



United States Department of Agriculture  
Food and Nutrition Service

Western Region

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Reply to  
Attn of: FSP – Administrative Notice 03-16                      February 25, 2003      FS-2-GEN

Subject: Clarification of Farm Bill Provisions --Questions and Answers #2

To: ALL WESTERN REGION FOOD STAMP PROGRAM COORDINATORS

Attached are some additional questions and answers in response to issues raised by States since the issuance of our August 1, 2002, memo clarifying the certification provisions of the Farm Security and Rural Investment Act of 2002, Public Law 107-171, (Farm Bill), which was enacted on May 13, 2002.

If you have any questions, please contact your State desk team.

Original signed by

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## **Section 4102 – Simplified Definition of Income (effective October 1, 2002)**

**Question 4102-6:** Can a State agency exclude work/study income under Section 5(d)(16) of the Food Stamp Act?

**Answer:** Yes.

## **Section 4104 – Simplified Utility Allowances (effective October 1, 2002)**

**Question 4104-7:** Suppose a State agency has a mandatory SUA. Does this new provision require the State agency to mandate the SUA for households that live in public housing and that are billed only for excess usage?

**Answer:** Yes, these households are entitled to an SUA if the state has a mandatory SUA.

## **Section 4109 - State Option to Reduce Reporting Requirements (effective October 1, 2002)**

**Question 4109-13:** In the first set of Q's and A's, answer 4109-10 said that a household with an ABAWD must report "a decrease in hours worked below 20 hours weekly." There is no other requirement to report changes in ABAWD status.

The answer went on to say that if the only child turns 18 (thus making the child's parents ABAWDs) the household is not required to report this "because the household has not been advised of its ABAWD reporting requirements. However, this does not apply to situations in which ABAWDs are improperly informed about their reporting requirements."

Was it correct to say that the household does not have to report this change because it had not been notified of its ABAWD reporting requirements?

**Answer:** No. The real reason is simply that the regulations (7 CFR 273.12(a)(1)(viii)) do not require a household to report all changes in ABAWD status, only a decrease in hours worked below 20 hours weekly. Please also see the next question.

**Question 4109-14:** Please compare this answer to answer 4109-4 from the first set of questions and answers. Can a state agency use simplified reporting for:

- Migrant or seasonal farmworkers, and
- Homeless households?

The Food Stamp Act excludes these households from periodic reporting (Section 6(c)(1)(A)).

**Answer:** A state agency can use part of simplified reporting with these households, but must not use another part.

- A state agency **may** impose simplified reporting so that a migrant or homeless household is only required to report:
  - When total gross income rises above the gross income limit, and
  - When an ABAWD's weekly work hours drop below 20.
- A state agency **must not** require such a household to submit a periodic report; the Food Stamp Act forbids periodic reporting for these households.

Therefore, if a state agency gives such a household the simplified reporting requirement, the state agency must also give the household a certification period of four, five, or six months – no more and no less. Please also see question 4109-15.

**Question 4109-15:** Please see question 4109-14. The same provision of the Food Stamp Act excludes a household from periodic reporting if the household has no earned income and all of its adult members are elderly or disabled. Can a state agency use simplified reporting for these households?

**Answer:** While it would be technically possible, there is no point in doing so and we strongly discourage it.

These households are eligible for certification periods up to two years long. Further, these households have very few, if any, changes to report in their circumstances. Under simplified reporting, they would have to be recertified at least every six months because the Food Stamp Act does not allow a state to require interim reporting for these households. This would actually increase the burden on these households and would make it more difficult for them to participate in the Food Stamp Program.

**Question 4109-16:** Suppose a household reports that its income has risen above the gross income limit, or voluntarily reports another adverse change, like an increase in income or a decrease in expenses. Can a state agency require the household to verify the change and delay putting the change into effect until verification is received?

**Answer:** No. In these situations further verification is not necessary. However, under the simplified reporting regulations (7 CFR 273.12(a)(1)(vii)(A)) the state agency would only process an adverse change when:

- It acted on the change for PA or jointly-processed GA;
- The change was verified upon receipt;
- The household asked that the state close the case;
- Household income rises above 130 of the income poverty guideline.

If one of those circumstances applies, the ordinary change-processing regulations require a state agency to process the change without verification (7 CFR 273.12(c)(2)).

For instances when food stamp benefits would rise, please see Question 4109-17. For instances when information is unclear, please see Question 4109-18.

**Question 4109-17:** Suppose a household reports that its income has fallen, or some other change that would raise the allotment. Can a state agency require the household to verify the change and delay putting the change into effect until verification is received?

**Answer:** Yes. Actually, the State agency must verify the change in accordance with 7 CFR 273.12(c)(1)(iii). This provision requires verification no later than the issuance of the second normal monthly allotment after the change is reported. The State agency should apprise the household that it may get a higher allotment if it verifies the change. Please also see questions 4109-16 and 4109-18.

**Question 4109-18:** Please see questions 4109-17. When the household reports a change that would raise benefits, but does not simultaneously submit verification, is a Request for Contact (RFC) appropriate, or should the state agency just ask for verification?

**Answer:** The State agency has two choices:

- Just ask for verification. If the household fails to respond, keep the benefits at the current level. This is the more efficient of the two choices, since no further action is required by the State agency. It also ensures that the household continues to participate and receives a larger allotment when it verifies the change.
- Send a Request for Contact (RFC) (273.12(c)(3)). The disadvantage of using the RFC is that it can lead to termination. It will not make sense, in most circumstances, to terminate a household for failing to verify a change that would increase its food stamp allotment.

**Question 4109-19:** A household participates in simplified reporting. Therefore, the household does not have to report changes in household size. Suppose a member leaves one household and becomes a member of another certified household that is required to report changes in household composition. What must the state agency do?

**Answer:** Please remember that:

- Losing a member does not necessarily mean a decrease in food stamps (the departing member may have had income) and
- Gaining a member does not necessarily mean an increase in food stamps (for the same reason).

Having said that, this would be the appropriate procedure:

- Remove the person from the losing household. This may require a Notice of Adverse Action.
- Add the person to the gaining household.
  - This may require a Notice of Adverse Action.
  - This cannot become effective until the removal from the losing household becomes effective.

Please also see question 4109-21.

**Question 4109-20:** Please see question 4109-19. Suppose that the situation in 4109-19 occurred, except that neither household reported a change in household composition.

- The losing household was not required to do so because of simplified reporting.
- The gaining household just didn't report.

Would either household be overissued or underissued, and would a claim be appropriate?

**Answer:** Let's take this in three parts:

- The effect on the losing household's food stamps
- The effect on the gaining household's food stamps

- Claims.

**First,** let's consider the losing household, which is not required to report changes in household composition. There can be no over or underissuance because the household was not required to report the change.

**Second,** the gaining household, which is required to report changes in household composition:

- Calculate the benefit that the gaining household would have received, considering the new member's circumstances
- Determine the first month in which the benefit would have changed, taking into account the extra time that will elapse if a Notice of Adverse Action is required.
- If the calculated benefit would be lower, the gaining household was overissued.
- If the calculated benefit would be higher, the gaining household was underissued. However, there would be no restored benefits because the household caused the underissuance (273.17(a)(1)).

**Third,** the possibility of a claim.

- For the losing household there can be no claim. This household met all of its reporting requirements.
- For the gaining household a claim is appropriate if there was an overissuance,

## **Section 4115 – Transitional Food Stamps for Families Moving from Welfare (effective October 1, 2002)**

**Question 4115-8:** Suppose a household contains TANF clients who are leaving cash TANF and also non-TANF members. May a State agency provide transitional food stamps to a mixed household?

**Answer:** Yes.

**Question 4115-9:** Suppose a household is somewhere in its transitional period and asks to be recertified. What timeframes must the State agency follow when it recertifies the household?

**Answer:** Until FNS publishes final regulations, the State agency may design its own timeframes. However, we recommend that the State agency follow the current regulatory timeframes for recertification. These timeframes (at 7 CFR 273.14 (c)(2)) would start the new certification period on the first day of the month that occurs more than fifteen days after the household reapplies.

A longer period, such as 30 days, could mean that a household could participate under transitional food stamps for two months after asking for a recertification. Such a long period of time can have a seriously adverse impact on the household's food budget.

**Question 4115-10:** Suppose the State agency discovers, during the transitional period, that a member of the household has done something that would cause disqualification. Must the State agency remove the household from transitional food stamps?

**Answer:** No, although the State agency may do so if it chooses.

**Question 4115-11:** Suppose a household is leaving TANF and is entitled to transitional food stamps. Suppose further that the State agency does not authorize Transitional food stamps on time. What should the State agency do?

**Answer:** FNS recommends:

- Authorizing transitional food stamps as soon as the State agency discovers its mistake, and
- Restoring any benefits that the household may have already lost as a result of the State agency's failure to follow its own policy.

However, until FNS publishes final regulations, a State agency may choose to correct its mistake in any reasonable way.

**Question 4115-12:** Suppose TANF is ending and the household reports other changes. Can the State agency make those other changes and then freeze the allotment?

**Answer:** The State agency can choose:

- To subtract TANF and freeze, or
- To subtract TANF, make other changes based on information from another program, and then freeze.

It is the State agency's decision as to what constitutes *another program*. It may be that the State agency considers TANF to be another program, even though the household is leaving TANF. Or, the State agency may consider the other program to be Medical Assistance or Child Care, and omit TANF.

**Question 4115-13:** A household is leaving TANF. The household also reports another change in circumstances. What are the possible courses of action?

**Answer:** The state agency would already have chosen, for all households that enter transitional benefits, how it would freeze the allotment. The two choices are:

- Subtract the TANF grant and then freeze the food stamp allotment
- Subtract the TANF grant, make other changes based on information from another program, and then freeze the allotment.

Then, when a particular household leaves TANF, that household must either:

- Accept the frozen allotment, or
- Reapply.

At any time during the transitional period, the household could decide to reapply and receive a regular food stamp allotment.