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United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive

Alexandria, VA 22302-1500

SUBJECT: Drug Addiction and Alcoholic Treatment and Rehabilitation Programs

TO: All Regional Administrators
Food and Nutrition Service

Recently questions have been raised regarding Food Stamp Program (FSP) authorization and reauthorization policy for drug and/or alcohol (DAA) treatment centers and rehabilitation programs. These questions pertained to whether residents of faith-based and community DAA recovery programs in several States were being denied the ability to participate in the FSP because of some confusion over whether State licensing is required for such participation. **Such licensing is not required**, and this memorandum serves as guidance to clarify that policy while the Food and Nutrition Service (FNS) proposes an amendment to the current regulations. The specific statutory and regulatory language that this memorandum will address includes:

Statute: Section 3(f) of the Food Stamp Act of 1977 {7 USC 2012 (f)}: Defines drug addiction or alcoholic treatment and rehabilitation programs as any such program conducted by a private non-profit organization or institution, or a publicly operated community mental health center, under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to provide treatment that can lead to the rehabilitation of drug addicts or alcoholics.

Regulation: 7 CFR 271.2: The term "Under part B of title XIX of the Public Health Service Act" is further defined as meeting the criteria which would make a program eligible to receive funds even if it does not actually receive funding under part B of title XIX.

In order for the residents of a DAA center to be certified to receive food stamps under 7 CFR 273.1(b)(7)(vi)(B), the DAA must provide evidence that it is:

1) (a) Tax exempt; **and,**

(b) Certified by the State agency responsible for the treatment and rehabilitation of drug addicts or alcoholics (the State Title XIX Agency) as:

(i) Receiving funding under part B of title XIX; **or**

(ii) Eligible to receive funding under part B of title XIX even if no funds are being received; **or**

(iii) Operating to further the purposes of part B of title XIX, to provide treatment and rehabilitation of drug addicts and/or alcoholics.

OR

2) Authorized as a retailer by the FNS.

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The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The State food stamp agency must clearly communicate the above requirements to any DAA center making application on behalf of its residents. The State food stamp agency must make it clear that the residents may be eligible if the DAA center meets any of the FSP standards for certification listed above.

The State food stamp agency must verify that the DAA center meets the above requirements before it determines any residents of the DAA center eligible for food stamps. DAA centers may provide verification of this status to the State food stamp agency as follows:

1. By way of a copy of a letter, license or other certification issued by the State Title XIX agency that shows that the DAA center meets the FSP standards for certification listed above. It should also be noted that such "certification" need not rise to the level of State licensure.

2. If a DAA center cannot provide documentation that it meets the FSP standards for certification listed above, the State food stamp agency should take the necessary steps to facilitate contact between the DAA center and the State Title XIX agency. Where the DAA center in question offers an alternative model of treatment or rehabilitation not eligible for licensing by the State, the State's Title XIX agency should still make a determination as to whether or not the facility is operating to further the purpose of part B of title XIX, to provide treatment and rehabilitation of drug addicts and/or alcoholics. FNS will be satisfied with a simple letter from the appropriate State agency acknowledging that the facility is operating for this purpose. FNS understands that Secretary Johanns of the United States Department of Agriculture and Secretary Leavitt of Health and Human Services recently addressed a letter to State governors encouraging State Title XIX agencies to adhere to the guidance addressed in this memorandum. As such, FNS strongly encourages State food stamp agencies and State Title XIX agencies to work together to make this determination.

   Where faith-based DAA facility participation in the FSP is concerned, States should take care not to impose additional burdens.

3. If the FNS has authorized the DAA center as a retailer, the State food stamp agency may rely on that for verification. FNS will ensure that DAA centers it authorizes as retailers meet the required standards at authorization and at periodic reauthorization every 5 years.

FNS Regional Offices need to encourage the State agencies in their regions to maintain lists of DAA centers that meet the FSP standards for certification listed above. At the very least, local food stamp offices need to know how to obtain such information from the appropriate State agency. For ease of reference, we are providing a link to the Substance Abuse & Mental Health Services Administration website, which lists the State Title XIX agencies. The URL is: http://findtreatment.samhsa.gov/ufds/abusedirectors.

Finally, it is important to note that faith-based treatment and rehabilitation facilities are not required by law or FNS regulations to allow residents to opt-out of religious programming or activities in order to participate in the FSP. Federal law prohibits direct funding of inherently religious activity. However, food stamps are a benefit to the resident, not the facility, and are thus considered indirect funding.

Where a resident has made a genuine and independent private choice to enter a faith-based facility, participation in the FSP does not amount to direct funding of inherently religious activities. Where Federal funding is indirect, as in the FSP, a facility may incorporate inherently religious activities into its program and require food stamp beneficiaries to participate in such activities. Recognition from the appropriate State agency that a faith-based program furthers the purpose of part B of title XIX to provide treatment and rehabilitation of drug addicts and/or alcoholics is sufficient for FNS to authorize a faith-based program as a retailer and for the State food stamp agency to issue food stamp benefits to individuals. Such facilities do not have to make their inherently religious activities voluntary.

FNS staff may call the regional office contact in the Certification Policy Branch with questions. State officials should call their respective FNS regional office.

Clarence H. Carter
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Food Stamp Program