

**DEPARTMENT OF SOCIAL SERVICES**

FOOD STAMPS

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Matthew Crispino
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Program Development Division
Food and Nutrition Services, USDA
3101 Park Center Drive, Room 800
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Dear Mr. Crispino:

Thank you for the opportunity to comment on the April 16, 2004 proposed rule, Eligibility and Certification Provisions of the Farm Security and Rural Investment Act of 2002. Generally we agree on all of the proposals. The information was well written and a good summary. Our specific comments are:

Partial Restoration of Benefits to Legal Immigrants – 7 CFR 273.4:

The rule has conflicting language. Page 20740 states "Section 4401 extends eligibility for the Food Stamp Program to *qualified aliens* who meet the definition of disabled". Further discussion states all qualified aliens legally residing in the U.S. (The language is the same for under age 18 and disabled individuals.) 7 CFR 273.4 (a)(5)(ii)(H) and (J) also states lawfully residing. The conflict is that an individual must be permanently residing in the U.S. to be a qualified alien but this rule only states legally residing. If the individual only has to be a lawful resident, the qualified alien definition should not be used. If the individual must meet qualified alien definitions, then the language stating lawfully residing should be changed to lawful permanent resident.

Simplified Definition of Income – 7 CFR 273.9(c):

I believe Congress' intent was to allow for programs' coordination of regulations so that the rules would be less complex for recipients to understand and States to administer. This proposed rule is so restrictive in what can be allowed as excluded income and what cannot be that it defeats Congressional intent. I agree that States should define what types of income they would like to see excluded for multiple programs but also think the rule should list types of income that are allowed. Based on the restrictions listed in the proposed rule, I believe it would be difficult task to do and the list would be very short. In South Dakota, our TANF and Medical program's excluded income list is very conservative and we have excluded all income allowed to meet their definitions so this isn't a major issue for us, at this time. However, it certainly could be an issue for other States where TANF's excluded income list is more extensive. I would like to see the rule restrict only the income types specifically identified in the law. I do agree that programs that do not evaluate financial circumstances of adults should not be included in this rule but that is the only equitable determination that I think FNS should use for this exclusion. All other excluded income should be allowed to follow TANF and Medical excluded income rules.

Plan of Operation – 7 CFR 237.2:

I don't see the significance of having to identify specific information (such as income exclusions) in the State Plan. States submit all their policy and rule changes to Food & Nutrition Services' Regional offices so the information is readily available. The State should be allowed to generally state which options they have adopted and if more specifics are required, Regional FNS offices can provide the information. To have States repeat the specific details in the State Plan is an unnecessary administrative time burden and frankly, States do not have the time to repeat the information already provided. It would also be beneficial if the Nutrition Plan and Disaster Plans do not need to be sent in each year with the State Plan. A general statement that the plan is unchanged, or an amended plan was submitted on such & such date should suffice. Having to reproduce documents that the Regional FNS office already has is a waste of time.

Child Support Payments – 7 CFR 273.9(c) and (d):

I do not understand why State agencies must get a specific signed statement authorizing release of child support payment information. We currently do not have a specific release and currently use CSE child support information in the verification process. We do get a general release signed by all adult recipients that allows the State to verify information needed to determine eligibility and benefit amounts, which I presume would be sufficient. If not, why not? This certainly adds an unneeded step and is in direct opposition to the proposal to simplify procedures for States and recipients.

Simplified Standard Utility Allowance - 7 CFR 273.9(d)(6)(iii):

The Department issued guidance to States mandating a full utility allowance deduction if an ineligible member of the household shared the utility cost. We followed the requirements, updated computer programming, and changed manual material. It is absurd to now state the rule could be changed based on the number of comments received on this issue. If FNS reverses its guidance and required proration of the SUA based on the comments, it would be confusing for staff and result in a loss of benefits to households. It would be a detriment to States who correctly followed the guidance and implemented the change. I propose that FNS guidance be followed and the States that are prorating the SUA change their procedures. If that is not acceptable, then I propose that proration of SUA be an option that States may implement. Do not change the rules, however, for States who followed FNS guidance and intent.

Also, not mentioned in the proposed rules were ineligible students. It is confusing to allow the entire utility allowance for all ineligible members except students. Ineligible members should include all individuals who reside in the household and purchase and prepare food together but who are excluded from participation based on rules. This would simplify the rule and be a positive benefit for recipients.

Thank you for considering our comments. If you need more clarification, please feel free to contact me.

Sincerely,

Judy Toelle,
Administrator