



Food and
Nutrition
Service

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Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

SUBJECT: Questions & Answers Concerning the Agricultural Act of 2014
Sections 4005, 4007, 4008, 4009, 4015, 4022, 4025, 4031

TO: All Regional Directors
Supplemental Nutrition Assistance Program

The attached questions and answers are intended to address State agency concerns about the effects of the Agricultural Act of 2014 (the Act) on the Supplemental Nutrition Assistance Program (SNAP). The Food and Nutrition Service (FNS) is releasing this memorandum as formal guidance for use by FNS Regional Offices, State agencies, and community partners. FNS is committed to providing ongoing technical assistance to States on issues of SNAP policy, compliance, and compatibility in relation to the new requirements of the Act, and encourages States to continue to contact their regional counterparts with questions.

This memorandum comprises part of a series of questions and answers on this topic. FNS anticipates that additional question and answer documents will be forthcoming.

If further questions arise in relation to SNAP and the Act, please contact me at Lizbeth.Silbermann@fns.usda.gov.

Sincerely,

Lizbeth Silbermann
Director
Program Development Division

Attachment

4005: EXCLUSION OF MEDICAL MARIJUANA FROM EXCESS MEDICAL EXPENSE DEDUCTION

Question 1: Can medical marijuana be deducted as a medical expense when determining SNAP benefits?

Answer 1: No. Longstanding SNAP policy dictates that medical marijuana is not an allowable deduction for SNAP purposes. Under Federal law, marijuana is a controlled substance that cannot be prescribed for medicinal purposes. SNAP conforms to Federal law regarding illegal substances, and the Act directs FNS to codify this longstanding policy in regulation.

Question 2: If a client has a prescription for medical marijuana, can it be deducted as a medical expense when determining SNAP benefits?

Answer 2: No. Prescription medications, when prescribed by a licensed practitioner authorized under State law, are typically allowable expenses for the SNAP medical deduction; however, medical marijuana is not allowable, even when prescribed, because Federal law prohibits prescribing marijuana for medicinal purposes. SNAP is a federal program and must conform to Federal law regarding illegal substances.

Question 3: Does the prohibition in the Farm Bill cover all medical expenses related to marijuana (or any illegal substance), such as transportation costs to a doctor's visit where marijuana is prescribed, long distance calls to medical providers where medical marijuana is discussed, or copayments for insurance to cover medical marijuana?

Answer 3: Deducting the cost of marijuana as a medical expense is not permitted under SNAP policy. Likewise, all associated costs connected to obtaining marijuana through travel, long distance phone calls, and copayments are not allowable medical expenses.

Question 4: Can you deduct medicinal marijuana products, such as edibles, teas, topicals, tonics, etc., as a medical expense when determining SNAP benefits?

Answer 4: No. Deducting the cost of any product that contains marijuana, or any illegal substance, is not permitted under SNAP policy.

Question 5: Are marijuana dispensaries eligible to accept SNAP benefits?

Answer 5: Marijuana dispensaries are not eligible to serve as authorized SNAP retailers and cannot accept SNAP benefits as they do not meet SNAP requirements for retail stores.

4007: ELIGIBILITY DISQUALIFICATIONS

Question 1: The Act modifies the eligibility requirements for students who are participating in and Employment & Training (E&T) education component. Can you explain the new requirements?

Answer 1: The Act amends Section 6(e)(3)(B) of the Food and Nutrition Act to modify the SNAP eligibility of students who are enrolled at least half-time at an institution of higher education through the SNAP E&T program. Under the new requirements, unless such students meet any of the other exemptions under Section 6(e), they can be eligible to participate in SNAP only if they are placed in an employment and training program that is part of a program of career and technical education, as defined by the Carl D. Perkins Career and Technical Education Act of 2006, or in courses for remedial education, basic adult education, literacy, or English as a second language.

Question 2: Will States be required to implement this provision immediately?

Answer 2: No. FNS will publish a proposed rule establishing how to determine which courses or programs are part of program of career and technical education, as defined by the Carl D. Perkins Career and Technical Education Act of 2006, or are courses for remedial education, basic adult education, literacy, or English as a second language. If a State currently has or plans to develop an educational component for its E&T program, FNS encourages it to design educational components that are directly linked to jobs available in the local economy or in emerging industries.

4008: ELIGIBILITY DISQUALIFICATIONS FOR CERTAIN CONVICTED FELONS

Question 1: Does the provision disqualifying certain convicted felons from participating in SNAP apply to individuals complying with the conditions of their probation or parole?

Answer 1: No, it applies only to individuals convicted of aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault as defined in the Violence Against Women Act of 1994, or a similar State law, **and** who are also not in compliance with the terms of their sentence or are a fleeing felon in accordance with Section 6(k) of the Food and Nutrition Act, as amended.

Question 2: When will States be required to implement this provision?

Answer 2: FNS is working to develop regulations that will provide an implementation date and details on how to apply this provision.

Question 3: The Act provides that individuals convicted of similar offenses under State law are also subject to this provision. What are those offenses?

Answer 3: The Act gives the United States Attorney General the authority to determine what convictions are similar under State law. More information is forthcoming, through either regulations or additional guidance from the United States Department of Justice.

Question 4: What information will States be required to obtain to implement the felon eligibility disqualification provision?

Answer 4: FNS will address how States will be required to implement this provision through rulemaking.

Question 5: Does this provision apply to convictions that occurred before the Act passed?

Answer 5: No, individuals must attest to a conviction for any of the crimes committed above only if the crime occurred after the date of enactment of the Act, February 7, 2014.

However, an individual who is a fleeing felon is still ineligible for SNAP pursuant to longstanding provisions in the Food and Nutrition Act of 2008, as amended, and SNAP regulations.

Question 6: Can a signed statement that no one in the household has an applicable conviction be added to the application?

Answer 6: FNS will address how States will be required to implement this provision through rulemaking.

Question 7: What is expected of States in terms of tracking felon compliance with sentences?

Answer 7: FNS will address how States will be required to implement this provision through rulemaking.

Question 8: Individuals in violation of the conditions of their probation or parole and fleeing felons are already ineligible for SNAP benefits. How is this provision different from current rules?

Answer 8: The ineligibility of individuals in violation of the conditions of their probation or parole is a new provision. FNS will address how States will be required to implement this provision through rulemaking. FNS has issued proposed regulations on the requirements associated with fleeing felons. The final rule is currently in clearance.

4009: ENDING SNAP BENEFITS FOR LOTTERY OR GAMBLING WINNERS

Question 1: What does “substantial lottery or gambling winnings” mean? Are only cash prizes included in the definition of lottery or gambling winnings?

The legislation states that a lottery or gambling winner will lose eligibility for benefits immediately. How will this be implemented in States with simplified reporting?

Will States be required to send notice of adverse action to lottery and gambling winners with substantial winnings before making them ineligible for SNAP?

Are winnings from private, non-profit gaming events like those associated with a church bazaar or school fundraiser included in the definition of gambling or lottery winners?

Answer 1: FNS will outline the implementation of this provision, including the steps recipients and States must take to ensure compliance, in regulation.

Question 2: What types of gaming associations does my State SNAP office have to create agreements with? What information should these agreements contain?

Answer 2: The Act directs the USDA to establish criteria for agreements between States and gaming entities. FNS will establish these criteria through the rule making process. Regulations will define the types of gaming entities for which an agreement is required, as well as the types of information to be contained in the agreements.

Question 3: Will this provision apply to winnings associated with gaming entities owned by Indian tribal organizations or located on tribal lands?

Answer 3: FNS will specify gaming entities to which this provision applies during rule making.

4015: MANDATING STATE IMMIGRATION VERIFICATION

Question 1: Are States required to use the U.S. Citizenship and Immigration Services' (USCIS) Systemic Alien Verification for Entitlements (SAVE) database to verify immigration status of applicants?

Answer 1: Yes. In accordance with SNAP regulations at 7 CFR 273.2(f)(1)(ii), States must verify the immigration status of non-citizens who apply for SNAP, but it does not mandate the use of the SAVE database. However, Section 4015 of the Act now mandates that all States use an immigration status verification system established under Section 1137 of the Social Security Act. The majority of States currently use the SAVE database, which satisfies the requirement of the Act. FNS expects that most, if not all, States already have procedures in place that meet this requirement.

Question 2: What changes will States have to make to their systems to comply with the requirement to establish an income and eligibility verification system?

Answer 2: No immediate action is required of States. FNS will develop regulations regarding the income and eligibility system standards in this provision through rulemaking.

Question 3: When will States be required to comply with this provision?

Answer 3: Section 4015 makes two changes to eligibility determinations. States are required to implement a system to verify immigration status immediately. FNS expects that most, if not all, States have procedures in place that meet this requirement. The provision also requires that States establish an income and eligibility verification system in accordance with standards set by the Secretary. FNS will establish the standards through rulemaking.

4022: PILOT PROJECTS TO REDUCE DEPENDENCY AND INCREASE WORK REQUIREMENTS AND WORK EFFORT UNDER SNAP

Question 1: The Act provides that the E&T formula grant funding be available for 24 months. Does this mean the period of performance for E&T grants is 24 months and will State agencies be able to carry over FY 2014 E&T grant funds into the following fiscal year?

Answer 1: No. This provision does not change the period of performance for E&T grants.

FNS will continue to allocate funds on an annual basis and State agencies must obligate and spend funds by the end of the fiscal year. For example, State agencies must obligate and spend FY 2014 grants in the current fiscal year. The 24 month period of availability refers to the length of time that FNS has to obligate and re-obligate funding to States before it goes back to the Treasury, not how much time State agencies have to obligate and spend funding.

Question 2: The Act requires FNS to develop reporting measures for States' E&T programs. When will FNS publish regulations for these measures?

Answer 2: The Act requires that FNS publish an interim final rule by August 2015 that would implement the new monitoring requirements of the Act and include reporting measures and reporting requirements for States' E&T programs. State agencies must include the reporting measures established by the interim rule in FY 2017 E&T plans. Until the interim final rule is published, FNS encourages

States to work with their Regional offices to develop performance measures for FY 2015 and beyond that are based on the common measures of performance for Federal workforce training programs, and to report that information in their annual E&T plans.

Question 3: The Act requires FNS to monitor and assess the effectiveness of States' E&T programs. How will FNS do this?

Answer 3: The Act requires that FNS publish an interim final rule implementing the new monitoring requirements by August 2015. Prior to the publication of the interim final rule, FNS will continue to review State agencies' E&T plans, perform management evaluations of E&T programs and provide enhanced technical assistance to States in developing effective demand-driven workforce training programs.

Question 4: Will FNS accept comments on the interim final rule's provisions?

Answer 4: Yes. FNS will accept and review comments on the interim final rule's provisions.

Question 5: The Act provides \$200 million dollars for 3-year pilot projects in up to ten States. When will FNS release more information about the E&T pilots?

Answer 5: FNS is required by Statute to publish a Request for Applications (RFA) for the pilots by August 2014. State agencies will have at least three months to respond to the announcement. Until then, FNS encourages State agencies to review the information on qualifying and selection criteria that is in the Act and begin thinking about projects they may be interested in piloting.

Question 6: When will FNS announce the selected E&T pilots?

Answer 6: FNS will announce the pilots by February 2015.

4025: REVIEW, REPORT, AND REGULATION OF CASH NUTRITION ASSISTANCE PROGRAM BENEFITS PROVIDED IN PUERTO RICO

Question 1: How does the Agricultural Act of 2014 affect Puerto Rico's Nutrition Assistance Program (NAP)?

Answer1: Section 4025 of the Act requires the USDA to review and report to Congress (by August 2015) on the history, purpose and usage of the cash portion of NAP benefits; the potential adverse effects of discontinuing the cash portion of NAP benefits; and the current barriers to use of the non-cash portion of benefits. The Act also mandates that the Secretary disapprove any annual NAP Plan that includes a percentage of cash benefits as follows:

- FY 2017: More than 20 percent
- FY 2018: More than 15 percent
- FY 2019: More than 10 percent
- FY 2020: More than 5 percent
- FY 2021: Any cash portion

The Act allows USDA to exempt certain participants that the report shows would have significant adverse effects from not receiving some benefits in cash.

4031: COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS PILOT PROGRAM

Question 1: How does the Agricultural Act of 2014 affect the operation of the Commonwealth of the Northern Mariana Islands' (CNMI) Nutrition Assistance Program (NAP)?

Answer 1: Section 4031 of the Act requires the Secretary to conduct a feasibility study to assess the capabilities of CNMI to operate SNAP and alternative models of operating SNAP that would best meet the needs of the CNMI's population. The Act provides \$1 million for FY 2014 and \$1 million for FY 2015 for the study. FNS will contract the study out to an independent evaluation contractor. If the study shows that operating SNAP in CNMI is feasible, the Secretary shall establish a pilot program for CNMI to operate SNAP. The provision provides funding for a pilot (FY 2016: \$13.5 million; FY 2017: \$8.5 million; and FY 2018: \$8.5 million). Should the Secretary determine a pilot project is not feasible, the funds for the pilot program are to be provided to CNMI in addition to its regular block grant.