



## Commissioners All States

*On October 28, 2000, the President signed Public Law 106-387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, which includes several provisions affecting the Food Stamp Program. This memorandum describes the two provisions of this act which increase the maximum excess shelter expense deduction, and allow States to substitute their Temporary Assistance for Needy Families (TANF) vehicle rules for the food stamp vehicle rules where doing so would result in a lower attribution of resources to food stamp households.*

The following information is provided for your guidance.

### **Section 846 - Maximum Amount of Excess Shelter Expense Deduction**

This section amends section 5(e)(7)(B) of the Food Stamp Act of 1977 to increase the cap on the excess shelter expense deduction for fiscal years 2000 and beyond for households which do not contain an elderly or disabled member. For fiscal year 2001, maximum excess shelter expense deductions shall not exceed \$340, \$543, \$458, \$399, and \$268 per month for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands, respectively. Maximum excess shelter expense deductions for fiscal years 2002 and beyond are to be computed based on the applicable amount for the preceding fiscal year, adjusted to reflect changes in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding November 30. This provision is effective March 1, 2001, but does not apply to certification periods beginning before this date. States must, therefore, implement the new shelter expense deduction cap when certifying or recertifying households on or after the March 1, 2001, effective date. We realize some States may have difficulties in programming their computers to allow for dual excess shelter caps. However, the statute does not permit application of the new shelter deduction allowances for all households on the March 1<sup>st</sup> effective date.

### **Section 847 - Vehicle Allowance**

This section amends section 5(g)(2) of the Food Stamp Act of 1977 (FSA) to allow State agencies the option to use their TANF vehicle allowance rules rather than the fair market value vehicle rules used in the Food Stamp Program where doing so will result in a lower attribution of resources to food stamp households. Vehicles that are excluded in their entirety under section 5(g)(2)(C) of the FSA would continue to be excluded before applying the TANF option. The new vehicle provision is effective July 1, 2001, but does not apply to certification periods beginning before this date. States may, therefore, implement this change through certifications and recertifications occurring anytime on or after July 1, 2001.

Until final regulations are published, States have flexibility in determining how these provisions should be implemented. It may be helpful to review the floor statements made October 11 and 18, 2000, by Representative Charles W. Stenholm, and Senator Tom Harkin, respectively, concerning the conference report on the bill which was signed into law as Public Law 106-387. These statements can be found on page H9691 of the October 11, and pages S10682 and S10683 of the October 18, 2000, Congressional Record. (Copies of the transcripts have been enclosed for your convenience). We would like to emphasize these points for your information:

- States may adopt vehicle allowance rules from any program that receives TANF or TANF maintenance-of-effort (MOE) funds as long as that program provides benefits that meet the definition of "assistance" according to TANF regulations at 45 CFR 260.31. This definition includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs including such benefits when they are provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients and conditioned on participation in work experience or community service or any other work activity under TANF regulations. It also includes supportive services such as transportation and child care provided to families who are not employed. (A comprehensive definition of "assistance" under TANF is enclosed for your information.)
- If a State decides to apply the policies from a State TANF or MOE-funded program to evaluate vehicles for food stamp purposes, those policies will apply to all food stamp households in the State, whether or not they receive or are eligible to receive TANF assistance of any kind.
- Although section 847 of Public Law 106-387 amends section 5(g)(2)(B)(iv) of the FSA pertaining solely to the fair market value test for vehicles, States may, however, apply this provision to the food stamp equity test for vehicles which is not mandated by statute. States may, therefore, apply their borrowed TANF option to those vehicles which are subject to the equity test for food stamps. If a State TANF program has a more lenient vehicle test than food stamps for fair market and equity evaluation purposes, it may use this policy for both. If the food stamp fair market test is more lenient than a State TANF program, but the rules, the State may choose the food stamp test for fair market value.
- Where a household has more than one vehicle, a State may choose the rules under which the vehicle is titled. Under whichever rules will result in the lower attribution of resources to the household.

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required to perform two complete resource calculations for each household to determine whether TANF or food stamp vehicle rules, when applied to the household's circumstances, result in a lower attribution of food stamp resources for that household. They may instead decide which rules are more liberal on a vehicle-by-vehicle basis. For example, if TANF policy is to exclude the primary car completely and count the fair market value of any additional cars, the State may exclude one car in its entirety, since this policy is more liberal than food stamp procedures. For a second vehicle, States could apply food stamp vehicle rules which count the fair market value of a vehicle only to the extent it exceeds \$4,650 and is more liberal than its TANF fair market policy. In using their TANF policy to exclude one vehicle, States may apply their exclusion to the vehicle with the highest value as provided in their rules.

- States can borrow TANF- or MOE-funded program rules for food stamp purposes which exclude cars completely, or do not apply resource rules at all. In such cases, any vehicle owned by any household in the State would not be considered a resource for food stamp purposes.

### **Quality Control Hold-Harmless Procedures**

The following procedures shall be used for all cases with review dates on or after the effective date of the above provisions.

- Once the State implements the excess shelter deduction provisions, variances resulting from the incorrect implementation of these provisions shall be excluded from error analysis (in accordance with regulations at 7 CFR 275.12(d)(2)(vii)) in cases that are certified or recertified during the first 120 days of the required implementation date beginning on March 1, 2001. If a State implements the optional TANF vehicle policy, variances resulting from the incorrect implementation of these provisions shall be excluded from error analysis for cases certified or recertified during the first 120 days of the implementation period beginning either on July 1, 2001, or on the date of implementation, whichever is later. Under these procedures, the variance exclusion would be applied to cases in which the allotment authorized as of the review date is based on a certification or recertification action occurring during the variance exclusion period. For these cases, the variance exclusion would be applied until the case is recertified after the expiration of the variance exclusion period or an interim change occurs and is processed after the expiration of the variance exclusion period, whichever is earlier. The review date itself does not have to fall within the variance exclusion period for these hold-harmless procedures to apply. The hold-harmless provisions shall not apply to cases certified or recertified either prior to or after the 120-day variance exclusion period.

Regulations reflecting revisions to the Act made by Public Law 106-387 will be published as soon as possible. States electing the TANF option should inform their Regional Office which TANF assistance program they intend to use for vehicles and the rules of that program.

Sincerely,