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(2) *Applications for recertification*. The State agency shall provide households that have filed an application by the 15th of the last month of their certification period with either a notice of eligibility or a notice of denial by the end of the current certification period if the household has complied with all recertification requirements. The State agency shall provide households that have received a notice of expiration at the time of certification, and have timely reapplied, with either a notice of eligibility or a notice of denial not later than 30 days after the date of the household's initial opportunity to obtain its last allotment.

[Amdt. 132, 43 FR 47889, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.10, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

§ 273.11 Action on households with special circumstances.

(a) *Self-employment income*. The State agency must calculate a household's self-employment income as follows:

(1) *Averaging self-employment income*. (i) Self-employment income must be averaged over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the State agency must calculate the self-employment income on the basis of anticipated, not prior, earnings.

(ii) If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(iii) Notwithstanding the provisions of paragraphs (a)(1)(i) and (a)(1)(ii) of this section, households subject to monthly reporting and retrospective budgeting who derive their self-employment income from a farming operation and who incur irregular expenses to produce such income have the option to annualize the allowable costs of producing self-employment income from farming when the self-employment farm income is annualized.

(2) *Determining monthly income from self-employment*. (i) For the period of time over which self-employment income is determined, the State agency must add all gross self-employment income (either actual or anticipated, as provided in paragraph (a)(1)(i) of this section) and capital gains (according to paragraph (a)(3) of this section), exclude the costs of producing the self-employment income (as determined in paragraph (a)(4) of this section), and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. The monthly net self-employment income must be added to any other earned income received by the household to determine total monthly earned income.

(ii) If the cost of producing self-employment income exceeds the income derived from self-employment as a farmer (defined for the purposes of this paragraph (a)(2)(ii) as a self-employed farmer who receives or anticipates receiving annual gross proceeds of $1,000 or more from the farming enterprise), such losses must be prorated in accordance with paragraph (a)(1) of this section, and then offset against countable income to the household as follows:

(A) Offset farm self-employment losses first against other self-employment income.

(B) Offset any remaining farm self-employment losses against the total amount of earned and unearned income *after* the earned income deduction has been applied.

(iii) If a State agency determines that a household is eligible based on its monthly net income, the State may elect to offer the household an option to determine the benefit level by using either the same net income which was used to determine eligibility, or by unevenly prorating the household's total net income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received. If income is prorated, the net income assigned in any month cannot exceed the maximum

monthly income eligibility standards for the household's size.

(3) *Capital gains.* The proceeds from the sale of capital goods or equipment must be calculated in the same manner as a capital gain for Federal income tax purposes. Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the State agency must count the full amount of the capital gain as income for SNAP purposes. For households whose self-employment income is calculated on an anticipated (rather than averaged) basis in accordance with paragraph (a)(1) of this section, the State agency must count the amount of capital gains the household anticipates receiving during the months over which the income is being averaged.

(b) *Allowable costs of producing self-employment income.* (1) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor; stock; raw material; seed and fertilizer; payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; and taxes paid on income-producing property.

(2) In determining net self-employment income, the following items are not allowable costs of doing business:

(i) Net losses from previous periods;

(ii) Federal, State, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 20 percent earned income deduction specified in § 273.9(d)(2);

(iii) Depreciation; and

(iv) Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

(3) When calculating the costs of producing self-employment income, State agencies may elect to use actual costs for allowable expenses in accordance with paragraphs (b)(1) and (b)(2) of this section or determine self-employment expenses as follows:

(i) For income from day care, use the current reimbursement amounts used in the Child and Adult Care Food Program or a standard amount based on estimated per-meal costs.

(ii) For income from boarders, other than those in commercial boarding houses or from foster care boarders, use:

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

(B) A flat amount or fixed percentage of the gross income, provided that the method used to determine the flat amount or fixed percentage is objective and justifiable and is stated in the State's SNAP manual.

(iii) For income from foster care boarders, refer to § 273.1(c)(6).

(iv) Use the standard amount the State uses for its TANF program.

(v) Use an amount approved by FNS. State agencies may submit a proposal to FNS for approval to use a simplified self-employment expense calculation method that does not result in increased Program costs. Different methods may be proposed for different types of self-employment. The proposal must include a description of the proposed method, the number and type of households and percent of the caseload affected, and documentation indicating that the proposed procedure will not increase Program costs.

(c) *Treatment of income and resources of certain nonhousehold members.* During the period of time that a household member cannot participate for the reasons addressed in this section, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

(1) *Intentional Program violation, felony drug conviction, or fleeing felon disqualifications, and workfare or work requirement sanctions.* The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible because of a disqualification for an intentional Program violation, a felony drug conviction, their fleeing felon status, noncompliance with a work requirement of § 273.7, imposition of a sanction while they were participating in a household disqualified because of failure to comply with

workfare requirements, or certain convicted felons as provided at § 273.11(s) shall be determined as follows:

(i) *Income, resources, and deductible expenses.* The income and resources of the ineligible household member(s) shall continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions shall continue to apply to the remaining household members.

(ii) *Eligibility and benefit level.* The ineligible member shall not be included when determining the household's size for the purposes of:

(A) Assigning a benefit level to the household;

(B) Assigning a standard deduction to the household;

(C) Comparing the household's monthly income with the income eligibility standards; or

(D) Comparing the household's resources with the resource eligibility limits. The State agency shall ensure that no household's coupon allotment is increased as a result of the exclusion of one or more household members.

(2) *SSN disqualifications, comparable disqualifications, child support disqualifications, and ineligible ABAWDs.* The eligibility and benefit level of any remaining household members of a household containing individuals determined to be ineligible for refusal to obtain or provide an SSN, for meeting the time limit for able-bodied adults without dependents or for being disqualified under paragraphs (k), (o), (p), or (q) of this section shall be determined as follows:

(i) *Resources.* The resources of such ineligible members shall continue to count in their entirety to the remaining household members.

(ii) *Income.* A pro rata share of the income of such ineligible members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the ineligible member's income and dividing the income evenly among the household members, including the ineligible members. All but the ineligible members' share is counted as income for the remaining household members.

(iii) *Deductible expenses.* The 20 percent earned income deduction shall apply to the prorated income earned by such ineligible members which is attributed to their households. That portion of the households' allowable child support payment, shelter and dependent care expenses which are either paid by or billed to the ineligible members shall be divided evenly among the households' members including the ineligible members. All but the ineligible members' share is counted as a deductible child support payment, shelter or dependent care expense for the remaining household members.

(iv) *Eligibility and benefit level.* Such ineligible members shall not be included when determining their households' sizes for the purposes of:

(A) Assigning a benefit level to the household;

(B) Assigning a standard deduction to the household;

(C) Comparing the household's monthly income with the income eligibility standards; or

(D) Comparing the household's resources with the resource eligibility limits.

(3) *Ineligible alien.* The State agency must determine the eligibility and benefit level of any remaining household members of a household containing an ineligible alien as follows:

(i) The State agency must count all or, at the discretion of the State agency, all but a pro rata share, of the ineligible alien's income and deductible expenses and all of the ineligible alien's resources in accordance with paragraphs (c)(1) or (c)(2) of this section. In exercising its discretion under this paragraph (c)(3)(i), the State agency may count all of the alien's income for purposes of applying the gross income test for eligibility purposes while only counting all but a pro rata share to apply the net income test and determine level of benefits. This paragraph (c)(3)(i) does not apply to an alien:

(A) Who is lawfully admitted for permanent residence under the INA;

(B) Who is granted asylum under section 208 of the INA;

(C) Who is admitted as a refugee under section 207 of the INA;

(D) Who is paroled in accordance with section 212(d)(5) of the INA;

(E) Whose deportation or removal has been withheld in accordance with section 243 of the INA;

(F) Who is aged, blind, or disabled in accordance with section 1614(a)(1) of the Social Security Act and is admitted for temporary or permanent residence under section 245A(b)(1) of the INA; or

(G) Who is a special agricultural worker admitted for temporary residence under section 210(a) of the INA.

(ii) For an ineligible alien within a category described in paragraphs (c)(3)(i)(A) through (c)(3)(i)(G) of this section, State agencies may either:

(A) Count all of the ineligible alien's resources and all but a pro rata share of the ineligible alien's income and deductible expenses; or

(B) Count all of the ineligible alien's resources, count none of the ineligible alien's income and deductible expenses, count any money payment (including payments in currency, by check, or electronic transfer) made by the ineligible alien to at least one eligible household member, not deduct as a household expense any otherwise deductible expenses paid by the ineligible alien, but cap the resulting benefit amount for the eligible members at the allotment amount the household would receive if the household member within the one of the categories described in paragraphs (c)(3)(i)(A) through (c)(3)(i)(G) of this section were still an eligible alien. The State agency must elect one State-wide option for determining the eligibility and benefit level of households with members who are aliens within the categories described paragraphs (c)(3)(i)(A) through (c)(3)(i)(G) of this section.

(iii) For an alien who is ineligible under § 273.4(a) because the alien's household indicates inability or unwillingness to provide documentation of the alien's immigration status, the State agency must count all or, at the discretion of the State agency, all but a pro rata share of the ineligible alien's income and deductible expenses and all of the ineligible alien's resources in accordance with paragraphs (c)(1) or (c)(2) of this section. In exercising its discretion under this paragraph (c)(3)(iii), the State agency may count all of the alien's income for purposes of applying the gross income test for eligibility purposes while only counting all but a pro rata to apply the net income test and determine level of benefits.

(iv) The State agency must compute the income of the ineligible aliens using the income definition in § 273.9(b) and the income exclusions in § 273.9(c).

(v) For purposes of this paragraph (c)(3), the State agency must not include the resources and income of the sponsor and the sponsor's spouse in determining the resources and income of an ineligible sponsored alien.

(4) *Reduction or termination of benefits within the certification period.* Whenever an individual is determined ineligible within the household's certification period, the State agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file.

(i) *Excluded for intentional Program violation disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional Program violation, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing. However, a participating household is entitled to a notice of adverse action prior to any action to reduce, suspend or terminate its benefits, if a State agency determines that it contains an individual who was disqualified in another State and is still within the period of disqualification.

(ii) *Disqualified or determined ineligible for reasons other than intentional Program violation.* If a household's benefits are reduced or terminated within the certification period for reasons other than an Intentional Program Violation disqualification, the State agency shall

issue a notice of adverse action in accordance with § 273.13(a)(2) which informs the household of the ineligibility, the reason for the ineligibility, the eligibility and benefit level of the remaining members, and the action the household must take to end the ineligibility.

(d) *Treatment of income and resources of other nonhousehold members.* (1) For all other nonhousehold members defined in § 273.1 (b)(1) and (b)(2) who are not specifically mentioned in paragraph (c) of this section, the income and resources of such individuals shall not be considered available to the household with whom the individual resides. Cash payments from the nonhousehold member to the household will be considered income under the normal income standards set in § 273.9(b). Vendor payments, as defined in § 273.9(c)(1), shall be excluded as income. If the household shares deductible expenses with the nonhousehold 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 expense and only the household's pro rata share deducted.

(2) When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

(i) If the household's share can be identified, the State agency shall count that portion due to the household as earned income.

(ii) If the household's share cannot be identified the State agency shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.

(3) Such nonhousehold members shall not be included when determining the size of the household for the purposes of:

(i) Assigning a benefit level to the household;

(ii) Comparing the household's monthly income with the income eligibility standards; or

(iii) Comparing the household's resources with the resource eligibility limits.

(e) *Residents of drug and alcohol treatment and rehabilitation programs.* (1) Narcotic addicts or alcoholics who regularly participate in publicly operated or private non-profit drug addict or alcoholic treatment and rehabilitation programs (DAA treatment centers) on a resident basis may voluntarily apply for SNAP. Applications must be made through an authorized representative who is employed by the DAA treatment center and designated by the center for that purpose. The State agency may require the household to designate the DAA treatment center as its authorized representative for the purpose of receiving and using an allotment on behalf of the household. Residents must be certified as one-person households unless their children are living with them, in which case their children must be included in the household with the parent.

(2)(i) Prior to certifying any residents for SNAP, the State agency must verify that the DAA treatment center is authorized by FNS as a retailer in accordance with § 278.1(e) of this chapter or that it comes under part B of title XIX of the Public Health Service Act, 42 U.S.C. 300x *et seq.*, (as defined in ''Drug addiction or alcoholic treatment and rehabilitation program'' in § 271.2 of this chapter).

(ii) Except as otherwise provided in this paragraph (e)(2), the State agency must certify residents of DAA treatment centers by using the same provisions that apply to all other households, including, but not limited to, the same rights to notices of adverse action and fair hearings.

(iii) The DAA treatment center must notify the State agency of changes in the household's circumstances as provided in § 273.12(a).

(3) The DAA treatment center must provide the State agency a list of currently participating residents that includes a statement signed by a responsible center official attesting to the validity of the list. The State agency must require submission of the list on either a monthly or semimonthly basis. In addition, the State agency must conduct periodic random on-site

visits to the center to assure the accuracy of the list and that the State agency's records are consistent and up to date.

(4) The State agency may issue allotments on a semimonthly basis to households in DAA treatment centers.

(5) DAA treatment centers may redeem benefits in various ways depending on the State's EBT system design. The designs may include DAA treatment center use of individual household EBT cards at authorized stores, authorization of DAA treatment centers as retailers with EBT access via POS at the center, DAA treatment center use of a center EBT card that is an aggregate of individual household benefits, and other designs. Regardless of the process elected, the State must ensure that the EBT design or DAA treatment center procedures prohibit the DAA treatment center from obtaining more than one-half of the household's allotment prior to the 16th of the month or permit the return of benefits to the household's EBT account through a refund, transfer, or other means. Guidelines for approval of EBT systems are contained in part 274 of this chapter.

(6) When a household leaves the DAA treatment center, the center must perform the following:

(i) Notify the State agency. If possible, the center must provide the household with a change report form to report to the State agency the household's new address and other circumstances after leaving the center and must advise the household to return the form to the appropriate office of the State agency within 10 days. After the household leaves the DAA treatment center, the center can no longer act as the household's authorized representative for certification purposes or for obtaining or using benefits.

(ii) Provide the household with its EBT card if it was in the possession of the DAA treatment center. The DAA treatment center must return to the State agency any EBT card not provided to departing residents by the end of each month.

(iii) If no benefits have been spent on behalf of the individual household, the center must return the full value of any benefits already debited from the household's current monthly allotment back into the household's EBT account at the time the household leaves the center.

(iv) If the benefits have already been debited from the EBT account and any portion spent on behalf of the household, the following procedures must be followed.

(A) If the household leaves prior to the 16th day of the month, the center must ensure that the household has one-half of its monthly benefit allotment remaining in its EBT account unless the State agency issues semimonthly allotments and the second half has not been posted yet.

(B) If the household leaves on or after the 16th day of the month, the State agency, at its option, may require the center to give the household a portion of its allotment. If the center is authorized as a retailer, the State agency may require the center to provide a refund for that amount back to the household's EBT account at the time that the household leaves the center. Under an EBT system where the center has an aggregate EBT card, the State agency may, but is not required to, transfer a portion of the household's monthly allotment from a center's EBT account back to the household's EBT account. In either case, the household, not the center, must be allowed to have sole access to any benefits remaining in the household's EBT account at the time the household leaves the center.

(v) If the household has already left the DAA treatment center, and as a result, the DAA treatment center is unable to return the benefits in accordance with this paragraph (e)(6), the DAA treatment center must advise the State agency, and the State agency must effect the return instead. These procedures are applicable at any time during the month.

(7) The organization or institution shall be responsible for any misrepresentation or intentional Program violation which it knowingly commits in the certification of center residents. As

an authorized representative, the organization or institution must be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The DAA treatment center shall be strictly liable for all losses or misuse of benefits and/or EBT cards held on behalf of resident households and for all overissuances which occur while the households are residents of the DAA treatment center.

(8) The organization or institution authorized by FNS as a retail food store may be penalized or disqualified, as described in § 278.6, if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. The State agency shall promptly notify FNS when it has reason to believe that a DAA treatment center is misusing benefits and/or EBT cards in its possession. However, the State agency shall take no action prior to FNS action against the organization or institution. The State agency shall establish a claim for overissuances of benefits held on behalf of resident clients as stipulated in paragraph (e)(7) of this section if any overissuances are discovered during an investigation or hearing procedure for redemption violations. If FNS disqualifies an organization or institution as an authorized retail food store, the State agency shall suspend its authorized representative status for the same period.

(f) *Residents of a group living arrangement.* (1) Disabled or blind residents of a group living arrangement (GLA) (as defined in § 271.2 of this chapter) may apply either through use of an authorized representative employed and designated by the group living arrangement or on their own behalf or through an authorized representative of their choice. The GLA must determine if a resident may apply on his or her own behalf based on the resident's physical and mental ability to handle his or her own affairs. Some residents of the GLA may apply on their own behalf while other residents of the same GLA may apply through the GLA's representative. Prior to certifying any residents, the State agency must verify that the GLA is authorized by FNS or is certified by the appropriate agency of the State (as defined in § 271.2 of this chapter) including the agency's determination that the center is a nonprofit organization.

(i) If the residents apply on their own behalf, the household size must be in accordance with the definition in § 273.1. The State agency must certify these residents using the same provisions that apply to all other households. If FNS disqualifies the GLA as an authorized retail food store, the State agency must suspend its authorized representative status for the same time; but residents applying on their own behalf will still be able to participate if otherwise eligible.

(ii) If the residents apply through the use of the GLA's authorized representative, their eligibility must be determined as a one-person household.

(2) Each group living arrangement shall provide the State agency with a list of currently participating residents. This list shall include a statement signed by a responsible center official attesting to the validity of the list. The State shall require the list on a periodic basis. In addition, the State agency shall conduct periodic random onsite visits to assure the accuracy of the list and that the State agency's records are consistent and up to date.

(3) The same provisions applicable in § 273.11(e)(3) to residents of treatment centers also apply to blind or disabled residents of group living arrangements when the facility acts as the resident's authorized representative.

(4) If the resident has made application on his/her own behalf, the household is responsible for reporting changes to the State agency as provided in § 273.12(a). If the GLA is acting in the capacity of an authorized representative, the GLA shall notify the State agency, as provided in § 273.12(a), of changes in the household's income or other household circumstances and when the household leaves the GLA.

(5) When the household leaves the facility, the GLA, either acting as an authorized representative or retaining use of the EBT card and benefits on behalf of the residents (regardless of the method of application), shall return the EBT card (if applicable) to the

household. The household, not the GLA, shall have sole access to any benefits remaining in the household's EBT account at the time the household leaves the facility. The State agency must ensure that the EBT design or procedures for GLAs permit the GLA to return unused benefits to the household through a refund, transfer, or other means.

(6) If, at the time the household leaves, no benefits have been spent on behalf of that individual household, the facility must return the full value of any benefits already debited from the household's current monthly allotment back into the household's EBT account. These procedures are applicable at any time during the month. However, if the facility has already debited benefits and spent any portion of them on behalf of the individual, the facility shall do the following:

(i) If the household leaves the GLA prior to the 16th day of the month, the facility shall provide the household with its EBT card (if applicable) and one-half of its monthly benefit allotment. Where a group of residents has been certified as one household and a member of the household leaves the center:

(A) The facility shall return a pro rata share of one-half of the household's benefit allotment to the EBT account and advise the State agency that the individual is entitled to that pro rata share; and

(B) The State agency shall create a new EBT account for the individual, issue a new EBT card and transfer the pro rata share from the original household's EBT account to the departing individual's EBT account. The facility will instruct the individual on how to obtain the new EBT card based on the State agency's card issuance procedures.

(ii) If the household or an individual member of the group household leaves on or after the 16th day of the month and the benefits have already been debited and used, the household or individual does not receive any benefits.

(iii) The GLA shall return to the State agency any EBT cards not provided to departing residents at the end of each month. Also, if the household has already left the facility and as a result, the facility is unable to perform the refund or transfer in accordance with this paragraph (f)(5), the facility must advise the State agency, and the State agency must effect the return or transfer instead.

(iv) Once the resident leaves, the GLA no longer acts as his/her authorized representative. The GLA, if possible, shall provide the household with a change report form to report to the State agency the individual's new address and other circumstances after leaving the GLA and shall advise the household to return the form to the appropriate office of the State agency within 10 days.

(7) The same provisions applicable to DAA treatment centers in paragraphs (e)(7) and (8) of this section also apply to GLAs when acting as an authorized representative. These provisions, however, are not applicable if a resident has applied on his/her own behalf. The resident applying on his/her own behalf shall be responsible for overissuances as would any other household as discussed in § 273.18.

(8) If the residents are certified on their own behalf, the benefits may either be debited by the GLA to be used to purchase meals served either communally or individually to eligible residents or retained by the residents and used to purchase and prepare food for their own consumption. The GLA 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 GLA's service or if meals are prepared at a central location for delivery to the individual residents. If personalized meals are prepared and paid for with SNAP, the GLA must ensure that the resident's SNAP benefits are used for meals intended for that resident.

(g) *Shelters for battered women and children.* (1) Prior to certifying its residents under this paragraph, the State agency shall determine that the shelter for battered women and children meets the definition in § 271.2 and document the basis of this determination. Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition and the State agency is not required to make

any further determination. The State agency may choose to require local project area offices to maintain a list of shelters meeting the definition to facilitate prompt certification of eligible residents following the special procedures outlined below.

(2) Many shelter residents have recently left a household containing the person who has abused them. Their former household may be certified for participation in the Program, and its certification may be based on a household size that includes the women and children who have just left. Shelter residents who are included in such certified households may nevertheless apply for and (if otherwise eligible) participate in the Program as separate households if such certified household which includes them is the household containing the person who subjected them to abuse. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

(3) 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 expenses of their former household. Jointly held resources shall be considered inaccessible in accordance with § 273.8. Room payments to the shelter shall be considered as shelter expenses.

(4) Any shelter residents eligible for expedited service shall be handled in accordance with § 273.2(i).

(5) State agencies must take prompt action to ensure that the former household's eligibility or allotment reflects the change in the household's composition. Such action must include acting on the reported change in accordance with § 273.12 or § 273.21, as appropriate, by issuing a notice of adverse action in accordance with § 273.13.

(h) *Homeless SNAP households.* Homeless SNAP households shall be permitted to use their SNAP benefits to purchase prepared meals from homeless meal providers authorized by FNS under § 278.1(h).

(i) *Prerelease applicants.* A household which consists of a resident or residents of a public institution(s) which applies for SSI under SSA's Prerelease Program for the Institutionalized shall be allowed to apply for SNAP benefits jointly with their application for SSI prior to their release from the institution. Such households shall be certified in accordance with the provisions of § 273.1(e), § 273.2(c), (g), (i), (j) and (k), and § 273.10(a), as appropriate.

(j) *Reduction of public assistance benefits.* If the benefits of a household that is receiving public assistance are reduced under a Federal, State, or local means-tested public assistance program because of the failure of a SNAP household member to perform an action required under the assistance program or for fraud, the State agency shall not increase the household's SNAP allotment as the result of the decrease in income. In addition to prohibiting an increase in SNAP benefits, the State agency may impose a penalty on the household that represents a percentage of the SNAP allotment that does not exceed 25 percent. The 25 percent reduction in SNAP benefits must be based on the amount of SNAP benefits the household should have received under the regular SNAP benefit formula, taking into account its actual (reduced) income. However, under no circumstances can the SNAP benefits be allowed to rise. Reaching a time limit for time-limited benefits, having a child that is not eligible because of a family cap, failing to reapply or complete the application process for continued assistance under the other program, failing to perform an action that the individual is unable to perform as opposed to refusing to perform, or failing to comply with a purely procedural requirement, shall not be considered a failure to perform an action required by an assistance program for purposes of this provision. A procedural requirement, which would not trigger a SNAP sanction, is a step that an individual must take to continue receiving benefits in the assistance program such as submitting a monthly report form or providing verification of circumstances. A substantive requirement, which would trigger a SNAP sanction, is a behavioral requirement in the assistance program designed to improve the well being of the recipient

family, such as participating in job search activities. The State agency shall not apply this provision to individuals who fail to perform a required action at the time the individual initially applies for assistance. The State agency shall not increase SNAP benefits, and may reduce SNAP benefits only if the person is receiving such assistance at the time the reduction in assistance is imposed or the reduction in assistance is imposed at the time of application for continued assistance benefits if there is no break in participation. The individual must be certified for SNAP benefits at the time of the failure to perform a required action for this provision to apply. Assistance benefits shall be considered reduced if they are decreased, suspended, or terminated.

(1) For purposes of this provision a Federal, State or local ''means-tested public assistance program'' shall mean public or general assistance as defined in § 271.2 of this chapter, and is referred to as ''assistance''. This provision must be applied to all applicable cases. If a State agency is not successful in obtaining the necessary cooperation from another Federal, State or local means-tested welfare or public assistance program to enable it to comply with the requirements of this provision, the State agency shall not be held responsible for noncompliance as long as the State agency has made a good faith effort to obtain the information. The State agency, rather than the household, shall be responsible for obtaining information about sanctions from other programs and changes in those sanctions.

(2) The prohibition on increasing SNAP benefits applies for the duration of the reduction in the assistance program. If at any time the State agency can no longer ascertain the amount of the reduction, then the State agency may terminate the SNAP sanction. However, the sanction may not exceed the sanction in the other program. If the sanction is still in effect at the end of one year, the State agency shall review the case to determine if the sanction continues to be appropriate. If, for example, the household is not receiving assistance, it would not be appropriate to continue the sanction. Sanctions extended beyond one year must be reviewed at least annually but may be ended by the State agency at any time. It shall be concurrent with the reduction in the other assistance program to the extent allowed by normal SNAP change processing and notice procedures.

(3) The State agency shall determine how to prevent an increase in SNAP benefits. Among other options, the State agency may increase the assistance grant by a flat percent, not to exceed 25 percent, for all households that fail to perform a required action in lieu of computing an individual amount or percentage for each affected household.

(4) If the allotment of a household is reduced under Title IV-A of the Social Security Act, the State agency may use the same procedures that apply under Title IV-A to prevent an increase in SNAP benefits as the result of the decrease in Title IV-A benefits. For example, the same budgeting procedures and combined notices and hearings may be used, but the SNAP allotment may not be reduced by more than 25 percent.

(5) The State agency must lift the ban on increasing SNAP benefits if it becomes aware that the person has become ineligible for the assistance program during the disqualification period for some other reason, or the person's assistance case is closed.

(6) If an individual moves within the State, the prohibition on increasing SNAP benefits shall be applied to the gaining household unless that person is ineligible for the assistance program for some other reason. If such individual moves to a new State the prohibition on increasing benefits shall not be applied.

(7) The State agency must restore lost benefits when necessary in accordance with § 273.17 if it is later determined that the reduction in the public assistance grant was not appropriate.

(8) The State agency must act on changes which are not related to the assistance violation and that would affect the household's benefits.

(9) The State agency must include in its State Plan of Operations any options it has selected in this paragraph (j).

(k) *Comparable disqualifications.* If a disqualification is imposed on a member of a household for failure to perform an action required under a Federal, State or local means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under SNAP. The program must be authorized by a Federal, State, or local law, but the provision itself does not have to be specified in the law. A State agency may choose to apply this provision to one or more of these programs, and it may select the types of disqualifications within a program that it wants to impose on SNAP recipients. The State agency shall be responsible for obtaining information about sanctions from other programs and changes in those sanctions. In the case of disqualification from the Food Distribution Program on Indian Reservations (FDPIR) for an intentional program violation as described under § 253.8 of this chapter, the State agency shall impose the same disqualification on the member of the household under SNAP. The State agency must, in cooperation with the appropriate FDPIR agency, develop a procedure that ensures that these household members are identified.

(1) For purposes of this section Federal, State or local ''means-tested public assistance program'' shall mean public and general assistance as defined in § 271.2 of this chapter.

(2) The State agency shall not apply this provision to individuals who are disqualified at the time the individual initially applies for assistance benefits. It may apply the provision if the person was receiving such assistance at the time the disqualification in the assistance program was imposed and to disqualifications imposed at the time of application for continued assistance benefits if there is no break in participation with the following exceptions: Reaching a time limit for time-limited benefits, having a child that is not eligible because of a family cap, failing to reapply or complete the application process for continued assistance, failing to perform an action that the individual is unable to perform as opposed to refusing to perform, and failing to perform purely procedural requirements, shall not be considered failures to perform an action required by an assistance program. A procedural requirement, which would not trigger a SNAP sanction, is a step that an individual must take to continue receiving benefits in the assistance program such as submitting a monthly report form or providing verification of circumstances. A substantive requirement, which would trigger a SNAP sanction, is a behavioral requirement in the assistance program designed to improve the well being of the recipient family, such as participating in job search activities. The individual must be receiving SNAP at the time of the disqualification in the assistance program to be disqualified from SNAP under this provision.

(3) The State agency must stop the SNAP disqualification when it becomes aware that the person has become ineligible for assistance for some other reason, or the assistance case is closed.

(4) If a disqualification is imposed for a failure of an individual to perform an action required under a program under Title IV-A of the Social Security Act, the State may use the rules and procedures that apply under the Title IV-A program to impose the same disqualification under SNAP.

(5) Only the individual who committed the violation in the assistance program may be disqualified for SNAP purposes even if the entire assistance unit is disqualified for Title IV-A purposes.

(6) A comparable disqualification for SNAP purposes shall be imposed concurrently with the disqualification in the assistance program to the extent allowed by normal SNAP processing times and notice requirements. The State agency may determine the length of the disqualification, providing that the disqualification does not exceed the disqualification in the other program. If the sanction is still in effect at the end of one year, the State agency shall review the case to determine if the sanction continues to be appropriate. If, for example, the household is not receiving assistance, if would not be appropriate to continue the sanction. Sanctions extended beyond one year must be reviewed at least annually but may be ended by the

State agency at any time. In instances where the disqualification is a reciprocal action based on disqualification from the Food Distribution Program on Indian Reservations, the length of disqualification shall mirror the period prescribed by the Food Distribution Program on Indian Reservations.

(7) If there is a pending disqualification for a SNAP violation and a pending comparable disqualification, they shall be imposed concurrently to the extent appropriate. For example, if the household is disqualified for June for a SNAP violation and an individual is disqualified for June and July for an assistance program violation, the whole household shall be disqualified for June and the individual shall be disqualified for July for SNAP purposes.

(8) The State agency must treat the income and resources of the disqualified individual in accordance with § 273.11(c)(2).

(9) After a disqualification period has expired, the person may apply for SNAP benefits and shall be treated as a new applicant or a new household member, except that a current disqualification based on a SNAP work requirement shall be considered in determining eligibility.

(10) A comparable SNAP disqualification may be imposed in addition to any coupon allotment reductions made in accordance with paragraph (j) of this section.

(11) State agencies shall state in their Plan of Operation if they have elected to apply comparable disqualifications, identify which sanctions in the other programs this provision applies to, and indicate the options and procedures allowed in paragraphs (k)(1), (k)(2), (k)(3), (k)(4), and (k)(10) of this section which they have selected.

(12) The State agency must act on changes which are not related to the assistance violation and that would affect the household's benefits.

(13) The State agency must restore lost benefits when necessary in accordance with 7 CFR 273.17 if it is later determined that the reduction in the public assistance grant was not appropriate.

(l) *School Attendance*. Section 404(i) of Part A of the Social Security Act, 42 U.S.C. 601, *et seq.*, provides that any state receiving a TANF block grant cannot be prohibited from sanctioning a family that includes an adult who has received assistance financed with federal TANF dollars or provided from SNAP if such adult fails to ensure that the minor dependent children of such adult attend school as required by the law of the State in which the minor children reside. Section 404(j) of Part A of the Social Security Act, 42 U.S.C. 601, *et seq.*, provides that States shall not be prohibited from sanctioning a family that includes an adult who is older than 20 and younger than 51 and who has received assistance that is either financed with federal TANF funds or provided through SNAP if such adult does not have, or is not working toward attaining, a secondary school diploma or recognized equivalent. These provisions do not provide independent authority for SNAP sanctions beyond any that may apply through paragraphs (j) and (k) of this section.

(m) *Individuals convicted of drug-related felonies*. An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)) shall not be considered an eligible household member unless the State legislature of the State where the individual is domiciled has enacted legislation exempting individuals domiciled in the State from the above exclusion. If the State legislature has enacted legislation limiting the period of disqualification, the period of ineligibility shall be equal to the length of the period provided under such legislation. Ineligibility under this provision is only limited to convictions based on behavior which occurred after August 22, 1996. The income and resources of individuals subject to disqualification under this paragraph (m) shall be treated in accordance with the procedures at paragraph (c)(1) of this section.

(n) *Fleeing felons and probation or parole violators*. 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 (or in the State of New Jersey, a high misdemeanor) or who are violating a condition of probation or parole under a Federal or State law shall not be considered eligible household members. The income and resources of the ineligible member shall be handled in accordance with (c)(1) of this section.

(1) *Fleeing felon*. An individual determined to be a fleeing felon shall be an ineligible household member. To establish an individual as a fleeing felon, a State agency must verify that an individual is a fleeing felon as provided in paragraph (n)(1)(i) of this section, or a law enforcement official acting in his or her official capacity must have provided the State agency with a felony warrant as provided in paragraph (n)(1)(ii) of this section. The State shall specify in its State plan of operation which fleeing felon test it has adopted as required at § 272.2(d)(1)(xvii) of this chapter.

(i) *Four-part test to establish fleeing felon status*. To establish that an individual is a fleeing felon, the State agency must verify that:

(A) 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 a high misdemeanor under the law of New Jersey;

(B) The individual is aware of, or should reasonably have been able to expect that, the felony warrant has already or would have been issued;

(C) The individual has taken some action to avoid being arrested or jailed; and

(D) The Federal, State, or local law enforcement agency is actively seeking the individual as provided in paragraph (n)(3) of this section.

(ii) *Alternative test to establish fleeing felon status*. Alternatively, a State agency may establish that an individual is a fleeing felon when a Federal, State, or local law enforcement officer acting in his or her official capacity presents an outstanding felony arrest warrant that conforms to one of the following National Crime Information Center Uniform Offense Classification Codes, to the State agency to obtain information on the location of and other information about the individual named in the warrant:

(A) Escape (4901);

(B) Flight to Avoid (prosecution, confinement, etc.) (4902); or

(C) Flight-Escape (4999).

(2) *Probation and parole violator*. An individual determined a parole or probation violator shall not be considered to be an eligible household member. To be considered a probation or parole violator, an impartial party, as designated by the State 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 provided in paragraph (n)(3) of this section.

(3) *Actively seeking*. For the purposes of this paragraph (n), actively seeking is defined as follows:

(i) A Federal, State, or local law enforcement agency informs a State agency that it intends to enforce an outstanding felony warrant or to arrest an individual for a probation or parole violation within 20 days of submitting a request for information about the individual to the State agency;

(ii) A Federal, State, or local law enforcement agency presents a felony arrest warrant as provided in paragraph (n)(1)(ii) of this section; or

(iii) 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 30 days of the date of a request from a State agency about a specific outstanding felony warrant or probation or parole violation.

(4) *Response time*. The State agency shall give the law enforcement agency 20 days to respond to a request for information about the conditions of a felony warrant or a probation or parole violation, and whether the law enforcement agency intends to actively pursue the individual. If the law enforcement

agency does not indicate that it intends to enforce the felony warrant or arrest the individual for the probation or parole violation within 30 days of the date of the State agency's request for information about the warrant, the State agency shall determine that the individual is not a fleeing felon or a probation or parole violator and document the household's case file accordingly. If the law enforcement agency indicates that it does intend to enforce the felony warrant or arrest the individual for the probation or parole violation within 30 days of the date of the State agency's request for information, the State agency will postpone taking any action on the case until the 30-day period has expired. Once the 30-day period has expired, the State agency shall verify with the law enforcement agency whether it has attempted to execute the felony warrant or arrest the probation or parole violator. If it has, the State agency shall take appropriate action to deny an applicant or terminate a participant who has been determined to be a fleeing felon or a probation or parole violator. If the law enforcement agency has not taken any action within 30 days, the State agency shall not consider the individual a fleeing felon or probation or parole violator, shall document the case file accordingly, and take no further action.

(5) *Application processing.* The State agency shall continue to process the application while awaiting verification of fleeing felon or probation or parole violator status. If the State agency is required to act on the case without being able to determine fleeing felon or probation or parole violator status in order to meet the time standards in § 273.2(g) or § 273.2(i)(3), the State agency shall process the application without consideration of the individual's fleeing felon or probation or parole violator status.

(o) *Custodial parent's cooperation with the State Child Support Agency.* For purposes of this provision, a custodial parent is a natural or adoptive parent who lives with his or her child, or other individual who is living with and exercises parental control over a child under the age of 18.

(1) *Option to disqualify custodial parent for failure to cooperate.* At the option of a State agency, subject to paragraphs (o)(2) and (o)(4) of this section, no natural or adoptive parent or, at State agency option, other individual (collectively referred to in this paragraph (o) as ''the individual'') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in SNAP unless the individual cooperates with the agency administering a State Child Support Enforcement Program established under Part D of Title IV of the Social Security Act (42 U.S.C. 651, *et seq.*), hereafter referred to as the State Child Support Agency.

(i) If the State agency chooses to implement paragraph (o)(1) of this section, it must notify all individuals of this requirement in writing at the time of application and reapplication for continued benefits.

(ii) If the State agency chooses to implement paragraph (o)(1) of this section, it must refer all appropriate individuals to the State Child Support Agency.

(iii) If the individual is receiving TANF or Medicaid, or assistance from the State Child Support Agency, and has already been determined to be cooperating, or has been determined to have good cause for not cooperating, then the State agency shall consider the individual to be cooperating for SNAP purposes.

(iv) The individual must cooperate with the State Child Support Agency in establishing paternity of the child, and in establishing, modifying, or enforcing a support order with respect to the child and the individual in accordance with section 454(29) of the Social Security Act (42 U.S.C. 654(29)).

(v) Pursuant to Section 454(29)(E) of the Social Security Act (42 U.S.C. 654(29)(E) the State Child Support Agency will notify the individual and the State agency whether or not it has determined that the individual is cooperating in good faith.

(2) *Claiming good cause for non-cooperation.* Prior to requiring cooperation under paragraph (o)(1) of this section, the State agency will notify the household in writing at initial application and at application for continued benefits of the right to good cause as

an exception to the cooperation requirement and of all the requirements applicable to a good cause determination. Paragraph (o)(1) of this section shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency:

(i) *Circumstances under which cooperation may be ''against the best interests of the child.''* The individual's failure to cooperate is deemed to be for ''good cause'' if:

(A) The individual meets the good cause criteria established under the State program funded under Part A of Title IV or Part D of Title IV of the Social Security Act (42 U.S.C. 601, et seq, or 42 U.S.C. 651, *et seq.*) (whichever agency is authorized to define and determine good cause) for failing to cooperate with the State Child Support Agency; or

(B) Cooperating with the State Child Support Agency would make it more difficult for the individual to escape domestic violence or unfairly penalize the individual who is or has been victimized by such violence, or the individual who is at risk of further domestic violence. For purposes of this provision, the term ''domestic violence'' means the individual or child would be subject to physical acts that result in, or are threatened to result in, physical injury to the individual; sexual abuse; sexual activity involving a dependent child; being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities; threats of, or attempts at physical or sexual abuse; mental abuse; or neglect or deprivation of medical care.

(C) The individual meets any other good cause criteria identified by the State agency. These criteria will be defined in consultation with the Child Support Agency or TANF program, whichever is appropriate, and identified in the State plan according to § 272.2(d) (xiii).

(ii) *Proof of good cause claim.* (A) The State agency will accept as corroborative evidence the same evidence required by Part A of Title IV or Part D of Title IV of the Social Security Act (42 U.S.C. 601, et seq. or 42 U.S.C. 651, *et seq.*) to corroborate a claim of good cause.

(B) The State agency will make a good cause determination based on the corroborative evidence supplied by the individual only after it has examined the evidence and found that it actually verifies the good cause claim.

(iii) *Review by the State Child Support or TANF Agency.* Prior to making a final determination of good cause for refusing to cooperate, the State agency will afford the State Child Support Agency or the agency which administers the program funded under Part A of the Social Security Act the opportunity to review and comment on the findings and the basis for the proposed determination and consider any recommendation from the State Child Support or TANF Agency.

(iv) *Delayed finding of good cause.* The State agency will not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements to furnish corroborative evidence and information. In such cases, the State agency must abide by the normal processing standards according to § 273.2(g).

(3) *Individual disqualification.* If the State agency has elected to implement this provision and determines that the individual has not cooperated without good cause, then that individual shall be ineligible to participate in SNAP. The disqualification shall not apply to the entire household. The income and resources of the disqualified individual shall be handled in accordance with paragraph (c)(2) of this section.

(4) *Fees.* A State electing to implement this provision shall not require the payment of a fee or other cost for services provided under Part D of Title IV of the Social Security Act (42 U.S.C. 651, *et seq.*)

(5) *Terminating the disqualification.* The period of disqualification ends once it has been determined that the individual is cooperating with the State Child Support Agency. The State agency must have procedures in place for re-qualifying such an individual.

(p) *Non-custodial parent's cooperation with child support agencies.* For purposes of this provision, a ''non-custodial parent'' is a putative or identified parent who does not live with his or her child who is under the age of 18.

(1) *Option to disqualify non-custodial parent for refusal to cooperate.* At the option of a State agency, subject to paragraphs (p)(2) and (p)(4) of this section, a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as ''the individual'') shall not be eligible to participate in SNAP if the individual refuses to cooperate with the State agency administering the program established under Part D of Title IV of the Social Security Act (42 U.S.C. 651, *et seq.*), hereafter referred to as the State Child Support Agency, in establishing the paternity of the child (if the child is born out of wedlock); and in providing support for the child.

(i) If the State agency chooses to implement paragraph (p)(1) of this section, it must notify all individuals in writing of this requirement at the time of application and reapplication for continued benefits.

(ii) If the individual is receiving TANF, Medicaid, or assistance from the State Child Support Agency, and has already been determined to be cooperating, or has been determined to have good cause for not cooperating, then the State agency shall consider the individual is cooperating for SNAP purposes.

(iii) If the State agency chooses to implement paragraph (p)(1) of this section, it must refer all appropriate individuals to the State Child Support Agency established under Part D of Title IV of the Social Security Act (42 U.S.C. 651, *et seq.*).

(iv) The individual must cooperate with the State Child Support Agency in establishing the paternity of the child (if the child is born out of wedlock), and in providing support for the child.

(v) Pursuant to Section 454(29)(E) of the Social Security Act (42 U.S.C. 654(29)(E)), the State Child Support Agency will notify the individual and the State agency whether or not it has determined that the individual is cooperating in good faith.

(2) *Determining refusal to cooperate.* If the State Child Support Agency determines that the individual is not cooperating in good faith, then the State agency will determine whether the non-cooperation constitutes a refusal to cooperate. Refusal to cooperate is when an individual has demonstrated an unwillingness to cooperate as opposed to an inability to cooperate.

(3) *Individual disqualification.* If the State agency determines that the non-custodial parent has refused to cooperate, then that individual shall be ineligible to participate in SNAP. The disqualification shall not apply to the entire household. The income and resources of the disqualified individual shall be handled according to paragraph (c)(2) of this section.

(4) *Fees.* A State electing to implement this provision shall not require the payment of a fee or other cost for services provided under Part D of Title IV of the Social Security Act (42 U.S.C. 651, *et seq.*)

(5) *Privacy.* The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under Part D of Title IV of the Social Security Act (42 U.S.C. 651, *et seq.*) to purposes for which the information is collected.

(6) *Termination of disqualification.* The period of disqualification ends once it has been determined that the individual is cooperating with the child support agency. The State agency must have procedures in place for re-qualifying such an individual.

(q) *Disqualification for child support arrears*—(1) *Option to disqualify.* At the option of a State agency, no individual shall be eligible to participate in SNAP as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual. The State agency may opt to apply this provision to only non-custodial parents.

(2) *Exceptions.* A disqualification under paragraph (q)(1) of this section shall not apply if:

(i) A court is allowing the individual to delay payment;

(ii) The individual is complying with a payment plan approved by a court or the State agency designated under Part D of Title IV of the Social Security Act (42 U.S.C., 651 *et seq.*) to provide support of a child of the individual; or

(iii) The State agency determines the individual has good cause for non-support.

(3) *Individual disqualification*. If the State agency has elected to implement this provision and determines that the individual should be disqualified for child support arrears, then that individual shall be ineligible to participate in SNAP. The disqualification shall not apply to the entire household. The income and resources of the disqualified individual shall be handled according to paragraph (c)(2) of this section.

(4) *Collecting claims*. State agencies shall initiate collection action as provided for in § 273.18 for any month a household member is disqualified for child support arrears by sending the household a written demand letter which informs the household of the amount owed, the reason for the claim and how the household may pay the claim. The household should also be informed as to the adjusted amount of income, resources, and deductible expenses of the remaining members of the household for the month(s) a member is disqualified for child support arrears.

(r) *Disqualification for Substantial Lottery or Gambling Winnings*. Any household certified to receive benefits shall lose eligibility for benefits immediately upon receipt by any individual in the household of substantial lottery or gambling winnings, as defined in paragraph (r)(2) of this section. The household shall report the receipt of substantial winnings to the State agency in accordance with the reporting requirements contained in § 273.12(a)(5)(iii)(G)(3) and within the time-frames described in § 273.12(a)(2). The State agency shall also take action to disqualify any household identified as including a member with substantial winnings in accordance with § 272.17.

(1) *Regaining Eligibility*. Such households shall remain ineligible until they meet the allowable resources and income eligibility requirements described in §§ 273.8 and 273.9, respectively.

(2) *Substantial Winnings*—(i) *In General*. Substantial lottery or gambling winnings are defined as a cash prize equal to or greater than the maximum allowable financial resource limit for elderly or disabled households as defined in § 273.8(b) won in a single game before taxes or other withholdings. For the purposes of this provision, the resource limit defined in § 273.8(b) applies to all households, including non-elderly/disabled households, with substantial lottery and gambling winnings. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the SNAP household would be counted in the eligibility determination.

(ii) *Adjustment*. The value of substantial winnings shall be adjusted annually in accordance with § 273.8(b)(1) and (2).

(s) *Disqualification for certain convicted felons*. An individual shall not be eligible for SNAP benefits if:

(1) The individual is convicted as an adult of:

(i) Aggravated sexual abuse under section 2241 of title 18, United States Code;

(ii) Murder under section 1111 of title 18, United States Code;

(iii) An offense under chapter 110 of title 18, United States Code;

(iv) 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

(v) An offense under State law determined by the Attorney General to be substantially similar to an offense described in clause (i), (ii), or (iii); and

(2) The individual is not in compliance with the terms of the sentence of the individual or the restrictions under § 273.11(n).

(3) The disqualification contained in this paragraph (s) shall not apply to a conviction if the conviction is for conduct occurring on or before February 7, 2014.

[Amdt. 132, 43 FR 47889, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.