



Food and
Nutrition
Service

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Center

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DATE: May 11, 2017

SUBJECT: Questions & Answers Concerning SNAP: Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008 Final Rule – Set #2

TO: All Regional Directors
Supplemental Nutrition Assistance Program (SNAP)

The attached questions and answers address the SNAP: Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008 final rule. This set covers questions related to the changes made to 7 CFR 273.12. The Food and Nutrition Service (FNS) is releasing this memorandum as formal guidance based on questions received from State agencies and anticipates that additional question and answer documents will be forthcoming.

Please distribute this guidance to your State agencies and advise them to contact their respective FNS Regional Offices with any questions and for technical assistance. FNS Regional Offices should contact Sasha Gersten-Paal at Sasha.Gersten-Paal@fns.usda.gov with any questions concerning this memorandum.

Sincerely,

/S/

Lizbeth Silbermann
Director
Program Development Division

Attachment

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.

Reporting Changes in Household Circumstances

1. How has the final rule changed when a household must report a change in household circumstances?

Previously, 7 CFR 273.12(a)(2) required certified households to report changes within 10 days of the date the change becomes known to the household. Changes to 273.12(a)(2) now offer State agencies the option to require households to report these changes within 10 days of the end of the month in which the change occurred. State agencies that select this option should provide written notification to their FNS Regional Office and include the implementation date.

For reportable changes of income, State agencies must require that the change be reported within 10 days of the date that the household receives the first payment attributable to the change. For households subject to Simplified Reporting, the household must report changes no later than 10 days from the end of the calendar month in which the change occurred. If the household does not receive the payment with at least 10 days remaining in the month, the household must report within 10 days from receipt of the payment.

2. Will there be a Quality Control (QC) hold harmless period for this provision?

Per Section 16(c)(3)(A) of the Food and Nutrition Act of 2008 (the Act), provisions of the final rule discussed in this document are subject to a 120-day hold harmless period beginning on May 8, 2017.

Periodic Report

1. What action must the State agency take when a household fails to submit a complete periodic report by the specified filing date?

Changes at 273.12(a)(5)(iii)(E) require the State agency to provide households that fail to submit a complete periodic report by the specified filing date a reminder notice. The reminder notice should advise households that it has 10 days from the date the State agency mails the notice to file a complete report.

2. What happens if a household submits a complete periodic report after the specified filing date, but within 10 days of the date the State agency mails the reminder notice?

The State agency must provide the household an opportunity to participate no later than 10 days after the household's normal issuance date if an eligible household returns a complete periodic report within 10 days of the date the State agency mails the reminder notice.

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3. What action should be taken if a household does not respond to the reminder notice within 10 days of the date the State agency mails the notice?

If the household has not submitted a complete periodic report before the specified filing date and does not respond to the reminder notice within 10 days of its mail date, the household's participation shall be terminated and the State agency must send an adequate notice of termination, as defined in 271.2. This notice must be issued so that the household will receive it no later than their normal issuance date.

FNS would like to note that it will be issuing a correction to language at 273.12(a)(5)(iii)(E). The final rule incorrectly refers to paragraph 273.12(a)(5)(iii)(C) instead of 273.12(a)(5)(iii)(D) in referencing the procedures for sending an adequate notice of termination for households that fail to file a complete periodic report.

4. Can the State agency combine the reminder notice with the notice of adverse action?

No. Previously 273.12(a)(5)(iii)(D) provided State agencies the option to combine these notices. This option is no longer provided under the changes to 273.12(a)(5)(iii).

5. What action can the State agency take if a household submits a complete periodic report after the household is terminated for a failure to submit a complete periodic report?

Changes to 273.12(a)(5)(iii)(F) allow States to select the option to reinstate households that have been terminated for a failure to file a complete periodic report if the household submits a complete periodic report before the end of the issuance month. State agencies that select this option should provide written notification to their FNS Regional Office and include the implementation date. State agencies must include this information in their State Plans of operation pursuant to regulatory changes in 272.2.

If the State does not select this option, the household would be required to submit a new application. If, however, a household has requested a fair hearing on the basis that complete periodic report was filed, but the State does not have it, the State agency shall reinstate the household if a complete periodic report is filed before the end of the issuance month.

Unclear Information

3. What is unclear information?

Unclear information is information about a household's circumstances from which the State agency cannot readily determine the effect on the household's continued eligibility for SNAP or in certain cases the effect on the benefit amount. Unclear information is information that is not verified, or information that is verified but the State needs additional information to act on the change appropriately. For example, if a household reports and verifies that a new member has joined the household, but does not provide any information regarding the new member's income, the State would need to contact the household before the State agency could act to add the individual to the household and change the benefit level.

4. Can information that is verified upon receipt be considered unclear information?

If the information is verified upon receipt but the State needs additional information to act on the change appropriately, then the information would be considered unclear. An example of this would be if the State received verified upon receipt information, such as a client statement that another person joined a household, but did not know how the household's total monthly income may have changed. The State would need further information and verification from the household to make the appropriate changes in benefit allotment, if necessary, to the case.

If, however, the information is verified upon receipt and the State does not need any additional information to act on the change, then the State must take the action. For example, if the State received a data match from the Social Security Administration (SSA) that a household's Supplemental Security Income (SSI) changed due to a cost of living adjustment, then the State should take action since the information is verified and the impact on the household is clear.

5. Did the final rule make changes to how State agencies act on unclear information?

Yes. The final rule updated procedures for unclear information, primarily from data matches, which had not been adequately compatible with existing households' reporting requirements. As the number of available data matches grows with varying degrees of accuracy and frequency, the increase in unclear information received by State agencies has resulted in States sending Requests for Contact (RFC) to households to clarify information that was outdated or that the household was not required to report. This has created an additional burden for States and a barrier to program participation when eligible households are terminated for failing to respond to the RFC.

6. What changes did the final rule make to how State agencies should respond to unclear information?

The final rule made updates to 273.12(c)(3) to clarify that State agencies must follow up on unclear information using the procedures outlined at 273.12(c)(3)(i) if the information:

- 1) is fewer than 60 days old relative to the current month of participation; and
- 2) was required to have been reported based on the reporting system to which the household was assigned.

The change also requires State agencies to follow up if the unclear information appears to present significantly conflicting information about household circumstances from that used by the State agency at the time of certification. Finally, the final rule updated the procedures for responding to unclear information from Social Security Association death and prisoner matches described in 272.13 and 272.14.

Please note that changes to the procedures for responding to unclear information are applicable to all households, not just those subject to Simplified Reporting.

7. When should a State agency send a Request for Contact (RFC) under the final rule?

If the unclear information a State receives is fewer than 60 days old relative to the current month of participation and indicates that there has been a change in household circumstances that the household should have reported according to the household's assigned reporting system, the State must send a RFC. If the unclear information indicates that there was a change in household circumstances, but not a change the household was obligated to report, the State will follow up on the information with the household at its next certification action or required periodic report. This eliminates the potential for terminating eligible households from SNAP based upon changes that they were not required to report and saves States time spent following up on minor changes.

State agencies are also required to send a RFC if the unclear information appears to present significantly conflicting information about household circumstances from that used by the State agency at the time of certification.

A State may follow up with household to provide information on a voluntary basis if that information would result in an increase in benefits, but the State may not take adverse action if the household does not respond.

8. How do State agencies respond to unclear information about households subject to Change Reporting?

If a State agency receives unclear information about a household that is fewer than 60 days old relative to the current month of participation and would, if accurate, have to be reported per 273.12(a)(1), the State must send a RFC and follow the procedures at 273.12(c)(3)(i)(A) – (C).

If the unclear information appears to present significantly conflicting information from that used by the State agency at the time of certification, the State must send a RFC and follow the procedures at 273.12(c)(3)(i)(A) – (C).

If the information is not fewer than 60 days old relative to the current month of participation, was not required to be reported per 273.12(a)(1), or does not present significantly conflicting information from that used by the State agency at the time of certification, the State agency shall not act on this information or require the household to provide information until the household's next certification action.

For example, if a State received unclear information that is fewer than 60 days old relative to the current month of participation and indicates a Change Reporting household's income increased by \$200, the State would need to issue a RFC because the household is required to report changes in income of \$100 or more. If, however, this information was older than 60 days relative to the current month of participation, the State would not send a RFC to the household and would wait until the next scheduled contact to follow up with the household.

9. How do State agencies respond to unclear information about households subject to Simplified Reporting?

If a State agency receives unclear information about a household outside of the periodic report that is fewer than 60 days old relative to the current month of participation and would, if accurate, have to be reported per 273.12(a)(5), the State must send a RFC and follow the procedures at 273.12(c)(3)(i)(A) – (C).

If the unclear information appears to present significantly conflicting information from that used by the State agency at the time of certification, the State must send a RFC and follow the procedures at 273.12(c)(3)(i)(A) – (C).

If the information is not fewer than 60 days old relative to the current month of participation, was not required to be reported per 273.12(a)(5) or does not present significantly conflicting information from that used by the State agency at the time of certification, the State agency shall not act on this information or require the household to provide information until the household's next certification action.

For example, if a State received unclear information that indicates a Simplified Reporting household's income increased by \$200, but this increase did not result in the household becoming ineligible based upon gross income or the increase is not within 60 days of the current month of participation, no RFC would be issued and the change would be dealt with at the time of the next certification action.

10. Does the final rule eliminate or limit the State option to act on all changes for Simplified Reporting households?

The final rule makes changes to 273.12(c)(3) for how State agencies respond to unclear information but does not make any changes to 273.12(a)(5)(vi), which offers options for acting on a Simplified Reporting household's changes reported outside of a periodic report. State agencies still have the option to either act on any change in household circumstances in accordance with 273.12(c), or to only act on certain changes in accordance with the procedures outlined at 273.12(a)(5)(vi)(B).

11. What are the procedures for acting on unclear information from a match described at 272.13 and 272.14?

State agencies must follow up on matches from a prisoner verification system or a deceased matching system with a notice of match results. The notice must clearly explain what information the household must provide and the consequences of failing to respond to the notice. The consequence for failing to respond depends on the reporting system to which the household has been assigned.

- For households subject to Change Reporting: if the household does not respond to the notice of match results or does respond but fails to provide sufficient information to clarify its circumstances, the State agency must issue a notice of adverse action that terminates the case.
- For households not subject to Change Reporting: if the household does not respond to the notice of match results or does respond but fails to provide sufficient information to clarify its circumstances, the State agency must remove the subject individual from the household and adjust benefits accordingly. As appropriate, the State agency must issue a notice of adverse action.

12. If the State agency independently verifies information from matches described at 272.13 and 272.14, does the State still have to send the household a notice of match results prior to a notice of adverse action, if appropriate?

If the information is verified and the State agency can readily determine the effect on the household's continued SNAP eligibility and/or benefit allotment, then the information is not unclear and would not be subject to procedures at 273.12(c)(3)(iii). In this instance, the State agency would not need to send a separate notice of match results as the information would be included in a notice of adverse action, as appropriate. If the State agency cannot readily determine the effect of verified information on the household's continued eligibility for SNAP or benefit amount, then the State agency must follow the procedures at 273.12(c)(3)(iii) and send the notice of match results.