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Food Stamp Basis of Issuance and Allotment Reduction

Secs. 17-12a-1—17-12a-2.

Repealed, December 21, 1990.

Secs. 17-12a-3—17-12a-14. Reserved

Sec. 17-12a-15. Disclosure of and access to information contained in food stamp case records

(a) General

Use and/or disclosure of information obtained from Food Stamp households is restricted to certain individuals, and agencies.

(b) Access to Information

(1) Access to information used in the determination of eligibility and benefit levels of individuals and households applying for or receiving food stamps is limited by Federal regulation to:

(A) persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations;

(B) persons administering other Federal assistance programs;

(C) persons administering Federally assisted State programs which provide assistance on a means-tested basis to low income individuals such as Aid to Families with Dependent Children, Supplemental Security Income, and Medicaid;

(D) employees of the Comptroller General's Office of the United States for audit examination authorized by any provision of law;

(E) local, State or Federal law enforcement officials, upon their written request for the purposes of investigating an alleged violation of the Food Stamp Act or regulations.

(F) households applying for or receiving Food Stamp benefits, their Authorized Representative, or an individual acting on behalf of the household, upon their written request.

(2) Law enforcement officials and household members, prior to the case review, or obtaining information must submit a written request to the Department of Income Maintenance representative.

(A) A written request received from law enforcement officials must include:

(i) the identity of the individual requesting the information; and

(ii) the authority to do so; and

(iii) the violation being investigated; and

(iv) the identity of the person on whom the information is requested.

(B) The written request submitted by head of household, the household's authorized representative, or an individual acting on behalf of the household must include:

(i) name of the person making the request; and

(ii) date of request; and

(iii) reason for the request; and

(iv) signature of the head of household or its authorized representative.

(3) The food stamp case record is available for inspection during normal business hours.

(4) The Department of Income Maintenance can withhold confidential information such as:

(A) the names of individuals who have disclosed information about the household without the household's knowledge; or

(B) the nature or status of pending criminal prosecutions.

(Effective June 2, 1986)

Sec. 17-12a-16.

Repealed, December 21, 1990.

Sec. 17-12a-17. Maximum income limitations – clarification of age 60 in the food stamp program

(a) General Statement

Households applying for or receiving Food Stamp benefits must have income below an established maximum level as a factor of eligibility. The maximum income limitations are established by Federal Regulation.

(b) Definitions

(1) Gross Income

For the purposes of this section, gross income is considered to be all countable income received by a household during the month with no deductions.

(2) Net Income

For the purposes of this section, net income means the total of non-excluded earned and unearned income minus all allowable deductions.

(3) Age 60

For the purposes of this section an individual is considered to be 60 years of age on the first of the month in which the 60th birthday occurs.

(c) Maximum Income Limitations

The monthly income of households applying for or receiving Food Stamp benefits may not exceed limitations established by Federal Regulation.

Households with income in excess of the limitations are ineligible to participate in the program. The income limitation is specified in either the Gross Income or Net Income Table. The selection of the appropriate table is based on household circumstances.

(1) Gross Income Table

The Gross Income Table is used when the household does not contain any members:

(A) 60 years of age or older;

(B) blind or disabled receiving income under Title II of the Social Security Act;

(C) who are veterans, their spouses or surviving children receiving Veterans Disability benefits under Title 38 of the United States Code;

(D) with income from Supplemental Security Income.

(2) Net Income Table

The Net Income Table is used when the household contains one or more of the following:

(A) members 60 years of age or older;

(B) members who are blind or disabled receiving income under Title II of the Social Security Act;

(C) Veterans, their spouses or surviving children receiving Veterans Disability benefits under Title 38 of the United States Code.

(D) Members with income from Supplemental Security Income.

(Effective June 3, 1986)

Sec. 17-12a-18. Household cooperation

(a) General

As a condition of eligibility households are required to cooperate in the initial application process, in reviews generated by reported changes, in redeterminations and in Quality Control reviews.

(b) Definition

Quality Control annual review period is the twelve month period from October 1st of each calendar year through September 30th of the following calendar year.

(1) At Intake

(A) Households are responsible for cooperating with the Department of Income Maintenance in completing the application process. The application form must be:

(i) fully completed and signed; and

(ii) a responsible household member or authorized representative must be interviewed; and

(iii) certain information must be verified.

(B) An application is denied when a household refuses to cooperate with the Department of Income Maintenance. It must be clearly shown that the household has not taken the necessary steps to complete the application process in order for the household to be denied for refusal to cooperate.

(2) Reported Changes and Redetermination

(A) A household is determined ineligible if it refuses to cooperate with any subsequent review of eligibility including reviews generated by reported changes and redeterminations.

(i) Once denied or terminated for refusing to cooperate, the household can reapply. Ineligibility continues until the household cooperates.

(3) Quality Control Review

(A) A household is ineligible for Food Stamp benefits if it refuses to cooperate in a Quality Control review of eligibility. If a household is terminated for refusal to cooperate with a Quality Control reviewer ineligibility continues until it cooperates, or until 95 days after the end of the annual review period, whichever is first.

(B) If a reapplication is filed 95 days after the end of annual review period, noncooperation is no longer a factor of eligibility and the household's benefits are not denied as a result of its refusal to cooperate with Quality Control. Verifications of all eligibility factors is required at the time of reapplication.

(Effective June 2, 1986)

Secs. 17-12a-19—17-12a-21. Reserved**Sec. 17-12a-22. Duplicate participation****(a) General Statement**

The Department of Income Maintenance has the responsibility to detect and terminate instances of duplicate participation.

(b) Definition**Duplicate Participation**

Households or individuals receiving Food Stamp Benefits in two or more cases during the same issuance month.

(c) Prohibition Against Duplicate Participation

Households and individuals are prohibited from participating in the Food Stamp program as eligible members of two or more cases during the same issuance month.

(Effective June 3, 1986)

Sec. 17-12a-23. Reserved**Sec. 17-12a-24. Restoration of lost food stamp benefits to public assistance and non-public assistance households****(a) General**

Food Stamp benefits are restored for not more than twelve months when a judicial action has found benefits to be wrongfully withheld, an agency error occurs, or an administrative disqualification for an intentional program violation is reversed.

(b) Definitions**(1) Allotment**

An allotment is the total value of coupons a household is authorized to receive.

(2) Agency error

For the purposes of this section an agency error is one in which the Department of Income Maintenance causes an overissuance by failing to take prompt action on a reported change or by taking an incorrect action.

(3) Judicial Ruling

A judicial ruling is a Federal or a State Court mandate which issues a prescribed course of action that must be taken by the Department of Income Maintenance.

(4) Lost Benefits

Lost benefits are benefits to which the household is entitled but are not received.

(5) Offsetting

For the purposes of this section, offsetting is a method by which the Department of Income Maintenance recovers an overissuance by deducting the amount of the overissuance from an entitlement to lost benefits.

(6) Restored Benefits

Restored benefits are benefits issued to replace a loss which occurred during a period when the household was determined to be eligible participate in the food stamp program or to correct an allotment which was less than the amount to which the household was entitled.

(7) Retroactive Benefits

Retroactive benefits are benefits issued for the month in which an application is filed when the eligibility determination is completed in a subsequent month.

(c) Entitlement to Restoration of Lost Benefits

A household is entitled to restoration of lost benefits for not more than twelve months when:

(1) federal regulations specify that households are entitled to restored benefits; or

(2) a judicial ruling has found benefits to be wrongfully withheld; or

(3) an administrative disqualification for an intentional program violation is reversed; or

(4) an agency error has occurred.

(d) Restoring Lost Benefits

(1) Before taking action to restore benefits, the Department of Income Maintenance determines whether the household has received an overissuance during the same period, and whether the household has received any other documented overissuances. If so, the Department of Income Maintenance offsets the amount of the overissuance against that of the underissuance.

(2) If the amount of the underissuance exceeds that of the overissuance, the Department of Income Maintenance takes immediate action to restore those benefits. Benefits are restored regardless of whether the household is currently eligible or ineligible.

(A) Agency Error

Benefits lost as a result of an agency error are restored for not more than twelve months prior to whichever of the following dates occur first:

(i) the date the Department of Income Maintenance receives a request for restored benefits from the household; or

(ii) the date the Department of Income Maintenance is notified or otherwise discovers that a loss to the household has occurred.

(B) Judicial/Court Ruling

(i) Benefits which are found by any judicial ruling to be wrongfully withheld are restored for not more than twelve months from the date the court action is initiated if this is the first action taken by the household to obtain restoration of lost benefits.

(ii) When the judicial ruling is a review of a Department of Income Maintenance's action, benefits are restored for not more than twelve months from:

(aa) the date the Department of Income Maintenance receives a request for restored benefits; or

(bb) if no request for restored benefits is received, the date the fair hearing process is initiated; but

(cc) never more than one year from when the Department of Income Maintenance is notified of, or discovers the loss.

(C) Reversal of Disqualification for an Intentional Program Violated

(i) Household members who are disqualified for intentional program violations are entitled to those benefits which were lost during the months of disqualification if the decision which resulted in disqualification is reversed in a separate court action by a court of appropriate jurisdiction.

(ii) Benefits are restored for not more than twelve months prior to:

(aa) the date the Department of Income Maintenance receives a request for restored benefits from the household; or

(bb) the date the Department of Income Maintenance is notified or otherwise discovers that a loss to the household has occurred.

(e) Eligibility Determination

(1) An eligibility determination is completed for each month affected by the loss. If the food stamp record does not contain documentation that the household was eligible, the household is advised of:

(A) what information must be provided; and

(B) what months this information is needed for; and

(C) the requested information must be received in ten working days.

(2) The household is considered ineligible for each month for which it has not provided the information requested.

(f) Method of Restoration

(1) An allotment equal to the amount of lost benefits is issued after it has been established that a household is due restored benefits.

(2) The amount to be restored is equal to the difference between the amount received by the household and the amount to which the household was entitled less any benefits recouped through the offset method.

(3) The amount restored is issued in addition to the household's current entitlement.

(4) The Department of Income Maintenance will honor a reasonable request to have benefits issued in partial installments if:

(A) the household has reason to believe the allotment may be stolen; or

(B) the amount to be restored is more than the household can use in a reasonable period of time.

(g) Benefit Computation

After correcting the loss for future issuances and excluding those months for which benefits are lost prior to the twelve month time limit, the months affected by the loss are computed as follows:

(1) For an:

(A) incorrect allotment, benefits are restored only for those months the household participated;

(B) incorrect denial, benefits are restored from the month of initial application;

(C) incorrect delay, benefits are restored in accordance with the appropriate Section of the Food Stamp Handbook.

(D) incorrect termination, benefits are restored the first month they were not received as a result of the erroneous termination;

(E) eligible household filing a timely reapplication, benefits are restored the month following the expiration of its certification period.

(h) Changes in Household Composition

(1) If the household composition has changed, the Department of Income Maintenance issues restored benefits to the household containing the majority of the members who were household members at the time the loss occurred.

(2) If the Department of Income Maintenance is unable to locate or identify such unit, the Department of Income Maintenance restores benefits to the household containing the head of the household at the time the loss occurred.

(i) Notification Requirements

The household is provided written notification of its entitlement to restored benefits. The notification advises the household of:

(1) its entitlement; and

(2) the amount of benefits to be restored; and

(3) any offsetting that was used; and

(4) the method of restoration; and

(5) its right to request a fair hearing.

(j) Fair Hearing Requests

(1) When the household disagrees with either the amount of benefits to be restored as calculated by the Department of Income Maintenance or any other action taken by the Department of Income Maintenance to restore lost benefits, a fair hearing can be requested within 90 days of date notification is received.

(2) If a household requests restoration of lost benefits, but after review of the Food Stamp record, the request is denied the household has 90 days from the date of the denial to request a fair hearing.

(3) When a fair hearing is requested before or during the period lost benefits are restored, the household receives the benefits the Department of Income Maintenance determines it is entitled to until the fair hearing decision is rendered.

(k) Offsetting

(1) When a claim against a household is terminated as uncollectible or suspended, the amount to be restored is offset by the amount due on the claim before the balance, if any, is restored to the household. There is no time limit on claims which are subject to the offsetting process.

(2) Offsetting is Used:

(A) for any claim amount when a claim has been terminated as uncollectible or held in suspense; or

(B) when a claim against a household is the result of an administrative error, or an unintentional program violation; or

(C) when a determination of an intentional program violation has been made by an administrative disqualification hearing officer; or

(D) when a waiver of rights to an administrative disqualification hearing has been signed; or

(E) when the household has chosen a repayment method; or

(F) when the Department of Income Maintenance has selected a repayment method.

(3) Offsetting is not used:

(A) when benefits are issued retroactively; or

(B) when there is a court ordered repayment plan which specifies the amount to be repaid and the method of repayment.

(Effective June 2, 1986)

Secs. 17-12a-25—17-12a-27. Reserved

Sec. 17-12a-28. Standard deduction and excess shelter/dependent care deduction in the food stamp program

(a) Standard Deduction

A standard deduction of ninety-eight (\$98) dollars per household per month is used in the computation of available income in calculating the amount of Food Stamp benefits to be issued.

(b) Excess Shelter Expense/Dependent Care Deduction

The total excess shelter/dependent care deduction shall not exceed one hundred thirty-nine (\$139) dollars a month.

(c) Affected Sections of DIM Food Stamp Manual

These changes directly affect sections of the Department of Income Maintenance Food Stamp Manual, and those sections of the Manual are being revised accordingly.

(Effective August 4, 1986)