ALABAMA DEPARTMENT OF HUMAN RESOURCES FOOD ASSISTANCE DIVISION ADMINISTRATIVE CODE

CHAPTER 660-4-2
CERTIFICATION OF ELIGIBLE HOUSEHOLDS

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660-4-2-.01 General.

The Department establishes a food assistance program which provides food assistance to households which are deemed eligible based on rules and regulations given or approved by the U.S. Department of Agriculture and the Department. The following rules list those areas in which the Department has adopted a federally-permitted option or waiver for the operations of the program in this State.

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660-4-2-.02 Application Processing.

An application for food assistance may be filed in the Food Assistance Offices, Public Assistance Offices, and Social Security Offices as allowed by Federal Regulations. The Department has adopted the following options and waivers.

(1) OPTIONS:

(a) Application Form and Filing: The application form used in Alabama is designed by the state and approved by Food and Consumer Services (FCS) of the U.S. Department of Agriculture. When a household consists entirely of Supplemental Security Income applicants or recipients, the application may be filed at the Social Security office. An application filed by an SSI household at the Social Security Office is taken by an employee of that office as there are no DHR employees housed in the Social Security offices. The Social Security Office shall use the Food and Consumer Service -approved application form.

(b) Interviews: An application interview may be conducted by telephone or home visits in lieu of an office interview under specified circumstances when criteria specified at 273.2(e)(2) in the federal regulations are met.

All applicant households are entitled to an interview as specified in A. or B. below.

A. Office Interview - Applicant households, including those submitting applications by mail, shall have face-to-face interviews in a food assistance office or other certification site with a qualified eligibility worker prior to initial certification and all re-certifications, unless such interview is waived as discussed in Section B below.

1. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The applicant may bring any person he or she chooses to the interview.

2. The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information.

3. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the household’s responsibility to report changes.

4. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant’s right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

B. **Waiver of the Office Interview** - The office interview shall be waived if requested by any household which has no earned income, all members are elderly or disabled and the household is unable to appoint an authorized representative.

The county department shall also waive the office interview on a case-by-case basis for any household which is:

1. Unable to appoint an authorized representative and which has no household members able to come to the food assistance office because of hardships, which the county department determines warrant a waiver of the office interview. These hardship conditions include, but are not limited to:

a. Illness

b. Transportation difficulties.

c. Care of a household member.

d. Hardships due to residency in a rural area.

e. Prolonged severe weather.

f. Work hours which preclude an in-office interview.

g. Training or school hours which preclude an in-office interview.

2. The county department shall determine if the hardship reported by a household warrants a waiver of the office interview and shall document in the case file why a request for a waiver was granted or denied. The county department has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. Home visits shall be used only if the time of the visit is scheduled in advance with the household. Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided. Waiver of the face-to-face interview shall not affect the length of the household's certification period. This does not include applications containing ineligible household members whose eligibility is subject to

change such as ABAWDS, ineligible students, or ineligible aliens.

If it is later determined that an application was erroneously denied prior to the interview, the household will be entitled to benefits retroactive to the date of the original application.

C. **Verification** - The State agency is given some leeway regarding required and acceptable verification. Documentation of immigration status presented by an applicant includes, but is not limited to the following forms. Unless indicated, each shows the A-Number of the bearer. Some forms have expiration dates which must be checked and noted during the worker's visual examination of documentation, and any supporting documents shall be placed in the case record. Documents that demonstrate lawful status include the following:

1. Alien Lawfully Admitted for Permanent Residence

a. I-551 (Alien Registration Receipt Card, commonly known as a "green card") or

b. Unexpired temporary I-551 stamp in foreign passport or on I-94.

2. Asylee - I-94 annotated with stamp showing grant of asylum under Section 208 of the Immigration and Nationality Act (the "INA").

a. I-688B (Employment Authorization Card) annotated "274a.12 (a) (5).

b. I-766 (Employment Authorization Document) annotated "A5".

c. Grant letter from the Asylum Office of INS or

d. Order of an immigration judge granting asylum.

3. Refugee - I-94 annotated with stamp showing admission under Section 207 of the INA.

a. I-688B (Employment Authorization Card) annotated "274a.12 (a) (3).

b. I-766 (Employment Authorization Document) annotated "A3" or

c. I-571 (Refugee Travel Document)

4. Alien paroled Into the U. S. for at least one year.

a. I-94 with stamp showing admission for at least one year under Section 212(d) (5) of the INS.

5. Alien whose deportation or removal was withheld.

a. I-688B (Employment Authorization Card) annotated "274a.12 (a) (10)"

b. I-766 (Employment Authorization Document) annotated "A10" or

c. Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3)of the INA.

6. Alien granted conditional entry. I-94 with stamp showing admission under Section 203(a) (7) of the INA

a. I-688B (Employment Authorization Card) annotated "274a.12 (a) (3)" or

b. I-766 (Employment Authorization Document) annotated "A3"

7. Cuban/Haitian entrant. I-551 (Alien Registration Receipt Card, commonly known as a "green card") with the code CU6, CU7, or CH6.

a. Unexpired temporary I-551 stamp in foreign passport or on I-94 with the code CU6 or CU7 or

b. I-94 with stamp showing parole as "Cuban/ Haitian Entrant" under Section 212(d) (5) of the INA.

Note that some forms have been released in several editions so that valid documentation presented by different individuals may not be identical. Any questions about specific cases should be directed to Food Assistance Division.

Under most circumstances, the eligibility worker should proceed with the primary verification process. However, if alien status cannot be established through the primary verification process initiate the secondary verification process immediately.

If there are no material differences between the data obtained through SAVE and the information in the alien's immigration documentation and if the eligibility worker is not instructed by SAVE to initiate secondary verification, no further check is required. The county department must make certain, however, that biographical data given matches the alien applicant/recipient. If not, secondary verification must be initiated. Benefits will not be denied or terminated or reduced because of the alien's immigration status without first receiving a response to the secondary verification process.

The secondary verification process provides a more extensive validation process, including a search of all automated and paper INS files, when problems arise during the visual verification of documentation on the primary check. Secondary verification must be completed prior to the delay, denial, reduction, or termination of benefits to any alien applicant/ recipient for reasons of immigration status. Secondary verification in most cases can be accomplished through SAVE. If not, the county office must follow the instructions below. To obtain secondary verification, the county department must forward a completed Document Verification Request, Form G-845, with full readable photocopies of original immigration documents to the following INS File Control Office (FCO) for review:



A separate G-845 and the G-845 supplement (if required) must be completed for each applicant/ recipient and should include copies of the documents for that individual only. If a family unit has applied, each member will require a separate G-845. It is recommended that when the G-845 is completed, a copy of the completed form and all documentation is maintained in the case record. All original documentation must be returned to the alien.

ADDITIONAL INFORMATION

1. Refer to POE Chapter 4 for other factors which may be relevant to the eligibility of certain aliens and which should be verified if applicable, such as:

    a. The date of admission or date status was granted.

    b. Military connection.

    c. Battered status.

    d. If the alien was lawfully residing in the United States on August 22, 1996.

    e. Membership in certain Indian tribes.

    f. If the person was age 65 or older on August 22, 1996.

    g. If a lawful permanent resident can be credited with 40 qualifying quarters of covered work and if any Federal means-tested public benefits were received in any quarter after December 31, 1996.

    h. If the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time or is the spouse or unmarried dependent of such a person.

2. An alien is ineligible until acceptable documentation is provided unless one of the following applies: The county has submitted a copy of a document provided by the household to INS for verification.

    a. The applicant or the county department has submitted a request to Social Security Administration for information regarding the number of quarters of work. If SSA verifies that the individual has fewer than 40 quarters and that they are conducting an investigation to determine if more quarters can be credited, the county department must certify the individual pending the results of the investigation for up to 6 months from the date of the original determination of insufficient quarters.

    b. The applicant or the county has submitted a request to a Federal agency for verification of information which bears on

the individual's eligible alien status. The county department must certify the individual pending the results of the investigation for up to 6 months from the date of the original request for verification.

Shelter and dependent care expenses shall be verified prior to allowing as a deduction. If verification of shelter (rent, mortgage, and taxes and insurance separate and apart from the mortgage) and dependent care expenses may delay the household's certification, the county department shall advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense.

If the expense cannot be verified within the 30 days of the date of application, the county department shall determine the household's eligibility and benefit level without providing a deduction of the unverified expense. If the household subsequently provides the missing verification, the county department shall handle this as a reported change during the certification period. If the expense could not be verified within the 30 day processing day because the county department failed to allow the household sufficient time (10 days minimum) to verify the expense, the household shall be entitled to the restoration of benefits retroactive to the month of application, provided that the missing verification is supplied in accordance with Section 207C.

3. The county department may verify SSI benefits through SDX and Social Security benefits through BENDEX, or through verification provided by the household. The county department may use SDX and BENDEX data to verify other information; however, the household shall be given an opportunity to provide verification from another source if the SDX or BENDEX information is contradictory to the information provided by the household. Determination of the household's eligibility and benefit level shall not be delayed past the application processing time standards of this section if SDX or BENDEX data is unavailable.

4. Unemployment Compensation Benefit and information is verified through a tape exchange

with the Department of Industrial Relations. Information is obtained on new applicants and updated weekly on recipients. Department of Industrial Relations files correct. Other information provided on the exchange may assist in determining the eligibility and benefit levels but is not considered verified without contact with another party on wage information is also provided as a tape exchange. This information is not considered verified until contact with the alleged employer.

5. Non-quarterly reporting households with unstable situations are certified for 1 or 2 months. All other non-quarterly reporting households are certified for 3-12 months.

Verification of income, medical expenses, utility expenses, and dependent care expenses is required at each recertification. The alien status/ citizenship and other questionable information is also required to be verified as are Social Security numbers, if verification has not been completed previously. If by the 30th day the county department cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application.

On the 30th day following the date the application was filed, a Notice of Denial/Pending Status shall be sent to the household explaining the reason for the denial and what actions the household must take in the second 30 days in order to reopen their case. (See Forms Manual for instructions.) As a Notice of Denial was issued on the 30th day, the application has been processed within the standard of promptness and is not delinquent.

a. If the 30th day falls on a weekend or holiday and the requested information is received on the first workday after the weekend or holiday, benefits shall be prorated from the date the information is received. The household shall be given an additional 30 days to take the required action, such as providing requested verification or registering for work those members who were required to register, but did not.

b. If the household takes the required action within the second 30-days, the county department shall reopen the case without requiring a new application. When the household is at fault for the delay in the first 30-day period, but is found to be eligible during the second 30-day period, the county department shall provide benefits only from the month following the month of application. Benefits must be prorated from the date the household takes the necessary action to enable the application to be processed.

c. The household is not entitled to benefits for the month of application when the delay was the fault of the household.

d. If the household does not take the required action within the second 30-days, no further action by the county department is required.

e. Simplified Reporting households in certification that fail to respond to a request for additional information/ verification which results in case closure or termination of benefits may have their benefits reinstated if the requested information/verification is submitted to the county office after the case has closed but before the end of the month following case closure/termination. The county office must have issued a written request advising the household of the additional information/ verification it must provide and allowed the household 10 days to provide the requested information/ verification. This policy should also be applied to expedited service households that fail to provide postponed mandatory verification which results in case closure or termination. The county office must have issued a notice of adverse action or appropriate notice of action explaining the reason for case closure.

The automated notice of action will inform the household that their case can be reopened without a new application if the household provides the missing information/verification by the end of the month. The household must fully resolve the reason for case closure and be eligible for benefits during the reinstatement month and the

remainder of the certification period. The household must have at least one month remaining in the certification period after the effective date of eligibility in order to apply these special procedures. Benefits for the month the case is reopened must be prorated. The certification period will be for the month the case is reopened and the months remaining in the current certification period. Reference Chapter 17, Special Procedures for Reopening Six-Month Reporting Cases after Household Fails to Provide Verification, for policy and instructions on reinstatement/reopening six-month reporting cases after the household fails to provide verification which includes expedited service cases with postponed verification that fail to verify.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Sections 272.8(e)(3), 272.8(f)(6), 273.2(b)(3), 273.2(e)(2)(i), 273.2(f)(1)(ii)(B), 273.2(f)(3), 273.2(f)(3), 273.2(f)(4)(i), 273.2(f)(7), 273.2(f)(7), 273.2(f)(8)(i)(A), 273.2(h)(2)(i)(A) and (B), 273.2(h)(3)(iii), 273.2(I)(4)(iii), 273.2(j)(3) thru (5), 273.2(k)(1), 273.10(g)(1)(1)(i)(B), 273.10(g)(ii) and (iii); Waiver I.D. 950032.
History: Effective May 10, 1985. **Repealed and Replaced:** Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed May 5, 1999; effective June 9, 1999. **Amended:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.03 Obtaining Social Security Numbers.

A household participating or applying for participation in the Food Assistance Program must do one of the following for each household member:

1. Provide the member’s Social Security Number (SSN). To provide the number the household may state the number, present a document with the number on it, or show the social security card. See How SSN's are verified?

2. Apply for an SSN before certification if the member does not have a number or the household is unable to provide the number.

If individuals have more than one number, all numbers are required. Explain to applicants and participants that refusal or failure without good cause to provide an SSN will result in disqualification of the individual for whom an SSN is not obtained.

For those individuals who provide SSN's prior to certification, recertification, or any office contact, the county department will record the number; verification of the number is handled as stated in Section 205(A).

Households who provided the SSA-2853, Hospital Enumeration at Birth form, or the certified copy of the birth certificate which indicates a Social Security Number has been applied for by the hospital, assume the responsibility for reporting the SSN to the county departments no later than the next recertification or six months, whichever comes later after the SSA-2853 has been received.

If the client has not received the SSN, the household member would have good cause. If the client received the SSN but lost the card, complete the SS-5 referral for issuance of a duplicate card and send the household to SSA. In this situation the automated system could be utilized to verify the SSN.

For those individuals who do not have a SSN, refer the household to the SSA to apply for a SSN.

In order that households can promptly and with the least confusion possible, complete a SS-5 at the Social Security Administration Office, the county department shall:

1. Review the Form DHR-PAD-1542, SS-5 Referral, with the applicant or household member(s), emphasizing in particular what items of proof will need to be taken to the SSA office. These include:

    a. Birth certificates.

    b. Proof of citizenship/alien status (as applicable).

    c. Proof of identity such as driver's license, draft card, report card, etc.

2. Explain to the applicant that individuals 18 years or older must go in person to the SSA office with the above proofs.

3. Advise the client of the hours of operation of the SSA office, the address of the office and where applicable the hours and dates SSA representatives will be available to provide the SS-5 processing procedures.

4. Inform the client that the DHR-PAD-1542 must be taken to the SSA office when the household member goes to apply for an SSN.

See Forms Manual for what information the county department is required to complete on the DHR-PAD-1542 prior to giving it to the household.

The county department shall advise the household that proof of application from SSA will be required prior to certification. Proof of application shall consist of either the return of the DHR-PAD-1542, marked complete; the SSA-5028, Receipt of Application for a SSN; the SSA-2853, Hospital Enumeration at birth; or the copy of a birth certificate or other documentary evidence which indicates an application for a Social Security Number for the child has been submitted.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.6(b)(2).
History: Effective May 10, 1985. **Repealed and Replaced:** Filed November 1, 1995; effective December 6, 1995. **Repealed and New Rule:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.04 Income And Deductions.

Specific income and deductions to be considered in determining a household's eligibility and benefit level are outlined by Federal Regulation. Adopted options and waivers are as follows.

(1) OPTIONS:

(a) Income: All income, except income specifically excluded by federal regulations, is considered in determining household eligibility and benefit level. When a full month's income is anticipated but is received less often than monthly, the income is converted to a monthly figure. The anticipated income is not counted until the month in which the income is received.

(b) Deductions: Monthly shelter costs in excess of 50% of the household's income after all other deductions have been allowed up a maximum limit are the household's shelter deduction except for households that contain an elderly or disabled person (as defined in the Glossary). Such households shall receive an excess shelter deduction for the monthly cost that exceeds 50% of the household's monthly income after all other applicable deductions. If the elderly or disabled member is either hospitalized or institutionalized and is no longer a household member, the household would not qualify for an uncapped shelter deduction. The determination of the shelter expense is automated. See Enter shelter expense in OACIS

SHELTER COSTS

Shelter costs include only the following:

1. Continuing charges for the shelter occupied by the household, including rent, mortgage, condominium (condo) and association fees or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments. Payments on second mortgages and home equity loans are allowable shelter costs regardless of why the money was obtained or how it was used.

2. Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

3. The appropriate standard (SUA/BUA or telephone) for utility expenses. The household is entitled to the Standard Utility Allowance or the Basic Utility Allowance or the telephone standard.

a. An expense paid on behalf of a household under a state law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.

b. One-time deposits shall not be included as shelter costs.

c. Penalty fees for being late in making payments on utilities, mortgages and/or property taxes are not to be included as a shelter cost or part of a shelter cost. These penalties are not allowable as deductions for food assistance purposes.

4. Shelter costs for the home if temporarily unoccupied by the household because of employment or training away from home, illness, or abandonment caused by natural disaster or casualty loss. Shelter costs may be allowed for the unoccupied shelter if:

a. The household intends to return to the home.

b. The current occupant of the home, if any, must not be claiming the shelter cost for food assistance purposes.

c. The home must not be leased or rented during the absence of the household. Only one standard can be claimed for both residences. A separate

SUA/BUA or telephone standard cannot be claimed for each residence.

5. Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

6. Shelter costs for two residences may be claimed when it is necessary for a household member to be away from home and occupy a second residence for part of the month due to employment or training or illness. Only the standard can be claimed for both residences. A separate standard cannot be claimed for each residence.

G. **Standard Utility Allowance**

1. **General Information**

The Standard Utility Allowance (SUA) is a standard amount to be budgeted monthly for utility expenses that include a heating or cooling component.

The SUA is determined on an annual basis and any adjustment is handled as a mass change effective October 1. See Enter utility expense in OACIS The SUA shall be made available only to households who incur heating and cooling costs separately and apart from their rent or mortgage. A cooling cost which entitles a household to the SUA is a utility expense relating to the operation of air conditioning systems or room air conditioners. These households include:

a. Residents of rental housing who are billed on a monthly basis by their landlords for individual usage, or who are charged a flat rate separately from their rent.

b. Recipients of direct or indirect energy assistance made under the Low Income Home Energy Assistance Act of 1981 even if these households incur no heating or cooling charges.

c. Recipients of direct or indirect energy assistance, other than LIHEAA, that is excluded as income if the expense exceeds the amount of the assistance.

d. Recipients of direct or indirect energy assistance that is counted as income and incurs a heating or cooling expense.

e. Recipients in public housing with shared meters that are charged for excess utility costs that include either a heating or cooling component.

2. **Entitlement to the SUA**

A household which expects to incur a heating or cooling expense within the next 12 months will be allowed the SUA. Entitlement to the SUA may be verified by documenting the household's statement concerning qualified heating or cooling costs that are incurred during the year.

a. If the household has moved and has not established a pattern of energy use, the worker will have to anticipate whether the household will incur a heating or cooling expense in the next 12 months. This can be done by documenting that the household has the ability to incur costs which will entitle it to the SUA.

b. The SUA is not intended for households who incur infrequent and minimal expenses such as:

- A household which has no air conditioners, cuts its own firewood for heating, and only incurs the expense of gasoline for a chain saw and matches for lighting the fire.
- A household which has no air conditioners and which used only electric blankets for warmth.
- A household living in an apartment with no air conditioners, but with gas included in the rent payment, has electricity billed separately; while the household heats with gas, it runs a blower fan with electricity; this household is not entitled to the SUA.

3. **When the Household Moves**

The SUA is allowed for the certification period; the household is only required to report a change in its shelter deduction when it moves. A move by any household using the SUA requires the county department to determine the household's entitlement to the SUA at the new address.

a. A household loses entitlement to the SUA when it movesa. and stops incurring separate heating and cooling costs. When the county department becomes aware of such a change, it should take appropriate action, considering the applicable notice requirements, to remove the standard utility allowance from the household's net income computation, or change the standard, as appropriate, if the household establishes entitlement to the BUA or telephone standard.

b. When a household who was not entitled to SUA reports a move, the county department is required to determine if the household would be entitled to the SUA at their new address.

4. **The SUA and Sharing Expense**

When utility expenses are shared among different households living together in one residence, each household is entitled to receive the full SUA if the residence has qualifying heating or cooling costs. All households are not required to be participating in food assistance program for this purpose.

5. Low Income Home Energy Assistance Act Payments (LIHEAA) and the SUA

A household whose shelter arrangement does not change and who receives at least one LIHEAA payment will keep its entitlement to the SUA for a full year, the same as a household that incurs heating or cooling costs on a regular basis. If a household moves and receives a LIHEAA payment at the new address, it would continue to be eligible for the SUA. However, if it moves and its circumstances are such that it receives neither a LIHEAA payment nor incur out-of-pocket heating or cooling costs it will not receive the SUA.

H. **Basic Utility Allowance**

1. **General Information**

The Basic Utility Allowance (BUA) is a standard utility amount to be budgeted monthly for households who incur utility expenses other than or in addition to a telephone expense, but not separate heating or cooling costs or LIHEAA payments.

2. **Entitlement to the BUA**

To qualify for the BUA a household must be billed for at least two utility expenses separate and apart from their rent or mortgage. Qualifying expenses include: electricity, fuel for purposes other than heating or cooling, water, telephone, sewerage, garbage or trash collection, installation and maintenance of a septic tank or a well, or an excess utility cost that does not include heating or cooling for households who live in public housing or other similar rental units.

3. **The BUA and Sharing Expense**

When utility expenses are shared among different households living together in one residence each household is entitled to receive the full BUA if the residence has qualifying costs. All households are not required to be participating in the food assistance program for this purpose.

4. **Telephone Standard**

If a household only incurs the cost of a telephone (may be a cell phone), they will only be entitled to the telephone standard not the Basic Utility Allowance (BUA).

5. **Actual Utility Expense**

Households incurring only one utility expense other than a telephone or a heating or cooling expense are not entitled to receive a utility standard. These households will be given that utility expense as a deduction based on an average of the actual expenses incurred and anticipated for the certification period. In this situation counties are encouraged to contact the State Policy Desk for assistance in determining the deduction.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.9(c)(12), 273.9(d)(5)(i), 273.9(d)(6)(i) and (ii), 73.9(6)(iv)(c), 273.10(c)(2)(I), and 273.10(e)(1)(ii); Waiver I.D. 900017. Public Law 104-193 (Personal Responsibilities and Work Opportunity Reconciliation Act of 1996) Section 809. Waiver ID 2000511.
History: Effective May 10, 1985. **Repealed and Replaced:** Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed May 19, 1998; effective June 22, 1998. Succedent emergency amendment effective April 20, 2000. **Amended:** Filed June 2, 2000; effective

July 7, 2000. **Amended:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.05 Determining Household Eligibility And Benefit Levels.

A household's eligibility shall be determined for the month of application by considering the household's circumstances for the entire calendar month of application.

1. Households who are not in certification the month of application shall be the month in which the household filed its application.

2. Households who are in certification and apply for recertification in the last month of their certification have their eligibility determined for the first month following the end of the certification period.

Applicant household consisting of residents of a public institution who apply jointly for SSI and food assistance prior to their release from the public institution will have their eligibility determined for the month in which the applicant household is released from the institution.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.10(a)(1)(i) and (iii).
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660-4-2-.06 Action On Households With Special Circumstance.

The procedures for handling income received from boarders by a household that does not own and operate a commercial boardinghouse are described in Section 1101.

For all other households receiving self-employment income, including those households that own and operate a commercial boardinghouse, the county department shall calculate the self-employment income in accordance with the policies in the section. See Enter Self-employment income in OACIS

Self-employment is working for oneself, rather than for an employer. Self-employment for food assistance purposes involves a business, job, or enterprise which an individual or individuals work for gain or profit, rather than wages or salaries paid by an employer.

SELF-EMPLOYMENT BUSINESSES

1. The income and resources of an unincorporated busine1ss are treated as the self-employment income and resources of the proprietor

2. The income and resources of a partnership are treated similarly with each partner receiving a proportionate share of the partnership income and resources.

S CORPORATIONS AND OTHER CORPORATIONS

1. S Corporations are closely-held family corporations in which income from such is reported together with other household income on its tax return. S Corporations are "pass through" entities for tax purposes. The income of these companies are passed through to their owners and reported on the owners' personal income tax returns. Income from an S Corporation is counted as earned income, but it is not treated as self-employment. Owners of S Corporations are considered employees of the corporation and; therefore, cannot be considered as self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of certain costs of producing self-employment income (40% standard deduction). In an S Corporation only the salary paid to the employee-owner is subject to employment tax.

For those households who have an S Corporation, only the income as reported on the household's income tax return, form 1040, for the S Corporation is budgeted as earned income and annualized over a 12-month period. If the household reports a net loss, the income attributed to the food assistance household would be zero since net losses may not be used to offset other income. Losses experienced by employees of S Corporations must not be offset against other countable income in the household.

The income of other types of corporations is income to the shareholder only if it is distributed to the shareholder. Any cash or expenses paid to or for the household from corporate funds should be considered "distributions" and counted as income.

2. Corporate assets for any corporation should be clearly registered in the name of the corporation to receive an exclusion from the household's resource determination. Otherwise, these would be considered property of the household and counted or excluded as appropriate according to the provisions found in Chapter 8. Additionally, the value of the stock which represents the value of non-income producing corporate property is considered a resource to the stockholder.

Annualizing Self-employment Income

Self-employment income may be received irregularly or on a regular basis and is handled as follows:

1. Self-employment income which represents a household's annual income shall be annualized over a 12 month period even if the income is received within only a short period of time during those 12 months. For example, self-employment income received by farmers shall be averaged over a 12-month period, if the income is intended to support the farmer on an annual basis.

   If the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the county department shall calculate the self-employment income on anticipated earnings. The county department shall not calculate self-employment income on the basis of prior income (e.g., income tax returns) when the household has experienced a substantial increase or decrease in business.

2. Self-employment income which is received on a monthly basis but which represents a household's annual support shall normally be averaged over a 12 month period. This self-employment income shall be annualized even if the household receives income from other sources in addition to self-employment.

   If, however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the county department shall calculate the self-employment income based on anticipated earnings.

3. Self-employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than a 12-month period.

DETERMINING THE PERIOD OF TIME SELF-EMPLOYMENT INCOME IS INTENDED TO COVER

In an effort to determine if the self-employment income which is received other than on a regular monthly basis is intended to support the household on an annual basis, other factors, in addition to the household's own statement, could provide some indication as to how long the household could sustain itself on such income would have to be examined and evaluated. Such factors would include, but would not be limited to, previous

year's business and personal expenses, tax records, anticipated expenses for the current year, income received from other sources during the previous year, income during the coming year, and so on. Such factors, when compared with the income from seasonal self-employment, would provide a basis for making a determination as to how long the income is intended to support the household.

For example, if the previous year's expenses were proportionate to the household's income from self-employment, it could be an indication that the income would sustain the household for a year. Therefore, the household's income could be annualized. If expenses were not proportionate with the income, it could be assumed that such income could not sustain the household for a year; therefore, income would be averaged over the period of time for which such income is received.

Although the period of time for which the income is intended to cover would be a factor in determining the length of the household's certification period, all household circumstances would have to be evaluated. Additionally, although information obtained by the household would provide some indication as to the appropriate certification period to be assigned, the responsibility for establishing the appropriate certification period remains that of the county department.

NEW SELF-EMPLOYMENT ENTERPRISES

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

However, if the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

TERMINATION OF SELF-EMPLOYMENT

When a self-employed household whose income and expenses have been annualized and prorated over a 12-month period goes out of business, the county department must remove the prorated income from the food assistance budget when the last income is received from that source. For example, a farmer reports that he plans to stop farming and expects to sell his last crop in October. The sale of the crop has previously been anticipated and the income had already been included in the averaged amount. The averaged amount would be counted for October. No self-employment income would be counted for November.

1. If the household is expected to receive residual income after the person stops being actively engaged in the self-employment enterprise, the county department must calculate the residual self-employment income based on anticipated amounts.

   The income can either be counted in the month it is anticipated to be received or the county department can average the income forward over the certification period.

2. When the self-employment income is no longer counted in the food assistance budget, the self-employment expenses are no longer allowed, even if they continue to be incurred.

Determining Monthly Income from Self-employment

For the period of time over which self-employment income is determined, the county department must add all gross self-employment income (including capital gains); divide the gross self-employment income by the number of months over which the income will be averaged. This is the amount to be shown on the DHR-FAD-1139.

The households with self-employment income are entitled to a standard deduction of 40% of the gross proceeds from the self-employment income as a cost of doing business. This procedure is automated.

For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, as noted in Item A of this section, the county department must:

1. Add any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed.

2. Divide the amount by 12. This amount shall be used in successive certification periods during the next 12 months, except that a new average monthly amount shall be calculated over this 12-month period if the anticipated amount of capital gains changes.

3. The monthly anticipated average of capital gains as determined above shall then be added to the anticipated monthly self-employment income.

Households with self-employment income are entitled to standard deductions of 40% of the gross proceeds from the self-employment income as a cost of doing business. This procedure is automated.

OTHER HOUSEHOLD INCOME AND SELF-EMPLOYMENT INCOME

The monthly net self-employment income shall be added to any other earned income received by the household. The total monthly earned income, less a 20% earned income deduction, shall then be added to all monthly unearned income averaged by the household. (This process is handled by automation.)

SPECIAL PROVISION FOR FARMERS

For purposes of this provision, to be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1000 or more from the farming enterprise.

A fisherman is treated the same as a self-employed farmer if the fisherman is self-employed and receives or anticipates receiving annual gross proceeds of $1,000 or more from fishing. This applies even if the fisherman is only involved in catching or harvesting the fish as well as watermen, cray fishermen and other type fishermen.

When the Secretary of Agriculture determines that a farm emergency exists due to a natural disaster, any payments to farmers pursuant to such a determination shall be excluded from income and resources for food assistance purposes. This exclusion is required by Section 312(d) of the Disaster Relief Act of 1974, as amended in 1988.

CERTAIN FARM PAYMENTS

a. Agricultural Stabilization and Conservation Service (ASCS) cash payments including payments for crop losses are counted as earned self-employment income except when such payments are for loans. Farm loans are excluded from income for food assistance purposes.

b. Payments from the Federal Crop Insurance Corporation (FCIC) are considered recurring lump-sum payments, and as such they are considered as resources.

c. Crop insurance settlements from private companies which are made as a nonrecurring lump sum payment are counted as a resource.

TERMINATION OF FARM SELF-EMPLOYMENT INCOME

When a farm self-employment household whose income and expenses have been annualized and anticipated over a 12-month period, discontinues farming, the county department shall remove the farm self-employment income from the budget in accordance with the appropriate reporting and processing time frames for changes.

Annualized farm self-employment income that had been prorated as income from the budget due to termination of self-employment would lose its resource exclusion. However, any property or vehicles essential to farm self-employment of a household member engaged in farming is excluded as a resource for one year from the date the household member terminates farm self-employment.

Capital Gains

The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as capital gains for Federal income tax purposes. However, even if 50% of the proceeds from the sale of capital goods or equipment are taxed for Federal income tax purposes, the State agency shall count the full amount of the capital gain as income for food assistance purposes.

RECAPTURED DEPRECIATION

The Internal Revenue Service (IRS) allows self-employed persons to deduct depreciation as a cost of doing business. Then, when a piece of equipment, for instance, is sold before the end of its useful life, the former owner must declare a portion of depreciation as income. This is commonly referred to as recaptured depreciation. Recaptured depreciation is NOT counted as income for food assistance purposes.

RECAPTURED INVESTMENT CREDIT

IRS allows for a percentage of certain investments to be deducted as an expense. If the asset is disposed of or ceases to be eligible before the end of the recapture period for recovery property or before the end of the estimated life used to figure the credit, a percentage of the credit may have to be recaptured. This is commonly referred to as recaptured investment credit. Recaptured investment credits are NOT counted as income for food assistance purposes.

Allowable Costs of Producing Self-employment Income

Households with self-employment income are given a standard deduction of 40% of the gross proceeds from self-employment income for operating expenses as a cost of doing business. The standard will be used for all food assistance households reporting self-employment income. This procedure is automated.

Assigning Certification Periods

Households that receive their annual support from self-employment and have no other source of income may be certified for up to 12 months.

For those households that receive other sources of income or whose self-employment income is intended to cover a period of time that is less than a year, the county department shall assign a certification period appropriate for the household's circumstances.

For those self-employed households that receive their annual income in a short period of time, the initial certification period shall be assigned to bring the household into the annual cycle. For example, the county department may provide for recertification at the time the household normally receives all or a majority of its annual income or the State agency may prefer to have the annual cycle coincide with the filing of the household's income tax.

Special Instructions for Farmers in USDA Payment-in-Kind (PIK) Program

The following policy establishes the procedures for handling grain received by farmers under the new Payment-In-Kind (PIK) Program. Under this program, farmers who have already taken portions of land out of production under the Land Diversion or Acreage Reduction Programs will be encouraged to take more land out of production. Farmers who enroll will receive surplus grain which can be retained for their own use or sold. Rice and upland cotton, as well as wheat, corn and sorghum are involved in PIK program.

Grain received under this program should normally be considered self-employment income. It should be included when annualizing income if the household indicated the grain will be sold during the year. It should be noted that no income is in fact realized by the household until the commodities are sold. Indeed, farmers receiving PIK payments from the Commodity Credit Corporation (CCC) will incur no Federal income tax liability until sale of the commodities occurs. However, the Food Assistance Program regulations provide for a process of annualizing to be used when certifying self-employed households, such as farmers. PIK commodities, like any other product of the farm enterprise, should be included as part of annual income if their sale may be reasonably anticipated during the year for which income is being calculated. This process allows self-employed households to have certification periods that reflect the uneven time frames in which their income is generated.

It should also be noted that in many cases farmers will sell commodities they own to CCC and receive them back from CCC as PIK commodities. Farmers will be paid by CCC for the commodities with the payment being used to repay price support loans previously extended to the farmer by CCC. These sales and loan repayments should be treated as completely separate from the receipt of PIK commodities and handled in the same

manner as any other sale of commodities and repayment of a price support loan.

The value of any grain which the household intends to use for feed or seed would not be considered a resource. In those instances where the household intends to retain the grain without sale longer than 12 months, it should be considered a non-1iquid resource. It should also be noted that farmers who qualify for PIK grain and are already storing grain under a CCC loan will be allowed to divert for personal use the amount of PIK entitlement from their own storage, and will be released from any obligation for that amount of grain. PIK grain should be considered as described above whether diverted from the farmers own storage or received from the CCC.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B. Chapter II Subchapter C Section 273.11(e)(2), 273.11(a)(2)(iv).
History: New Rule: Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed May 19, 1998; effective June 22, 1998. **Repealed and New Rule:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.07 Reporting Changes.

The county office should react to the following changes when reported during the certification period. These reported changes and the action taken on these reported changes should be documented.

A. **Household Reported Changes - Required Changes**

1. Income Exceeds the Maximum Allowable (130 of Poverty) The household must report this change by the 10th day of the month after the month during which this change occurs. If the reported income (earned and unearned) is representative of the income the household expects to receive ongoing, within 10 days the county office should send a notice of adverse action to close the case due to excessive income. If the reported income is not representative of the income the household expects to receive ongoing the case should remain open. The eligibility worker should document the case record concerning why this reported income is not representative

For example: All check stubs for the month reported reflect overtime. The eligibility worker should discuss the overtime with the household to determine if the overtime will continue. If the overtime is not expected to continue, no change is due to be made in the budget.

2. **ABAWD in a Non-Exempt County**

If an ABAWD is eligible because he/she is working more than 20 hours weekly, the household must report the reduction of work hours to less than 20 hours a week by the 10th day of the month after the month during which this change occurs.

B. **Non-Required Changes Voluntarily Reported By the Household**

1. **Increase in Benefits**

For changes voluntarily reported by the household that increase benefits, the following actions should be taken:

a. Document the reported change and the date of the report.

b. Within 10 days determine the effect of the reported change on the household's eligibility and benefits.

C. For a change which results in an increase in a household's benefits (other than the addition of a new household member or a decrease of $50 or more in the household's gross income), the household is required to verify this change. When the change, with the verification, is received, the county department shall make the change no later than the first allotment available 10 days after the date the change was reported to the county department.

For example, a $30 decrease in income reported on the 15th of May would increase the household's June allotment. If the same decrease was reported on May 28, and the household's availability date was on June 4, the household's allotment would have to be increased by July.

For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of $50 or more in the household's gross monthly income, the county department shall make the change effective not later than the first allotment available 10 days after the date the change was reported. However, in no event shall the change take effect any later than the month following the month in which the change is reported.

If the change is reported too late in the month for the county department to adjust the following month's allotment, the county department shall issue a Supplementary Allotment in order for the household to obtain the increase in benefits by the 10th day of

the following month, or the household's normal availability date, whichever is later.

For example, a household reporting a $100 decrease in income at any time during May would have its June allotment increased. If the household reported the change after the 20th of May and it was too late for the county department to adjust the household's allotment normally available on June 4, the county department would issue a supplementary allotment for the amount of the increase by June 10.

d. Without Verification- When the household reports a change which causes an increase in benefits, but does not provide verification with the change, the county department shall allow the household 10 days from the date the change is reported to provide verification. If the household provides verification within this period, the county department shall take the same action required as if the verification had accompanied the change when it was reported. Thus, the time frame for processing the change shall run from the date the change was reported, not the date within the 10 days the verification was received.

If, however, the household fails to provide the required verification within 10 days after the change is reported, but does provide the verification at a later date, then the time frame for processing the change shall run from the date verification is provided rather than from the date the change is reported.

The date the change shall be effective is no later than the first allotment available 10 days after the date the verification was provided, except if the change is a new household member or a decrease of $50 or more in the household's gross monthly income, the change shall be effective no later than the first allotment available 10 days after the date the verification was provided; however, in no event shall the change take effect any later than the month following the month in which the verification was provided.

If necessary, a Supplementary Allotment shall be issued following the same procedures discussed earlier.

Until the verification of a change which causes an increase in benefits is provided, the household's benefits shall not be increased due to this change.

2. **Decrease in Benefits**

a. Document the reported change and the date of the report.

b. Do not act on this change if the reported change will decrease the household's benefits.

c. Notify the household that the change was received but due to the effect (decrease in benefits) the reported change had on the household's benefits; the change will not be made.

A trial budget should be placed in the case file to indicate the effect of the change, if needed.

3. **Other Changes**

The following changes shall be acted on within 10 days. The household shall be sent a notice of adverse action if these reported changes will cause a decrease or termination of the household's benefits.

a. There has been a change in the household's PA grant.

Changes reported to the Family Assistance worker are considered known to the agency and must be acted on in accordance with the provisions in this chapter. The county department must ensure that information reported to either worker is transmitted between Family Assistance and Food Assistance units in a timely manner so that the appropriate changes can be made by the worker(s) responsible for each program area, if appropriate. [6]

b. The household's voluntary request for case termination: This request may be verbal or in writing. If the report is in the form of a written request adverse action notice is not due the household.

c. Removal of a household member if the household member has applied for separate food assistance benefits or has moved into another participating food assistance case and should be added to that case.

d. A change that results in no eligible individual in the home due to the death of all household members (adverse action is not due the household).

e. A change that is considered verified upon receipt. This is:

IEVS Information from:

- Unemployment Compensation Benefits from the Department of Industrial Relations (UCB)

- Social Security Benefits (BENDEX)
- SSI Benefits (SDX)

SAVE information from the Immigration and Naturalization Service upon requests to verify alien status.

Employment and training disqualifications, intentional program disqualifications (IPV's) and other disqualifications.

A change that is considered verified upon receipt means that information is not questionable; the provider is the primary source of the information. If the information is questionable, the information is not considered verified upon receipt and should not be acted upon.

g. Information received through IEVS (Exception- BENDEX Death Matches and Prisoner Verification System Matches) from sources that is considered unverified upon receipt (Chapter 2, Section 205 I) and other unverified information received from a third party source such as Quality Control, or an anonymous caller, shall be processed in conjunction with the six-month report if it is received after certification but before the household submits the six-month report. Information received after the six-month report has been processed, shall be handled/cleared at recertification.

4. **BENDEX Death Matches and Prisoner Verification Matches**

BENDEX Death Matches and Prisoner Verification System Matches require contact with the household when received. The county department must follow up on these matches with a notice of match results. Inform the household of the information received by the county department, clearly explain what information the household must provide and the consequences of failure to respond. The county department must remove the individual from the household and adjust the household's benefits accordingly if the household does not respond to the request, or does respond but fails to provide sufficient information to clarify the household circumstances. Send the household a 10 day Notice of Adverse Action if the action to remove the individual results in a decrease or termination of the household's benefits.

If the information from death and prisoner matches are independently verified by the county department and the effect on the household's continued eligibility and/or benefit allotment can be readily determined, the county department must send a 10 day Notice of Adverse Action. A notice of match results would not be appropriate.

5. **Unclear Information**

Unclear information is information received during the certification period about a household's circumstances from which the county office cannot readily determine the effect on the household's continued eligibility. It is information that is not verified or is verified but the county department needs additional information to determine how to act on the change.

Unclear information received during the certification period that is fewer than 60 days old relative to the current month of participation and was required to have been reported by the household or unclear information that appears to conflict with the information provided by the household at the time of certification. This unclear information must be verified with the household through a request for additional information.

If the unclear information **is not** fewer than 60 days old relative to the current month of participation and was not required to be reported or does not significantly conflict with the information provided by the household at the time of certification, the county office must not act on this information or require the household to provide verification until six-month report or recertification, whichever comes first.

6. **Special Procedures for Reopening Cases after Household Fails to Provide Verification.**

Six-month reporting households that fail to respond to a request for additional information/verification which results in case closure or termination of benefits may have their benefits reinstated if the requested information/verification is submitted to the county office after the case has closed but before the end of the month following case closure/ termination. The county office must have issued a written request informing the household of the additional information/ verification it must provide and allowed the household 10 days to provide the requested information/verification. The county office must have issued a notice of adverse action explaining the reason for the closure or if approved for expedited services with postponed verification, a notice of action informing the household of the required information/ verification, when to return this information/verification, and the action the county office must take if the information/ verification is not returned.

The special procedures stated below apply to six-month reporting households that report a change after certification but before the six-month report and fail to respond to the county office request for additional information/verification concerning the reported change. If the household provides the missing information/verification after the case has closed but before the end of the month following case closure/ termination, benefits must be reinstated within 10 days.

Leave the food assistance case closed for the month of reinstatement. The county office must complete a trial budget to determine the amount of prorated benefits the household is entitled to for the month of reinstatement. Issue the household a restoration (Reason Code 19) for the month of reinstatement. The county office must document the reason for the restoration. The month after reinstatement, the county office must reopen the case. The new application date becomes the date the household provided all information/verification. Assign the household the original 12 month certification period. Benefits must not be prorated.

Example: Household is certified from March through February. The household reports a change in May for which the county needs additional information/verification. The household fails to respond to a request from the county office and the county office sends a notice of adverse action to close the case effective June 1. The household provides the information/ verification on June 6th (month after closure/termination). The county office must run a trial budget for June (use application date of June 6th) to determine if the household is eligible for June and the remainder of the certification period. If eligible, the county office should leave the case closed and issue a restoration for June. Benefits are prorated for the month of June. The next month (July), the county office must reopen the case. The new application date becomes June 6th. The certification period will remain the same, March through February.

In those rare occasions when six-month reporting cases are closed/terminated for failure to provide information/ verification the end of the fourth month of the certification period and the household provides this information/ verification in the fifth month (reopen), contact the State Policy Desk for instructions on reinstating benefits for these households to ensure that SR procedures are followed and tracked sufficiently.

These special procedures also apply to six-month reporting households that are approved for expedited services with postponed verification that are terminated for failure to provide mandatory verification but provide this verification in the month after the case is terminated. If the household provides the mandatory verification after the case has closed but before the end of the month following case closure/ termination, benefits must be reinstated within 10 days.

Example: Household is certified from March through February. The household filed an application for expedited services on March 16th and was approved for expedited services with postponed verification. This household was given a manual notice of action (Form 657) advising of the needed verification and the date by which this information is due to

be submitted to the county office. The household failed to provide the mandatory verification by the end of April. The case is closed April 30th and is sent an automated notice about the closure. The notice informs the household of the termination and why the case was closed. It also informs the household that their case can be reopened without a new application if they provide the missing verification before the end of the month (May). The household provides the mandatory verification on May 6 (month after closure/ termination). The county office must run a trial budget for May (use application date of May 6th) to determine if the household is eligible for May and the remainder of the certification period. If eligible, the county office should leave the case closed and issue a restoration for May. Benefits are prorated for the month of May. The next month (June), the county office must reopen the case. The new application date becomes May 6th. The certification period will remain the same, March through February.

Author: Pamela Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.10(f)(4)(iii), 273.12(c)(1)(iii), 273.12(e)(1)(ii), 273.12(e)(3), and 273.12(f)(2)(I), Waiver I.D. 950059.
History: New Rule: Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed July 15, 1996; effective August 19, 1996. **Repealed and New Rule:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.08 Recertification.

Once a household's certification ends, the household's eligibility must be redetermined if benefits are desired. Adopted options and waivers are as follows.

The county department shall complete the application process if the household meets all requirements and finishes the necessary processing steps, and approve or deny timely applications for recertification prior to the end of the household's current certification period.

In addition, any eligible household shall be provided an opportunity to participate by its normal issuance cycle in the month following the end of its current certification period.

However, the household shall lose its right to uninterrupted benefits when it fails to:

1. Attend any interview scheduled on or after the deadline for timely filing of the application for recertification as given in Section 1403.

2. Submit all necessary verification within the time frame established in Section 1402C as long as the time frame elapses after the deadline for filing a timely application.

Although a household loses its right to uninterrupted benefits for such failures, the household shall not be denied at that time, unless it refused to cooperate.

If the household loses its right to uninterrupted benefits due to such failures but is otherwise eligible after correcting such failures, the county department shall, at a minimum, provide benefits within 30 days after the date the application was filed.

Denials, including those for failure to complete the interview or provide missing verification timely, shall be completed either by the end of the current certification period or within 30 days after the date the application was filed as long as the household had adequate time for providing the missing verification.

The county department shall not continue benefits beyond the end of the certification period unless the household has been recertified. The joint processing requirements in Section 209 A for PA households shall continue to apply to applications for re-certifications.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.14(a)(2); 7 C.F.R. 272.8(g)(2), Waiver #960179.
History: New Rule: Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed November 5, 1996; effective December 10, 1996. **Amended:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.09 Fair Hearings.

Procedures for the hearing process used in fair hearings are in the General Administration Division as Chapter 660-1-5.

1. OPTIONS:

(a) Timely Action on Hearings

The county department is responsible for insuring that all final hearing decisions are reflected in the household's allotment within the time limits specified in Section 1502.

When the hearing authority determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, lost benefits shall be provided in accordance with Chapter 16. The agency shall restore benefits to households which are leaving the project area before the departure whenever possible. If benefits are not restored prior to the household's departure, the agency shall forward an authorization to the benefits to the household or to the new project area if this information is known.

The new project area shall accept an authorization and issue the appropriate benefits whether the notice is presented by the household or received directly from another project area.

When the hearing authority upholds the county department's action, a claim against the household for any over-issuance shall be prepared, except for work registration sanction. (See Claims Against Households Manual)

If the hearing is dismissed and benefits were continued in accordance with Section 1510 rather than the proposed reduction/termination, the county department will take the following actions:

1. The planned reduction/termination will be effective the first of the following month.

2. A letter will be sent to the household advising of the reduction/termination and the effective month (not a Notice of Adverse Action).

3. A claim will be prepared for the months benefits were continued, except for work registration sanction.

4. If the certification period has expired or will expire before the planned action can be implemented or other changes have occurred which offset the original intended action, then only a claim will be prepared for the month(s) the original action would have been effective.

5. If the household established good cause for failing to appear, benefits will be continued at the original level until/unless a change is reported, a mass change occurs, the certification period expires or a decision is rendered.

6. Notify Food Assistance Division of the good cause. A rehearing will be scheduled, conducted and a decision rendered.

7. If the rehearing decision finds for the agency, implement the action and prepare claim.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.15(a)(1).
History: **New Rule:** Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.10 Simplified Reporting.

Simplified reporting is a term used to describe the limited reporting requirements for all households receiving food assistance benefits.

Six-month reporting is a term used to describe those simplified reporting households who are required to submit a report form during the sixth month of the certification period.

All households are assigned a 12-month certification period (unless ineligibility can be predicted with reasonable certainty based on information provided at the certification interview).

REPORTING REQUIREMENTS

1. All households are required to report when their income exceeds 130% of the poverty level for their household size. Do not consider ineligible or disqualified persons in determining the household size for reporting purposes.

2. Households containing an ABAWD, exempt from the time-1imits only because he or she meets the 20 hour/week work requirement (80 hours a month) must report when that person's work hours fall below 20 hours per week.

Households must report required changes by the 10th day of the month after the month during which the change occurred. Households with no earned income and all adult household members are elderly or disabled have no additional required reporting requirements during their assigned certification period. Eligibility and benefit level for the entire certification period are determined prospectively based on the best information available at the time of certification to anticipate for the entire certification period.

All other households are subject to six-month reporting. They are sent a computer generated six-month report form, which must be completed and returned by the specified filing date in order to continue receiving benefits, if eligible. Eligibility and benefit levels for the first six months of the certification period are determined prospectively, based on the best information available at the time of certification to anticipate for the first six months of the certification period. Eligibility and benefit level for the last six months of the certification period are determined prospectively based on information reported on the six month report form to anticipate for the remaining six months of the certification period.

All households must be provided with information at certification to advise them of their gross income limits for reporting purposes.

No other changes must be reported by households during their certification period, except for those changes required on the six month report form.

If a household voluntarily reports a change, the change will only be acted on if the change will result in an increase in the household's benefits.

Author: Pamala Pace
Statutory Authority: Food Stamp Act of 1977, 7 U.S.C. 2011 et seq; Code of Ala. 1975, §38-2-6(17); 7 C.F.R. Subtitle B, Chapter II Subchapter C Section 273.21(b).
History: New Rule: Filed November 1, 1995; effective December 6, 1995. **Repealed and New Rule:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.11 Resource Eligibility Standards.

Federal regulations concerning the treatment of resources are followed with exceptions listed below.

Only certain liquid resources owned by a household member will be used to determine the household's countable resources. Income counted to the household for a month cannot be counted as a resource for that same month. The resources of a household member who is categorically eligible (receives SSI and/or FA benefits) will not be included in the resource determination for the household.

The resources of a household member that is determined categorically eligible based on expanded categorical eligibility rules will not be included in the resource determination for the household. The resources of household members who are disqualified or ineligible will be included as detailed in Section 1102.

The resources deemed to a sponsored alien will be included as detailed on Section 1108.

The following liquid resources will be counted:

1. Cash on hand.

2. Money in a checking account.

3. Money in a savings account.

4. Certificates of deposit (value minus any penalty for early withdrawal).

5. Stocks

6. Bonds

7. US Savings bonds (redeemable value).

8. Vacation pay of a laid-off employee that is received in a single payment or that the employee can but chooses not to receive. (If these funds are received in more than one payment the payments are counted as income.)

9. Loans (other than deferred payment loans for education).

10. Trust funds to which the household has access.

11. Non-recurring lump sum payments including but not limited to:

    a. Income tax refunds, rebates, or credits.

    b. Retroactive lump-sum payments for Social Security, SSI, FA, UCB, and other programs.

    c. Funds from a guardian or conservator account which are limited to use in emergency situations.

    d. Child support payments received from income tax intercept.

12. The total value of any of the above listed resources that are jointly owned with a non-household member.

If a jointly-owned resource is accessible but the household member claims not to be the owner of the resource, it is the household's responsibility to establish non-ownership of the funds. The following will be considered in determining non-ownership: 1) reason for establishment of the account and 2) account activity (withdrawals and deposits) and 3) the person responsible for the account activity.

Documentation to establish non-ownership may include written statements from all account holders or a third party with knowledge of the circumstances, statements from a bank official, monthly account statements, cancelled checks, deposit slips, or information to establish the source of the funds such as check stubs, employer statements, etc.

Author: Pamala Pace
Statutory Authority: Horstead v. Lung, Case No. 88-T-330-S, U.S. District Court Middle District of Alabama (decided July 12, 1988); Wood v. State Department of Human Resources, 523 So. 2d 129 (Alabama Civ. App. 1990).
History: New Rule: Filed November 1, 1995; effective December 6, 1995. **Amended:** Filed June 9, 1999; effective July 14, 1999. **Amended:** Filed October 9, 2018; effective November 23, 2018.

660-4-2-.12 Child Support Deduction.

Section 13921 of the Leland Act (Pub. L. 103-66 Title I, Chapter 3, August 10, 1993) amends Section 5(e) of the Food Stamp Act.

Legally obligated child support payments paid by a household member to a non-household member shall be allowed as a deduction. The deduction shall be only for the amount the household member actually pays, and shall not exceed the legally obligated amount. Voluntary child support payments are not allowed as a deduction.

1. The household may receive a deduction for legally obligated child support paid to a party outside the household, even if the child or the children and the other parent are in the same household with the individual paying the child support. For example this may occur if the child moves back and forth between the parents, or if the payee has a continuing obligation to make arrearage payments to the Child Support Collection Agency after the family is reunited.

2. Payments made to a third party (e.g., landlord or utility company) on behalf of the non-household member in accordance with the support order shall be included in the deduction.

3. Legally obligated payments made by the household to obtain medical care and health insurance for the child or children shall be included as part of the child support deduction.

4. In addition to the regular child support payments, a deduction may also be given for arrearage payments. If the amount in excess of the legally obligated amount is for arrearage the household is entitled to a deduction for the entire amount. For example a father (legally obligated to pay $100 per month child support) is paying $150 child support which includes $50 arrearage payments and the $100 current child support would be entitled to a deduction for the entire

$150. However, if the amount in excess of the legally obligated amount is voluntary and is not for arrearage the household would only be entitled to a deduction for the legally obligated amount.

A separate court order specifying the amount of the arrearage payments is not necessary in order for the household to receive the deduction. A court order or other types of verification of the legally obligated amount of child support is needed only for the current child support payments. The amount of the arrearage payments must be verified, as well as that the payments are truly arrearage. The worker must document thoroughly when giving a deduction for arrearage payments.

5. A deduction shall not be allowed for amounts collected through income tax intercepts. Unlike child support paid through garnishments from current income, child support collected through income tax intercept is taken from a lump-sum payment.

Author: Pamala Pace
Statutory Authority: Food Stamp Act 1977, U.S.C. 2011 et seq: Public Law 103-66: 7 CFR 273.9; Code of Ala. 1975, §38-2-6(17).
History: **New Rule:** Filed February 5, 1996; effective March 11, 1996. **Amended:** Filed October 9, 2018; effective November 23, 2018.