

Introduction to the Food Stamp Program

by David A. Super

I. The Structure of the Program

The Food Stamp Program is a federal program to help low-income people buy more food and improve their diets.¹ Eligible persons receive "food stamps" or government coupons that can be used to purchase food at participating grocery stores.² Food stamps cannot be used to buy alcohol, tobacco, soap, paper products, or pet food; nor can a store charge sales tax on purchases made with food stamps.³ The number of food stamps a household receives is based upon its income, but the household may be able to deduct some of its expenses, such as high rent or mortgage payments, from its countable income.

The U.S. Department of Agriculture (USDA) is in charge of the program nationally. In each state, the welfare department, the Department of Social Services, or a similar department runs the program for USDA.⁴ A state may run the entire program itself or it may allow city or county governments to operate the program at the local level under its direction. USDA pays for food stamp benefits. USDA also pays for about half of the program's administrative costs, with states and some local governments paying the remainder.

The Food Stamp Program is governed by the Food Stamp Act and federal regulations.⁵ In general, these regulations are better organized, clearer, easier to use, and more helpful to applicants and recipients than those of many other benefit programs. State food stamp agencies write manuals, which must conform to federal law and regulations,⁶ to tell local offices how to run the program. Although local food stamp offices typically refer first to their state manuals, and will most readily respond to arguments based upon their manuals, they are bound by the federal regulations.

Most work in these local offices is done by "case workers" or "income maintenance workers." Usually a single worker handles the case of each applicant or recipient, with each worker usually handling many cases at once.⁷ Strict

1. This article is adapted from the introductory summary section of the Food Research and Action Center's (FRAC's) *Guide to the Food Stamp Program* (Oct. 1988) [hereinafter *Guide*]. The *Guide*, which is available from FRAC for \$10 per copy, provides a comprehensive description of the Food Stamp Program. The text is simply written in order to be accessible to a wide range of nonlawyers, but it also includes complete regulatory citations, over 450 footnotes discussing case law and potential litigation issues, and several finding aids.

For the convenience of advocates who have limited experience with food stamp issues, this article is written to reflect the USDA's position. In some areas, the validity of this position, and of the USDA's regulations, is open to serious doubt. Many of these areas are discussed in footnotes to the *Guide*.

2. See generally *id.* at Parts A and B.

3. See 7 C.F.R. §§ 272.1(b), 278.1(l), and 278.2(b).

4. A state is not required to have a food stamp program for its people, although all states, Washington, D.C., Guam, and the Virgin Islands now have one. The same state agency must run the Food Stamp, AFDC, and Medicaid or Medical Assistance programs. See 7 C.F.R. § 271.2 (definition of "state agency"); 42 U.S.C. § 1396a(a)(5). Indian tribal organizations also can choose to run a food stamp program on their reservations. 7 U.S.C. § 2012(n)(2) and (p); 7 C.F.R. § 271.2 (definitions of "state agency" and "tribal organization").

5. In a very few cases, the USDA has allowed a state to deviate from federal rules by granting it a "waiver." A waiver cannot impair households' rights. 7 C.F.R. § 272.3(c)(2)(ii); *Gilman v. Helms*, 606 F. Supp. 644 (D.N.H. 1985).

6. To operate the Food Stamp Program, a state must submit a state plan to the USDA for approval. Applicants and recipients may sue officials of state welfare departments in federal court for violations of these state plans even without proving a violation of federal regulations. *Barnes v. Cohen*, 749 F.2d 1009 (3d Cir. 1984) (Clearinghouse No. 35,811). A private right of action has been recognized to enforce the Food Stamp Act and federal food stamp regulations. *Gonzalez v. Pingree*, 821 F.2d 1526 (11th Cir. 1987) (Clearinghouse No. 38,537); *Victorian v. Miller*, 813 F.2d 718 (5th Cir. 1987) (en banc) (Clearinghouse No. 41,758); *Haskins v. Stanton*, 794 F.2d 1273 (7th Cir. 1986) (Clearinghouse No. 39,781); *Harley v. Lyng*, 653 F. Supp. 266 (E.D. Pa. 1986) (Clearinghouse No. 37,243); cf. *USDA v. Moreno*, 413 U.S. 528 (1973); *USDA v. Murry*, 413 U.S. 508 (1973). Throughout the 1970s and 1980s, legal services attorneys have won many significant cases in both state and federal courts to expand eligibility and benefits and to break down barriers to participation in the Food Stamp Program.

7. The most efficient way to resolve a client's food stamp problem often is to show the worker assigned to the case how the state manual or regulations support the client's position. If this does not work, but the regulations are in the client's favor, it often saves time to go up the chain of command and speak with supervisors and supervisors' supervisors. In so doing, of course, the advocate must be sure not to allow any deadlines for requesting a fair hearing, or for obtaining continued benefits pending the hearing, to lapse. See part IV, *infra*.

confidentiality rules protect information that households give to the food stamp office,⁸ although households and their advocates have the right to see their files.⁹

II. The Application Process

A. Filing the Application

Households apply for food stamps by turning in an application form to a local food stamp office, being interviewed, and verifying facts crucial to their eligibility.¹⁰ The food stamp office must give forms to potential applicants immediately upon request and allow them to apply without delay.¹¹ Forms must be mailed to potential applicants on the same day that a telephone request is received. Food stamp offices must immediately accept any application containing at least the applicant's name, address, and signature, whether the form is submitted in person or by mail. The applicant can fill in the rest of the form later. Applicants should apply as early as possible, because food stamps are issued to households from the day the application was made and filing an application begins the time period within which the food stamp office must act on the application.

Only one person, either a household member or the household's authorized representative, needs to sign the application form before it is turned in. All adults applying for food stamps must sign a statement within the application stating that they are U.S. citizens or that their immigration status is on file with the INS. They do not all need to sign the form before it is turned in to the food stamp office.

B. Expedited Food Stamps

If a household has very little income and few resources, and qualifies for food stamps, the food stamp office must provide food stamps within five calendar days of the date on which the application is turned in. This is called expedited service. The food stamp office must screen all applicants at the time that they apply to determine whether they qualify for expedited service; applicants do not have to request expedited issuance.¹² If a household qualifies for food stamps but does not qualify for expedited service, the food stamp office must provide food stamps within 30 calendar days from the date on which the application is turned in.¹³

A household can receive food stamps within five days if it is eligible for food stamps and if

(1) it has \$100 or less in "liquid resources" (cash, bank accounts, and similar resources) and has less than \$150 in gross income for the month; or

(2) its combined gross income and liquid resources are less than its monthly rent or mortgage plus utilities,¹⁴ or

(3) everyone in the household is homeless; or

(4) it has \$100 or less in liquid resources and everyone in the household is a migrant or seasonal farmworker and the household's most recent source of income has been discontinued and it does not expect to get more than \$25 from any new source of income for at least the next ten days.

To get expedited service, the applicant must show some form of identification or help the food stamp office find someone who can confirm the applicant's identity. The household does not need any other verification in order to get the first month's food stamps through expedited service.

C. Interviews

Every food stamp applicant must have an interview, even if the application is mailed in. A household does not have to wait for the interview to turn in its application. The person interviewed can be any responsible household member or an authorized representative.¹⁵ Interviews held outside the food stamp office or telephone interviews generally must be arranged for those unable to go into the food stamp office for an interview. If the household misses its first scheduled interview, the food stamp office must contact the household to try to set up a second interview.¹⁶

D. Verification

The food stamp office will require applicants to verify some of the information they report on the application or in the interview. It will always require verification of the household's gross income, the status with INS of any alien household member, the identity of the applicant, the household's address (unless everyone in the household is homeless, is a migrant farmworker, or is new to the area), the household's utility expenses (if any), other deductible expenses,¹⁷ and any household member's disability benefits. The office may also ask the household to verify any other facts that affect the household's eligibility or benefit level. For example, the food stamp office might ask for verification of the value of the household's nonexempt resources,¹⁸ the number of people in the household, or the citizenship of household members. Verification requests may not be discriminatory.¹⁹

Food stamp offices generally prefer written verification, such as pay stubs, social security award letters, utility bills, or rent receipts. Food stamp offices may not insist on any one particular piece of verification or reject anything probative that the household offers as verification.²⁰ If written verification is not available, the food stamp office must accept the statement of someone outside of the household (a "collateral contact"),

8. 7 C.F.R. § 272.1(c); see *Roberts v. Austin*, 632 F.2d 1202 (5th Cir. 1980), cert. denied, 454 U.S. 975 (1981) (food stamp office must have substantial reason to suspect fraud before it can turn files over to prosecutor).

9. 7 C.F.R. § 272.1(c)(3); 7 C.F.R. § 273.15(i)(1), (i)(4), and (p)(1). Information in case files must be maintained for at least three years. 7 C.F.R. § 272.1(f).

10. See generally, 7 C.F.R. § 273.2; *Harley*, 653 F.Supp at 276; *Guide*, supra note 1, at Part C.

11. 7 C.F.R. § 273.2(c).

12. *Id.* at § 273.2(i)(2); *Harley*, 653 F. Supp. 266.

13. 7 C.F.R. § 273.2(g)(1).

14. Utility costs can be calculated with either the household's actual current bills or the standard utility allowance. See part VI.D, *infra*.

15. 7 C.F.R. § 273.1(f)(1)(i).

16. *Id.* at § 273.2(e)(3).

17. See part VI.D, *infra*.

18. See part VII, *infra*.

19. 7 C.F.R. § 273.2(f)(2)(i) and (3).

20. *Id.* at § 273.2(f)(4)(i).

such as a landlord or employer, who can support the truth of what the household has reported. The food stamp office can verify information that the household supplied through a home visit, but only with the household's consent, and only when the household has failed to provide other adequate verification. The food stamp office will use its computers to check information supplied by households against other agencies' records; however, this is not normally done before the application has been acted upon.

Households cannot be denied food stamps for *failing* to cooperate in establishing their eligibility; they can only be denied food stamps if the food stamp office determines that they are willfully *refusing* to cooperate.²¹ The food stamp office must provide any necessary assistance that the household requires through the application process.²²

E. Social Security Numbers

The food stamp office will want the social security numbers of everyone in the household. Those who do not have a social security number must apply for one and present the food stamp office with proof that they have applied. In many states, people can apply for a social security number in the food stamp office.

III. Ongoing Recipients

A. Certification Periods

If a food stamp office finds that a household is eligible, it will "certify" the household to receive food stamps for a number of months.²³ Certification periods range from one to twelve months. To continue receiving food stamps after its certification period ends, a household must apply again during the final month or two months of its certification period. The food stamp office must send a notice to the household explaining that its certification period is about to expire. The household will then be required to have another interview and to submit new income verification.

B. Issuance of Benefits

Most states issue food stamps in one or more of the following ways:

(1) *Giving or sending an authorization to participate (ATP) card to recipients each month.* Recipients then take the ATP card to an issuance center to exchange it for food stamps. The issuance center may be a bank, a post office, a welfare office, or some other place.

(2) *Mailing food stamps.* A few states mail food stamps to recipients living in large cities.

(3) *Giving out food stamps by hand.* This is usually done at the food stamp office or a welfare office.²⁴

21. *Id.* at § 273.2(d)(1).

22. *Id.* at § 273.2(f)(4), (f)(5), and (h)(1).

23. *See generally id.* at §§ 273.10, 273.12, and 273.21; *Guide, supra* note 1, at Part D.

24. *See generally* 7 C.F.R. § 274.

Households cannot be denied food stamps for *failing* to cooperate in establishing their eligibility; they can only be denied food stamps if the food stamp office determines that they are willfully *refusing* to cooperate.

C. Reporting Requirements

Some food stamp households are required to fill out report forms every month concerning their income and circumstances in order to continue receiving food stamps.²⁵ If one of these households fails to submit a monthly report on time, or submits an incomplete form, the food stamp office suspends the household's benefits and sends a notice demanding the missing information and setting a new deadline for submission of the report. Households meeting this deadline receive the benefits that were suspended; those that do not are terminated from the program. Food stamp offices must assist households as needed in submitting monthly reports. Households that are not required to submit monthly reports must report changes in their circumstances within 10 days.²⁶ These reports may be oral or written.

IV. Notices and Fair Hearings

The food stamp office must send households written notice when reducing, suspending, or terminating their food stamps. This notice must give the household a chance to ask for a "fair hearing."²⁷ In most cases, if the household asks for a fair hearing within 10 days of the date of the notice, it can keep receiving the same amount of food stamps while it waits for a decision on the hearing. Households can request a hearing up to 90 days after the date of the notice, but a household that waits more than 10 days from the date of the notice to request a hearing will not receive the disputed benefits unless it wins the hearing. Households can also request hearings when their applications are denied, when they believe that they are getting too few food stamps, or when the food stamp office has rejected their request to correct erroneous underissuances of food stamps occurring within the last year.²⁸ Hearings can be requested orally, but it is best to make written requests. Hearing officers

25. *Id.* at § 273.21.

26. *Id.* at § 273.12.

27. *See generally id.* at §§ 273.13 and 273.15; *Goldberg v. Kelly*, 397 U.S. 254 (1970) (Clearinghouse No. 1799); *Ortiz v. Eichler*, 794 F.2d 889 (3d Cir. 1986) (Clearinghouse No. 35,980); *Guide, supra* note 1, at Part F.

28. Retroactive food stamps are available, administratively or in court, but only going back 12 months from the date the food stamp office became aware of the problem. 7 U.S.C. §§ 2020(e)(11), (p), and 2023(b); 7 C.F.R. § 273.17; *Robinson v. Block*, 869 F.2d 202, 214 n.11 (3d Cir. 1989) (Clearinghouse No. 37,244).

typically work for the state food stamp agency, although employees of the local food stamp office who were not involved in the decision being challenged or employees of another state agency may also serve as hearing officers. Households and their representatives have the right to see the food stamp office's files and evidence before the hearing, to cross-examine any witnesses that the food stamp office presents, and to produce testimony and exhibits of their own. Food stamp rules on households' rights in the hearing process are generally very liberal. Evidentiary objections are appropriate, especially since some food stamp offices rely heavily upon hearsay testimony effectively to deny a household its right to cross-examine. However, many hearing officers are reluctant to exclude any evidence outright. Thus, making a strong record at the hearing may be crucial to a client's success when judicial review is sought.²⁹ A decision on the hearing generally must be made within 60 days of the date on which the hearing was requested. Decisions must be based exclusively on evidence in the hearing record and upon the federal regulations. Many states offer a second level of administrative review when parties lose at the initial hearing stage.

V. Eligibility

A. Eligible and Ineligible Persons

Almost anyone who meets federal limits on income and resources can receive food stamps.³⁰ This includes most legal aliens, boarders who apply with their landlords, roomers, some students, and people who live in battered women's shelters, community mental health centers, residential drug and alcohol treatment programs, and homeless shelters. Households can receive food stamps even if they are not eligible for other benefit programs. Special rules make it easier for the elderly, the disabled, homeless people, farmers, and migrant and seasonal farmworkers to receive food stamps.³¹ People cannot receive food stamps if

(1) anyone in the household is on strike (unless the household was eligible for food stamps before the person went on strike or the person has been locked out or permanently replaced);³²

(2) they are illegal aliens or legal aliens in some categories;³³

(3) they live in a boarding school, a jail, or one of certain other kinds of institutions that serve meals;³⁴

(4) they are enrolled at least half-time in a college or university, but students are eligible if they work 20 hours per

29. See *University of Tennessee v. Elliott*, 478 U.S. 788 (1986); but see *Robinson*, 869 F.2d at 207 n.5. All but a few states allow households to seek judicial review of adverse hearing decisions, and a household is free to challenge a wrongful denial of food stamps in federal court with or without first going through a hearing.

30. See generally, 7 C.F.R. §§ 273.3-273.7, 273.16, 273.20, and 273.22; *Guide*, supra note 1, at Parts F, J, and K.

31. See *Guide*, supra note 1, at §§ 37-38 and 87-88.

32. 7 C.F.R. § 273.1(g).

33. *Id.* at § 273.4. Many legal aliens can get food stamps, although aliens with sponsors may have some amount of the sponsor's income counted against them. *Id.* at § 273.11(i); see part V, *infra*.

34. 7 C.F.R. § 273.1(e).

Special rules make it easier for the elderly, the disabled, homeless people, farmers, and migrant and seasonal farmworkers to receive food stamps.

week, are in the federal work-study program, are under the age of 18 or over 60, are physically or mentally unfit,³⁵ are receiving AFDC, are taking care of a small child, or are enrolled in a Job Training Partnership Act program;³⁶

(5) they get SSI in California or Wisconsin;³⁷

(6) they are currently under a disqualification for food stamp fraud;³⁸ or

(7) they are currently under a disqualification for voluntarily quitting a job without good cause or for not complying with food stamp employment and training requirements.³⁹

B. Defining "Household"

People apply for food stamps as a household. A household is a person living alone or a group of people living together (whether or not they are related) who purchase and prepare meals together.⁴⁰ More than one household can live under one roof and share living space. Spouses who live together must always be in the same household, as must minor children living with a parent or other adult guardian.⁴¹ In some cases, parents and their adult children living together or siblings who live together⁴² cannot be separate households, even if they do not buy and cook food together. The parent-adult, child, and sibling rules do not apply if a parent or sibling is elderly or

35. Physically or mentally unfit students need not be receiving disability benefits or meet the SSI disability test to qualify for food stamps. 7 C.F.R. § 273.5(a).

36. *Id.* at § 273.5(b).

37. *Id.* at § 273.20.

38. *Id.* at §§ 273.11(c) and 273.16; see part IX, *infra*.

39. 7 C.F.R. §§ 273.7, 273.11(d), and 273.22; see part VIII, *infra*.

40. See generally 7 C.F.R. § 273.1; *Guide*, supra note 1, at Part F.

41. But see *Murray v. Lyng*, 853 F.2d 303 (8th Cir. 1988) (Clearinghouse No. 38,984) (foster parents can exclude foster children and payments received for them from their food stamp households); *Foster v. Celani*, 849 F.2d 91 (2d Cir. 1988) (same) (Clearinghouse No. 37,205).

42. In *Robinson*, 869 F.2d at 213, the Court held that "there may be situations in which siblings living in small dwellings could be found not to live together, after considering 'all the circumstances.'" Food stamp offices may not conclusively presume that siblings who share the same address "live together" for purposes of the household rule without considering indications that the siblings are living substantially separate lives when viewed in light of "all of the circumstances." *Id.* at 209, 214; see also *Murray v. Lyng*, 667 F. Supp. 668, 672-74 (D. Minn. 1987), *aff'd on other grounds*, 853 F.2d 303 (8th Cir. 1988).

disabled.⁴³ These two rules also do not apply to parents with children under the age of 18 who buy and cook separately from persons they live with. Thus, a mother who has children under the age of 18 can receive food stamps as a separate household even if she and her children live with her father or her sister.

VI. Income and Benefit Calculation

A. Eligibility Limits

A household cannot get food stamps if its net monthly income, after deductions, is above the poverty line.⁴⁴ Unless someone in the household is elderly or disabled,⁴⁵ the household cannot get food stamps if its gross income (before deductions) exceeds 130 percent of the poverty line. The food stamp monthly income limits go up on October 1 of every year to reflect inflation.

This table gives the maximum gross and net income limits and the maximum food stamp benefit levels in effect until October 1, 1990, for most of the United States.⁴⁶

Number of People in Household	Monthly Gross Income Limit	Monthly Net Income Limit	Maximum Monthly Food Stamp Benefits
1	\$ 648	\$ 499	\$ 99
2	869	669	182
3	1,090	839	260
4	1,311	1,009	331
5	1,532	1,179	393
6	1,753	1,349	472
7	1,974	1,519	521
8	2,195	1,689	596

Each additional member:

+ 221	+ 170	+ 75
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B. Budgeting

Some households' income is calculated by looking to the income that the households are likely to receive in the month in which the food stamps are to be issued. This is called "prospective budgeting."⁴⁷ In other cases, the food stamp office bases its income calculations on what the household actually received in an earlier month. This is called "retrospective budgeting." All households that are required to submit monthly report forms, and most households with earned income, will have their benefit levels determined by retrospective budgeting; in some states almost all households will be retrospectively budgeted. States may not retrospectively budget homeless house-

43. The Food Stamp Act defines "elderly" as someone who is at least 60. To be treated as "disabled," someone must be getting disability or blindness benefits from SSI, social security, or one of the other programs listed in the food stamp regulations. 7 C.F.R. § 271.2 (definition of "elderly or disabled member").

44. See generally 7 C.F.R. §§ 273.9-273.11 and 273.21; *Guide, supra* note 1, at Parts G and H.

45. See note 43, *supra*.

46. Different numbers apply in Alaska, Hawaii, Guam, and the Virgin Islands.

47. See 7 C.F.R. § 273.21(a); see generally 7 C.F.R. §§ 273.10-273.12 and 273.21.

A household is a person living alone or a group of people living together (whether or not they are related) who purchase and prepare meals together.

holds, migrant and seasonal farmworker households, and some elderly people. Some states apply the gross and net income tests prospectively even when they calculate benefit levels retrospectively; other states do not.

C. Exclusions

The food stamp office will not count the following as income:⁴⁸

(1) anything the household receives that is not in the form of money, such as free food or clothing, public housing, school breakfasts and lunches, WIC benefits, surplus commodities, or benefits under other federal food programs;

(2) most vendor payments (money that someone who is not in the household pays directly to someone who provides a service to the household) unless the vendor payment is part of an AFDC or general assistance grant; for example, if the household lives in subsidized housing or if a friend pays its rent directly to the landlord, the food stamp office will not count this as household income;

(3) money earned by a child under 18 who is a student at least half-time;

(4) small amounts of irregular income totaling no more than \$30 in three months;

(5) money from private charities, if it does not add up to more than \$300 in three months;

(6) all loans, except some monies from student loans with deferred repayment;

(7) the parts of student grants, loans, scholarships, fellowships, work-study earnings, and veteran's educational benefits that pay for tuition or required fees and, in most cases, the parts of these educational benefits that pay for other school-related expenses (such as Pell grants spent on books or bus fare); educational benefits given for room and board, and federal educational benefits given for child care, are not excluded;

(8) payments (reimbursements) for past or future expenses (such as special work clothes or the cost of people using their own car for work) unless the money is for normal living expenses;

(9) money the household receives and uses to take care of or support someone who is not in the household (such as social security checks received for an elderly relative);

(10) lump sum payments that the household does not get regularly, such as tax refunds and credits or back benefits from AFDC, SSI, or social security;

48. See 7 C.F.R. § 273.9(b)(5) and (c).

(11) work or business expenses for self-employed household members;

(12) federal, state, or local energy assistance (such as low-income home energy assistance payments);⁴⁹

(13) child support that the household receives but must turn over to the welfare office in order to keep getting AFDC;

(14) in most cases, money being recouped from benefits in another program (such as AFDC, SSI, or social security) to recover a past overpayment;

(15) pay senior citizens receive for working in a program under Title V of the Older Americans' Act, such as the programs run by the American Association of Retired People or Green Thumb;

(16) money that households receive under other federal programs that specifically provide for their exclusion from food stamp calculations.

D. Deductions

Food stamp households can take at least one and as many as five deductions,⁵⁰ depending on their circumstances:

(1) a standard deduction for all households; until October 1, 1990, the standard deduction is \$112;⁵¹

(2) a deduction for work expenses and taxes of 20 percent of the household's gross earned income (whether or not the household's actual expenses are higher or lower);

(3) a deduction for the nonreimbursed medical expenses of elderly or disabled⁵² household members to the extent that they exceed \$35 in a month;

(4) a deduction for dependent care costs of up to \$160 per month per dependent if they are incurred to allow a household member to work or attend a training course; and

(5) an "excess shelter deduction" for housing costs—including rent, mortgage, gas, oil, electricity, telephone, water, property taxes, and fire insurance—that are more than half of the household's income that remains after subtracting all of the other deductions for which the household qualifies. Unless the household has an elderly or disabled member, it can only deduct these excess shelter costs up to a certain limit. Until October 1, 1990, this limit is \$177.⁵³ All states have at least one "standard utility allowance" (SUA) that the household can count instead of using its actual utility costs every month. If the household's actual current bills⁵⁴ are consistently higher than the SUA, the household should have the food stamp office count its actual bills. Households that are not separately billed for heating or air conditioning costs are not eligible for SUAs that include those costs.

49. Public housing utility allowances are excluded as energy assistance. *West v. Bowen*, 879 F.2d 1122 (3d Cir. 1989).

50. See 7 C.F.R. § 273.9(d).

51. The standard deductions in Alaska and Hawaii are higher. The standard deduction in each area is adjusted for inflation every October 1.

52. See note 43, *supra*.

53. The cap on the excess shelter deduction is higher in Alaska and Hawaii. The cap in each area is adjusted for inflation every October 1.

54. Only charges for the current period are deductible; arrearages listed on the household's bill cannot be deducted.

E. Benefit Calculations

The food stamp office will add up all of a household's income that is not excluded and then subtract all of the deductions to which it is entitled.⁵⁵ The amount that is left is the household's net income. The table above gives the maximum food stamp benefits that the household can receive in a month. The household's food stamp benefits will be the maximum for the household size minus 30 percent of its net income. Thus, a household of four with a monthly net income, after all deductions, of \$100 will receive \$301 in food stamps. This is because 30 percent of \$100 is \$30, and \$331 (the maximum monthly food stamp allotment for a household of four) minus \$30 equals \$301.

VII. Resources

Resources, or assets, are property that a household owns, including cash, bank accounts, stocks and bonds, insurance settlements, tax refunds, rebates, awards, prizes, inheritances, and the cash value of an Individual Retirement Account.⁵⁶ Special rules cover jointly owned resources. If no one in a household is 60 or over, the household can have \$2,000 in resources and still get food stamps. If at least one person in the household is at least 60 years old, the household can have \$3,000 and still get food stamps. If everyone in a household is on AFDC or SSI, the household does not have to meet the resource limits.⁵⁷

The food stamp office does not count as resources

- (1) the household's home and the land it sits on;
- (2) a vacant lot on which the household plans to build a house if it does not currently own one;
- (3) personal belongings and household goods;
- (4) burial lots;
- (5) the cash or face value of life insurance policies and pension funds;
- (6) tools, equipment, livestock, buildings, and other things household members use to make money; or
- (7) things that the household cannot turn into money, such as money in a trust fund and Indian land held with the tribe.⁵⁸

Many cars, trucks, and vans also do not count as resources. The food stamp office will not count cars, trucks and other vehicles that

- (1) the household lives in;
- (2) a household member uses in order to make a living (such as a taxi or a fishing boat);
- (3) a household member uses to travel long distances so that he or she can work (such as a traveling salesperson's car or a migrant farmworker family's truck); a car or truck someone uses in driving back and forth to work each day does count as a resource; or

55. See 7 C.F.R. § 273.10.

56. See generally 7 C.F.R. § 273.8; *Guide, supra* note 1, at Part I.

57. See 7 C.F.R. § 273.2(j)(2).

58. See *id.* at § 273.8(e).

(4) are needed to transport a physically disabled member of the household if it is specially equipped or a special type of vehicle, such as a van.⁵⁹

If the food stamp office does consider the value of a car, truck, or other vehicle, the food stamp office will consider only its current fair market value according to the Used Car Blue Book.⁶⁰ Car dealers and state offices that register motor vehicles should have copies of the Blue Book. The food stamp office usually will count only the value of a vehicle in excess of \$4,500. For example, if a car is worth \$5,000, only \$500 will count as a resource. Therefore, if the rest of the household's resources are not more than \$1,500, the household may qualify for food stamps. Different rules may apply if the household has more than one car.

VIII. Work Requirements

All states are required to have employment and training (E&T) programs for food stamp recipients.⁶¹ These programs generally exempt recipients of AFDC or unemployment benefits (who are subject to work registration requirements under those programs), people under the age of 18 or over 60, parents responsible for the care of small children, people with weekly earnings of at least 30 times the federal minimum wage, eligible students, participants in drug or alcohol rehabilitation programs, and the physically or mentally unfit.⁶²

Nonexempt persons may be required to register for work and may be required to engage in job search, training, or workfare activities. The food stamp office must reimburse participants' transportation, child care, and other expenses or exempt them from the requirements. Persons refusing without good cause to comply with E&T requirements may be disqualified from the Food Stamp Program for two months or until they comply; if they are the head of their household, the entire household will be disqualified. If the head of a household voluntarily quits a job without good cause, the entire household will also be disqualified for 90 days unless one of several exceptions applies.

59. See *id.* at § 273.8(g) and (h).

60. See *id.* at § 273.8(g).

61. See generally *id.* at §§ 273.7 and 273.22; *Guide, supra* note 1, at Part J; Neumeyer, *New Client Rights and Responsibilities under the Food Stamp Employment and Training Program*, 21 CLEARINGHOUSE REV. 584 (Nov. 1987).

62. Physically or mentally incapacitated persons do not need to receive disability benefits or meet the SSI disability test to be exempt from food stamp E&T requirements. 7 C.F.R. § 273.7(b)(1)(ii).

IX. Overissuances and Fraud

Food stamp offices seek to recover overissuances to households that occurred in prior periods.⁶³ Where the household caused the overissuance inadvertently, its current food stamp allotment may be reduced by \$10 or ten percent, whichever is greater. Overissuances resulting from agency errors cannot be recouped from the household's current benefits without the household's consent, although some food stamp agencies try to coerce households into agreeing.⁶⁴

When the food stamp office believes that a household has committed an intentional program violation (an "IPV" or, simply, "fraud"), it will either turn the household's name over to a local prosecutor⁶⁵ or begin an administrative proceeding to disqualify the household from receiving food stamps. An administrative disqualification hearing is similar to a "fair hearing" except that in the former the food stamp agency has the burden of proving that the household member intentionally violated program rules to get food stamps. Some food stamp agencies also try to coerce households into signing forms consenting to be disqualified or waiving their right to a hearing. Because states receive extra funds from the USDA for investigating and prosecuting recipients for IPVs, some advocates believe that, in many cases, where little evidence has been collected, their states allege that overissuances have resulted from IPVs rather than from inadvertent household errors (or even an agency error).

The first time someone is found to have committed an IPV, whether in a court, through an administrative disqualification hearing, or by a consent or waiver form, he or she is disqualified from receiving food stamps for six months. On the second offense, the disqualification is for a year, and on the third offense, it is permanent. In addition, 20 percent of the remaining household members' current food stamp allotment may be recouped each month until the IPV overissuance has been recovered.

63. See generally 7 C.F.R. §§ 273.16 and 273.18; *Guide, supra* note 1, at Part K.

64. 7 C.F.R. § 273.18(d)(4)(i), (d)(4)(ii), and (g)(3)(ii). An effective defense to a food stamp office's attempt to recoup a household's food stamps therefore is that the overissuance resulted from agency error.

65. *But see* *Roberts v. Austin*, 632 F.2d 1202 (5th Cir. 1980), *cert. denied*, 454 U.S. 975 (1981) (food stamp office must have substantial reason to suspect fraud before it can turn files over to prosecutor).

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