the individual was disqualified, not to exceed twelve (12) months, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored.

Participation in an administrative disqualification hearing (state or local) or referral for prosecution in which a person contests the local office's assertion that the individual committed an intentional program violation/fraud will be considered a request for restored benefits. If such a person is found to have committed intentional program violation by the State Department final agency decision and this decision is subsequently overturned by a court of law, the restoration of benefits shall be calculated for a period not to exceed twelve (12) months prior to the date of the original administrative hearing.

#### **4.702.4 Errors by the SSA Office**

The local office shall restore to the household any benefits lost as the result of an error by the local office or by the SSA through joint processing.

Benefits shall be restored back to the date of a client's release from a public institution if, while in the institution, the client jointly applied for SSI and SNAP, but the local office was not notified on a timely basis of the client's release.

#### **4.703 CALCULATING LOST BENEFITS**

After correcting the loss for future months and excluding those months which occurred prior to the twelve (12) month restriction, the following method will be used to calculate the amount of benefits to be restored:

- A. If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated. If the loss was caused by an incorrect delay, denial, or termination of benefits, the month the loss initially occurred will be calculated as follows:
  - 1. If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month of application or for an eligible household filing a timely reapplication, the first month of the new certification period.
  - 2. If an eligible household's application was delayed, the months for which benefits may be lost shall be calculated.
  - 3. If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.
- B. After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible, not to exceed twelve (12) months prior to the date the loss was discovered.

#### **4.704 METHOD OF RESTORATION**

- A. Regardless of whether a household is currently eligible or ineligible, the local office shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive for the next month.
- B. Whenever lost benefits are due to a household and the household's membership has changed, the local office shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the local office cannot locate or determine the household which contains a majority of household members, the local office shall restore the lost benefits to the household containing the person who was the head of the household at the time the loss occurred.
- C. Each local office shall be responsible for maintaining an accounting system for documenting a household's entitlement to the restoration of lost benefits and for recording the balance of lost benefits that must be restored to the household. Each local office shall, at minimum, document how the amount to be restored was calculated and the reason lost benefits must be restored. The accounting system shall be designed to readily identify those situations where a claim against a household can be used to offset the amount to be restored.

#### **4.705 WHEN AN INCREASE TO SNAP BENEFITS SHOULD NOT BE ISSUED**

- A. Local offices shall ensure that there is no increase in SNAP benefits to households as the result of a penalty being imposed for an IPV, or for failure to comply with work requirements, or for failure to comply with another program requirement for a federal, state, or local means-tested program that distributes publicly funded benefits.
- B. To determine the SNAP allotment when there is such a decrease, the local office shall calculate the allotment using the benefit amount which would be issued by that program if no penalty had been imposed to reduce the benefit amount. A situation where benefits of the other program are being frozen at the current level shall not constitute a penalty subject to these provisions. Changes in household circumstances that are not related to the penalty and result in an increase in SNAP benefits shall also not be affected by these provisions.

#### **4.706 REPLACEMENT ISSUANCES TO HOUSEHOLDS DUE TO MISFORTUNE**

- A. A household may request a replacement issuance if food purchased with program benefits was destroyed in a household misfortune, such as, but not limited to, fire or flood. Replacement issuances shall be provided in the amount of the loss to the household, not to exceed one month's allotment, unless the issuance includes restored benefits that shall be replaced up to their full value. To qualify for a replacement, the household shall report the destruction to the local office within ten (10) calendar days of the incident.

The household shall sign and return a statement or an Affidavit for Food Destroyed in Misfortune to the local office within ten (10) calendar days of the date of the report, or benefits shall not be replaced. If the tenth (10th) day falls on a weekend or holiday, and the statement or Affidavit for Food Destroyed in Misfortune is received the day after the weekend or holiday, the local office shall consider the statement or affidavit timely received.

The statement or affidavit shall:

1. Attest to the destruction of the food purchased with the household's SNAP benefits;

2. State that the household is aware of the penalties for intentional misrepresentation of the facts.
- B. Upon receiving a request for replacement of SNAP benefits for food reported as destroyed in an individual household misfortune, the local office shall:
1. Verify the disaster through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit;
  2. Issue replacement benefits within ten (10) calendar days of the report of loss, provided a signed statement of loss or an Affidavit for Food Destroyed in Misfortune is received. If the statement of loss is received on the ninth (9th) or tenth (10th) day after the report of loss, the issuance must be replaced within two (2) business days; and,
  3. Document in the case record the date and reason that a replacement has been provided.
- This provision shall apply in cases of an individual household misfortune, such as a fire, as well as in natural disasters affecting more than one (1) household. No limit on the number of replacements shall be placed on food purchased with SNAP benefits that were subsequently destroyed in a household misfortune.

#### **4.706.1 Disaster and Replacement Allotments**

Where USDA/FNS has issued a disaster declaration of individual assistance, individuals in a household who are eligible for emergency SNAP benefits shall not receive both the disaster allotment and a replacement allotment.

#### **4.706.2 Replacement of EBT Cards Lost in the Mail or Stolen Prior to Receipt by the Household**

Local offices shall comply with the following procedures in replacing EBT cards reported lost in the mail or stolen from the mail prior to receipt by the household.

- A. Determine if the EBT card was mailed, if sufficient time has elapsed for delivery, or if the card was returned in the mail to the local office.
- B. Issue a replacement EBT card and new PIN.
- C. Take other action, such as correcting the address on the master issuance file by updating the households mailing and/or home address within the automated system.

#### **4.706.3 Request for Replacement Issuances after Receipt of EBT Card**

Households cannot receive a replacement allotment of SNAP benefits that have been reported as stolen and used from the EBT card by someone without the household's knowledge and consent. An EBT card received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced.

#### **4.706.4 Authorized Number of Replacement Issuances**

No limit on the number of replacements shall be placed on the replacement of benefits if the food purchased with SNAP benefits was destroyed in a household misfortune.

The local office shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

When a local office intends to deny or delay a replacement of SNAP benefits for any reason, the local office shall notify the household of the delay or denial through use of a Notice of Action form. The household shall be informed of its right to a county dispute resolution conference or state-level fair hearing to contest the denial or delay of a replacement issuance. Replacement shall not be made while the denial or delay is being appealed.

Replacement issuances shall be provided to households within ten (10) calendar days after report of loss (fifteen (15) days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement, whichever date is later.

When a request for replacement is made late in an issuance month, the replacement will be issued in the month after the month in which the original allotment was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement.

#### **4.707 SNAP ISSUANCE AND ACCOUNTABILITY**

- A. Local offices shall establish issuance and accountability systems to comply with these rules and to ensure that: only certified eligible households receive benefits; EBT cards are accepted, stored, and protected after delivery to receiving points; benefits are timely distributed in the correct amounts; and that benefit issuance and reconciliation are properly conducted and accurately reported.
- B. Electronic benefit issuance shall be handled through the state department, and at designated contractor sites through the Colorado Electronic Benefit Transfer System (CO/EBTS).
- C. Local offices shall assure a separation of certification functions from issuance functions and thereby provide for internal controls and prevention of fraud. Certification functions include determining eligibility for a household and ensuring that the eligibility is current and accurate. Eligibility shall be updated and maintained in the automated system. It shall be the responsibility of the certification unit to complete all necessary actions in the automated system to authorize the issuance of benefits. Data entry of case information may be completed by either the certification unit or a separate data entry unit, but not by the issuance unit.
- D. Issuance offices are responsible for the timely and accurate issuance of SNAP benefits to eligible participant households. An approved accountability and benefit issuance delivery system shall be established to ensure that eligibility information is data entered, that the automated system has an issuance available, and only certified households receive benefits.

##### **4.707.1 Security Procedures**

The electronic benefit issuance area shall be physically separated, such as, but not limited to, the cage, counter, and railing, from both clients and other employees of the office who are not responsible for benefit issuance and accountability. Persons not specifically responsible for benefit issuance accountability shall also be barred from the electronic benefit card storage area.

Local offices, including contract issuers, shall take all precautions necessary to avoid acceptance, transfer, negotiation, or use of counterfeit SNAP benefits and to avoid any unauthorized use, transfer, acquisition, alteration, or possession of SNAP benefits. EBT cards shall be safeguarded from theft, embezzlement, loss, damage, or destruction.

Issuance supervisors shall give each cashier a daily supply of blank EBT cards from the bulk card inventory. On high volume issuance days, the cashier's supply may need to be replenished during issuance hours from an office vault. The vault containing bulk card inventory shall remain locked unless opened to withdraw cards. Keys and lock combinations shall be controlled and restricted to as few individuals as possible. Combinations and locks should be changed whenever an individual who has received them leaves the employ of the office.

EBT cards must be removed from public view and reach. It is required that each cashier operate from a card drawer rather than from sources on top of the counter. The EBT cards must be locked in the drawer whenever the cashier leaves the issuance area for any reason. In small offices where it is not possible for each cashier to have a separate supply of EBT cards, the number of EBT cards shall be counted whenever one cashier assumes duties of another cashier at the issuance counter, and transferred to that cashier's responsibility.

The office shall never be left unattended during hours of issuance, such as during breaks or lunch, unless the building is secured as it would be after business hours.

#### **4.707.2 Security Program and Types of Prevention of Theft**

The goal of a security program is to safeguard issuance personnel, EBT cards, and other valuables. In the event of a robbery, a planned security program will prevent panic that could endanger the lives of the people in the office.

A major element in an effective security program is the designation of a security officer who would continually review office facilities and procedures to improve office security and deter loss. She/he shall acquaint fellow employees with the security measures including precautions during issuance, night security, and safety of persons and EBT cards while they are in transit between the issuance office and bulk storage area.

In addition to a security officer, each office shall distribute written instructions to all employees concerning appropriate behavior in the event of a robbery attempt and procedures for reporting the theft to law enforcement authorities and the state department.

##### **A. Burglary**

Bulk EBT supplies shall be stored in a secure facility, preferably a bank or courthouse vault. If possible, all EBT cards should be returned daily to the secure storage facility. If EBT cards must be kept in the issuance office overnight, the amount shall be strictly limited to a one- or two-day supply.

If EBT cards are being stored in the office overnight, doors and windows that could afford access to the building shall be secured. Doors shall be equipped with double-cylinder dead bolt locks or locks of equivalent security. Any glass in doors and windows shall be barred or otherwise protected against breakage. Doors connecting with other offices or buildings shall be locked as securely as exterior doors. All doors and windows shall be checked to make certain they are locked before closing the office.

Issuance office EBT supplies shall be kept in a safe rather than a desk or file cabinet. The safe shall be immovable and in a part of the office not visible to the outside.

##### **B. Robbery**

To minimize the temptation for robbery, the amount of EBT cards in the issuance office shall be limited to a one- or two-day supply. The cashier's supply shall be out of public view and issued from a cashier's drawer out of reach of clients.

The county social services director or office supervisor will inform local law enforcement officials of the issuing office operation and advise them of the maximum amounts of EBT cards handled.

If EBT cards are returned to the bank at the end of the day and/or EBT card mailings are delivered to the post office by issuance personnel, an escort shall be provided. EBT card deliveries shall not be made by only one person, especially at night.

Offices that use itinerant issuance points shall take additional precautions to protect EBT cards in transit and during issuance. An escort shall be provided to and from the itinerant point and shall be present during issuance hours.

**C. Embezzlement**

To prevent embezzlement, there shall be a division of issuance responsibilities. The supervisor must verify issuance records and resolve or document any discrepancies in daily reconciliation.

At a minimum, supervisory personnel must take a monthly physical count of all EBT cards in the bulk EBT card storage points and EBT cards in each cashier's working stock. The end-of-the-month physical inventory must be accomplished after the close of business on the last issuance day of the reporting month or prior to the opening of business on the first issuance day of the following month. The actual inventory count is reported on Form FNS-250 (EBT Card Accountability Report). The supervisor must verify the accuracy of the FNS-250 report.

**4.707.21 Reporting a Robbery or Burglary**

The local law enforcement agency shall be notified immediately by one of the persons at the issuance office who have been designated to carry out the reporting of a robbery or burglary. The state department shall also be notified immediately and will be responsible for informing USDA/FNS.

The office shall be protected to ensure that evidence is not destroyed. Any articles touched by the robbers (papers, furniture, counter tops) should not be touched by employees or other persons until law enforcement officers arrive.

The names of persons other than employees in the office at the time of the robbery shall be obtained if they insist on leaving prior to the arrival of law enforcement officers.

Each employee shall write down all pertinent information about the robbery. They should be told it is important to record their own impressions and observations prior to any discussion of them with other employees.

After law enforcement officers have made their examinations and with their approval, an immediate reconciliation of EBT cards shall be made to determine the amount of any loss. Stolen EBT cards will be identified by serial numbers.

**4.707.3 EBT Requisition**

Issuance offices shall maintain EBT card inventory at proper levels as determined by volume of issuance, availability of adequate storage facilities and insurance coverage. EBT card inventory levels shall not exceed a six-month supply, including EBT cards on hand and those on order.

The security of issuance offices shall be continually monitored to ensure that adequate safeguards and insurance coverage are provided for the EBT card inventory on hand.



Arrangements have been made for issuance offices with sufficient issuance volume to receive shipments of EBT cards directly from USDA/FNS. Offices with low issuance volume will receive EBT card shipments from the state department storage vault by fully insured registered mail.

It is advised that issuance offices that receive direct shipments should check EBT cards after monthly reconciliation and order EBT cards according to USDA/FNS instructions. USDA/FNS will assess the reasonableness of EBT card requisitions based on prior inventory change. The requisitioning issuance office will be notified prior to any adjustment made to requisitions.

Those issuance offices which receive their EBT card supply from the state department storage vault shall requisition EBT cards in accordance with the instructions from the state department. The instructions will advise of procedures for ordering from the contractual EBT card provider.

#### **4.707.4 Designated Personnel and Receiving Locations**

A. Local offices ordering EBT cards shall designate at least two persons who are authorized to receive EBT cards (receiving agent). The state department shall be notified by letter of the following:

1. Names of authorized personnel;
2. Complete address of EBT card receiving location; and
3. Hours in which EBT card delivery will be accepted.

B. Verification of Shipments

Issuance offices and bulk storage points shall promptly verify and acknowledge, in writing, the contents of EBT card shipments received, and shall be responsive for the control and storage of EBT cards. Cartons of blank EBT cards are usually numbered consecutively, and serial numbers should be verified upon receipt of shipment. The receiving agent shall ensure that the indicated number of cartons is received before signing the receipt form.

C. Receipt of EBT Cards from USDA, FNS

When a shipment of EBT cards is received from USDA/FNS, an original and three (3) copies of Form FNS 261 (Advice of Shipment) are mailed to the receiving agent. If the shipment is in order, the receiving agent shall complete Form FNS 261. If the shipment is not in order, immediately notify the State Department. The receiving agent will then be instructed to annotate Form FNS-261, describing the EBT card discrepancy or damaged condition of the EBT cards. Form FNS 261 must be signed, dated, and submitted in the normal manner.

D. Receipt of EBT Cards from the State Department

When a shipment is received from the State Department, Form FNS-300 (Advice of Transfer) is mailed to the receiving agent in the original and three (3) copies. If the shipment is in order, the original and all copies of Form FNS-300 are signed and dated by the receiving agent. If the shipment is not in order, immediately notify the state department.

#### **4.707.5 Inventory Records**

**A. Shortage/Overage of EBT Cards in Shipment**

Prior to issuance, each carton and box of EBT cards shall be examined. When there is a shortage or overage of EBT cards, Form FNS-471 must be completed and signed by two witnesses. In the case of a shortage, show the amount of shortage on Line 13 of Form FNS-250 as credits. In the case of an overage, show the amount on Line 9 of Form FNS-250 (Shipments Received from USDA/FCS) regardless of where shipment originated.

**B. Improperly Manufactured or Mutilated EBT Cards in Shipment**

If EBT cards are improperly manufactured or mutilated, Form FNS-471 shall be completed. The EBT cards are cancelled immediately and destroyed at the end of the month in accordance with Section 4.708.5.

If one or more boxes of EBT cards were improperly manufactured, local offices shall contact the state department, who will contact USDA/FNS on the instructions for disposition of the destructible EBT cards. EBT cards must be destroyed within thirty (30) calendar days from the close of the month in which the EBT cards were received. For disposition of mutilated EBT cards returned by participants, refer to Section 4.708.5.

**C. Out-of-Sequence EBT Card Serial Numbers**

There will be occasional instances where an EBT card will be substituted for an EBT card damaged in manufacturing. Out-of-sequence serial numbered EBT cards in the box present no problem as long as the correct number of EBT cards are contained in the box, and shall be issued in the normal manner.

#### **4.707.6 Benefit Issuance Locations and Storage Facilities**

**A. Issuance locations shall be established by every local office to accomplish the issuance of EBT cards to certified SNAP households.**

**B. The state department shall be notified of all issuance locations and EBT card shipment receiving points that are created, changed, or terminated at least thirty (30) calendar days prior to THE effective date of action.**

**C. Whenever an issuance office or bulk storage point is terminated, the state department will complete a closeout accountability audit within thirty (30) calendar days of the termination. The findings of the audit shall be forwarded to USDA/FNS immediately. The state department shall perform a count of EBT cards on hand and transfer the inventory to another issuance office or bulk storage point preferably within the same project area. The actual inventory and transfer shall be properly documented and reported on Form FNS-250.**

**D. At least thirty (30) calendar days prior to closure of an issuance location, SNAP participants shall be notified of the impending closure. Notification shall include alternative issuance locations and information concerning available public transportation. A notice of closure shall also be prominently displayed in the issuance office. All necessary action shall be taken to maintain participant service without interruption.**

- E. The transfer of EBT cards between project areas is allowed only in emergency situations and only when authorized by the state department. The transferring office initiates Form FNS-300, retains copy 4, and forwards all other parts to the receiving office with the EBT card shipment. On verification of shipment, Form FNS-300 is dated and signed by the receiving office and copy 3 is returned to the transferring office. The counties involved in "transferring out" and "transferring in" must properly document the transaction on Form FNS-250, which is submitted at the end of the month.

#### **4.707.61 Contracting or Delegating Issuance Responsibilities**

Local assistance offices may legally contract with other parties such as banks, savings and loan associations, the U.S. Postal Service, community action and migrant service agencies, and other commercial businesses, the responsibility of issuance and storage of EBT cards. Contractors may be permitted to subcontract assigned issuance responsibilities with the approval of the local office.

Any delegation of issuance and EBT card security must clearly delineate the responsibilities of both parties. Local offices remain responsible regardless of any agreements to the contrary for ensuring that assigned duties are carried out in accordance with the regulations. Local offices are still liable to USDA/FNS for all losses of EBT cards regardless of the actual responsibility for duties.

If an issuance office/agent or bulk storage point is being closed for noncompliance with contractual agreements, the local assistance office shall perform weekly reconciliation until alternative issuance or storage points are obtained.

#### **4.707.7 Monitoring of EBT Card Issuers**

The state department shall conduct an onsite review of each EBT issuance office and bulk storage point at least once every three (3) years. All offices or units of an EBT issuance office are subject to this review requirement. The state department shall base each review on the specific activities performed by each EBT card issuer or bulk storage point. A physical inventory of EBT cards shall be taken at each location, and count compared with perpetual inventory records and the monthly reports of the EBT card issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office.

#### **4.707.8 Division of Issuance Responsibilities**

Over the counter and mail issuance responsibilities shall be divided between a cashier and another issuance employee.

- A. It is not always feasible for the duties of the cashier to be performed by separate employees because of a low issuance volume at an issuance office. Therefore, any local office that can justify deviation from the requirement, and is willing to assume the additional risk, may obtain permission for one-person issuance through written request to the state department (refer to Section 4.707).
- B. If mail issuance functions are performed by only one person, a second-party review shall be necessary to verify EBT card inventory each day and reconcile the number of certified households who were issued EBT cards and the number of mailings prepared on a biweekly basis.

**C. Cashier Responsibility**

1. The cashier requests Form FS-5 (Identification Card) from the over-the-counter participant and compares the names on EBT card with the household names or authorized representative. For mail issuance the participant does not present an ID card for comparison.
2. When satisfied with the identification of the participant (not necessary for mail issuance) the cashier shall issue the EBT card and, enter the issuance information and authorized allotment on the issuance log. The cashier shall also post Form FS-52 (Daily Issuance Log) or Form FS-11 (Daily Tally Sheet of Individual Transactions) if either is used by the issuance office to record household participation.
3. The cashier may enter any remarks, (such as serial numbers) concerning EBT cards to be issued on either Form FS-52 or Form FS-11. For the over-the-counter issuances the cashier shall also obtain the participant's signature on Form FS-52 (Daily Issuance Log) and compare the signature with that on the ID card to assure that the signatures agree. For mail issuance, there is no participant signature required. The cashier shall enter the date that the EBT card is mailed on Form FS-52 or Form FS-11.

**4.707.81 Issuance of EBT Cards**

The cashier shall use Form FS-10 (Daily Report of Books Issued) each issuance day to record his/her beginning EBT card inventory to show the amount of EBT cards received to replenish the cashier's card stock supply, to show returns to inventory, and to enter total amount of EBT cards on hand by physical count at the end of the issuance-day. The cashier's actual issuance totals must be reconciled with Form FS-52, Form FS-11 or other authorizing documents each issuance day.

**4.707.82 Issuance Reconciliation**

EBT cards shall be maintained in a secure location with access limited to authorized personnel. The issuance supervisor shall establish proper tracking and accounting methods to replenish each cashier's EBT card stock supply as needed.

In all issuance systems, EBT card issuers shall reconcile their issuance daily using daily tally sheets, cashiers' daily reports, tapes or printouts.

The daily total of issuances is recorded for printouts by the automated system, and shall also be reconciled with the cashiers' daily total of actual issuance of EBT cards determined by physical count. Any unresolved discrepancy must be verified daily and on the cashiers' Form FS-10.

**4.707.83 Issuance Record Retention and Forms Security**

The local office shall maintain issuance and reconciliation records for a period of three (3) years from the month of origination. This period may be extended with the written approval of USDA/FNS. Issuance and reconciliation records shall include, at a minimum, reports regarding Notices of Action, Notices of Change, and inventory record. Forms FNS-250, FNS-259, FNS-46 and substantiating documents, cashiers' daily reports, cashiers' daily tally sheets, master issuance files, the records for issuance for each month and any rosters or lists produced by the automated system. In lieu of the records themselves, easily retrievable microfilm, microfiche, or computer tapes that contain the required information may be maintained.

#### **4.707.84 Control of Issuance Documents**

Local offices shall control all issuance documents that establish household eligibility while the documents are transferred and processed within the local office. The local office shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process. Access to all Notices of Action that initiate or terminate the master issuance file and blank EBT cards shall be limited to authorized personnel.

#### **4.707.9 Issuance Methods**

The issuance office shall mail EBT cards to all eligible households if the household does not utilize any available in person pick up option. Certified households must be issued EBT cards by the end of the month except when benefits are suspended, cancelled, or reduced.

If benefits have been suspended, and the local office receives a directive to resume issuance of benefits, the issuance of mailed or over the counter EBT cards will be staggered through the end of the month or over a five-day period following the resumption of issuance. This could result in benefits being issued after the end of the month in which the suspension occurred.

#### **4.707.91 Mail Issuance**

##### **A. Prevention of Mail Issuance Losses**

All EBT cards shall be mailed as first-class mail, in sturdy non-forwarding envelopes.

##### **B. Liability for EBT Cards Lost in the Mail**

USDA/FCS will assume financial liability for all properly issued EBT cards lost in the mail except losses in excess of three tenths of a percent (0.3%) of the state total quarterly mail issuance loss. Each local office that has a mail loss during a quarter will be assessed a percentage of the state total penalty when a penalty is assessed against the state by the USDA/FNS.

##### **C. SNAP Mail Issuance Report**

Form FNS-259 reports shall be submitted by local offices for each unit using a mail issuance system. Local offices shall submit Form FNS-259 reports so that they are received by the fifteenth (15th) day of the next month.

#### **4.708 INVENTORY VERIFICATION**

The issuance supervisor is responsible for taking a physical count of EBT cards on hand after the last issuance day of the month. There must be an actual count of all EBT cards in bulk storage facilities and in each cashier's working card stock in order to validate EBT card inventories reported on Form FS-13 and Form FNS-250.

#### **4.708.1 EBT Card Responsibility and Liability**

Local offices shall be liable to USDA/FNS for the face value of EBT card loss that occurs because of thefts, embezzlements, and cashier error, unless the investigation was reported directly to USDA/FNS prior to the loss and unexplained causes. The local offices shall not be liable for the value of EBT cards issued for those duplicate issuances in the correct amount that are the result of authorized replacement issuances.

#### **4.708.2 Inventory Reporting to The State Department**

Form FNS-250 (EBT Card Accountability Report), as incorporated by reference in section 4.707.6, C, above, shall be executed monthly by EBT card issuers and bulk storage points. The FNS-250 shall be signed by the EBT card issuer or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief.

FNS-250 is an automated report available through an automated system and needs to be data entered by the 15th of the month. Supporting documentation to Form FNS-250 shall be submitted to the state department which will verify the monthly report. Documentation shall consist of documents supporting EBT card shipments (FNS-261, as incorporated by reference in section 4.707.4, C, above), EBT card transfers (FNS-300, as incorporated by reference in section 4.707.4, D, above), and destruction of EBT cards (FNS-135 and FNS-471, as incorporated by reference in section 4.707.5, A, above).

#### **4.708.3 State Monthly EBT Card Accountability**

The state department shall establish an accounting system to review Form FNS-250, as incorporated by reference in section 4.707.66, C, above, completed by all local offices and determine the propriety and reasonableness of EBT card inventories, issuance activities, and reconciliation records. All records of EBT card requisition, EBT card receipt, returned mail EBT card issuances, replacements of EBT cards lost in the mail or improperly manufactured, or mutilated as well as the supporting remarks and documentation for monthly over-issuance and under-issuance shall be used to assure the accuracy of monthly reports.

#### **4.708.4 Issuance Reconciliation Reporting**

Form FNS-46 (Issuance Reconciliation Report) shall be submitted by each local office operating an issuance system. The report shall be prepared at the level where the actual reconciliation of the record for issuance and master file occurs.

Local offices shall identify and report the number and value of all issuances that do not reconcile with the record-for-issuance and master issuance file.

In addition to the above requirement, local offices will continue to reconcile inventory levels against issuances each month on Form FNS-250 (SNAP Accountability Report, as incorporated by reference in section 4.707.6, C, above) and attach Form FNS259 (SNAP Mail Issuance Report, as incorporated by reference in section 4.707.91, E, above) for reconciliation.

#### **4.708.5 Destruction of Unusable EBT Cards Returned by Households**

Unusable EBT cards shall be destroyed by the local office provided that the destruction is accomplished by burning, shredding, or tearing and two (2) persons witness the EBT card destruction.

Form FNS-471 (EBT Card and Destruction Report, as incorporated by reference in section 4.707.5, A, above) shall be completed and signed by the required witnesses and mailed to the state department.

Form FNS-135 (Affidavit for Return or Exchange of EBT Cards, as incorporated by reference in section 4.708.2, above) completed for the return of unusable EBT cards by clients or for claims payments and Form FNS-471 completed on destruction of unusable EBT cards improperly manufactured or mutilated in shipments are supporting documents for necessary EBT card destruction.

Local offices must report the destruction of improperly manufactured or mutilated EBT cards on Form FNS-471 and submit it with Form FNS-250, as incorporated by reference in section 4.707.6, C, above, for the appropriate month. For EBT cards received from recipients, the original copy of Form FNS-135 must be attached to a copy of Form FNS-471 and retained in the office for future review and audit purposes. The destruction of EBT cards received from claims collections that are the result of payment of household claims must be reported on Form FNS-471.

Form FNS-135 will act as a receipt on exchange of unusable EBT cards returned by clients or returned for claim payments.

#### **4.708.6 Undeliverable or Returned EBT Cards**

Local offices shall exercise the following security and controls for EBT cards that are undeliverable or returned during the valid issuance period. Forms FNS-471, as incorporated by reference in section 4.707.5, A, above, and FNS-135, as incorporated by reference in section 4.708.2, above, shall be completed by the local office as appropriate.

EBT cards shall be returned to inventory and noted as such on the issuance log and Form FNS-250, as incorporated by reference in section 4.707.6, C, above.

#### **4.708.7 EBT Cards Returned Because of Involuntary Termination or Death**

EBT Cards will be accounted for on Form FNS-135 (Affidavit for Return or Exchange of Food Coupons) and destroyed under procedures pertaining to Form FNS-471 (EBT Card and Destruction Report). A copy of Form FNS-135 will be retained in the household's case file for audit purposes.

#### **4.708.8 State EBT Card Issuance and Participation Reporting**

The state department shall make estimations with data from the automated system on Benefit Issuance and Participation Estimates.

### **4.709 COLORADO ELECTRONIC BENEFIT TRANSFER SYSTEM (CO/EBTS) AND PROCESSING**

CO/EBTS shall maintain a composite of data for all certified households and provide complete information on participating households for review sampling purposes, statistical summary, and reporting requirements. The automated system is a direct-access system that allows online issuance access to the master issuance file. The automated system provides for an online issuance system.

CO/EBTS will provide access to SNAP benefits by issuing a plastic debit card to clients receiving SNAP and/or PA benefits. The overall rules for CO/EBTS are in the Colorado Department of Human Services Special Projects rule manual at 12 CCR 2512-2.

Eligibility determinations in the automated system will be processed nightly to make SNAP benefits available the following day for initial certification. Ongoing cases will have benefits posted during a ten (10) calendar day cycle with the Social Security Number (SSN) as the basis. The ending number of the SSN will indicate the date for the posting of benefits. An SSN ending with one (1) will be posted on the first day of the month, two (2) on the second day of the month, etc. AN SSN ending with zero (0) will be posted on the tenth (10th) day of the month.

#### **4.709.1 Card/PIN Issuance Accountability**

- A. Local offices will establish procedures for issuance of CO/EBTS debit cards and Personal Identification Numbers (PINs). The household will be issued a debit card within seven (7) calendar days from the date of application for expedited cases and within thirty (30) calendar days for non-expedited cases.

- B. Local offices shall maintain debit cards on site at its primary location and satellite offices. The EBTS contractor will provide counties with an initial supply of sequentially numbered cards with pre-embossed primary account numbers. Local offices must reorder cards to always ensure an adequate supply. The cards will be secured and accounted for through appropriate inventory and distribution forms.
- C. The household PIN will be issued through encryption devices supplied by the state department.

#### **4.709.2 EBT Card Replacement**

- A. CO/EBTS debit cards for eligible recipients will be replaced when reported lost, stolen, or non-functioning. Replacement of cards will occur within three (3) business days of notification by the recipient.
- B. Local offices may have replacement cards over the counter or through a transmission to the CO/EBTS contractor requesting mail issuance. Local offices shall not charge a fee if the replacement is issued by mail or the original card is inoperable due to no fault of the client. Local offices shall not charge a fee if the client is being recertified, and if, during the period of non-participation, the client has destroyed, lost, or damaged the original card.
- C. Local offices shall not collect replacement fees by debiting a recipient's SNAP account.

#### **4.800 CLAIMS, APPEAL PROCESS, AND FRAUD**

Pursuant to Section 15(d) of the Food Stamp Act, benefits are an obligation of the United States within the meaning of 18 United States Code (USC), Chapter 15. The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedure, Relative to Counterfeiting, Misuse and Alteration of Obligations of the United States" are applicable to SNAP benefits.

Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of SNAP benefits may subject an individual, partnership, corporation, or other legal entity to prosecution under federal law and/or section 26-2-305, C.R.S. and accompanying Colorado criminal statutes.

#### **4.801 CLAIMS AGAINST HOUSEHOLDS**

A claim shall be established when a household is over-issued benefits. An over-issuance means the amount by which SNAP benefits issued to a household exceeds the SNAP allotment.

##### **4.801.1 Classification of Claims**

Claims shall be classified as follows:

- A. "Agency Error Claims" - A claim shall be handled as an agency error claim if the over-issuance is caused by an error on the part of the local office. Instances that may result in an agency error claim include, but are not limited to, the following:
  - 1. The local office failed to take prompt action on a change reported by the household;
  - 2. The local office incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
  - 3. The local office continued to provide a household SNAP benefits after its certification period expired without a recertification of eligibility.



4. The local office failed to provide a household a reduced level of SNAP benefits when its PA grant changed.
- B. “Inadvertent Household Error Claims” - A claim shall be handled as an inadvertent household error claim if the over-issuance was caused by a misunderstanding or unintentional error on the part of the household. Instances that may result in an inadvertent household error claim include, but are not limited to, the following:
1. The household unintentionally failed to provide the local office with correct or complete information.
  2. The household unintentionally failed to report changes in its household circumstances.
  3. The household unintentionally received benefits or more benefits than it was entitled to receive pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.
  4. The household was receiving SNAP solely because of basic categorical eligibility and the household was subsequently determined ineligible for Colorado Works (CW) or Social Security Income (SSI) during the time that the benefits were being received. The claim must be based on a change in net income and/or household size.
  5. The SSA failed to take action that resulted in the household's basic categorical eligibility and improper receipt of SSI. The claim must be based on change in net income and/or household size.
- C. “Intentional Program Violation (IPV) /Fraud Claims” - A claim shall be handled as an IPV/fraud claim only if:
1. An administrative disqualification hearing (ADH) official or a court of appropriate jurisdiction has found a household member has committed an IPV or fraud; or,
  2. A signed waiver of ADH is received; or
  3. A signed disqualification consent agreement has been obtained.
- Prior to a waiver or consent agreement being signed or the determination of IPV/fraud, the claim against the household shall be handled as an inadvertent household error claim.

#### **4.801.2 Establishing Claims Against Households**

- A. Establishing a claim
1. The local office shall establish claims in accordance with the thresholds outlined below.
    - a. For participating households, the local office shall not establish a claim for overpayment due to Administrative Error (AE) or Inadvertent Household Error (IHE), except in the following circumstances:
      1. When the amount of the claim is greater than \$200; or
      2. When the over-issuance is identified through a federal or state level quality control review; or,

3. When the IHE claim is being pursued as an IPV, except that if the IHE claim does not result in an IPV, collection shall not be pursued.
  - b. For households not participating in SNAP, the local office shall not establish a claim for over-issuance except in the following circumstances:
    1. When the amount of the AE claim is greater than \$400;
    2. When the amount of the claim is due to an IHE and is greater than \$200; or
    3. When the over-issuance is identified through a federal or state level quality control review.
    4. When an IHE claim is being pursued as an IPV, except that if the IHE claim does not result in an IPV, collection shall not be pursued.
2. An AE or IHE claim shall not be established for a period of more than twelve (12) months from the date the local office was notified, in writing or orally, or discovered through the normal course of business, that an error occurred which led to the household receiving more benefits than it was entitled to receive.

A claim associated with an IPV must be calculated back to the month the act of IPV first occurred and cannot be established for a period more than six (6) years from the date the local office was notified, in writing or orally, or discovered through the normal course of business, that an error occurred which led to the household receiving more benefits than it was entitled to receive.

3. Claims shall be established for benefits that are trafficked. The trafficking of benefits means the same as described in 26-2-306, C.R.S. and 7 C.F.R. 271.2, which is incorporated by reference in section 4.000.1, above.
4. Claims shall be established against the following individuals:
  - a. All adult household members aged eighteen (18) years of age or older at the time the over-issuance occurred, even if one or more of the adult household members are participating in another SNAP household at the time the claim is established; and
  - b. A person connected to the household, such as an authorized representative, who traffics SNAP benefits or otherwise causes an over-issuance to occur.

**B. Timeframe to Establish a Claim**

Local offices shall establish all claims before the last day of the quarter following the quarter in which the over-issuance or trafficking incident was discovered.

1. The discovery date for AE claims is the date that the local office was notified, in writing or orally, or discovered through the normal course of business that an agency error occurred that caused the household to receive more benefits than it was entitled to receive.
2. The discovery date for IHE and IPV non-trafficking claims shall be the date that verification used to calculate the over-issuance is obtained.

3. The discovery date for claims resulting from trafficking is the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.

#### **4.801.3 Calculating the Amount of a Claim**

##### **A. Compromising Claims**

If the full amount or remaining amount of an AE or IHE claim cannot be liquidated in three (3) years, the local office may compromise the claim by reducing it to an amount that will allow the household to pay the claim in three (3) years. IPV claims shall not be compromised, unless specified in a court decision. The local office may use the full amount of the claim, including any amount compromised, to offset lost benefits. Decisions regarding compromises shall be documented in the case record.

A payment plan on a claim that has been compromised may be renegotiated if necessary. Claims that are already reduced by either an administrative or district court order are considered compromised claims, and thus are not eligible for additional compromise.

Local offices shall review the household's circumstances and determine if a compromise would be appropriate. Local offices do not have the option of refusing to consider compromising claims. Local offices cannot institute a policy of never compromising claims

Claims should be compromised if the household demonstrates need, such as the inability to repay the claim within three (3) years, or if the household proves that financial, physical, or mental hardship would exist if forced to pay the full amount of the original claim. Some circumstances include, but are not limited to, medical hardships, high shelter costs, loan payments, and other extraordinary expenses. A compromise based on hardship may be applied to a SNAP case regardless of whether the household is still receiving SNAP benefits.

Consideration should be given to the future earning potential of the household over the next three (3) years to pay back the claim based on age, disability, and other household factors.

##### **B. Claims Resulting from Trafficking**

The value of claims resulting from trafficking related offenses is the value of the trafficked benefits as determined by the individual's admission, through adjudication, or the documentation that forms the basis for the trafficking determination. Documentation could include such items as notarized statements or printouts from the EBT systems.

##### **C. Agency Error and Inadvertent Household Error Claims**

1. If the household received a larger allotment than it was entitled to receive, the local office shall establish a claim against the household that is equal to the difference between the allotment that the household received and the actual allotment it should have received. Benefits authorized under Colorado Electronic Benefits Transfer System (CO/EBTS) shall be used to calculate the claim. After calculating the amount of a claim and establishing claims, the local office must offset the amount of the claim against any amounts which have not yet been restored to the household. Expungements and any return of benefits that occur must be used to offset the amount of the claim.
2. The claim must also be offset against restored benefits owed to:
  - a. Any household that contains a member who was an adult member of the original household;

- b. Any household that contains an authorized representative that caused the over-issuance or trafficking.
  - c. In no circumstance may the local office collect more than the amount of the claim.
- 3. For households eligible under BCE, a claim shall only be determined when it can be calculated because of changed household net income and/or household size. A claim shall not be established if there was not a change in net income and/or household size.

If a household receives both TANF and SNAP and mis-reports information to TANF in accordance with the TANF reporting requirements, and the mis-report of information to TANF resulted in the household being over-issued TANF or ineligible for TANF, any resulting SNAP claim should be based on the actual TANF issued.

- 4. The correct allotment shall be calculated using the same methods applied to certification. The twenty percent (20%) earned income deduction shall not be applied to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim; therefore, any portion of the claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction. The circumstances of the household shall be used to calculate the claim. In instances when a claim is caused by the household's failure to report information as required, the amount of the claim is based on the allotment difference from what the household received compared to what the household would have received if the household would have reported the information as required. For example, if a simplified reporting household did not report income at initial application as required, the income used to calculate the over-issuance would be the income that the household received in the month of application, as this would have been used to determine the household's ongoing monthly amount. Actual income received each subsequent month is not required to calculate each month of the claim, as any fluctuation in monthly income that was received by the household after the initial month of application was not required to be reported by the household. If the household failed to report a change in household circumstances that would have resulted in an increase in benefits during the period of the claim, the local office shall act on the change in information as of the date the change was reported to the local office.
- 5. When a household certified below 130% FPL, as defined in section 4.401.1, above fails to report an increase in household income over 130% FPL. The local office shall establish the claim for each month in which an over-issuance of SNAP has occurred.
  - a. In cases involving household failure to report an increase in income within the required timeframes, the first (1st) month affected by the household's failure to report shall be the first (1st) month in which the change would have been effective had it been timely reported. However, in no event shall the determination of the first (1st) month in which the change would have been effective be any later than two (2) months from the month in which the change occurred. For purposes of calculating the claim, the local office shall assume that the change would have been reported properly and timely acted upon by the local office.

- b. If the household timely reported an increase in income but the local office failed to act on the change within the required timeframes, the first (1st) month affected by the local office's failure to act shall be the first (1st) month the office would have made the change effective had it acted timely. If a Notice of Adverse Action was required, the local office shall assume, for the purpose of calculating the claim, that the Notice of Adverse Action period would have expired without the household requesting a fair hearing.

**D. IPV Claims**

1. Prior to a waiver of ADH or consent agreement being signed or the determination of IPV/fraud, the claim being pursued as an IPV claim shall be pursued as an IHE claim.
2. For each month that a household received an over-issuance due to an act of IPV/fraud, the local office shall determine the correct amount of SNAP benefits, if any, the household was entitled to receive. If the household member is determined to have intentionally failed to report a change in its household's circumstances, the claim shall be established for each month in which the failure to report would have affected the household's SNAP allotment.
3. Once the amount of the IPV claim is established, the local office shall offset the claim against any amount of lost benefits that have not yet been restored to the household.

**E. Court Actions**

In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office should request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and individual.

**4.801.4 Collecting Payments on Claims**

**A. Claim Liability**

**1. Liable Individuals**

All adult household members aged eighteen (18) years or older at the time the over-issuance occurred, sponsors, or other persons, such as an authorized representative who trafficked or otherwise caused an over-issuance or trafficking to occur, that are connected with the household shall be jointly and severally liable for the value of any over-issuance of benefits to the household.

**2. Initiating Collection Action**

- a. Local offices shall initiate collection action against all adult members or persons connected to the household at the time an over-issuance occurred. Under no circumstances shall the office collect more than the amount of the claim.
- b. The local office may pursue collection action against any household that has a member that was connected to the household that received or created an over-issuance.

- c. The local office shall initiate collection action for an unpaid or partially paid IPV claim even if collection action was previously initiated against the household while the claim was being handled as an IHE claim. Collection action shall be initiated unless the household has already repaid the over-issuance because of an IHE demand letter described in section 4.801.4, C, 1, below, or the local office has documentation that shows the household cannot be located.

**B. Postponing Collection Action**

Collection action on IHE claims may be postponed in cases where an over-issuance is being referred to an ADH or a court of appropriate jurisdiction, and the local office determines that collection action will prejudice the case. For cases in which the household is appealing an AE or IHE claim, collection action shall be suspended pending a final decision. A household's appeal may include, but not be limited to, the establishment of the claim, the amount of the claim, and/or the household's liability to repay the claim.

**C. Notifying a Household of a Claim**

**1. Notice of Over-Issuance and Repayment Agreement**

Local offices shall initiate collection action on agency error and inadvertent household error claims by sending the household a State-prescribed written demand letter for the over-issuance. The letter shall inform the household of its rights and responsibilities concerning repayment of the claim as well as providing information on the availability of free legal services. All households that owe a claim shall be sent a demand letter. If the claim or the amount of the claim was not established at a fair hearing, the state agency must provide the household with a one-time Notice of Adverse Action. If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household.

**2. Calculation of Claim**

The local office shall mail the household an explanation of how the claim was calculated, showing each individual month and the cause for the claim. The State-prescribed form shall be used to determine and calculate the amount of the claim and to notify the household of the calculation. The form shall be mailed on a schedule that coincides with the mailing of the demand letter.

**D. Negotiating Payment Plans**

Households participating in the program are subject to allotment reduction in accordance with Section 4.801.41. B, unless the claim is being collected at a higher amount, per agreement with the household. Allotment reduction must begin with the first allotment issued ten (10) calendar days after the demand letter is mailed.

When a household is subject to allotment reduction, then a repayment agreement is not necessary unless the household wants to make voluntary payments in addition to the allotment reduction or elects to make monthly payments in amount greater than what would be repaid through allotment reduction.

If a household is not participating in the program, then the local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment.

1. Establishing a Payment Plan

The local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment or through allotment reduction. Payments shall be accepted in regular installments. The household may use SNAP benefits as full or partial payment of any installment. The local office shall ensure that the negotiated amount of any payment schedule to be repaid each month through installment payments is not less than the amount that could be recovered through an allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, both the local office and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changes enough to warrant such action.

2. Household's Failure to Respond to the Repayment Agreement

If the household is not participating in the program when collection action for claim is initiated or if collection action has been initiated for repayment of a claim and no response is made to the first (1st) demand letter, additional demand letters shall be sent at reasonable intervals, such as thirty (30) calendar days apart. The demand letters shall be sent until the household responds by paying or agreeing to pay the claim, until the criteria for suspending collection has been met or until the local office initiates other collection actions.

E. Determining Delinquency

1. Claims shall be considered delinquent under the following circumstances:

- a. If a claim has not been paid by the due date on the demand letter or a satisfactory payment arrangement has not been made. The claim shall remain delinquent until payment is received in full, an allotment reduction is invoked, or a new repayment schedule is negotiated. The date of delinquency for such claims is the due date on the initial demand letter.
- b. If a satisfactory payment arrangement has been made for a claim and payment has not been received by the due date specified in the established repayment schedule, the date of delinquency for such claims is the due date of the missed installment payment, unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial demand letter. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or once the local office resumes or renegotiates the repayment schedule.
- c. For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred twenty (120) calendar days.

2. Claims shall not be considered delinquent under the following circumstances:

- a. If another SNAP claim for the same household is currently being paid, either through an installment agreement or an allotment reduction, and the local office expects to begin collection on the claim once the prior claim(s) is settled;
- b. If collection is coordinated through the court system and the local office has limited control over collection action; and

- c. If a household timely requests a fair hearing on the existence or amount of the claim and the local office suspends collection action pending a final agency decision. A claim awaiting a fair hearing decision shall not be considered delinquent.

If the hearing officer determines that a claim does in fact exist against the household, the household shall be sent another demand letter. Delinquency shall be based on the due date of this subsequent demand letter and not on the initial pre-hearing demand letter sent to the household. If the hearing officer determines that a claim does not exist, the claim is deleted and shall be terminated, and all collection activity ceased.

**F. Joint Collections Received for a Combination SNAP and PA Claim**

An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the SNAP and other program claims, and the debtor does not specify to which program to apply the payment. The local office shall ensure that unspecified joint collections are pro-rated among the programs involved. When an unspecified joint collection is received for a combined PA and SNAP claim, each program shall receive its prorated share of the amount collected.

**4.801.41 Methods of Collecting Payment on Claims**

The local office shall collect claims through one of the following methods:

**A. Lump Sum**

The local office shall collect payments for total or partial payments of a claim in one lump sum if the household is financially able to pay the claim; however, the household shall not be required to liquidate all of its resources to make this repayment. If the household requests to make a lump sum cash and/or food benefit payment as full or partial payment of the claim, the local office shall accept this method of payment.

**B. SNAP Allotment Reduction**

- 1. The local office shall collect payments for claims from households currently participating in the Program by reducing the household's SNAP allotment. For claims where there is a court-ordered judgment for repayment, allotment reduction shall not occur.

Prior to reduction, the local office shall inform the household of:

- a. The appropriate formula for determining the amount of SNAP to be recovered each month;
  - b. The amount of SNAP the local office expects will be recovered each month; and,
  - c. The availability of other methods of repayment.
- 2. The household's allotment will be reduced based on the recoupment amounts for each type of claim unless a payment schedule has been negotiated with the household.

The local office may collect on a claim by invoking benefit allotment reduction on two (2) separate households for the same claim. However, the local office is not required to perform this simultaneous reduction.



3. The amount of SNAP to be recovered each month through allotment reduction shall be determined as follows:
  - a. For AE claims and IHE claims, the amount of SNAP to be recovered each month from a household shall either be ten percent (10%) of the household's monthly allotment or ten dollars (\$10) each month, whichever is greater.
  - b. For IPV claims, the amount of SNAP benefit reduction shall either be twenty percent (20%) of the household's monthly allotment or twenty dollars (\$20) per month, whichever is greater.
4. Benefits authorized for an initial month will not be reduced to offset a claim. Ongoing benefits will be recouped based on the above criteria.

**C. Benefits from an EBT Account**

1. A household may pay all or a portion of the claim by using benefits from its EBT account.

The local office shall obtain written permission from the household to deduct benefits from the EBT account to pay a claim. The written agreement shall be obtained prior to removing benefits from the EBT account and shall include:

  - a. A statement that this collection activity is strictly voluntary;
  - b. The amount of the payment;
  - c. The frequency of the payments (i.e., whether monthly or one (1) time);
  - d. The length of the agreement; and
  - e. A statement that the household may revoke this agreement at any time.
2. If the household provides oral permission, the local office can make a one-time deduction from an active EBT account for a one (1)-time reduction. The county shall provide the household with a written receipt within ten (10) business days. The receipt shall contain the information used for an active EBT account and indicate that this is a one-time reduction.
3. When a local office pursues payment on a claim by applying SNAP benefits from the household's stale EBT account, prior written notice shall be given to the household of the existing stale EBT account that may be applied to an outstanding claim. The county shall notify the household that the benefits will be applied to the claim unless the household objects to this offset. The household must be given ten (10) calendar days to object before the benefits can be applied as a payment to the claim. A stale EBT account means an account that has benefits but has not been accessed for at least three (3) consecutive calendar months.

**D. Offset Against Taxpayer's State Income Tax Refund**

1. The state department and local office may recover over-issuances of PA benefits through the offset (intercept) of a taxpayer's state income tax refund. Rent rebates are subject to the offset procedure. This method may be used to recover over-issuances that have been:
  - a. Determined by final agency action;

- b. Ordered by a court as restitution; or,
- c. Reduced to judgment.

2. Pre-Offset Notice

Prior to certifying the taxpayer's name and other information to the Department of Revenue, the state department shall notify the taxpayer in writing at his or her last known address that the state intends to use the tax refund offset to recover the over-issuance. The pre-offset notice shall include the name of the local office claiming the over-issuance, a reference to SNAP as the source of the over-issuance, and the current balance owed.

3. Household Objection to Pre-Offset Notice

The taxpayer is entitled to object to the offset by filing a request for a DRC or state-level hearing within thirty (30) calendar days from the date the state department mails the pre-offset notice to the taxpayer. At the hearing on the offset, the local office or administrative adjudicator shall not consider whether an over-issuance has occurred, but may consider, if raised by the taxpayer in his or her request for a hearing, whether:

- a. The taxpayer was properly notified of the over-issuance ;
- b. The taxpayer is the person who owes the over-issuance ;
- c. The amount of the over-issuance has been paid or is incorrect;
- d. The debt created by the over-issuance has been discharged through bankruptcy;
- e. Other special circumstances exist as described in Section 4.801.42.

E. Federal Treasury Offset Program (TOP)

The TOP, including the Federal Salary Offset Program (FSOP), is a mandatory government-wide delinquent debt matching and payment offset system in which Colorado SNAP participates.

The TOP allows collection of delinquent debts by intercepting any allowable payment from the federal government. Federal payments eligible for offset include federal income tax refunds, federal employee salary, federal retirement payments (including military), contractor or vendor payments, and federal benefits such as Social Security and railroad retirement.

1. Claims Submitted for Offset

- a. A delinquent claim may be submitted to the USDA, FNS for the TOP. To submit a claim to the TOP, the claim must be determined to be past due and legally enforceable. To determine that a claim is past due and legally enforceable, it must be determined that notification and collection attempts have taken place.
- b. For purposes of the TOP, a delinquent claim is one which is past due more than one hundred twenty (120) calendar days.
- c. A claim is not considered delinquent if a fair hearing is pending concerning the claim; or the claim has either been discharged by bankruptcy or is subject to the automatic stay of the bankruptcy; or the claim is not considered delinquent as described within Section 4.801.4, E, 2.

2. Processing Fee

TOP, including the FSOP, is authorized to apply a processing fee each time a successful offset for collection occurs. Federal payroll offices participating in the TOP process may add another separate processing fee. The delinquent SNAP debtor is responsible for the fee each time it is applied. A TOP offset taken in error and later refunded will have the processing fee refunded, except for partially refunded offsets.

3. Notifying a Household of the TOP

At the time delinquent debts are sent to be certified to the FNS for intercept by the TOP, all delinquent debts for every individual are sent at one time. Prior to a claim being certified to the FNS as a debt owed to the local office, the individual shall be mailed an offset notice. The notice shall provide the following information:

- a. The local office has documentation that the individual identified with his or her Social Security Number (SSN) is liable for the specified unpaid balance of the claim;
- b. The individual has been notified about the claim and prior collection efforts have been made. The claim is past due and legally enforceable. All adults are liable for the over-issuance of SNAP if they were household members when the SNAP benefits were over-issued. False statements concerning such liability may subject individuals to legal action (see Section 4.801.4, A);
- c. Debts over one hundred twenty (120) days delinquent to be referred to the Treasury for an administrative offset. The local office intends to refer the claim within sixty (60) days of the date of the notice unless the individual makes other repayment arrangements acceptable to the local office;
- d. Instructions on how to pay the claim, including the name, address, and telephone number of a person in the county who can discuss the claim and the intended offset with the individual;
- e. The individual is entitled to request a review of the debt's eligibility for referral to TOP. Individual review requests must be honored, regardless of whether they are received after the deadline requested. Claims that are currently under review will not be referred for the tax intercept; and
- f. All claims for the household that are to be certified to TOP.

4. The individual may document any legitimate reason that the claim is not past due or legally enforceable.

5. The individual should contact the local office if they believe that a bankruptcy proceeding prevents the collection of the claim or if the claim has been discharged in bankruptcy.

6. In some circumstances, the married individual may want to contact the IRS before filing his/her income tax return. This is true if the individual is filing a joint return and his or her spouse is not responsible for the SNAP claim and has income and withholding and/or estimated federal income tax payments. In such cases, the spouse may receive his or her portion of any joint return based on procedures prescribed by the IRS.

7. A federal employee may have his or her net disposable pay subject to garnishment under the offset. The Treasury may garnish up to fifteen percent (15%) of the net disposable pay. A federal employee may petition for a hearing only at the federal level to dispute the existence or the amount of the claim. The hearing occurs after the review period at the state-level and the subsequent submission to the Treasury as a valid offset.
  8. An OOA adjudicator within CDHS will review the proposed offset and issue only a final agency decision. The OOA shall find that the claim is past due and legally enforceable unless the household can provide documentation to show one (1) of the following:
    - a. The claim is not delinquent or was already paid, and the individual provides proof of payment.
    - b. The individual is not the person that is liable for the claim.
    - c. A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the individual or his or her spouse, or that the claim was discharged by a bankruptcy proceeding.
    - d. There is some other reason that the claim is not delinquent or is not legally enforceable.
  9. The final agency decision by the OOA regarding the paper review will be issued by means of written findings. No oral argument is permitted. The written findings shall include the following:
    - a. If the OOA determines that the claim is past due and legally enforceable:
      1. The individual shall be notified that the claim will continue to be referred for the offset; and,
      2. The individual is entitled to have the FNS review the OOA's decision. FNS must receive a request to do so within thirty (30) calendar days after the date of the state agency's notice of review decision. A request for FNS review shall include the individual's SSN. The notice shall also provide the address of the regional office including the phrase "Tax Offset Review" in the address.
    - b. If the OOA determines that the claim is not past due or legally enforceable, it shall notify the individual and the local office that the claim will not be referred for the offset.
    - c. While the OOA or FNS is conducting a review of the debt, the debt is not eligible for referral to TOP.
- F. Pursuing Other Collection Activities
1. Local offices may pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of an agency error or inadvertent household error claim. In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office may request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and individual.

2. Other collection actions that the local office may pursue include the use of a collection agent, civil action, or criminal filing.
3. If the local office chooses to pursue other collection actions and the household pays the claim, payments shall be submitted to the Colorado Department of Human Services as required by Section 4.801.8. The local office's retention of recoveries shall be based on the actual amount collected from the household through such collections actions.
4. The local office shall not use other, involuntary collection methods against individuals in a household that is already having its benefit reduced.

**4.801.42 Criteria for Suspending Collection Action [Rev. eff. 1/1/16]**

The provisions within this section apply to Agency Error (AE) claims, Inadvertent Household Error (IHE) claims, and intentional Program violation (IPV) claims, unless otherwise stated.

- A. The local office shall document the reason for suspending collection action. Suspended claims may be reactivated to offset a restoration of lost benefits or to pursue collection should collection action become feasible.
- B. Collection action on a claim shall be suspended only under the following circumstances:
  1. A claim may be suspended if no collection action was initiated because of one of the following conditions:
    - a. The local office has documentation that shows the household cannot be located; or,
    - b. A court decision postpones collection activity for a period of time.
  2. If collection action was initiated and at least one (1) demand letter was sent, further collection action against an agency error claim or an inadvertent household error claim for a non-participating household may be suspended when:
    - a. The household cannot be located.
    - b. The cost of further collection action is likely to exceed the amount that can be recovered.
    - c. The household is determined to be financially unable to pay the claim.
    - d. If the local office can document that an individual found guilty of intentional program violation/fraud cannot be located, collection action shall be suspended.
  3. Collection action may be suspended on any claim for a non-participating household after six (6) months of no response. The local office should be alert to other methods of pursuit of the claim (see Section 4.801.41, F).

**4.801.43 Criteria for Terminating Collection Action [Rev. eff. 1/1/16]**

The provisions within this section apply to Agency Error (AE) claims, Inadvertent Household Error (IHE) claims, and intentional Program violation (IPV) claims.

- A. A terminated claim is a claim in which all collection activity has ceased. A terminated claim is no longer considered a receivable subject for continued state and federal agency collection and reporting requirements unless otherwise stated.

Voluntary payments from a household on a terminated claim do not reactivate the claim. A terminated claim cannot be reactivated to pursue collection.

- B. Collection action on a claim shall be terminated only in the following situations:
1. A claim may be determined uncollectible after the collection action has been suspended for three (3) years. Prior to terminating such a claim, the local office may submit the claim for state or federal offset or pursue other collection actions. A terminated claim may not be reactivated to offset restoration of lost benefits.
  2. A claim may be terminated if it has been delinquent for a period of three (3) years. Prior to terminating such claim, the local office may submit the claim for state or federal offset or pursue other collection actions.
  3. A claim shall be terminated if found to be invalid by an administrative fair hearing decision or a court determination.
  4. A claim shall be terminated if all adult members are deceased and the agency is not pursuing collection from the estate.
  5. A claim that is twenty-five dollars (\$25) or less and delinquent for ninety (90) calendar days may be terminated.

#### **4.801.5 Claims Discharged Through Bankruptcy**

- A. IPV claims tied to an actual determination of fraud through either an ADH or a court hearing cannot be discharged through bankruptcy. If an individual signs an ADH waiver and admits to committing fraud or guilt when accepting the disqualification, the IPV claims cannot be discharged through bankruptcy. If the individual signs the ADH waiver without admitting to fraud or guilt, there is no actual determination of fraud and the IPV claim may potentially be dischargeable through bankruptcy.
- B. Local offices shall act on behalf of, and as an agent of, FNS in any bankruptcy proceedings against bankrupt households owing SNAP claims. Local offices shall possess any rights, priorities, liens, and privileges and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, local offices shall have the power and authority to file objections to discharge proof of claims, exceptions to discharge, petition for revocation of discharge, and any other documents, motions, or objections which FNS might have filed.

#### **4.801.6 Interstate Claims Collection**

In cases where a household moves out of the state, the local office that last handled the case involving a claim may initiate or continue collection action against the household for any over-issuance that occurred while the household was under that local office's jurisdiction. Counties may transfer a claim to another state or Colorado county if the other state or Colorado county accepts the transfer.

Counties are not obligated to accept the transfer of a claim from another state or Colorado county but have the option of accepting the claim and pursuing collection on that claim. Counties that accept the transfer of a claim shall pursue collection activities and retain appropriate incentives for the collection.

#### **4.801.7 County Retention of Recoveries**

Counties may retain twenty percent (20%) of collections from inadvertent household error claims and thirty-five percent (35%) of collections from intentional Program violation/fraud claims. The total amount of collections from agency error claims is retained by the USDA, Food and Nutrition Service.

#### **4.801.8 Submission of Claim Payment Activity to USDA, FNS**

The FNS-209 Report (Status of Claims against Households) is an automated report and is run quarterly. The report is utilized to reflect all claims activities during a quarter and reflects all the payments made during the quarter. SNAP benefits received as a claim payment shall be recorded in the automated system and any corrections that need to be made to payments are made through the automated system.

The report is available for review from the first of the month immediately following the end of the quarter and continues to be available through the last working day of the quarter. A consolidated final report is available to be printed by local offices following the last working day of the quarter.

This FS-209 report is run quarterly even if the local office has not collected any payments or other claims activities. The local office shall not be required to submit Form FS-209 if the material on the automated system FS-209 is accurate and complete for that local office.

### **4.802 APPEAL PROCESS**

Any household that is aggrieved by any action of the local office affecting the household's participation in SNAP may appeal by requesting a local-level dispute resolution conference (DRC) and/or a state-level fair hearing.

The right of a household to a DRC and state-level hearing is primarily to ensure that a proposed eligibility determination or action is valid, to protect the person against an erroneous action concerning benefits, and to ensure reasonable promptness of local office action. The individual may choose to request a DRC or bypass the DRC and appeal directly to the Colorado Department of Human Services (CDHS) for a state-level fair hearing.

CDHS may deny fair hearings to those households that are disputing a mass change, or the fact that a statewide reduction, cancellation, or suspension was ordered. In such instances, CDHS is not required to hold a fair hearing unless the request is based on the household's belief that the rules were misapplied.

If the household has a combined appeal, the appeal will be bifurcated. The SNAP fair hearings unit will process and hear the SNAP appeal, and the Office of Administrative Courts (OAC) will process and hear the other benefits program appeal(s). The SNAP fair hearings unit will provide the parties with any necessary instructions and/or procedures related to combined appeals.

#### **4.802.1 Time Period for Requesting an Appeal**

- A. A household shall be allowed to request a DRC or state-level fair hearing on the following:
  - 1. Any action by the local office that occurred in the previous ninety (90) calendar days.
  - 2. A loss of benefits that occurred in the previous ninety (90) calendar days. Such SNAP action shall include a denial of a request for restoration of benefits lost more than ninety (90) calendar days, but less than a year prior to the request.
  - 3. At any time during a certification period a household may request a fair hearing to dispute its current level of benefits.

- B. An aggrieved household shall be advised that the use of a DRC is optional, and it shall in no way delay or replace the state-level fair hearing process. If the household does not want a DRC but desires to have the disputed matter considered only at a state-level hearing, this fact should be indicated in the case record. In these cases, the request for an appeal shall be forwarded to the SNAP fair hearings unit.

#### **4.802.2 Continuation of Benefits Pending Final Agency Decision**

A. Eligibility for Continuation of Benefits

1. If a household requests a state-level fair hearing or local-level dispute resolution conference any time prior to the effective date of the Notice of Adverse Action and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the Notice of Adverse Action unless the household specifically waives continuation of benefits.

Households which were not given a ten (10) day advance notice period plus one (1) additional calendar day for mailing time, or five (5) additional calendar days for mailing for households participating in the address confidentiality program (ACP), prior to the effective date of the Notice of Adverse Action shall be given ten (10) calendar days after the date the notice is mailed to appeal and receive continued benefits unless the household specifically waives continuation of benefits.

2. If a request for an appeal is not made within the times specified above, benefits shall be reduced or terminated as provided in the Notice of Adverse Action. However, if the household established that its failure to make the request within the established timeframe was for circumstances beyond the individual's control, the local office shall reinstate the household's benefits on the basis authorized immediately prior to the Notice of Adverse Action, unless the household indicates it has waived continuation of benefits. Such circumstances are: illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or other circumstances that would preclude the individual from taking the required action.
3. When benefits are reduced or terminated because of a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that SNAP eligibility or benefits were improperly computed or that federal regulations or state rules were misapplied or misinterpreted by the local office.
4. Households appealing a decision based on information reported as part of the recertification process are not eligible for continued benefits. The benefit allotment that a household is certified to receive shall not be issued beyond the end of the household's assigned certification period without a new determination of eligibility. The household's benefit allotment beginning with the new certification period shall be based on the new review of eligibility.

B. Household's Requirement to Request a Continuation of Benefits

If the letter or form requesting an appeal does not positively indicate that the household has waived continuation of benefits, the local office shall assume that continuation of benefits is desired, and the benefits shall be issued accordingly.



**C. Establishing a Claim on Benefits That Were Continued**

If the local office action is upheld by the hearing decision, a claim shall be established against the household for all over-issuances. This includes over-issuances due to the household receiving a continuation of benefits that the household was determined not eligible to receive. Such claims shall be classified as an inadvertent household error claim.

**D. The certification office shall promptly inform the household in writing if the benefits are reduced or terminated pending the final agency decision. Once benefits are continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the final agency decision unless:**

1. The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the local office.
2. The administrative adjudicator makes a preliminary determination, in writing and at the hearing, that the sole issue is one of federal law or regulation and that the household's claim that the local office improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid.
3. A change affecting the household's eligibility or basis of issuance occurs while the final agency decision is pending, and the household fails to request a hearing after the subsequent Notice of Adverse Action.
4. A mass change affecting the household's eligibility or basis of issuance occurs while the final agency decision is pending. During the fair hearing period, the local office shall adjust allotments to consider reported changes, information considered verified upon receipt, and mass changes, but not the factors on which the fair hearing is based.

**4.802.21 Households Disputing Restoration of Lost Benefits**

- A. The household has the right to appeal through the fair hearing process if the household disagrees with any action taken to grant or restore lost benefits.
- B. If the local office has determined that a household is entitled to restoration of lost benefits but the household is appealing some action in calculating or restoring the lost benefits, the household shall receive the lost benefits as determined by the local office, pending the hearing results. Once a final agency decision is reached, the local office shall comply with that decision.
- C. To be eligible for restored benefits, the household shall have had its SNAP benefits wrongfully delayed, denied, or terminated. The term denial shall include the situation where, through certification office error, the net income was larger than required under proper determination, and because of this improperly set net income, the household was unable to get the full allotment for which it was eligible. Delay shall mean that eligibility determination was not accomplished within the prescribed time limits set forth in Section 4.205.2.

**4.802.3 Rights During an Appeal**

- A. A household is entitled to the following:
  1. Be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or they may represent themselves at the DRC or state-level fair hearing.

2. Adequate opportunity to examine the case file and all documents and records used by the local office in making its decision and all documents and records that are to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing.

The contents of the case file including the application form and documents of verification used by the local office to establish the household's eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge; or the nature or status of pending criminal prosecutions; or confidential informants; or privileged communications between the local office and its attorney is protected from disclosure.

If requested by the household or its representative, the local office shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest, or challenge shall not be introduced at the hearing nor affect the hearing officer's decision.

3. Present new information or documentation to support reversal or modification of the proposed adverse action.

**B. The household, its representative, and the local office shall be entitled to:**

1. Present the case or have it presented by a legal counsel or other person.
2. Bring witnesses.
3. Advance arguments without undue interference.
4. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
5. Submit evidence to establish all pertinent facts and circumstances in the case.

**4.802.4 Local Office Responsibility During an Appeal**

- A. Upon request, the local office shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. If the individual making the request communicates in a language other than English, the local office is required to provide bilingual staff or an interpreter who can effectively translate between the client's language and English. The local office shall ensure that the hearing procedures are verbally explained in that language, upon request. The local office shall also help a household with its hearing process. Households shall be advised of any legal services available that can provide representation at the hearing.
- B. The local office shall expedite hearing requests from households, such as migrant farm workers, that plan to move from the jurisdiction of the hearing officer before the hearing decision would normally be reached. Hearing requests from these households shall be processed faster than others, if necessary, to enable them to receive a decision before they leave the area.
- C. The local office shall have the burden of proof, by a preponderance of the evidence, to establish the basis of the issue being appealed whether the appeal is at a state-level fair hearing or at a local-level DRC. This burden of proof applies to all matters other than IPV, which is outlined in sections 4.803.2, C and 4.803.2, E.

#### **4.802.5 Local-Level Dispute Resolution Conferences (DRC)**

- A. Before taking action to deny, terminate, reduce, or recover SNAP benefits, the local office shall provide the household an opportunity for a DRC. The individual may choose to bypass the DRC process and appeal directly to the SNAP fair hearings unit for a state-level fair hearing.
- B. If the household requests a DRC, the local office shall arrange one to attempt to resolve the disputed action. The household may be represented by legal counsel or have other persons present to aid the household in the DRC.
- C. Failure of the client to request a DRC within the prior notice period or failure to appear at the time of the scheduled DRC without making a timely request for postponement shall constitute abandonment of the right to a DRC, unless the client can show good cause for their failure to appear. "Good cause" includes, but is not limited to:
  - 1. Death or incapacity of a client, or a member of his or her immediate family, or the representative;
  - 2. Any other health or medical condition of an emergency nature; or
  - 3. Other circumstances beyond the control of the client, and which would prevent a reasonable person from making a timely request for a DRC or postponement of a scheduled DRC.
- D. The local office may consolidate the SNAP DRC with disputes regarding other assistance payments programs, the Colorado Works (CW) Program, or disputes concerning Medicaid eligibility if the facts are similar and consolidation will facilitate the resolution of all disputes.

#### **4.802.51 Management of Local-Level Dispute Resolution Conference (DRC)**

##### **A. General Requirements**

The DRC shall be conducted on an informal basis. Every effort shall be made to ensure that the household understands the local office's specific reasons for the proposed action and the applicable State Department's rules. The local office shall have available at the DRC all pertinent documents and records in the case file relevant to the specific action in dispute.

##### **B. Scheduling**

- 1. To the extent possible, the DRC shall be scheduled and conducted within the prior notice period. If the local office cannot conduct the DRC within this period, for whatever reason, the adverse action in dispute shall be delayed until a DRC can be held, unless the household waives continuation of benefits.
- 2. If a DRC is requested to attempt to resolve a contested denial of expedited service, it shall be scheduled within two (2) working days of the receipt of the request for a DRC unless the household requests that it be held later. Prior notice is not required.
- 3. The local office shall provide reasonable notice to the household of the scheduled time and location for the DRC, or the time of the scheduled telephone conference. Notice shall be in writing; however, verbal notice may be given to facilitate the DRC process.

**C. Location**

The DRC shall be held in the local office where the proposed decision is pending and before a person who was not directly involved in the initial determination of the action in question. The DRC may be conducted either in person or by telephone. If a telephonic conference is requested, it shall be agreed upon by the client. In the event the household does not speak English or is visually or hearing impaired, an interpreter or translator shall be provided by the local office.

**D. County Representatives**

The individual who initiated the action in dispute shall not conduct the DRC. The individual who initiated the action in dispute shall attend the DRC and present the factual basis for the disputed action. The person designated to conduct the DRC shall be in a position which, based on knowledge, experience, and training, would enable them to determine if the proposed action is valid.

**E. Joint Dispute Resolution Processes**

Two (2) or more local offices may establish a joint DRC process. If two or more counties establish a joint process, the location of the DRC need not be held in the county or agency taking the action, but the DRC location shall be convenient to the client.

**F. Notice of DRC Decision**

1. If the additional information presented in the DRC proves that the adverse action is not warranted, the case record shall be documented, and the Notice of Adverse Action cancelled.
2. At the conclusion of the DRC, the person presiding shall reduce to writing the agreement entered by the parties. Such agreement shall be signed by the parties and/or their representatives and shall be binding upon the parties. A copy of the written decision shall immediately be provided to the client and/or his or her representative. The local office shall also forward a copy of the decision to the State Department, within five (5) working days of the hearing, regardless of whether the client agrees with the outcome.
3. In the event the dispute is not resolved, the person presiding shall prepare a written statement indicating that the dispute was not resolved. The decision shall include:
  - a. A statement explaining the client's right to request a state-level fair hearing;
  - b. The time limit for requesting a state-level hearing; and,
  - c. If appropriate, a statement that the household's previous benefit amount will continue pending a final state decision in accordance with Section 4.802.2, if appealed to the state within the appeal timeframe provided on the original Notice of Action coresponding to the disputed action.

#### **4.802.6 STATE-LEVEL FAIR HEARINGS**

##### **4.802.61 MANAGEMENT OF STATE-LEVEL HEARINGS**

###### **A. Scheduling**

1. The SNAP fair hearings unit at the Colorado Department of Human Services (CDHS) or the Office of Administrative Courts (OAC), if so designated by CDHS, shall arrange the time, date, and place of the state-level fair hearing so that the hearing is accessible to the household. At least ten (10) calendar days prior to the hearing, advance written notice shall be provided to all parties involved to permit adequate preparation of the case. The household, however, may request less advanced notice to expedite the scheduling of the hearing. The notice shall:
  - a. Advise the household or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing.
  - b. Specify that the household's hearing request will be dismissed if the household or its representative fails to appear for the hearing without good cause.
  - c. Include a copy of the information outlining CDHS' state-level fair hearing procedures.
  - d. Explain that the household may examine the case file prior to the hearing.
2. Hearing requests for households that plan to move from the area, such as migrant farm workers, shall be processed faster than others, if necessary, to enable them to receive a decision and any appropriate restoration of benefits before they leave the area.
3. The administrative adjudicator shall complete the hearing no more than twenty-five (25) calendar days from when the SNAP fair hearings unit received the notice of appeal. The household may request and is entitled to receive a postponement (also referred to as a continuance) of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the final agency decision may be extended for as many days as the hearing is postponed. A county may not request and is not entitled to receive a postponement.
4. The administrative adjudicator may respond to a series of individual requests for hearings by conducting a single group hearing related to SNAP appeals. The snap fair hearings unit may consolidate only SNAP related cases where individual issues of fact are not disputed and where related issues of state and/or federal law, regulation, or policy are the sole issues being raised. In all group hearings, the regulations governing individual hearings shall be followed. Each individual household shall be permitted to present its own case or have its case presented by a representative.

###### **B. Hearings Conducted by Phone**

The hearing may be conducted by telephone using conference call techniques or by video conference unless one of the parties objects to either of these methods. If a hearing is held by telephone using conference call techniques or by video conference, the rules of procedure (including a recording of the hearing) shall be the same as a face-to-face hearing.

**C. Attendance**

The hearing shall be attended by a representative of the local office and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The administrative adjudicator shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

**D. Administrative Adjudicator**

The administrative adjudicator shall:

1. Administer all oaths or affirmations as required by the State;
2. Ensure all relevant issues are considered;
3. Request, receive, and make part of the record all evidence determined necessary to decide the issues being raised;
4. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;
5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the local office;
6. Provide a hearing record and prepare and file an initial hearing decision with the Office of Appeals (OOA) which shall serve each party with a copy of the initial decision.

**4.802.62 Hearing Denials or Dismissals**

**A. CDHS shall not deny or dismiss a request for a hearing unless:**

1. The request is not received within the time period specified in Section 4.802.1.
2. The request is withdrawn in writing by the household or its representative; or,
3. The household or its representative fails, without good cause, to appear at the scheduled hearing.

**B. The administrative adjudicator shall not enter a default against any party for failure to file a written answer to the notice of hearing but shall base the initial decision upon the evidence presented at the hearing.**

**C. When the administrative adjudicator dismisses an appeal for reasons other than failure to appear, the decision of the administrative adjudicator shall be an initial decision, which shall not be implemented pending review by the Office of Appeals and entry of a final agency decision.**

**D. When an appellant fails to appear at a duly scheduled hearing, having been given proper notice, and without having given timely advance notice to the administrative adjudicator of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned, and an order of dismissal shall be entered by the administrative adjudicator and served upon the parties by the Office of Appeals (OOA). The order of dismissal for failure to appear shall not be implemented pending review by the OOA and entry of a final agency decision.**

The appellant, however, shall be afforded a period of ten (10) calendar days from the date the order of dismissal was mailed, during which the appellant may explain in a letter to the administrative adjudicator the reason for his or her failure to appear. If the administrative adjudicator, then finds that there was acceptable good cause for the appellant not appearing, the administrative adjudicator shall vacate the order dismissing the appeal and reschedule another hearing date.

If the appellant does not submit a letter seeking to show good cause within a period of ten (10) calendar days, the order of dismissal shall be filed with the OOA. The OOA shall confirm the dismissal of the appeal by an agency decision, which shall be served upon the parties and the interested division of the State Department. Within three (3) working days after the effective date of the decision, the local office shall implement necessary actions to provide benefits in the correct amount, terminate benefits, recover benefits incorrectly paid, and/or other appropriate actions in accordance with the rules.

If the appellant submits a letter seeking to show good cause and the administrative adjudicator finds that the stated facts do not constitute good cause, the administrative adjudicator shall enter an initial decision confirming the dismissal.

#### **4.802.63 State-Level Hearing Decisions**

- A. Decisions of the administrative adjudicator shall not run counter to Federal law, State Department rule, or state statute, and shall be based on the hearing record.

The exclusive record for an initial decision by the administrative adjudicator shall constitute the verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceedings. This record shall be retained in accordance with normal retention periods. This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

- B. Following the conclusion of the state hearing, the administrative adjudicator shall promptly prepare and issue an initial decision and file it with the OOA.

- C. Initial Decision

1. The administrative adjudicator shall render an initial decision within ten (10) calendar days of the hearing date. However, if the head of the household or the household's representative requests a delay in the proceedings, the time limit for action on the decision may be extended for as many days as the hearing is delayed, up to thirty (30) calendar days.
2. The initial decision shall make an initial determination whether the county or the Colorado Department of Human Services (CDHS) or its agent acted in accordance with, and/or properly interpreted, the rules of the State Department. The administrative adjudicator may determine whether statutes were properly interpreted and applied only when no implementing state rules exist. The administrative adjudicator has no jurisdiction or authority to determine issues of constitutionality or legality of departmental rules.
3. The initial decision shall advise the household that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.

4. The Office of Appeals shall promptly serve the initial decision upon each party by first class mail and shall transmit a copy of the decision to the divisions of the State Department that administer the program(s) pertinent to the appeal.
5. The initial decision by the administrative adjudicator shall summarize the facts of the case, specify the reasons for the initial decision, and identify the supporting evidence and the pertinent rules.
6. The Office of Appeals at CDHS, as the designee of the Executive Director, shall review the initial decision of the administrative adjudicator and shall enter a final agency decision affirming, modifying, or reversing the initial decision. The Office of Appeals may issue an order of remand upon receipt of the initial decision and identification of an issue that warrants a remand before the initial decision is sent to the parties. Additionally, the Office of Appeals may issue an order of remand at the time of the substantive review of an initial decision for final agency decision. An order of remand is not a final agency decision that is subject to judicial review. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. While review of the initial decision is pending before the Office of Appeals, the record on review, including any transcript or tape of testimony filed with the Office of Appeals, shall be available for examination by any party at the Office of Appeals during regular business hours.

**D. Exceptions to the Initial Decision**

1. Any party seeking a final agency decision that reverses, modifies, or remands the initial decision of the administrative adjudicator must file a written notice of intent to file exceptions to the decision with the OOA within five (5) calendar days - plus three (3) calendar days for mailing - from the date the initial decision is mailed to the parties. If the party has filed such a notice of intent, the party will have fifteen (15) calendar days, plus three (3) calendar days for mailing from the date the initial decision is mailed to the parties to file its written exceptions with the OOA. Exceptions shall state specific grounds for reversal, modification, or remand of the initial decision. Exceptions that fail to state specific grounds for reversal, modification, or remand of the initial decision shall be considered as only arguments of general dissatisfaction.
2. If any party asserts that the administrative adjudicator findings of fact are not supported by the weight of the evidence, the OOA will request the SNAP fair hearings unit provide an audio recording of the hearing to the OOA. If the local office asserts that the administrative adjudicator's findings of fact are not supported by the weight of the evidence, the local office shall provide a hearing transcript to the OOA on or before the deadline for the filing of exceptions. If the local office's yearly budget is not sufficient to pay the cost of a hearing transcript, the local office may request that the OOA review an audio recording of the hearing in lieu of a hearing transcript. Such requests must be mailed or emailed to the OOA at least five (5) calendar days before the deadline for the filing of exceptions. Additionally, the letter must indicate the insufficiency of the local office's budget to pay for a hearing transcript and the letter must be signed by the county department's director. The OOA shall issue an order regarding the request, and if granted, the OOA shall request the audio recording from the SNAP fair hearings unit. If the division(s) of the State Department responsible for administering the program(s) relevant to the appeal assert(s) that the administrative adjudicator's findings of fact are not supported by the weight of the evidence, it shall simultaneously with, or prior to the filing of exceptions, file a hearing transcript with the OOA on or before the deadline for filing exceptions.



3. Considering the federal timeliness requirements for SNAP cases, a party may not request an extension of time to file exceptions unless a party is able to show sufficient good cause as to why an extension of time should be granted. The determination of good cause is within the sole discretion of the OOA. When an extension of time is granted by the OOA, the extension shall not be for more than five (5) calendar days after the original exceptions filing deadline. Local offices or the State Department will need to immediately review initial decisions to assess any need to request an audio recording from the SNAP fair hearings unit to receive the audio recording and expedite the transcription of the audio recording through whatever transcription service it chooses. Any party requesting transcription services shall be fully responsible for the cost of such.
4. If the exceptions do not challenge the findings of fact, but instead assert only that the administrative adjudicator improperly interpreted or applied state rules or relevant statutes, no transcript review or audio recording review is required.
5. The OOA shall serve a copy of the exceptions on each party by first class mail and by electronic mail if the party has consented to receiving communications by electronic mail. Each party shall be limited to ten (10) calendar days from the date exceptions are mailed to the parties in which to file a written response to such exceptions. The OOA shall not permit oral argument.
6. The OOA shall not consider evidence that was not part of the record before the administrative adjudicator. However, the case may be remanded to the administrative adjudicator for rehearing if a party establishes in its exceptions that material evidence has been discovered that the party could not with reasonable diligence have produced at the hearing.
7. The division(s) of the State Department responsible for administering the program(s) relevant to the appeal may file exceptions to the initial decision, or respond to exceptions filed by a party, even though the Division has not previously appeared as a party to the appeal. The Division's exceptions shall be filed in compliance with the requirements of section 4.802.63, D, 1 and 2, above. Exceptions filed by a Division that did not appear as a party at the hearing shall be treated as requesting a review of the initial decision upon the State Department's own motion.

**E. Final Agency Decisions**

1. The OOA shall enter a final agency decision resolving the appeal within sixty (60) calendar days after the request for appeal was received by the SNAP fair hearings unit.
2. In the absence of exceptions filed by any party or by a division of the State Department, or when exceptions are filed, the OOA shall review the initial decision and may review the hearing file of the administrative adjudicator and/or the taped testimony of witnesses before entering a final agency decision. Review by the OOA shall determine whether the initial decision properly interprets and applies the rules of the State Department or relevant statutes and whether the findings of fact and conclusions of law support the decision. If a party or Division of the State Department objects to the final agency decision entered upon review by the OOA, the party or Division may seek reconsideration.
3. The OOA shall mail copies of the final agency decision to all parties by first class mail.

4. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the final agency decision.

**F. Motion for Reconsideration of a Final Agency Decision**

1. A motion for reconsideration of a final agency decision may be granted by the OOA for the following reasons:
  - a. Upon a showing of good cause for failure to file exceptions to the initial decision within the fifteen (15) calendar day period; or,
  - b. Upon a showing that the final agency decision is based upon a clear or plain error of fact or law. An error of law means failure by the OOA to follow a rule, statute, or court decision that controls the outcome of the appeal.
2. No motion for reconsideration shall be granted unless it is filed in writing with the OOA within fifteen (15) calendar days of the date that the final agency decision is mailed to the parties. The motion shall state specific grounds for reconsideration of the agency decision.
3. The OOA shall mail a copy of the motion for reconsideration to each party of record and to the appropriate Division of the State Department.

**G. Acting on Decisions**

1. Initial decisions shall not be implemented pending review by the OOA and entry of a final agency decision.
2. The State Department or local office shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The acting department/office shall comply with the decision, even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the OOA or a reviewing court.
3. If it is ruled that the household had its SNAP benefits wrongfully delayed, denied, or terminated, the local office shall provide retroactive benefits. If it is decided that benefits were over-issued before and during the pendency of the determination of final agency action, a claim for over-issued benefits will be prepared.
4. Final agency decisions which result in an increase in household benefits shall be reflected in the benefit allotment within ten (10) days of the receipt of the decision, even if the local office is obligated to provide a supplementary allotment or otherwise provide the household with the opportunity to obtain the allotment outside of the normal cycle. However, the local office may take longer than ten (10) days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within sixty (60) days from the household's request for the hearing.
5. Final agency decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the decision unless the decision is stayed by the OOA upon a showing of irreparable harm.

**4.803 IPV AND FRAUD [Rev. eff. 1/1/16]**

- A. Local offices shall be responsible for investigating any case of alleged intentional program violation/fraud and insuring that appropriate cases are acted upon either through administrative hearings; by referral to a court of appropriate jurisdiction; by obtaining a waiver of administrative hearing; or by obtaining a signed disqualification consent agreement.
- B. Local offices are encouraged to refer for prosecution under state fraud statutes those individuals suspected of committing fraud, particularly if large amounts of benefits are suspected of being fraudulently obtained or the individual is suspected of committing more than one (1) fraudulent act. The local office shall confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.

Local offices are also encouraged to enter into prosecution agreements with their district court. Agreements should include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the court for accepting cases for prosecution, such as a minimum amount of over-issuance that resulted from the intentional program violation.

- C. Administrative disqualification procedures or referral for prosecution should be initiated by the local office anytime it has sufficient documentary evidence to substantiate that an individual has committed one or more acts of intentional program violation/fraud. If administrative disqualification procedures or referral for prosecution is not initiated for a case involving an over-issuance caused by a suspected act of intentional program violation/fraud, an inadvertent household error claim shall be established against the household.
- D. In cases where the determination of fraud is reversed by a court of appropriate jurisdiction or by a final agency decision, the local office shall reinstate the individual in the Program if the household is otherwise eligible. The local office shall restore any benefits that were lost as a result of the disqualification.
- E. The local office shall inform the household in writing of disqualification penalties for IPV each time it applies for SNAP benefits. The penalty warning will appear in clear, boldface lettering on the SNAP application forms and shall serve as notification to the household.

**4.803.1 Documenting and Reporting IPV/Fraud to the State Department**

Local offices shall enter into the automated system individuals disqualified for intentional program violation/fraud prior to the second (2nd) to the last working day of the month. In addition, local offices shall prepare quarterly a form FS-36A, Investigation/Intentional Program Violation/Fraud Report. The completed report shall be due fifteen (15) calendar days after the end of the quarter to the State Department.

**4.803.2 Determination of an IPV /Fraud**

- A. An intentional program violation shall be established only if an administrative disqualification hearing official or a court of appropriate jurisdiction has found a household member has committed an intentional program violation or fraud or if a signed waiver of administrative hearing or a signed disqualification consent agreement has been obtained.
- B. For purposes of determining, through administrative disqualification hearings, whether a person has committed an IPV, the determination shall be based upon whether the person intentionally:
  - 1. Made a false or misleading statement, or misrepresented, concealed, or withheld facts; or,

2. Committed any act that constitutes a violation of the Food and Nutrition Act of 2008, as amended, these SNAP rules, Federal SNAP regulations, or any state statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking of SNAP benefits, authorization cards or reusable documents as part of an automated benefit delivery system access device.

“Intentionally” means a false representation of a material fact with knowledge of that falsity, or omission of a material fact with knowledge of that omission.

- C. The determination of IPV/fraud shall be based upon clear and convincing evidence that demonstrates that the household member(s) committed and intended to commit IPV. “Clear and convincing” means evidence which is stronger than a “preponderance of evidence” and which is unmistakable and free from serious or substantial doubt.
- D. The same act of IPV/fraud repeated over a period of time shall not be separated so that separate disqualification periods can be imposed.
- E. The burden of proving IPV/fraud is with the local office.
- F. Disqualification periods shall be imposed based on the following:
  1. Administrative Disqualification Hearing (ADH)

If an IPV/fraud is determined through an ADH, the individual must be notified in writing once it is determined that they are to be disqualified. The disqualification period shall begin no later than the second month which follows the date the individual receives written notice of the disqualification.
  2. Waiver of an ADH

If an IPV/fraud is determined through the client signing a waiver of an administrative disqualification hearing form, then the period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification.
  3. Court Decisions

If an individual is determined through a court to be disqualified for an IPV/fraud, but the date for initiating the disqualification period is not specified, the local office shall initiate the disqualification period for currently eligible individuals within forty-five (45) calendar days of the date the disqualification was ordered. Any other court-imposed disqualification shall begin within forty-five (45) calendar days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud.
  4. Disqualification Consent Agreements

Unless contrary to the court order, the period of disqualification shall begin within forty-five (45) calendar days from the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies the date for initiating the disqualification period, the state department shall disqualify the household member in accordance with the court order.

**4.803.3 Time Period and Types of Disqualifications [Rev. eff. 1/1/16]**

**A. IPV**

Individuals who have waived a hearing for IPV or who have been found to have committed an IPV through a local-level or state administrative IPV decision shall be ineligible to participate in SNAP for twelve (12) months for the first (1st) IPV; twenty-four (24) months for the second (2nd) IPV; and permanently for the third (3rd) IPV/fraud.

**B. Receiving Duplicate Benefits**

Individuals who misrepresent their identity or residency to receive duplicate benefits shall be ineligible to participate in SNAP for a period of ten (10) years. Receiving duplicate benefits is considered an attempt to receive or the receipt of more than one original allotment of benefits during a calendar month. A permanent disqualification for a third (3rd) offense would override the disqualification period for duplicate benefits.

**C. Trafficking Benefits**

1. The penalties for trafficking SNAP benefits are outlined in Section 26-2-306(2), C.R.S.
2. An individual convicted through a court of law of trafficking in SNAP of five hundred dollars (\$500) or more will be disqualified permanently.

**D. Drug Convictions**

An individual shall not be ineligible due to a drug conviction unless misuse of SNAP benefits is part of the court findings. An individual found guilty of purchasing controlled substances, as defined in Section 18-18-102 (5), C.R.S., with SNAP benefits will be disqualified for twenty-four (24) months on the first (1st) conviction by a court of law and permanently disqualified on a second (2nd) conviction by a court of law. The disqualification periods shall also apply to individuals with a felony conviction entered on or after July 1, 1997, for possession, use, or distribution of controlled substances only if the conviction is directly related to the misuse of SNAP benefits.

- E.** An individual found guilty in a court of law of trading or purchasing firearms, ammunition, or explosives with SNAP benefits will be permanently disqualified on the first (1st) conviction. An individual will be disqualified even in the cases of deferred adjudication.

**4.803.4 Pursuing Disqualifications for IPV/Fraud [Rev. eff. 1/1/16]**

- A.** The provisions of these rules concerned with state-level fair hearings at Sections 4.802.6 and at 4.802.3 are also applicable for state and local administrative disqualification hearings.

- B.** Whenever the local office has accumulated evidence to substantiate that a person has committed one or more acts of intentional program violation as defined above, the establishment of an intentional program violation shall be determined via:

1. An administrative disqualification hearing; or,
2. A signed waiver of administrative hearing; or,
3. For cases referred to a court of appropriate jurisdiction, through a signed disqualification consent agreement for plea bargained cases or cases of deferred adjudication.

The local office may conduct a local-level administrative disqualification hearing for intentional Program violation or may use the Office of Administrative Courts of the Colorado Department of Personnel and Administration to conduct a state-level administrative disqualification hearing. The local office may also initiate court action by referring an intentional program violation under state fraud statutes to a court of appropriate jurisdiction.

- C. If the local office determines that there is evidence to substantiate that a person has committed an IPV/fraud, the local office shall, prior to initiating an administrative disqualification hearing, allow that person the opportunity to waive his or her right to an administrative disqualification hearing or, for cases referred to a court of appropriate jurisdiction, to sign a disqualification consent agreement for plea bargained cases or cases of deferred adjudication. However, prior to providing the request for waiver, there shall be a review of the evidence against the household member by a staff member who was not involved in the investigation of the household and who has a thorough enough understanding of SNAP policy to ensure that policy is being correctly applied and that the evidence meets the “clear and convincing” criteria (see Section 4.803.2, C) necessary to warrant the pursuit of an IPV/fraud determination.
- D. An administrative disqualification hearing may be initiated regardless of the current eligibility of the individual charged. An administrative hearing should be initiated under the following circumstances:
  - 1. Whenever the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system; or,
  - 2. In cases that were previously referred for prosecution and were declined by appropriate legal authority; or,
  - 3. In previously referred cases where no action was taken within a reasonable period of time and which were formally withdrawn by the local office.
- E. Administrative hearings shall not be requested against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.
- F. To request a state or local-level administrative hearing for intentional program violation, the local office shall submit a request to the Colorado Department of Personnel and Administration, Office of Administrative Courts. To request a local-level administrative hearing, the local office shall submit a request to the local-level hearing officer. When initiating an administrative disqualification hearing for intentional program violation/fraud, the Notice of Hearing form shall be sent to the household member at least thirty (30) calendar days in advance of the scheduled local hearing. At the time of the hearing, the local office will have the opportunity to present the full body of evidence.
- G. The Department of General Support Services, Division of Administrative Hearings, may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same or related circumstances and the household receives prior notice that the hearings will be combined. The amount of the claim will be contained on the notice of confirmation. If the intentional program violation hearings and fair hearings are combined, the Office of Administrative Courts (OAC) will follow the timeliness standards for conducting intentional program violation hearings. If the hearings are combined for the purpose of settling the amount of the claim and determining whether or not intentional program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, OAC shall, upon request of the household, allow the household to waive the thirty (30) day advance notice period required in Section 4.803.43 when the intentional program violation hearing and fair hearing are combined.

**4.803.41 Waiver of Administrative Disqualification Hearing [Rev. eff. 1/1/16]**

- A. Households mailed a request for waiver of the administrative disqualification hearing shall be provided a copy of the statement of rights. The household shall be notified that it has fifteen (15) days from the date the waiver of administrative disqualification hearing was dated and mailed to respond by returning a completed waiver.
- B. The completion of the waiver of the administrative disqualification hearing for intentional program violation is voluntary and the local office shall not require its completion nor by its actions appear to require the completion of the waiver.
- C. If the household member suspected of intentional program violation signs the waiver of the administrative disqualification hearing and returns the waiver to the local office within fifteen (15) days from the date it is dated and mailed by the local office, that person and the head of household shall be provided with a notice of disqualification for waived hearing of intentional program violation
- D. The disqualification shall begin with the first (1st) month following the month the notice of disqualification is received by the household member.
- E. No further administrative appeal procedure exists after an individual voluntarily waives his/her right to an administrative disqualification hearing for intentional program violation. The disqualification penalty cannot be changed by a subsequent fair hearing decision. However, the household member is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.
- F. If the waiver is not returned, the local offices that conduct local-level administrative disqualification hearings shall, within five (5) working days after the deadline for receipt of the waiver of administrative hearing, mail to the household a Notice of Intentional Program Violation Hearing together with a copy of the hearing procedure.

**4.803.42 Scheduling an Administrative Disqualification Hearing for IPV**

- A. The time and place of the state or local-level administrative disqualification hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional program violation.  
  
The state-level hearing may be conducted by telephone using conference call techniques unless one of the parties objects to this method. If a hearing is held by telephone, the rules of procedure, including recording of the hearing, shall be the same as a face-to-face hearing. The household member charged with intentional program violation has the right to request a face-to-face hearing at any time, including up to and during the telephonic hearing, but not once the telephonic hearing is concluded.
- B. Persons that have been charged with intentional program violation and notified that a local-level administrative disqualification hearing has been scheduled have the right to request that their case be heard by a state-level Administrative Law Judge in the Office of Administrative Courts within (10) calendar days of being notified of a local-level hearing. If a state-level hearing is requested, the local office shall forward the request to the Office of Administrative Courts no later than three (3) working days from receipt of the request. No local-level administrative disqualification hearing shall be held if the accused requests a state-level hearing within these specified guidelines.

- C. If the household member or representative cannot be located or fails to appear at a hearing initiated by the local office without good cause, the hearing shall be conducted without the household member represented. However, the household member may subsequently appeal a disqualification from a decision on the basis of not being notified in accordance with Section 4.803.43. If the household provides a statement of non-receipt and the county or the office of administrative courts cannot document receipt of the notice, a re-hearing of the evidence shall be scheduled and the previous decision shall no longer be valid. If the household member is not represented, the hearing official shall carefully consider the evidence and determine if the individual intended to commit an act of intentional program violation.
- D. If the household member is found to have committed intentional program violation but the State Department or a local hearing official later determines that the household member or representative had good cause for not appearing at a hearing initiated by the local office, the previous decision shall no longer remain valid and the Office of Administrative Courts or local-level hearing officer shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member who has received notice has a period of ten (10) calendar days from the date of the hearing to present reasons indicating a good cause for failure to appear. A hearing official shall enter the good cause into the record.

**4.803.43 Notifying a Household of an IPV Administrative Disqualification Hearing**

- A. The administrative adjudicator shall provide written notice to the household member suspected of intentional program violation at least thirty (30) calendar days in advance of the date an administrative disqualification hearing initiated by the local office has been scheduled.
- B. The notice shall be mailed by Certified Mail, Return Receipt Requested, or by first class mail or the notice may be served on the individual by any other reliable method, such as personal delivery by a SNAP worker or other employee, affidavit of service, Federal Express, etc. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered as good cause for not appearing at the hearing. The notice shall contain at a minimum:
  - 1. The date, time, and place of the hearing;
  - 2. The charge(s) against the household member;
  - 3. A summary of the evidence and how and where the evidence can be examined;
  - 4. A warning that the decision will be based solely on information provided by the local office if the household member fails to appear at the hearing;
  - 5. A statement that the household member or representative will have ten (10) calendar days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
  - 6. A warning that the disqualification penalties for fraud under SNAP that could be imposed and a statement of which penalty the hearing officer believes is applicable to the case scheduled for hearing. The disqualification penalties for fraud are as follows:
    - a. Twelve (12) month disqualification for the first (1st) violation, twenty-four month disqualification for the second (2nd) violation, and permanently for the third (3rd) violation, except as provided for in paragraphs b, c, d, and e, of this section;



- b. Individuals found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple food stamp benefits simultaneously shall be ineligible to participate in the Program for a period of ten (10) years, except if the client has received his/her 3rd violation. In such cases, the individual shall be disqualified permanently.
- c. Individuals found guilty of purchasing controlled substances, as defined in section 18-18-102(5), C.R.S., with SNAP benefits by a court of law shall be ineligible to participate in the program:
  - 1. For a period of twenty-four (24) months upon the first occasion of such violation; and,
  - 2. Permanently upon the second occasion of such violation.
- d. Individuals found by a federal, state, or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.
- e. An individual convicted by a federal, state, or local court of having trafficked benefits for an aggregate amount of five hundred dollars (\$500) or more shall be permanently ineligible to participate in the program upon the first occasion of such violation.
- f. The penalties in paragraphs c and d of this section shall also apply in cases of deferred adjudication as described in Section 4.804, where the court makes a finding that the individual engaged in the conduct described in paragraph c and d, of this section.
- g. If a court fails to impose a disqualification or a disqualification period for any IPV, the state department shall impose the appropriate disqualification penalty specified within this section, unless it is contrary to the court order.
- 7. A statement of which penalty the hearing officer believes is applicable to the case scheduled for the hearing.
- 8. A statement that the hearing does not preclude the state or federal government from prosecuting the household member for fraud in a civil or criminal court action or from collecting the over-issuance.
- 9. The name and telephone number of the agency that the individual can call to obtain free legal advice.
- 10. For local offices conducting a local-level ADH, the notice shall inform the client that they may request to have a state-level ADH rather than a local-level ADH.
- C. A copy of the local-level hearing procedures, and the demand letter for over-issuance (if not sent previously) shall be attached to the thirty (30) day advance notice for the local-level hearing. The Administrative Law Judge shall provide a copy of the state hearing procedures with the thirty (30) day advance notice.
- D. The Administrative Law Judge shall not enter a default against the household member for failure to file a written answer to the notice of hearing but shall base the initial decision upon the evidence introduced at the hearing.

**4.803.44 Participation While Awaiting an Administrative Disqualification Hearing**

A pending state or local-level administrative disqualification hearing shall not affect the individual's or the household's right to be certified and to participate in the program. Since the local office cannot disqualify a household member for intentional program violation until it obtains a signed waiver of administrative hearing or until the local hearing official or State Department finds that the individual has committed intentional program violation, the local office shall determine eligibility and benefit level of the household in the same manner it would be determined for any other household.

- A. If the action for which the household member is suspected of intentional program violation does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances.
- B. The household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply.
- C. The local office shall also reduce or terminate the household's benefits if the local office has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional program violation and resultant hearing) and the household fails to request a fair hearing after receipt of a Notice of Adverse Action.

**4.803.45 Administrative Disqualification Hearing (ADH) Procedures**

- A. At the ADH, the Administrative Law Judge (ALJ) or local hearing officer shall advise the household member or representative that they may refuse to answer questions during the hearing.
- B. A hearing decision and notification to the parties shall occur within ninety (90) calendar days from the date the household member is notified in writing that a state or local-level hearing requested by the local office has been scheduled.
- C. Following the conclusion of the hearing at the state-level, the ALJ shall prepare and issue an initial decision that shall contain a determination of whether the county or State Department acted in accordance with, and properly interpreted the rules and regulations of the State Department. For the purpose of the decision, material issues of law shall be defined. The ALJ has no jurisdiction or authority to determine issues of constitutionality or legality of departmental rules or regulations. This decision is prepared and filed with the Colorado Department of Human Services for service to each party.

In the case of a hearing before the Administrative Law Judge (ALJ), this determination shall be an initial decision to be reviewed by the Office of Appeals. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. The initial decision shall advise the household that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.

- D. A local-level hearing officer shall meet the ninety (90) calendar day timeframe, issue the decision to the client, and forward a copy to the state department.
- E. The household member or his/her representative is entitled to a postponement of up to thirty (30) calendar days if the request for postponement is made at least ten (10) calendar days prior to the scheduled hearing date, unless good cause can be shown for failure to request postponement within the required timeframe. If the hearing is postponed, the above limits shall be extended for as many days as the hearing is postponed.

- F. The local office shall make the hearing procedures in this staff manual available to any interested party.
- G. A verbatim transcript or recording of testimony and exhibits shall be made. This transcript or recording together with all papers and requests filed in the proceeding shall be retained by the local office for a period of three (3) years from the initiation of the action and shall be available to the household or its representatives during business hours for copying and inspection.

#### **4.803.5 Local-Level IPV Hearings**

##### **A. Local-Level Hearing Official**

- 1. The individual who acts as a local-level hearing officer for the local office shall meet the following requirements:
  - a. They shall be an impartial individual who does not have a personal stake or involvement in the case;
  - b. They cannot have been directly involved in the initial determination of the action which is being contested and was not the immediate supervisor of the eligibility technician who initiated the IPV action;
  - c. The individual shall be:
    - 1. An employee of the county;
    - 2. An individual under contract with the county; or
    - 3. An employee of another public agency, statutory board, or other legal entity designated by the county to conduct hearings.
- 2. The individual who acts as a local-level hearing officer is required to carefully consider the evidence and determine, based on clear and convincing evidence, if the individual intended to commit an IPV.

##### **B. Notice of Local-Level Hearing Decision**

- 1. If the local-level administrative disqualification hearing finds the household member did not commit an IPV, the local-level hearing officer shall provide a written notice that informs the household, the local office, and the State Department of the decision.
- 2. The decision shall contain the reasons for the hearing officer's decision and a response to client presented arguments and identify the evidence presented by both client and the local office.
- 3. If a local-level hearing officer determines that an IPV occurred, the household shall be notified in accordance with Section 4.803.7 and accompanying the decision shall be an Appeal Request for the household to appeal the decision to a state-level administrative disqualification hearing.
- 4. If mailed, the notice shall be sent by either first class mail or certified mail (return receipt requested), or the notice may be served on the individual(s) by any other reliable method. If no proof of receipt is obtained, a statement of non-receipt by the household member shall be considered good cause for not appearing at the hearing

5. A copy of the local-level hearing decision shall be forwarded to the state department for review at the same time the decision is mailed to the client.

**C. Appeal of Local-Level Decision**

1. The household may appeal the decision of the local-level administrative disqualification hearing to the Office of Administrative Courts. An appeal must be received by the local office or by the Office of Administrative Courts within fifteen (15) calendar days of the date of household receipt of the local-level decision. The household shall be allowed to participate as described in Section 4.803.44.
2. If the household member appeals a local-level hearing to a state-level hearing, the Office of Administrative Courts shall provide a written notice to that household member at least ten (10) calendar days in advance of the scheduled hearing. The ten (10) calendar day advance notice shall contain at a minimum:
  - a. The date, time, and place of the hearing.
  - b. A statement that the Office of Administrative Courts will dismiss the hearing request and the household member will be disqualified in accordance with the local hearing decision if the household member or its representative fails to appear for the hearing without good cause.
  - c. A statement that the hearing does not preclude civil or criminal prosecution, or from collecting the over-issuance.
  - d. A listing of the household members' rights.
  - e. A copy of the Office of Administrative Courts hearing procedures shall be attached to the ten (10) calendar day advance notice.
3. If the household member fails to appear for the administrative disqualification hearing appeal, the Office of Administrative Courts (OAC) shall dismiss the hearing request. The Administrative Law Judge shall promptly serve copies of the order on the household member and the local office. The order shall inform the household member that they will continue to be disqualified in accordance with the local-level hearing decision. The household member will be afforded a ten (10) calendar day period from the date the order of dismissal was mailed to explain in a letter to the OAC the reason for failing to appear. If the OAC determines that the household member or its representative has good cause for not appearing, the Administrative Law Judge shall reschedule another hearing date.

If the appellant does not submit a letter seeking to show good cause within the ten (10) calendar day period, the order of dismissal shall be filed with the Office of Appeals of the State Department. The Office of Appeals shall confirm the dismissal of the appeal by an agency decision, which shall be served on the parties and the interested Division of the State Department. Within three (3) working days after the effective date of the decision, the local office shall implement necessary actions to provide benefits in the correct amount, to terminate benefits, to recover benefits incorrectly paid, and/or other appropriate actions in accordance with the rules. If the appellant submits a letter seeking to show good cause and the Administrative Law Judge (ALJ) finds that the stated facts do not constitute good cause, the ALJ shall enter an initial decision confirming the dismissal. The appellant may file exceptions to the initial decision pursuant to Section 4.802.63, D.

#### **4.803.6 State-Level Administrative Disqualification Hearing**

**A. Initial Decisions**

1. The State Administrative Law Judge (ALJ) will forward the initial decision to the Colorado Department of Human Services, Office of Appeals. The Office of Appeals shall promptly serve a copy of the initial decision upon each party by first class mail.
2. Any party, or the Divisions of the State Department responsible for administering programs relevant to the appeal, if seeking an agency decision which reverses, modifies or remands the initial decision, may file exceptions to the initial decision as set forth in Section 4.802.63, D. The parties and the Division may also request reconsideration of the agency decision pursuant to Section 4.802.63, F.

**B. Final Decisions**

1. The Office of Appeals shall review the initial decision of the Administrative Law Judge and shall enter a final agency decision affirming, modifying, reversing, or remanding the initial decision, pursuant to Section 4.802.63, E.
2. For purposes of requesting judicial review, the effective date of the final agency decision shall be the third (3rd) day after the date the decision is mailed to the parties, even if the third (3rd) day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the agency decision.
3. The state department or local office shall initiate action to comply with the final agency decision within three (3) working days after the effective date. The department shall comply with the decision even if reconsideration is requested unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court.
4. If the household member has committed IPV, that member shall be disqualified in accordance with the disqualification periods specified in Section 4.803.3. The same act of IPV shall not be separated so that separate penalties can be imposed.

#### **4.803.7 Notification of Final Administrative Disqualification Hearing Decision**

Once the local-level hearing decision or a final state-level decision has been made, written notice, prior to disqualification, will be provided to the household member, to the local office, and to the state department containing:

- A. The decision;
- B. The reason for the decision including pertinent regulations and a response to client presented arguments;
- C. The disqualification period, including the date the disqualification will take effect. For local-level hearing decisions, the decision shall notify the individual that the disqualification period will take effect, unless a state-level hearing is requested. If the individual is no longer participating, the notice shall inform them that the period of disqualification shall take effect in accordance with Section 4.803.2, F;
- D. For local-level administrative hearings, if the household member is not satisfied with the decision given in a local-level administrative disqualification hearing (see Section 4.803.5, C), they may request a hearing through the Office of Administrative Courts; and

- E. For state-level administrative hearings, if the household member is not satisfied with the final state agency decision of a state-level administrative hearing, they may seek judicial review pursuant to Section 24-4-106, C.R.S.

#### **4.804 COURT ACTION**

- A. Local offices are encouraged to refer for prosecution under state fraud statutes those individuals suspected of committing fraud, particularly if large amounts of benefits are suspected of being fraudulently obtained or the individual is suspected of committing more than one (1) fraudulent act. The local office shall confer with its legal representative to determine the types of cases that will be accepted for possible prosecution.
- B. An individual must be found guilty of fraud through criminal court in order for the local office to impose a disqualification penalty. However, when a determination of guilt is not obtained because of a case involving court-deferred adjudication or plea-bargaining, a disqualification penalty may be imposed if a signed consent agreement is obtained from the individual.
- C. A summary or copy of a referral for prosecution shall, together with the date of the referral, be forwarded to the state department.
- D. Local offices shall disqualify an individual found guilty of fraud or the length of time specified by the court. If the court fails to impose a disqualification period, the local office shall impose an appropriate disqualification in accordance with Section 4.803.3, unless imposing a disqualification would be contrary to the court order.
- E. If disqualification is ordered but a date for initiating the disqualification period is not specified, the local office shall initiate the disqualification period for individuals within forty-five (45) calendar days from the date the disqualification was ordered. Any other court-imposed disqualification shall begin within forty-five (45) calendar days from the date the court found an individual guilty of civil or criminal misrepresentation or fraud.
- F. Once a disqualification period has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household.
- G. If the court finds that the individual committed fraud, the county shall mail to the household, prior to the disqualification whenever possible, a notice informing the household of the disqualification and the date the disqualification will take effect, and shall advise the remaining household members of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired.

##### **4.804.1 Disqualification Consent Agreement (DCA)**

- A. Criteria for DCA

If county prosecutors pursue a DCA, the agreement shall provide the household advance notification of the consequences of consenting to the disqualification. The consent agreement shall contain the following:

1. A statement for the accused individual to sign that they understand the consequences of consenting to disqualification.
2. A signature block for the accused individual;

3. A statement that the head of household must also sign the consent agreement if the accused individual is not the head of household;
  4. A signature block for the head of household;
  5. A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud;
  6. A warning that the disqualification penalties for fraud under SNAP that could be imposed and a statement of which penalty the hearing office believes is applicable to the case scheduled for the hearing; and
  7. A statement of the fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.
- B. Imposing Disqualifications When Consent Agreements are Obtained
1. If the household member suspected of fraud signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification periods specified in Section 4.803.2, F, unless contrary to the court order.
  2. Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the over-issuance that resulted from the disqualified member's suspected fraudulent act, regardless of its eligibility for Program benefits.
- C. Notification to Household of Disqualification
1. If the household member suspected of fraud signs the disqualification consent agreement, the local office shall provide written notice to the household member. The notice shall be provided prior to disqualification. The notice shall inform the household member of the disqualification and the date the disqualification will take effect.
  2. The local office shall also provide to the remaining household members, if any, the allotment they will receive during the period of disqualification or notice that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in Section 4.411.1.

#### **4.900 ADMINISTRATIVE PROCEDURES**

##### **4.901 ADMINISTRATION OF SNAP**

- A. SNAP shall be administered in every county of the state in accordance with the regulations promulgated by the Colorado Department of Human Services and these rules.
- B. SNAP shall be administered by the local offices of social/human services unless the State Department enters into a written agreement with a particular county to have a state-administered program in that county. As a condition for receiving grant-in-aid from the state for PA and welfare activities, each county must bear the proportion of the total administrative and program costs for all assistance payments and social services activities as required by Section 26-1-122, C.R.S.

- C. Local offices of social/human services shall comply with all requirements concerning security and case processing for the automated system.
- D. Counties shall receive approval from the State Department, prior to using any county-developed forms in the administration of SNAP.

#### **4.901.1 Compliance with State Department**

If a county does not comply with the rules of the State Department that govern the administration of SNAP, which require the establishment of a SNAP Program in each county and the payment of the county's share of the cost of the program, the State Department may do one or more of the following:

- A. Utilize the remedies described in Section 26-1-109(4) (a)-(e), C.R.S.
- B. Recover all or part of the county share of the cost of SNAP by reducing any other grant-in-aid to the county for PA or welfare purposes by a corresponding amount.
- C. If the county does not comply, judicial enforcement may be pursued under Section 24-4-106(3) C.R.S.
- D. Take any other appropriate action to enforce compliance with the rules governing SNAP.

#### **4.902 COUNTY ADMINISTRATION REQUIREMENTS**

##### **4.902.1 Local SNAP Office**

Local offices shall ensure that adequate locations and hours of operation exist to meet the needs of SNAP clients in their areas. Each location shall have ample availability for parking and shall be accessible to persons with disabilities. Hours of operation shall be sufficient to ensure the timely processing of applications and issuance of EBT cards according to existing guidelines. Counties must establish procedures for the operation of the local office that best serves households within that county. Local offices shall establish procedures to assist households with special needs including, but not limited to: households containing persons who are aged sixty (60) and older or persons with disabilities; households in rural areas with low-income members; households experiencing homelessness; households containing adult members who are not proficient in English; and households containing working persons.

A household must apply for SNAP in its county of residence. A local office that receives an application that belongs to another county may secure the application date, process the application to completion, issue the household an EBT card, and then transfer the case to the correct county once the final eligibility decision is made. If a household is determined eligible for participation, it may request and be designated to receive SNAP from a local office that is more accessible. It is possible for an issuance unit in one local office to determine eligibility, authorize SNAP benefits, and issue EBT cards to an eligible household that resides in another county in Colorado.

Local offices may also transfer certification and/or EBT card issuance duties for those households only receiving SNAP that live closer to the local office in a neighboring county than the county of residence.

##### **4.902.2 Phone Directory Listings**

- A. Each local office telephone number available to the public shall be listed under each of the following two alphabetical listings:
  - 1. SNAP certification and issuance office, street address, phone number. If there are separate certification and issuance offices in the county, they may be listed in this manner: local office (certification only) or (issuance only), street address, phone number.



2. (Name of the county) Department of Human/Social Services, local office (certification only) or (issuance only), street address, phone number.
- B. Each local office shall provide a toll-free number or a number where collect calls will be accepted for households outside the local calling area.
- C. The listings above are not to restrict any other listings that may be provided within the telephone directory, but only to standardize the availability of SNAP to the public.

#### **4.902.3 Certification Personnel and Facilities Requirements**

- A. County employees assigned to certify households for participation in SNAP shall be employed in accordance with the current standards for a merit system personnel administration that is guided by a set of six broad merit principles outlined in the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728), as amended. The principles cover recruiting, compensation, training, retention, equal employment opportunity, and guidance on political activity. Only such qualified employees shall interview SNAP households and determine household eligibility or ineligibility and the level of benefits.
- B. Every local office must utilize an appropriate amount of the staff allocated to it and utilize effective and efficient practices in administering SNAP. Facilities must, within available state legislative appropriations and federal and required county matching funds, be of adequate size and layout to assure the privacy necessary to allow workers to conduct confidential interviews and perform other office duties efficiently and effectively. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by applicant households if, under normal circumstances, they could be expected to be the best verification source. An eligibility technician who is the spouse of a striker is not considered party to a strike but shall not certify his or her household.

#### **4.902.31 Bilingual Staff, Interpreter, and Translator Requirements**

- A. Local offices determined by the State Department to have a significant population of Limited English Proficiency (LEP) households shall provide sufficient bilingual staff and/or translators for the timely processing of applications. Local office staff shall be trained and familiar with these procedures.
- B. During those periods when there is a significant influx of seasonal or migrant farmworkers, local offices shall provide sufficient bilingual staff and/or translators for the timely processing of such applicants.
- C. If translators or interpreters are utilized, the local office shall ensure that the translators or interpreters are readily available to assist in pre-screening clients for expedited processing standards and completing the interview and other activities necessary to determine the eligibility of the applicant household. The local office shall not require the client to provide a translator or interpreter, or to in any way imply that an interpreter is required, as a condition for being pre-screened or interviewed by the local office, nor shall the local office postpone or in any way delay the pre-screening process or appointments because of the unavailability of bilingual staff or translators/interpreters.

#### **4.902.32 Restrictions on Staff**

- A. Volunteers or other personnel who do not meet the criteria outlined in Section 4.902.3 may not be allowed to interview or certify households but may be used for pre-screening, assistance in the completion of applications, obtaining verifications to support statements made on the application, and the transportation of clients. In certain situations, volunteers may act as authorized representatives for households unable to come to the local office.
- B. Volunteers may also be used as translators or interpreters when necessary to pre-screen clients and to complete the interview. If volunteers are utilized, the local office shall ensure that volunteers are available, as necessary, for the timely processing of applications. Such volunteers utilized to pre-screen clients or to translate/interpret during the interview shall be educated on confidentiality requirements.
- C. Any persons or organizations who are parties to a strike or lockout shall not be permitted to interview or certify households or to secure verification required of such households. However, such individuals may be used as a source of verification for information provided by households if, under normal circumstances, they could be expected to be the best verification source. An eligibility technician who is the spouse of a striker is not considered party to a strike but shall not certify his or her household.

The facilities of persons or organizations who are parties to a strike or lockout may not be used in the certification process or as a site for certification interviews.

#### **4.902.4 Local Office Case Review Responsibilities**

Local offices shall establish a documented method to review a random sample of current SNAP determinations (certifications, denials, and terminations) to determine the correctness of eligibility determinations accomplished. A record of the cases reviewed must be kept for management evaluation/audit purposes. Local offices must be able to demonstrate to the satisfaction of the State Department that the frequency and scope of the reviews are adequate to ensure the integrity of both the program and clients. Additionally, local offices must demonstrate a consistent process for tracking error trends, correcting case records timely, and providing eligibility technicians an opportunity to improve their program knowledge.

#### **4.902.5 Retention of Case Records**

Each local office shall retain all program records in an orderly fashion for audit and review purposes for no less than three (3) years from the month of origin of each record. In addition:

- A. The local office shall retain fiscal records and accountable documents for three (3) years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the federal government have been liquidated. Administrative closure means that the state agency has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include, but are not limited to, claims and documentation of lost benefits.
- B. Case records relating to intentional program violation (IPV) disqualifications and related notices to the household shall be retained indefinitely until the local office obtains reliable information that the individual who was disqualified has died or until the information is received from the national disqualified recipient database system that all records associated with a particular individual, including the disqualified client database record, may be permanently removed from the database because of the individual's eightieth (80th) birthday.

#### **4.902.6 Non-Discrimination Complaint Requirements**

Both state and local offices shall ensure that all local office staff responsible for the administration, issuance, review, and eligibility determination of SNAP are knowledgeable about civil rights procedures and are able to assist clients with the filing of civil rights complaints. Local office staff must undergo state-prescribed training on civil rights procedures annually.

### **4.903 STATE ADMINISTRATION RESPONSIBILITIES**

#### **4.903.1 Information Available to the Public**

- A. Federal regulations, federal procedures embodied in Food and Nutrition Service (FNS) notices and policy memos, the SNAP rules, and State Plans of Operation (including specific planning documents such as corrective action plans) shall be available upon request for examination by members of the public during office hours at the State Department. Copies of materials are available to recipient organizations, action centers, and other individuals for a minimal printing charge.
- B. The SNAP rules shall be available for examination upon request at each local office within each county. They are also available online through the Secretary of State's official publication of State Agency rules in the Colorado Code of Regulations, accessible at: <https://www.sos.state.co.us/CCR/Welcome.do>.

#### **4.903.2 Reporting Lawsuits**

FNS regulations require prompt notification from the State Department of any lawsuits involving the administration of SNAP.

As SNAP is administered under the supervision of the State Department, it is mandatory that all legal proceedings involving SNAP be brought to the attention of the State Department immediately for notification to the FNS.

#### **4.903.3 Management Evaluations (ME)**

The State Department is responsible for supervising the administration of SNAP. To ensure compliance with program requirements, the State Department is responsible for conducting ME reviews to measure compliance with the provisions of these rules. The objectives of the ME review system are to:

- A. Provide a systematic method of monitoring and assessing program operations in the counties;
- B. Provide a basis for counties to improve and strengthen program operations by identifying and correcting deficiencies;
- C. Provide a continuous flow of information between the counties, the State Department, and FNS to develop solutions to problems in SNAP policy and procedures; and,
- D. Provide a review of target program areas as identified by USDA, FNS.

#### **4.903.31 Frequency of ME Reviews**

The State Department shall conduct an ME review of all SNAP operations:

- A. At least once annually on each large project area containing more than twenty-five thousand and one (25,001) participating households;

- B. At least once every two (2) years on each medium project area containing five thousand (5,000) to twenty-five thousand (25,000) participating households; and,
- C. At least once every three (3) years on each small project area containing four thousand nine hundred and ninety-nine (4,999) or fewer participating households.

The State Department may conduct ME reviews on an alternative schedule with the written approval of the USDA, FNS. The State Department may also perform reviews of specific local offices or program elements. The USDA, FNS, or the State Department, may identify the need for a special review, or the local office may request a special review.

Reviews will generally include all aspects of program administration in the large project areas. The reviews may be more limited in scope in the medium and small project areas. The USDA, FNS, generally identifies target program areas that it requires for review each fiscal year.

The State Department will complete the ME report for all counties that are reviewed and will be responsible for monitoring the county responses to any findings.

The county shall be responsible for submitting any factual corrections to the ME review within twenty (20) state working days and shall submit a final plan to correct all other cited deficiencies within twenty (20) state working days of receiving the review. The response shall include specific actions, persons responsible for implementation, and the date for completion. When the review identifies ongoing problems in critical areas, the county response shall also include a method for monitoring implementation of the plan and reporting progress to the state department on at least a quarterly basis.

#### **4.903.32 Compliance Action for ME Reviews**

The State Department is the designated entity responsible for ensuring that corrective action is taken at the state and/or county level on the deficiencies found by the ME Reviews.

The state may impose fiscal sanctions on counties that do not make good-faith efforts to address ongoing problems in critical areas. Fiscal sanctions may be imposed in accordance with Section 4.901.1, which requires local offices to operate the program in accordance with state rules.

#### **4.903.4 Quality Assurance (QA) Reviews**

QA reviews are conducted during the annual federal QA review period, which is the twelve (12) month period from October 1 of each calendar year through September 30 of the following calendar year.

- A. QA reviews are federally mandated to provide:
  - 1. A systematic method of measuring the validity of the SNAP caseload;
  - 2. A basis for determining error rates;
  - 3. A timely and continuous flow of information on which to base corrective action at all levels of administration; and,
  - 4. A basis for establishing liability for errors that exceed the federal error rate target and the State's eligibility for an increased share of federal administrative funding and/or federal high-performance bonuses.

- B. Reviews are conducted on:
1. Active cases to determine if the household is eligible and, if eligible, whether the household is receiving the correct SNAP benefits.
  2. Negative cases to determine if households that were denied or terminated were, in fact, not eligible to participate in SNAP and that the household received an accurate, timely notice as defined in sections 4.205.2, 4.209.1, and 4.608. The review of a negative case includes:
    - a. A household case record review;
    - b. An error analysis;
    - c. Client notification; and,
    - d. The reporting of review findings.

**4.903.41 QA Review Procedures**

- A. Each month a statistically random sample of active and negative cases is selected for QA review. The sampling of both active and negative cases is accomplished through the master file from the automated system.
- B. Case records for the monthly selected sample may be reviewed by QA in the local office, or the local office may be requested to forward the case records to the appropriate state QA office for review prior to the field reviews and verification of eligibility factors. Local offices shall make case records available for review no later than seven (7) business days from the date that the request is received by the local office.
- C. When the local office receives a request for one or more cases for QA review, the following steps shall be taken in preparing the case record:
1. All documents and notes supporting eligibility decisions and/or basis of issuance related to the case and actions taken by the local office that apply to the sample/review month shall be included in the case record.
  2. Accomplishment of the objectives of QA depends upon the successful operation of all aspects of the sampling system, including the elimination of bias to prevent bias, the local office shall not take any action that might alter the findings or misrepresent the household's circumstance including, but not limited to:
    - a. Making changes that would affect eligibility and payment;
    - b. Adding or removing documentation/verification from the official case record; or,
    - c. Contacting the household sampled, the QA reviewer, or making collateral contacts to obtain additional information to clarify the household's circumstances, obtain statements or coerce the household into saying or doing anything that might alter the findings or misrepresent the household's circumstances for the review month.
- D. These provisions do not apply to routine case management such as acting on reported changes, completing recertifications, or issuing a notice of expiration.

#### **4.903.42 Refusal to Cooperate with QA Review**

Households selected for review are required to cooperate with federal and state QA review processes.

Households that refuse to cooperate in a QA review shall be declared ineligible for SNAP benefits in this section. The state QA reviewer shall notify the local office of the household's refusal to cooperate in the review process, including everyone who refused, and the local office shall document the refusal to cooperate in the statewide automated system.

- A. Within ten (10) calendar days from the date of receipt of QA's notification of the household's refusal to cooperate, the local office shall take action to disqualify or terminate the entire household from participation in SNAP and each household member who refused to cooperate shall be entered into the automated system to initiate a period of ineligibility. The period of ineligibility is as follows:
  - 1. For refusal to cooperate with a state QA review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus one hundred twenty-five (125) days and shall expire on February 2 of that federal fiscal year.
  - 2. For refusal to cooperate with a federal QA review, the period of ineligibility shall exist for the remainder of the current federal fiscal year plus nine (9) months and shall expire on June 30 of that federal fiscal year.
- B. If a member or members who refused to cooperate with a QA review leaves the household, the ineligibility period shall follow the household member(s) who refused to cooperate.

If a household is disqualified or terminated for refusal to cooperate with a QA review, the household may reapply. The household cannot be determined eligible until it cooperates with the QA review and provides verification of all eligibility factors.
- C. If a household that has refused to cooperate with a state QA review reapplies more than one hundred twenty-five (125) days after the end of the annual federal QA review period, or refused to cooperate with a federal review and reapplies more than nine (9) months from the end of the annual federal QA review period, the household shall not be determined ineligible for its refusal to cooperate and is required to provide verification of all eligibility factors before it can be approved for benefits.

#### **4.903.43 QA Findings and Required Responses**

QA shall notify local offices on State-prescribed forms of the review findings for each sampled active and negative case. Brief descriptions of the review findings shall be given with references to applicable rule sections.

- A. When the review findings document no error and/or only other observations have been noted, a response is not required by the local office; however, any observation that affects the payment accuracy must be corrected and a claim or restoration established in accordance with Sections 4.801.2 and 4.702. The report of review findings shall be retained in the case record.
- B. When the review findings document that an error resulted in ineligibility, over-issuance, under-issuance, or an incorrect negative action, the local office shall take action to correct any errors discovered within ten (10) calendar days.

If the local office disagrees with a review finding then a response should be sent to the State Department for further review.

- C. Upon receiving the local office's response to the QA review findings, the State Department shall review the action taken by the local office and either concur with the QA findings; concur with the local office rebuttal; or concur/disagree with the corrective action taken by the local office.
  - 1. The local office shall be notified of the final QA review findings.
  - 2. Upon receipt of final notification of the results of the findings, the local office must take corrective action to terminate ineligible households within ten (10) calendar days, restore lost benefits, or establish a claim in accordance with Sections 4.801.2 and 4.702.
- D. Local offices are required by the State Department to report twice a year to the State Department the status of all QA review findings that required case corrections.

#### **4.903.44 Federal QA Reviews**

For purposes of validating the State's QA findings, the FNS Regional Office will conduct a sub-sample re-review of the State QA sample. As part of this re-review process, the Federal Regional Office will conduct case record reviews to the extent necessary to determine the accuracy of state QA findings. The FNS Regional Office may request case records and/or verify any aspects of state QA findings. The local offices shall forward case records in their entirety as outlined in Section 4.903.41 that are selected for FNS regional office review within ten (10) calendar days of the request.

#### **4.904 OUTREACH**

Outreach activities performed by state and local personnel shall be ineligible for federal matching funds. Although activities to recruit participation in SNAP are prohibited, all local offices shall perform program informational activities. Program informational activities are those activities that convey information about SNAP, including household rights and responsibilities to households through means such as publications, telephone hotlines, and face-to-face contacts.

All program informational material shall be available in languages other than English and shall include a statement that the program is available to all without regard to race, color, sex, age, mental or physical disability, religious creed, national origin, or political belief.

#### **4.905 D-SNAP**

D-SNAP, or the Disaster Supplemental Nutritional Assistance Program, may be implemented because of a "major disaster" or "temporary emergency" to provide temporary assistance to households affected by these misfortunes. A Presidential disaster declaration for individual assistance must be declared for the affected areas to be eligible for D-SNAP.

A "major disaster" is any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe that is determined to be a major disaster by the President pursuant to the Disaster Relief Act of 1974, Section 302(a). A similar definition is provided under State law in 24-33.5-703, C.R.S.

A "temporary emergency" means an emergency caused by any disaster, resulting from either natural or human causes, other than a major disaster as declared by the President under the Disaster Relief Act of 1974, Section 302(a), which is determined by FNS to have disrupted commercial channels of food distribution.

In such Presidentially declared disasters, emergency SNAP allotments can be authorized by the USDA, FNS. In Colorado, the Governor can accept such federal assistance on behalf of the state if they determine and declare a major disaster. When authorized by the Governor and FNS, the state department may authorize those counties, within which all or part of the disaster area lies, to distribute emergency SNAP allotments in those areas.

The State Department shall provide special certification material and forms designed for certification of disaster victims. Certification shall be done for households that are victims of a disaster that disrupts commercial channels of food distribution; if such households need temporary SNAP and if commercial channels of food distribution have again become available to meet the temporary food needs of those households.



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## **Editor's Notes**

### **History**

Rules SB&P, R-4010, R-4011, R-4100, R-4220, R-4222, R-4223, R-4224, R-4225, R-4230, R-4242 emer. rule eff. 10/01/2008.

Rules SB&P, R-4010, R-4011, R-4100, R-4220, R-4222, R-4223, R-4224, R-4225, R-4230, R-4242 eff. 12/01/2008.

Rules SB&P, 4010.11, 4230 emer. rules eff. 04/01/2009; expired eff. 06/06/2009.

Rules SB&P, 4010.11, 4230 eff. 07/01/2009.

Rules SB&P, B-4242, B-4242.1, B-4242.12, B-4242.13 eff. 03/02/2010.

Rules SB&P, B-4011.1-4011.11, B-4011.131-B-4011.136, B-4011.22-B-4011.3, B-4220-B-4220.12, B-4224, B-4230.1, B-4242.11-B-4242.13, B-4430.2-B-4430.22(B) eff. 02/01/2011.

Rules SB&P, B-4222.8, B-4223, B-4225.7.A.17 emer. rules eff. 06/10/2011.

Rules SB&P, B-4222.8, B-4223, B-4225.7.A.17 eff. 09/01/2011.

Rules SB&P, B-4224(A-C) emer. rules eff. 10/01/2011.

Rules SB&P, B-4224(A-C) eff. 01/01/2012.

Rules SB&P, B-4221.312, B-4230.11-B-4230.12, B-4240, B-4242.34-B-4242.36, B-4315, B-4317.4-B-4317.6, B-4600-B-4611, B-4640-B-4653, B-4695.1, B-4730-B-4800.3 eff. 05/01/2012.

Rules SB&P, B-4430.22.D-G, B-4430.32.B-H eff. 07/01/2012.

Rules SB&P, B-4010.42 eff. 08/01/2012.

Rules SB&P, B-4011.31-B-4011.32, B-4110.1-B-4110.2 eff. 11/01/2012.

Rules SB&P, B-4224 eff. 04/01/2013.

Rules SB&P, B-4100-B-4100.D, B-4220.11-B-4220.12, B-4223.1, B-4223.5-B-4223.5.B, B-4223.51 emer. rules eff. 10/01/2013.

Rules B-4010.12, B-4230-B-4230.1, B-4430.4 emer. rules eff. 11/01/2013.

Rules SB&P, B-4100-B-4100.D, B-4220.11-B-4220.12, B-4223.1, B-4223.5-B-4223.5.B, B-4223.51 eff. 12/01/2013.

Rules SB&P, B-4010.12, B-4230-B-4230.1, B-4430.4 eff. 01/01/2014.

Entire rule eff. 09/01/2014.

Rules SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3-4.407.31 emer. rules eff. 10/01/2014.

Rules SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3-4.407.31 eff. 12/01/2014.

Rules SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3.A-B, 4.407.31 emer. rules eff. 10/02/2015.

Rules SB&P, 4.207.3, 4.401.1-4.401.2, 4.407.1, 4.407.3.A-B, 4.407.31, 4.801.2-4.801.43, 4.803-4.803.41, 4.803.43, 4.803.5, 4.803.7, 4.804.1 eff. 01/01/2016. Rule 4.704.1 repealed eff. 01/01/2016.

Rules SB&P, 4.609 eff. 02/01/2016.

Rule 4.609.1 emer. rule eff. 02/05/2016.

Rules SB&P, 4.208.1, 4.603.A eff. 04/01/2016.

Rules SB&P, 4.609.1 eff. 05/01/2016.

Rule 4.609.1.A emer. rule eff. 05/06/2016.

Rule 4.609.1.A eff. 09/01/2016.

Rules 4.207.3.C, 4.401.1.C, 4.401.2.D, 4.407.1, 4.407.3.B, 4.407.31.A.4, 4.407.31.B.3, 4.407.31.C.3, 4.407.31.D.2 emer. rules eff. 09/09/2016.

Rules 4.407.6, 4.502 B.3.b eff. 10/01/2016.

Rules 4.403.A.1, 4.404.D, 4.405.G.1, 4.405.1, 4.506.D, 4.604.D-E, 4.606.B.2.a, 4.608.B, 4.802.2.A.1 eff. 11/01/2016.

Rules 4.207.3.C, 4.401.1.C, 4.401.2.D, 4.407.1, 4.407.3.A-B, 4.407.31.A-D eff. 01/01/2017.

Rules 4.050, 4.070, 4.070.2, 4.070.22, 4.304.4 A-C, 4.402 A, 4.405 F, 4.504.6 E, 4.504.61 B.1, 4.802.1 A.1, 4.903.31 eff. 07/01/2017.

Rules 4.100, 4.306.1, 4.310, 4.403, 4.405.2 eff. 10/01/2017. Rules 4.100, 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3, 4.407.31, 4.408 emer. rules eff. 10/01/2017; expired 12/30/2017.

Rules 4.100, 4.207.3, 4.404.1, 4.401.2, 4.407.1, 4.407.3, 4.407.31, 4.408, eff. 01/01/2018.

Rules 4.206, 4.400, 4.401.1, 4.401.2, 4.408 A, 4.502 A.4, 4.603, 4.604 emer. rules eff. 06/01/2018.

Rules 4.206, 4.207.2, 4.207.3, 4.210 B, 4.309.3, 4.309.31, 4.309.4, 4.309.41, 4.400, 4.401.1, 4.401.2, 4.407.4 A, 4.408 A, 4.410 D.2, 4.502 A.4, 4.603, 4.604, 4.604.1 eff. 09/01/2018.

Rules 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3 A-B, 4.407.31 emer. rules eff. 09/07/2018.

Rules 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3 A-B, 4.407.31 emer. rules eff. 12/07/2018.

Rules 4.207.3, 4.401.1, 4.401.2, 4.407.1, 4.407.3 A-B, 4.407.31 eff. 02/01/2019.

Rules 4.070, 4.070.2-4.070.21, 4.100, 4.200-4.202, 4.202.2-4.202.32, 4.203-4.203.2, 4.204 A, 4.205-4.205.2, 4.205.4, 4.206, 4.208-4.208.1, 4.209, 4.301-4.303, 4.304.2-4.304.3, 4.304.41, 4.305.2, 4.306, 4.307, 4.308-4.308.1, 4.309.21, 4.309.31-4.309.4, 4.401-4.402.1, 4.403-4.403.1, 4.404-4.405.1, 4.406, 4.407, 4.407.5-4.407.6, 4.408-4.408.2, 4.410, 4.411.1, 4.500-4.502, 4.504, 4.504.6-4.504.61, 4.505.2, 4.505.51-4.505.6, 4.505.7, 4.506-4.507, 4.601-4.609.6, 4.702.1-4.702.2, 4.702.4, 4.703, 4.801-4.801.41, 4.802, 4.802.2-4.802.21, 4.802.51, 4.802.61-4.802.62, 4.803, 4.803.2, 4.803.43, 4.803.45, 4.803.5, 4.804.1 eff. 03/15/2019. Rules 4.204.1, 4.209.11, 4.505.62, 4.600 repealed eff. 03/15/2019.

Rule 4.802.63 D.1 emer. rule eff. 07/02/2019.

Rules 4.100, 4.304 B, 4.304.41 C, 4.305 B, 4.309.1, 4.309.31, 4.309.4 A, 4.309.41, 4.401 A, 4.401.1, 4.401.2, 4.405.2, 4.405.2 A.18, 4.407.4 A, 4.407.6, 4.407.6 B.2, 4.410 B, 4.410 J.11, 4.610, 4.701 B, 4.701.2 E.1, 4.801.4 E, 4.801.41 E, 4.802.61-4.802.63, 4.902.1 eff. 10/01/2019.  
Rules 4.100, 4.206 E, 4.207.3, 4.304.4 A, 4.401.1, 4.401.2, 4.404 I, 4.407.1, 4.407.3 B-C, 4.407.31 A.4, 4.407.31 B.3, 4.407.31 C.3, 4.407.31 D.2, 4.603 H, 4.604 E emer. rules eff. 10/01/2019.

Rules 4.309.31 C, 4.309.41 C emer. rules eff. 11/08/2019.

Rules 4.100, 4.206 E, 4.207.3, 4.304.4 A, 4.401.1, 4.401.2, 4.404 I, 4.407.1, 4.407.3 B-C, 4.407.31 A.4, 4.407.31 B.3, 4.407.31 C.3, 4.407.31 D.2, 4.603 H, 4.604 E eff. 12/30/2019.

Rules 4.309.31 C, 4.309.41 C eff. 01/30/2020.

Rules 4.100, 4.310-4.313, 4.504.6, 4.801.2-4.801.5 emer. rules eff. 02/07/2020.

Rules 4.100, 4.310-4.313, 4.504.6, 4.801.2-4.801.5 eff. 04/30/2020.

Rules 4.100, 4.204 A, 4.207.3 D, 4.311, 4.311.3 B, 4.311.3 D.1, 4.312.1, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B-C, 4.407.31 A.4 emer. rules eff. 10/01/2020.

Rules 4.100, 4.204 A, 4.207.3 D, 4.311, 4.311.3 B, 4.311.3 D.1, 4.312.1, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B-C, 4.407.31 A.4 eff. 11/30/2020.

Rules 4.207.3 D, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B, 4.407.3 C, 4.407.31 A.4, 4.407.31 B.3, 4.407.31 C.3, 4.407.31 D.2, 4.408 E emer. rules eff. 10/01/2021.

Rules 4.207.3 D, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B, 4.407.3 C, 4.407.31 A.4, 4.407.31 B.3, 4.407.31 C.3, 4.407.31 D.2, 4.408 E eff. 11/30/2021.

Entire rule eff. 03/30/2022.

Rules 4.000.1, 4.207.3 D, 4.310.3 C.1, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B-C, 4.407.31 A.4, 4.407.31 B.3, 4.407.31 C.3, 4.407.31 D.2, 4.408 E, 4.801.41 D.3, 4.801.41 E.8-9, 4.801.43 A-B.1, 4.802, 4.802.1, 4.802.2 D, 4.802.3 A.1, 4.802.5, 4.802.51, 4.802.61-4.802.63, 4.803.43 A emer. rules eff. 10/01/2022.

Rules 4.901, 4.902.1, 4.902.3, 4.901.31, 4.902.32, 4.902.4, 4.902.5, 4.902.6, 4.903.1, 4.903.2, 4.903.3, 4.903.31, 4.903.32, 4.903.4, 4.903.41, 4.903.42, 4.903.43, 4.903.44 eff. 11/01/2022.

Rules 4.000.1, 4.207.3 D, 4.310.3 C.1, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B-C, 4.407.31 A.4, 4.407.31 B.3, 4.407.31 C.3, 4.407.31 D.2, 4.408 E, 4.801.41 D.3, 4.801.41 E.8-9, 4.801.43 A-B.1, 4.802, 4.802.1, 4.802.2 D, 4.802.3 A.1, 4.802.5, 4.802.51, 4.802.61-4.802.63, 4.803.43 A eff. 11/30/2022.

Rules 4.000.1, 4.202.2, 4.204 A, 4.206 E, 4.207.3 A, 4.209.1 C.1, 4.302 A.3,B.1, 4.304 B.4, 4.304.1 A-C, 4.304.3 B, 4.305 B.2-3, 4.305.2 C,H, 4.305.3 D, 4.306 A-B, 4.306.1, 4.308.1 F, 4.309.41 E, 4.310.3, 4.310.4, 4.310.5 A, 4.310.6 E.2, 4.311.1, 4.311.3 A, 4.401 A, 4.401.1, 4.403 A.1-2, 4.403.12 E.2, 4.405 C, 4.407.31 A.1.b, 4.407.61 A, 4.408 A, 4.500 C, 4.502 B, 4.504, 4.504.5 D,H.3.b, 4.504.6 D.10, 4.504.61 B, repealed 4.505 B, 4.505.6 J, 4.505.61, 4.506, 4.506 C, 4.603 C,G, 4.604 D, 4.609, 4.609.1, 4.609.4, 4.609.6, 4.701, repealed 4.801.4 D.3, 4.801.41 E.3,5, 4.802.2 A.4, 4.802.4 C, 4.803.2 F.1, 4.803.43 B,B.10, 4.803.45 A, 4.803.5 A,C, 4.803.7 C-E, 4.804.1 A, 4.905 eff. 09/30/2023.

Rules 4.000.1, 4.207.3 D, 4.311, 4.311.1, 4.401.1, 4.401.2, 4.407.1, 4.407.3, 4.407.31, 4.408 E emer. rules eff. 10/01/2023.

Rules 4.000.1, 4.207.3 D, 4.311, 4.311.1, 4.401.1, 4.401.2, 4.407.1, 4.407.3, 4.407.31, 4.408 E eff. 11/30/2023.

Rules 4.000.1, 4.140 A, 4.201 G, 4.207.1 B, 4.207.3 A.3, 4.304-4.304.32, 4.311.3 C.2, 4.402 A.2, 4.403 F, 4.403.2 C, 4.407 A, 4.407.2 A, 4.407.4 A.2, 4.505.4, 4.707.9, 4.707.91 eff. 08/30/2024.

Rules 4.000.1, 4.207.3 D, 4.311 A.2, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B-C, 4.407.31, 4.408 E emer. rules eff. 10/01/2024.

Rules 4.000.1, 4.207.3 D, 4.311 A.2, 4.401.1, 4.401.2, 4.407.1, 4.407.3 B-C, 4.407.31, 4.408 E eff. 11/30/2024.