

TITLE 475
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

CHAPTER 1-000 GENERAL PROVISIONS

1-001 General Policies

1-001.01 Purpose: The purpose of the Supplemental Nutrition Assistance Program is to:

1. Safeguard the health of the nation's low income families through better nutrition;
2. Increase the food purchasing power of low income families; and
3. Increase the flow of foods from the nation's farms through the normal trade channels.

{Effective 6/28/11}

1-001.02 Right to Apply: Every person has the right to apply for SNAP benefits. Application forms must be readily accessible to any groups, organizations, or private citizens who request the forms.

{Effective 6/28/11}

1-001.03 Program Information: Persons or agencies desiring information concerning any part of the program may contact:

1. The Central Office of Nebraska Department of Health and Human Services, Division of Children and Family Services, Economic and Family Support, Supplemental Nutrition Assistance Program, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509;
2. Mountain Plains Regional Office, United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), 1244 Speer Blvd., Suite 903, Denver, Colorado 80204; and/or
3. The Administrator, Food and Nutrition Service/USDA, 3101 Park Center Drive, Alexandria, Virginia 22302.

{Effective 6/28/11}

1-001.04 Complaints: Applicants and participants may file complaints regarding any aspect of program administration including:

1. Household certification;
2. SNAP benefit issuance;
3. Fair hearing conduct; or
4. Any other program service management.

Complaints regarding program policy or civil rights may be filed by participants, potential participants, or other concerned individuals or groups.

The local office must advise the individual of the right to file a complaint and must explain the procedure for filing a complaint to each individual who expresses an interest in filing a complaint.

Complaints may be filed by telephone, by letter, or in person. Collect calls must be accepted by all offices.

Civil Rights complaints or program policy complaints may be filed verbally or in writing according to the following.

{Effective 6/28/11}

1-001.04A Program Policy Complaints: Each local office must display a poster in a prominent location which provides the procedures to follow in filing a program complaint and list the name and telephone number of the contact person for that office.

If it is uncertain about whether an applicant or recipient has a complaint that needs to be reported, the worker must ask the client if s/he wishes to file a complaint. If the client does not wish to file a complaint, no further action is required.

If the client wants to file a complaint, s/he may do so with either:

1. A contact person designated by the Service Area Administrator to accept service complaints in each local office; or
2. The Central Office of the Nebraska Department of Health and Human Services, Office of Economic and Family Support, Food Program Unit, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, NE 68509.

1-001.04A1 Reporting Complaints: When a complaint is filed with a local office or the Central Office, information regarding the complaint must be documented. In cases where complaints are resolved at the worker level, it is not necessary to document the complaint. All complaints which are documented by the local office must be forwarded to Food Programs, Central Office, within 30 days of the receipt of the complaint.

1-001.04A1a Local Office Responsibilities: The local office is required to take the following actions in regard to the complaint:

1. Investigate the complaint;
2. Take corrective action where warranted; and
3. Respond to the complainant on the disposition of the complaint.

1-001.04A1b Central Office Responsibilities: The Central Office takes the following actions in regard to program complaints:

1. Maintains records of complaints received and their disposition; and
2. Reviews all complaints annually to assess whether patterns of deficiencies in policy or service may be present.

1-001.04B Civil Rights Complaints: Local offices must not discriminate against any applicant or participant in any aspect of program administration including:

1. Household certification;
2. Food stamp benefit issuance;
3. Fair hearing conduct; or
4. Any other program service management.

Discrimination based on age, race, color, sex, disability, religion, national origin, or political belief is prohibited. All local offices must prominently display the nondiscrimination poster provided by the Central Office. In addition, the local office must provide bilingual services if needed in the area.

1-001.04B1 Filing of Civil Rights Complaints: Persons or agencies desiring to file a complaint alleging discrimination on the basis of age, race, color, sex, disability, religion, national origin, or political belief may contact:

1. Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410; and/or
2. Mountain Plains Regional Office, United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), 1224 Speer Blvd., Suite 903, Denver, Colorado 80204; and/or
3. Nebraska Health and Human Services, Economic and Family Support, Food Program Unit, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, NE 68509.

The civil rights complaint must be filed no later than 180 days from the date of the alleged incident of discrimination if the person requests action on the complaint.

1-001.04B2 Discrimination Complaint Requirements: Discrimination complaints must contain the following information:

1. The name, address, and phone number of the person alleging discrimination, or other means of contacting this person;
2. The location and name of the office which is accused of discriminatory action;
3. The nature of the incident, action, or program administration that led to the complaint;
4. The reason for the alleged discrimination (age, race, color, sex, disability, religion, national origin, or political belief);
5. The names, titles (if appropriate), and addresses of persons who may have knowledge of the alleged discriminatory act; and
6. Each date on which the action occurred.

1-001.04B3 Verbal Complaints: If the complainant makes accusations verbally to a Department worker and is unable or reluctant to put the allegations in writing, the worker must ask the client to contact FNS directly. If the complainant is unwilling to do so, the worker must document the complaint and forward it to the Director, Office of Civil Rights.

{Effective 1/3/2005}

1-001.05 Availability of Public Information: Federal regulations, state plans of operation, federal procedures, the Nebraska Food Stamp Program Policy Manual and supplemental instructions issued for use in certifying households are maintained at the Central Office for examination by the general public on regular work days during office hours.

1-001.06 Policy Interpretation: The policies and procedures presented in the Nebraska Supplemental Nutrition Assistance Program Policy Manual are intended to be a guide for SNAP certification and are broadly written within the limits imposed by the Food Stamp Act and SNAP regulations. It is impossible to write a procedure that will cover every possible circumstance that specific cases may present to the worker.

{Effective 6/28/11}

1-001.07 Prudent Person Principle: The worker needs to assess all circumstances regarding case eligibility and to use good judgment in requiring further verification or information before determining eligibility and benefit level.

1-001.08 Disasters: In case of a major disaster declared by the president, the local office must immediately contact the Central Office for proper forms and instructions.

1-001.09 Parties to a Strike: The local office must not employ persons or organizations involved in a work strike or lockout in any SNAP certification activity. SNAP certification and/or interviews must not be conducted in the work facilities of persons or organizations involved in a strike.

{Effective 6/28/11}

1-002 Program Definitions: The following definitions apply to SNAP:

Accounts Receivable: Overpayment(s) which have been grouped together on the automated system for tracking and collection purposes.

ADC: Aid to Dependent Children Program.

Adequate Notice: A written notice which contains the following:

1. The action the local office has taken or intends to take;
2. The reason for the intended action;
3. The household's right to request a fair hearing;
4. The name of a person to contact for additional information;
5. The availability of continued benefits; and
6. The household's liability for over-issuances received while awaiting a fair hearing decision which is adverse to the household.

Adjustment: An adjustment can be made to an EBT account to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error.

Aggregate Benefit: The second month of a combined allotment. All of the following conditions must be met to be an aggregate benefit:

1. The application month must be expedited;
2. The eligibility for benefits must be determined during the application month;
3. The application date must be the 16th of the month or later; and
4. The household must be eligible for benefits for both the application month and the following month.

Allotment: The total value of benefits a household is authorized to receive during each month of the certification period.

Application: The action by which the individual indicates the desire to receive assistance by submission of an application.

Application Signature: Applications may be signed in writing or by electronic signature.

Application Submission: Applications may be submitted in person, by mail, by fax, or by electronic transmission.

Boarder: An individual who either lives in a commercial boardinghouse or lives with a household and pays reasonable compensation in cash for meals and lodging. A boarder is not considered a member of a participating household and his/her income and resources are not considered available to the household.

Categorically Eligible: Households in which:

1. All members receive or are authorized to receive ADC, AABD, SDP or SSI payments;
or
2. At least one member is authorized or receives:
 - a. ADC Emergency Assistance; or
 - b. Employment First supportive services.

Certification Worker: Local office staff qualified through the State Personnel System to perform certification services for applicant households.

Chemical Dependency Treatment and Rehabilitation Program: Any chemical dependency treatment and rehabilitation program which is a private, nonprofit organization or institution or a publicly operated community health center. Private, nonprofit treatment programs do not need to be funded under Title XIX, but must qualify for the same essential conditions as those publicly operated programs under Title XIX funding. The program must be certified to provide treatment that can lead to rehabilitation in accordance with the agency responsible for the administration of drug or alcoholic treatment and rehabilitation programs.

CIS: Citizenship and Immigration Services, U.S. Department of Homeland Security.

Combined Allotment: The prorated first month's expedited benefit and the second full month's aggregate benefit issued together as one allotment. Combined allotments are only issued to households entitled to expedited service which apply on or after the 16th of the month.

Date of Discovery: The date a potential overpayment is initially discovered.

Department: The Nebraska Department of Health and Human Services.

Desk Review: A redetermination by the worker of a household's eligibility completed by reviewing the points of eligibility and updating the food stamp case. A client is not required to submit a new application and/or have an interview.

Disabled: A household member who is:

1. Receiving Supplemental Security Income (SSI) under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
2. Receiving AABD or State Disability Program benefits;
3. Receiving disability retirement benefits from a government agency because of a disability considered permanent under Section 221(j) of the Social Security Act;
4. A veteran with a disability rated or paid as total under Title 38 of the United States Code or is considered in need of regular aid and attendance or permanently housebound under Title 38 of the Code;
5. A surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound and incapable of self-support under Title 38 of the Code;
6. A surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the United States Code;
7. A surviving spouse or child of a veteran receiving or approved for compensation for a service-connected death or pension benefits for a non-service connected death under Title 38 of the Code and has a disability considered permanent under Section 221(i) of the Social Security Act; or
8. Receiving an annuity payment under:
 - a. Section 2(a)(1)(iv) of the Railroad Retirement Act and eligible to receive Medicare as determined by the Railroad Retirement Board; or
 - b. Section 2(a)(i)(v) of the Railroad Retirement Act and disabled based on criteria used under Title XVI of the Social Security Act.

Note: A person meets the definition of disabled if s/he has been determined disabled by the agencies/laws which are listed. The individual does not have to be receiving a payment from the agency which determined the disability. For example, if a person is certified to receive SSI but is in a suspended status, s/he would be considered disabled for food stamp purposes.

Disqualified Household Member: A financially responsible individual who purchases and prepares meals with a food stamp household but is disqualified from participation.

Documentation: The policy of providing or supporting a written reason the worker takes a specific action.

Elderly: A household member who is age 60 or older. This includes people who are age 59 when they apply but who will turn 60 by the last day of the month of application.

Electronic Benefits Transfer (EBT): A system that uses electronic funds transfer and point-of-sale technology for the delivery and control of food stamp benefits.

Electronic Benefits Transfer (EBT) Card: A plastic card, similar to a debit card that holds the food stamp benefit information. The Nebraska EBT card can be used at Point-of-Sale (POS) machines to buy eligible foods at stores taking part in the EBT program.

Eligible Foods: Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods or hot food products prepared for immediate consumption. Eligible foods include:

1. Seeds and plants to grow foods for personal consumption by eligible households;
2. Meals prepared and served by an authorized chemical dependency treatment center to eligible households, including the meals of children living with their parents in the treatment center;
3. Meals prepared and delivered by an authorized meal delivery service to eligible households; or meals served by a communal dining facility for elderly persons, for SSI households, or both, who are eligible to use food stamp benefits for communal dining;
4. Meals prepared and served by a licensed or certified group home facility to residents who are disabled per the Food Stamp Program definition;
5. Meals prepared by and served by a shelter for battered women and children to its eligible residents;
6. Meals prepared and served by a DHHS-approved and authorized public or private non-profit establishment that serves homeless persons; and
7. In the case of homeless food stamp households, meals prepared by a restaurant that contracts with the Department to serve meals to homeless persons at low or reduced prices.

Expungement: The process of removing EBT benefits from a food stamp recipient's account when there has not been a debit from the account within the last 365 days.

Federal Eligible Household Member: An individual who meets all of the eligibility criteria including the alien provision of the Food Stamp Program. Benefits are 100 percent funded by the United States Department of Agriculture (USDA).

FNS: The Food and Nutrition Service of the U.S. Department of Agriculture.

General Assistance: Cash or another form of assistance (excluding in-kind assistance) financed by state or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

Good Cause: Circumstances in situations which are beyond the control of the applicant or participant. Good cause as a condition of failure to comply is covered in the specific sections of the manual, where applicable.

Group Home: A public or private non-profit residential setting that serves 16 or fewer residents and is licensed or certified by the appropriate state agency. To be eligible for food stamp benefits, a resident must be blind or disabled under Food Stamp Program guidelines. (This is also called a group living arrangement.)

Homeless Individual: A person who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

1. A supervised shelter designed to provide temporary lodging;
2. A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;
3. Temporary lodging in the home of another individual;
4. A place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

Homeless Meal Provider: A Department-approved public or private non-profit establishment (such as a soup kitchen or temporary shelter) that feeds homeless persons. A restaurant that contracts with the Department to offer meals at low or reduced prices to homeless persons.

Ineligible Household Member: A financially responsible individual who purchases and prepares meals with a SNAP household but is not eligible to participate.

Initial Month: The first month the household is certified to participate, or the first month the household is certified after not participating for more than one month.

Interfaces: Automated data exchanges that act as a clearing house for applicants and recipients and provide financial information.

Interim Report: A report due by the client mid-certification for Simplified Reporting.

Issuance: The amount of benefits placed in recipient EBT accounts.

Issuance and Collections Center (ICC): The Department staff designated to issue all Electronic Benefits Transfer (EBT) cards and to perform collection activities for the Supplemental Nutrition Assistance Program. ICC also coordinates and tracks all transactions with the Treasury Offset Program (TOP).

Local Office: The geographic area office designated by the Department as the administrative unit for local program operations.

Medicaid: Medical assistance received under Title XIX of the Social Security Act.

Migrant: A person who travels away from the place s/he calls home on an overnight basis in order to seek or perform agricultural work at one or more locations.

Non-Assistance (NA) Household: A household that does not meet the definition of a public assistance (PA) household.

Non-Household Member: An individual who lives with the SNAP household but does not receive benefits because:

1. The individual does not purchase and prepare meals with the food stamp household; or
2. The individual purchases and prepares meals with the food stamp household but is denied eligibility by program guidelines.

Overpayment: The amount of benefits that exceed the amount a household was entitled to receive.

Program: The Food Stamp Program as conducted under the Food Stamp Act, the Food Stamp Regulations, and the Nebraska Food Stamp Program Policy Manual.

Program Evaluation and Review (PER): A review of a statistically valid sample of food stamp cases to determine whether households are receiving the allotment they are entitled to and to ensure that cases are not incorrectly denied or terminated.

Project Area: The administrative unit for operation of the Food Stamp Program. In Nebraska, the state has been designated as one project area.

Prospective Budgeting: The computation of a household's food stamp benefit for an issuance month based on the worker's and household's best estimate of income and circumstances which will exist in that month.

Public Assistance (PA) Household: A household in which all members in the food stamp unit receive SSI, AABD, SDP, or ADC payments or at least one member is authorized to receive ADC Emergency Assistance or Employment First supportive services. The classification of PA household is not affected by the presence of a legally assigned foster child.

Qualified Work Quarter: A qualified quarter includes earnings covered under Title II of the Social Security Act and earnings not covered by the Social Security Act. Quarters worked in another country can be counted as qualified quarters when social security taxes were required to be paid to the United States.

Countable qualified work quarters for a noncitizen qualifying through 40 quarters are based the sum of:

- a. Quarters the alien worked;
- b. Quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted);
- c. Quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.

Recipients of Public Assistance or SSI: Individuals who are authorized to receive ADC or SSI benefits. This includes individuals who are eligible for zero benefits such as an ADC household whose benefits are \$9.99 or less and households whose benefits are being recouped.

Reinstatement Month: A month during the certification period when a household's eligibility is re-established. The household had a change in circumstances which determined the household ineligible for a period of 30 days or less. The household receives a prorated amount of benefits during the reinstatement month.

Reporting Categories: There are three separate reporting categories for SNAP households. The reporting categories are:

1. Simplified Reporting;
2. Transitional Benefit Reporting; and
3. Change Reporting.

Request for Contact (RFC): A written request that is issued during a certification for needed information and/or verification. It must be in writing and clearly advise the household of the verification and/or information it must provide. The client is given at least ten days to respond. It includes the consequences of failing to respond.

Residents of Institutions: Persons living in a group home situation which is not authorized to accept SNAP benefits and which provides its residents with the majority of their meals as part of the institution's normal services. Residents of institutions are not eligible for participation for program benefits except for the following:

1. Residents of federally subsidized housing for the elderly under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;
2. Residents of a chemical dependency treatment and rehabilitation program;
3. Individuals who are disabled by the Supplemental Nutrition Assistance Program definition who are residents of group living arrangements;
4. Women or women with children temporarily residing in shelters for battered women and children. These persons are considered as individual household units for the purpose of applying for and participating in the Supplemental Nutrition Assistance Program; and
5. Residents of public or private non-profit shelters for homeless persons.

Restoration: Benefits issued to a household due to an underpayment in a prior month.

Retail Food Store: Any of the following:

1. An establishment or a house-to-house trade route whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption;
2. Public or private communal dining facilities and meal delivery services, chemical dependency treatment and rehabilitation programs, public or private non-profit group homes, or public or private non-profit shelters for battered women and children;
3. Any private non-profit cooperative food purchasing venture, including those whose members pay for food before receipt of the food;
4. Public or private non-profit establishments that feed homeless persons; or
5. A farmer's market.

Seasonal Farmworker: A person who works on a farm or ranch on a seasonal basis when the work is generally within commuting distance of his/her home. A person who works on his/her own or leased or rented farmland on a year-round or seasonal basis is neither a seasonal farmworker nor a migrant.

Shelter for Battered Women and Children: A public or private non-profit residential facility that serves battered women and their children. If this facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

Sponsor: An individual who has executed an affidavit of support on behalf of an alien as one of the conditions required for the alien's entry into the United States.

Spouse: Either of two individuals:

1. Who would be defined as married to each other under applicable state laws; or
2. Who are living together and presenting themselves to the community as a husband and wife by representing themselves as married to relatives, friends, neighbors, or townspeople.

State Agency: The Central Office of the Nebraska Department of Health and Human Services.

Staggered Issuance: An issuance cycle which ensures households will receive their benefits on the same day of each month.

State Eligible Household Member: An individual who does not meet the citizenship/alien status provisions for the federal Food Stamp Program but does meet the expanded state citizenship/alien provisions will have food stamp benefits issued under the state Food Stamp Program.

Suitable Employment: All work is considered suitable unless one of the following situations exists:

1. The wage offered is less than the highest of the three following amounts: the applicable federal minimum wage, the applicable state minimum wage, or 80 percent of the federal minimum wage if neither the federal or state minimum wage is applicable.
Note: The training wage may be substituted for the federal or state minimum wage in situations that warrant the payment of a training wage. The training wage of at least 85 percent of the federal or state minimum wage may be paid to employees under age 20 for up to 90 days under certain conditions.
2. The employment offered is on a piece-rate basis and the hourly yield is likely to be less than the applicable wages above.
3. The individual is required to join, resign from, or refrain from joining any legitimate labor organization.
4. The work offered is at a site subject to a strike or lock out at the time of the offer, unless the strike has been enjoined under the Taft-Hartley Act or unless an injunction has been issued under Section 10 of the Railway Labor Act.
5. The individual can demonstrate or the local office becomes aware that:
 - a. The degree of risk to health and safety is unreasonable;
 - b. The individual is physically or mentally unfit to perform the work as documented by medical or other evidence;

- c. Employment offered within the first 30 days is not in the individual's major field of experience;
- d. The nature or hours of the work interfere with the individual's religious observances, convictions, or beliefs; or
- e. The distance of the employment from the individual's home is unreasonable, considering the wages and the time and cost of commuting. Daily commuting time must not exceed two hours per day, not including time required to transport a child to and from a child care facility. The employment is not considered suitable if the distance prohibits walking and public or private transportation is unavailable.

Supplemental: Additional benefits issued to a household within the current month. Supplemental issuances cannot be used to offset overpayments.

Supplemental Security Income (SSI): Monthly cash payments made under the authority of:

1. Title XVI of the Social Security Act, as amended, to the aged, blind, and disabled;
2. Section 1616(a) of the Social Security Act; or
3. Section 212(a) of Public Law 93-66.

Thrifty Food Plan: A determination by the USDA-FNS of the cost of food for various sizes of households.

Timely Notice: A written notice which contains all the elements of adequate notice and also is mailed at least ten calendar days before the action takes place. The mailing date of the notice is day one of the ten-calendar-day period. A timely notice may also be called a notice of adverse action.

Verification: Information obtained to establish the accuracy of information provided by the household. The use of third-party information or documentation to establish the accuracy of statements made by the household or provided on the application.

Voluntary Quit: Voluntary termination of employment of 30 or more hours per week or the equivalent of 30 hours per week times minimum wage. An individual who terminates a self-employment enterprise or resigns from a job at the employer's demand is not considered to have voluntarily quit.

{Effective 1/3/2005}

1-003 Responsibilities:

1-003.01 National Responsibilities: The federal government is responsible for:

1. Formulating, on a national basis, all policies and procedures which are used by the Food Stamp Program;
2. Regulating national standards of eligibility; and
3. Determining basis of food stamp benefit issuance for each household size.

The responsibilities for the Food Stamp Program are defined by Congress and assigned to the USDA and FNS.

1-003.02 State Agency Responsibilities: The Central Office of the Department is responsible for:

1. Statewide supervising and administrating the Food Stamp Program;
2. Incorporating federal policies regarding the Food Stamp Program into the Department Manual;
3. Establishing and maintaining a PER system in accordance with FNS requirements; and
4. Serving as a liaison between the local offices and the federal government.

1-003.03 Local Office Responsibilities: The local offices, with the support and direction of the Central Office, directly administer the Food Stamp Program and are responsible for the following:

1. Adhering to the policies, procedures, and requirements established in the Nebraska Food Stamp Program Policy Manual and policy directives;
2. Taking applications, initial and subsequent, from all persons who wish to participate in the Food Stamp Program and acting on those applications within 30 days (an identifiable application is an application or affidavit containing a legible name and address and the applicant's signature);
3. Certifying eligible participants;
4. Notifying the applicant immediately of this determination (if a household is determined to be eligible, the local office is required to provide an opportunity to participate within 30 days of receipt of a signed application);
5. Restoring lost benefits if the local office fails to comply with the proper time requirements;
6. Determining the level of participation for households;
7. Reporting to the Central Office and FNS/USDA;
8. Employing personnel who are:
 - a. Qualified through State Personnel; and
 - b. Authorized, when appropriate, for access to food stamp EBT cards and other issuance documents;
9. Safeguarding the information about applicants/participants by:
 - a. Maintaining the confidentiality of records, except that information may be disclosed to persons or agencies connected with the administration or enforcement of the Food Stamp Program, and names and addresses may be shared with agencies conducting nutrition education or outreach programs; and
 - b. Sharing and interpreting all data concerning an individual with only that individual or the persons or agencies in conformance with Department policies on client access to information;

10. Ensuring the civil rights of applicants/participants by providing:
 - a. Notice of eligibility or ineligibility;
 - b. Notice of all adverse action;
 - c. Information about and assistance in filing a request for a fair hearing, including an explanation of continuation of benefits;
 - d. Equal application of all standards without regard to age, race, color, sex, disability, religion, national origin, or political belief; and
 - e. Display of the nondiscrimination poster.
11. Making the SNAP Policy Manual and related instructions available for public inspection at each local office during regular working hours;
Note: Copies of audits or investigations which are for official use are not to be made available for public examination;
12. Processing recipient claims in accordance with state SNAP instructions;
13. Processing credits for lost benefits in accordance with state SNAP instructions;
14. Establishing procedures and controls to communicate changes in the ADC and Supplemental Nutrition Assistance Programs between the units; and
15. Cooperating with the Central Office Program Evaluation and Review (PER) staff in conducting QC reviews.

{Effective 6/28/11}

1-003.04 Household Responsibilities: The household must be adequately informed both verbally and in writing, of its responsibilities. All households must:

1. Provide accurate and complete information;
2. Obtain needed verification materials;
3. Cooperate with state and federal quality control and audit processes;
4. Provide the worker with the Social Security numbers of household members;
5. Follow the reporting requirements for the category the household is assigned to:
 - a. Simplified Reporting;
 - b. Transitional Benefit Reporting; and
 - c. Change Reporting; and
6. Contact the agency for an interview within 30 days of the date of application if notified that an interview is required.

{Effective 6/28/11}

1-003.04A Simplified Reporting: Households assigned to the Simplified Reporting category are required to report when the household's gross monthly income exceeds the maximum gross monthly income limit for the household size. This must be reported within ten days after the last day of the month that the household exceeds the monthly gross income limit. Households assigned to this reporting category are not required to report any other changes during the certification period. Additionally, the household must complete and return the interim report.

{Effective 6/28/11}

1-003.04B Transitional Benefit Reporting: Households assigned to the Transitional Benefit Reporting category are not required to report any changes during the five months they are in this reporting category.

{Effective 6/9/2003}

1-003.04C Change Reporting Households: Households assigned to the Change Reporting category are required to report:

1. Changes in household composition;
2. Changes in residence and the resulting changes in shelter costs;
3. Receipt of a licensed vehicle;
4. Receipt of a resource including cash on hand, stock, bonds, and money in a checking or savings account which would bring the household over the maximum resource level;
5. Change in the source of employment, in the wage rate, and in part-time or full-time employment status;
 - a. The household must report new employment or changes in current employment within ten days of the receipt of the first payment attributable to the new source or the change;
 - b. For reporting purposes, 30 hours per week is considered full-time.
6. Change in the source or changes totaling more than \$50 in unearned income received from non-private sources within ten days of the receipt of the first payment attributable to the new source or the change; and
7. Changes in the legal obligation to pay child support.

{Effective 6/28/11}

1-004 Personnel

1-004.01 Merit Personnel: All persons engaged in certification of applicant households for the Supplemental Nutrition Assistance Program must be approved by the local office and in accordance with the State Personnel Rules and Regulations.

Note: Certification of households by clerical staff is not authorized under any circumstances.
{Effective 6/28/11}

1-004.01A Access: Access to EBT cards and issuance documents is limited to employees of:

1. The Central Office;
2. The Issuance and Collection Center; or
3. The federal government who are involved in the administration of the Food Stamp Program.

1-004.01B Sufficient Staff: The local offices must employ sufficient staff to certify and issue benefits to eligible households within time limit standards contained in the Nebraska Food Stamp Program Policy Manual.

1-004.01C Bilingual Requirements: Based on the estimated total number of low income households in the area which speak the same non-English language, the local office shall provide bilingual program information, certification materials, and staff or interpreters for the timely processing of non-English-speaking applicants.

(Single-language refers to households which speak the same non-English language and which do not contain adults fluent in English as a second language.)

The local office must provide the following:

1. Bilingual materials used for program informational activities for the project area with:
 - a. Less than 2,000 low-income households if approximately 100 or more of those households are single-language minority households; and
 - b. 2,000 or more low-income households if approximately five percent or more of those households are single-language households; and
2. Both bilingual materials and interpreters or staff when -
 - a. Each certification office provides service to approximately 100 single-language minority households;
 - b. A majority of those households consists of a single-language minority in the project area with less than 100 low-income households; and
 - c. A seasonal influx of non-English speaking households moving into the area meets or exceeds any of the above limits.

1-004.02 Volunteers: Local offices may use volunteers in activities such as -

1. Providing program information;
2. Pre-screening; and
3. Assisting applicants in the application and certification process including securing needed verification.

1-005 Records

1-005.01 Disclosure: Use or disclosure of information obtained from applicant households exclusively for the program is restricted to -

1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, or with other federal or federally funded assistance programs such as ADC, AABD, Nebraska Medical Assistance Program (NMAP), or SSI;
2. Employees of the United States Comptroller General's Office for audit examination authorized by any other provision of law;
3. Local, state, or federal law enforcement officials, upon a written request. The address, Social Security number, and photograph (if available) of a food stamp recipient must be provided if the officer furnishes the name of the individual and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation;
4. Persons connected with the administration of the Income and Eligibility Verification System (IEVS);
5. Persons connected with the administration of the Child Support Program;
6. Persons connected with the verification of immigration status of aliens through SAVE; and
7. Persons connected with federal agencies to allow the offset of a federal employee's salary to reimburse a food stamp claim(s).

{Effective 10/28/96}

1-005.01A Disclosure to Household: If there is a written request by a responsible member of the household, its currently authorized representative, or any person authorized in writing to act in its behalf to review materials contained in the case file, the material and information contained in the case file is available for inspection during normal business hours. However, the local office may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

1-005.02 Retention: Each local office shall retain all program records for audit and review purposes, for a period of three years from the month of origin of each document. The Central Office shall retain fiscal records and accountable documents for three years from the date of fiscal or administrative closure.

Fiscal closure refers to obligations for or against the federal government that have been liquidated.

Administrative closure means that the Central Office has determined and documented that no further action to liquidate the obligation is necessary.

Fiscal records and accountable documents include, but are not limited to, claims, and documentation of lost benefits.

1-005.02A Destruction of Case File Material: Destruction of outdated case record material must be done in compliance with procedures outlined by the Nebraska Records Management Division.

1-006 Points and Hours: The number of certification sites and hours or issuance hours in the project area must not be reduced without permission of the Central Office.

1-006.01 Certification: Basic certification services provided in the project area must be established so that all households or all but a limited number of households reside within 30 miles of a local office.

1-006.02 Issuance: Issuance services must be established in the project area to allow all eligible applicant households to obtain food stamp benefits within 30 days of application.

1-007 Fair Hearings: A fair hearing must be provided to any household wishing to appeal any action or inaction of the local office which affects the household's participation. Fair hearings may be conducted at the local office either by telephone with a hearing officer or a hearing officer coming to the local office. The household member requesting the fair hearing will be notified by the HHS Legal Division of which type of hearing will be held. The household must be given the option of requesting a face-to-face hearing if a telephone hearing was scheduled.

Exception: Households are not entitled to a fair hearing to contest solely:

1. Reductions, suspensions, or cancellations of benefits which have been ordered for the entire program;
2. Mass changes in state grants which affect the food stamp benefit level; and
3. Allotment reduction because of failure to pay an outstanding Accounts Receivable.

1-007.01 Notification of Right to Appeal

1-007.01A At Time of Application: The local office must inform each household in writing of the following at the time of application:

1. The right to request a fair hearing;
2. The method of requesting a fair hearing;
3. That the household may have its case presented at a fair hearing by:
 - a. A household member; or
 - b. Any representative chosen by the household.

1-007.01B Other Circumstances: When a household disagrees with the eligibility worker regarding a local office action affecting the household's eligibility, the eligibility worker must:

1. Inform the household of its right to request a fair hearing;
2. Refer the household to any free legal representation or a legal referral service; and
3. Offer the household an agency conference.

1-007.02 Requests for Hearing: Any request for a hearing must be made verbally or in writing by the household or its representative on any appealable action which occurred within the past 90 days. A request for a hearing is defined as a clear expression, oral or written, by the household or its representative that it wishes to appeal a decision. Staff must not limit or interfere in any way with the household's freedom to request a hearing.

Note: If a verbal request is received, the local office must request that the household submit a written request and help the household with the written request if the household requires assistance. If a household makes an oral request and does not submit a written request for a hearing, the local office must complete the procedures necessary to start the hearing process.

Appealable action by the local office includes a denial of a request for restoration of benefits lost more than 90 days but less than a year before the request for restoration. A household may request a fair hearing at any time within its certification period to dispute its current level of benefits.

1-007.02A Request for Expedited Hearing: The local office must expedite hearing requests from households, such as migrant farm workers, which plan to move from the jurisdiction of the local office. Hearing requests from these households must be given priority in processing.

1-007.02A1 Voluntary Withdrawal Request for a Fair Hearing: The household may withdraw a fair hearing request, orally or in writing, any time before a determination (decision) of the fair hearing is made.

If the withdrawal request was made verbally, the Central Office must provide written notice to the household within ten days of the household's request to withdraw, confirming the withdrawal request and providing the household an opportunity to request another hearing if desired. A household is allowed one reinstated fair hearing per appeal.

Coercion or actions which would influence the household or its representative to withdraw the household's fair hearing request are prohibited. A household's request for a fair hearing must not be denied even if the household is a party to another action that differs from the reinstated action.

{Effective 9/4/2002}

1-007.02B Request for Postponement: A household may request a postponement of the scheduled hearing. This postponement must not exceed 30 days; and the time limit for action on the decision may be extended for as many days as the hearing is postponed.

1-007.02C Denial or Dismissal of Request: The HHS Legal Division must not deny or dismiss a request for a hearing unless:

1. The request is not received within the specified time limit;
2. The request is withdrawn, in writing, by the household or its representative; or
3. The household or its representative fails, without good cause, to appear at the scheduled hearing.

1-007.02D Continuation of Benefits: If a hearing request is made within the notice of adverse action period and the household's certification period has not expired, participation must be continued at the same level of benefits, unless the household waives continuation of benefits. If the household does not waive its right to continuation of benefits in writing, the local office must assume the household wishes benefits to continue and must issue the benefits accordingly.

If the local office action is upheld by the hearing decision, the local office must initiate a claim against the household for all overissuances.

If a hearing request is not made within ten days from the date the notice was mailed, the local office must reduce or terminate benefits as provided in the notice. If the local office determines that the household has good cause for failure to make the request within the required time limits, the local office must reinstate the benefits at the level previous to the notice of adverse action being sent.

When benefits are reduced or terminated due to a mass change, the local office must reinstate the household's benefits to the previous level only if the household contests the computation of the food stamp eligibility or benefit level or the application or interpretation of the federal law or regulation.

Once benefits are continued or reinstated, the local office must not reduce or terminate benefits before the hearing decision unless one of the following conditions occurs:

1. The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount determined by the local office.
2. The household or its representative orally withdraws its request for a fair hearing and does not advise the agency of its desire to reinstate the fair hearing request within the required time frame.
3. The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of federal law or regulation and that the household's claim that the local office improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid.
4. A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action.
5. A mass change affecting the eligibility or basis of issuance occurs.

The local office must promptly notify the household in writing if benefits are reduced or terminated pending the fair hearing decision.

{Effective 9/4/2002}

1-007.03 Hearing Process: Within 60 days of the local office's receipt of a fair hearing request:

1. The hearing must be conducted;
2. A decision must be reached; and
3. The household and local office must be notified of the hearing decision by a Notice of Finding and Order.

1-007.03A Written Notice: The Central Office must provide all persons involved with a written notice at least ten days before the hearing. The notice must:

1. Advise the household or its representative of the name, address, and phone number of a contact person;
2. Specify that the HHS Legal Division will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause;
3. Include the HHS Legal Division hearing procedures and any other information that would provide the household with an understanding of the proceedings and that would contribute to the effective presentation of the household's case; and
4. Explain that the household or representative may examine the case file before the hearing.

1-007.03B Local Office Responsibilities: Upon request, the local office must make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. If the individual making the hearing request does not speak English and the local office employs bilingual staff or interpreters, the hearing procedures must be verbally explained in that language. The local office must advise households of any legal services available that may provide representation at the hearing.

The local office must make available clearly written rules of procedure to any interested person. The rules of procedure must include:

1. Time limits for a hearing request;
2. Advance notification requirements;
3. Timeliness standards;
4. Rights and responsibilities of persons requesting a hearing.

1-007.03C Hearing Officer: The hearing officer must be an employee of the HHS Legal Division or an individual under contract with the Central Office who is designated to conduct hearings. The hearing officer will make recommendations for final administrative decisions.

1-007.03D Household Rights: A fair hearing must be attended by a representative of the local office and the household and/or its representative.

Friends or relatives of the household may attend the hearing, if the household so chooses. The hearing officer has the authority to limit the number of persons in attendance at the hearing if space is limited.

Note: A person accused of an intentional program violation is not required to attend his/her administrative disqualification hearing or to send a representative.

The household or its representative must be given the opportunity to take any or all of the following actions:

1. The household or its representative is entitled to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the local office to establish the household's ineligibility or eligibility and allotment level must be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the local office must provide one free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household would not otherwise have an opportunity to contest or challenge must not be introduced at the hearing or affect the Department Director's decision.
2. The household or its representative may present the case or have it presented by legal counsel or another person.
3. The household or its representative is entitled to bring witnesses.
4. The household or its representative may advance arguments without undue interference.
5. The household or its representative is entitled to question any testimony or evidence. This includes having an opportunity to cross-examine adverse witnesses.
6. The household or its representative is entitled to submit evidence to establish all pertinent facts and circumstances in the case.

1-007.03E Hearing Decisions: The decision must:

1. Comply with federal laws and regulations;
2. Be based on the hearing record;
3. Be made available to the household;
4. Summarize the facts of the case;
5. Specify reasons for the decision;
6. Identify supporting evidence and pertinent federal regulations; and
7. Become a part of the hearing and case records.

1-007.03E1 Notification of Hearing Decisions: The HHS Legal Division must inform the household and the local office in writing of:

1. The hearing decision and the reasons for the decision;
2. The available appeal rights; and
3. Benefits being issued or terminated within the appropriate time limits.

All hearing records and decisions must be available for public inspection and copying, subject to disclosure safeguards provided that identifying names and addresses of household and other members of the household are kept confidential.

1-007.04 Special Arrangements

1-007.04A Agency Conferences: The local office must offer agency conferences to households that wish to contest a denial of expedited service or to households affected by an agency action.

Use of an agency conference is optional to the household and must in no way delay or replace the fair hearing process. The conference may be attended by the eligibility worker, and must be attended by the supervisor and/or local administrator, and the household and/or its representative. The conference may lead to an informal resolution of the dispute; however, a fair hearing must still be held unless the household makes a written withdrawal of its request. Agency conferences for households contesting a denial of expedited service must be scheduled within two working days, unless the household requests otherwise.

1-007.04B Consolidated Hearings: A single group hearing may be conducted for a series of individual requests where the sole issues being raised are those of state and/or federal law, regulation or policy. Each individual household must be permitted to present its own case or have its case presented by a representative.

1-007.05 Action on Fair Hearings

1-007.05A Decisions Resulting in Benefit Increase: Fair hearing decisions which result in an increase in benefits must be reflected in the allotment issued within 10 days after the receipt of the hearing decision, even if the local office must provide the household with an opportunity to obtain the allotment outside of the normal issuance cycle.

1-007.05B Decisions Resulting in Benefit Decrease: Fair hearing decisions which result in a decrease in benefits must be reflected in the household's next scheduled issuance following the local office's receipt of the hearing decision. If the client has received benefits to which s/he was not entitled pending the fair hearing decision, a claim must be filed. In the case of a disqualification such as a work requirement, the worker must disqualify the household or the household member beginning with the month after the receipt of the fair hearing decision.

1-008 Disqualification Hearings: A disqualification hearing will be initiated by the Special Investigations Unit (SIU) Central Office whenever sufficient documentary evidence has been established to substantiate that a household member has committed one or more acts of intentional program violation. Intentional program violation consists of any action by an individual to purposely:

1. Make a false statement to the local office, either verbally or in writing, to obtain benefits to which the household is not entitled;
2. Conceal information to obtain benefits to which the household is not entitled;
3. Alter issuance documents to obtain benefits to which the household is not entitled;
4. Use food stamp benefits to buy nonfood items such as alcohol or cartons of cigarettes;
5. Use or possess improperly obtained food stamp benefits or issuance documents; or
6. Trade or sell food stamp benefits.

The worker must inform the household in writing of the disqualification penalties for committing intentional program violation each time the household applies for benefits. The penalties are listed in clear, prominent, and bold face lettering on the application form or attachment.

1-008.01 Initiating the Disqualification Hearing

1-008.01A Reporting Requirements: The worker must report cases of suspected food stamp intentional program violation (IPV) to the Special Investigations Unit (SIU), Central Office.

1-008.01B Central Office Guidelines: The Central Office uses the following guidelines in determining the need for a disqualification hearing:

1. A disqualification hearing must be initiated regardless of the current eligibility status of the individual.
2. A disqualification hearing must not be conducted if household is currently receiving food stamp benefits and the cumulative months of inadvertent household error overpayments are \$25 or less unless the error was discovered by Quality Control;
3. A disqualification hearing must not be conducted if the household is not currently receiving food stamp benefits and the cumulative months of overpayment are less than \$125; and the error was not discovered by Quality Control.
4. The burden of proving intentional program violation is on the Department.
5. The Central Office will not initiate a disqualification hearing against an accused individual whose case is currently being referred for prosecution or after any action taken against the accused individual by a court, if the factual issues of the case arise out of the same, or related, circumstances.

{Effective 1/3/2005}

1-008.02 Disqualification Hearing Procedures: The Nebraska Department of Health and Human Services Director must designate either an employee of the state agency or an individual under contract to the Department to conduct disqualification hearings. Food Programs publishes clearly written rules of procedures for disqualification hearings and makes these procedures available to any interested person.

1-008.02A Timeliness Standards: The following timeliness standards must be followed in the disqualification hearing process:

1. The household member suspected of intentional program violation must be given at least 30 days written advance notice of the hearing unless the household requests a waiver of the advance notice in situations when the disqualification and fair hearings are combined.
2. The Central Office has 90 days from the date the accused household member is notified of the hearing to:
 - a. Conduct the hearing;
 - b. Arrive at a decision; and
 - c. Initiate administrative action to make the decision effective.
3. If the hearing is postponed, the time limits are extended for as many days as the hearing is postponed.

1-008.02A1 Scheduling of Hearings: The time and place of the hearing must be arranged so that the hearing is accessible to the household member suspected of intentional program violation. The following guidelines must be observed in scheduling disqualification hearings:

1. The household member or representative is entitled to one postponement of a maximum of 30 days of the scheduled hearing if the request for postponement is made at least ten days before the scheduled hearing.
2. If the household member or his/her representative cannot be located or fails to appear at a hearing without good cause, the hearing will be conducted without representation for the household member. Even though the household member is not represented, the HHSS Director will carefully consider the evidence and determine if intentional program violation was committed based on clear and convincing evidence.
3. If a household member is found to have committed an intentional program violation, but it is later determined by the HHSS Director that the household had good cause for not appearing, the previous decision is no longer valid and the HHS Legal Division will conduct a new hearing.
4. The household member has ten days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. The HHSS Director must enter the good cause decision into the record.

1-008.02A1a Consolidated Hearings: A disqualification hearing may be combined with a fair hearing when:

1. The factual issues of both hearings arise out of the same (or related) circumstances; and
2. The household is notified in advance that the hearings will be combined in a single hearing.

If a disqualification hearing and a fair hearing are combined, the HHS Legal Division must follow the timeliness standards for disqualification hearings.

If the hearings are combined for the purpose of settling the claim amount and determining if intentional program violation has occurred, the household loses its right to a later fair hearing on the claim amount. However, upon the household's request, the local office must allow the household to waive the 30-day advance period when the disqualification hearing and fair hearing are combined.

1-008.02A2 Advance Notice of Hearing: The Special Investigations Unit, Central Office must send an Advance Notice of Disqualification Hearing, to the individual suspected of the intentional program violation at least 30 days before the date of the disqualification hearing. The Advance Notice of Disqualification Hearing is mailed first class mail or certified mail, return receipt requested.

{Effective 1/3/2005}

1-008.02A3 Waived Hearing: The Advance Notice of Disqualification Hearing contains information advising the household of its right to waive the disqualification hearing. If the household wishes to waive a disqualification hearing, the Special Investigations Unit, Central Office will send a waiver of hearing consent form to the household.

{Effective 1/3/2005}

1-008.02A4 Participation While Awaiting a Hearing: A pending disqualification hearing does not affect the right of the individual or the household to be certified and participate in the program. The local office shall determine the eligibility and benefit level in the same manner it would be determined for any other household, until there is a determination that the individual has committed intentional program violation.

If the pending disqualification action does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. If the certification period has expired and the household does not reapply after receiving its notice of expiration, benefits must be terminated.

The worker must also reduce or terminate the household's benefits if there is documentation which substantiates ineligibility or eligibility for fewer benefits and the household fails to request a fair hearing and continuation of benefits pending the hearing. These actions occur even if the documented facts led to the suspicion of intentional program violation and the resulting disqualification hearing.

The worker may have facts which substantiate that a household failed to report a change in its circumstances even though the state has not yet demonstrated that the failure to report involved an act of intentional program violation. In these cases, the worker must reduce or terminate benefits.

1-008.02B The Hearing Official

1-008.02B1 Duties of the Hearing Official: The hearing official shall ensure that:

1. All relevant issues are considered;
2. All persons who testify at the hearing present their evidence as completely and accurately as possible; and
3. The hearing record contains enough evidence to enable the Director to make a decision.

1-008.02B2 Powers of Hearing Official: The hearing official has the power to:

1. Administer oaths;
2. Ask for additional witnesses and question witnesses;
3. Ask that additional documents be brought in;
4. Dismiss witnesses from the room for good and sufficient reason;
5. Recess, continue, or close the hearing at any time there is good and sufficient reason for so doing; and

6. Regulate the conduct and course of the hearing in accordance with due process and keep the hearing orderly and to the point by excluding and discouraging evidence which is not relevant.

1-008.02B3 Hearing Decision Authority: The power to make the final disqualification hearing decision is vested in the Director.

1-008.02C Conduct of the Hearing: Disqualification hearings will be conducted by the hearing official as informal hearings, but witnesses will be placed under oath.

1-008.02C1 Attendance at the Hearing: The hearing will be attended by a representative of the Department. The suspected household member and/or his/her representative are encouraged to attend, but their presence is not required. The hearing is not open to the public, but friends or relatives of the household may attend if the household so chooses. However, the hearing official has the authority to limit the number of persons in attendance at the hearing if space is limited or if persons in attendance must be limited to ensure an orderly hearing.

1-008.02C2 Recording the Hearing: Disqualification hearings are recorded by either mechanical equipment and/or a stenographer.

1-008.02C3 Order of the Hearing: The hearing will begin with introductions by the hearing official. At this time the hearing official must advise the suspected household member or the representative that s/he may refuse to answer questions during the hearing. The Department's representative will present the state's case first. The household member or the representative will then present his/her case.

1-008.02D Recessing the Hearing: The hearing official may order a recess if s/he considers it necessary to request, receive, or obtain additional testimony or evidence in order for the Director to decide the issues being raised. The hearing official must advise the household member or his/her representative of the reason for the recess and the nature of the additional information that is required. The hearing must be reconvened when the witness, document, or other evidence is available so that the household member will have an opportunity to question or refute any testimony or other evidence received. When reconvened, the hearing is conducted as any other disqualification hearing.

1-008.02E Admission of Evidence After Hearing is Closed: Evidence may be submitted after a hearing is closed. However, copies of any new evidence must be sent to interested parties, together with an explanation of the right to explain or refute new evidence.

1-008.03 Hearing Decision

1-008.03A Criteria for Determining Intentional Program Violation: The HHS Director must base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member knowingly, willfully and with deceitful intent committed an intentional program violation.

1-008.03B Decision Format: On the basis of the evidence presented, the HHS Director must enter a final decision which:

1. Specifies the reasons for the decision;
2. Identifies the supporting evidence;
3. Identifies the pertinent FNS regulation; and
4. Responds to reasonable arguments made by the household member or representative.

1-008.03C Disqualification for Intentional Program Violation: An individual found to have committed an intentional program violation, either through an administrative disqualification hearing or by a federal, state, or local court, or who has signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, must be disqualified from participation in the Food Stamp Program.

The disqualification periods for an intentional program violation are:

1. Twelve months for the first violation;
2. Twenty-four months for the second violation; and
3. Permanently for the third violation.

Only the individual convicted of intentional program violation is disqualified, not the participating household. The first month of the disqualification must begin within 45 days of the receipt of the notice informing the household of the disqualified individual. The period of disqualification begins regardless of whether or not the individual is a member of a participating household. The disqualified individual is a financially responsible household member.

{Effective 9/4/2002}

1-008.03D Disqualification for Use of Food Stamp Benefits in the Sale of a Controlled Substance: An individual found guilty by a federal, state, or local court of having used or received food stamps benefits in a transaction involving the sale of a controlled substance is disqualified from participation in the Food Stamp Program. The disqualification periods for this violation are:

1. Twenty-four months for the first violation; and
2. Permanently for the second violation.

Only the individual convicted of this violation is disqualified, not the entire household.

{Effective 9/4/2002}

1-008.03E Disqualification for Trafficking of Food Stamp Benefits: An individual convicted by a federal, state, or local court of having trafficked food stamp benefits for an aggregate amount of \$500 or more is permanently disqualified from the program. Only the individual convicted of the violation is disqualified not the entire household.

{Effective 9/4/2002}

1-008.03F Disqualification of an Individual with Drug-Related Convictions: An individual must have committed the violation and been convicted after August 22, 1996, of a felony involving drugs. The violation and conviction must have an element of possession, use, sale, or distribution, including the intent to sell or distribute, of a controlled substance as part of the court record. Only the individual is disqualified, not the entire household.

An individual is permanently disqualified when:

1. S/he has three or more drug-related felony violations and convictions involving the possession or use of a controlled substance;
2. S/he has been convicted of a felony involving the sale or distribution of a controlled substance, including the intent to sell or distribute; or
3. S/he has fewer than three drug-related felony violations and convictions for the possession or use of a controlled substance but does not participate in or has not completed an approved substance abuse treatment program since the date of the last conviction.

{Effective 4/10/2006}

1-008.03F1 Individuals With Fewer Than Three Drug-Related Felony Convictions: Individuals who have less than three drug-related felony convictions for the possession or use of a controlled substance may be eligible for Food Stamp benefits. When the convicted drug felon is participating in or has completed a nationally accredited or state-licensed substance abuse treatment program since the date of last conviction, s/he is not disqualified from the Food Stamp Program. The determination of participation or completion of the substance abuse treatment program must be made by the provider administering the program.

The individual would not be disqualified from the Food Stamp Program:

1. During the participation in and upon completion of the approved substance abuse treatment program following the first drug-related felony conviction; or
2. During the participation in and upon completion of the approved substance abuse treatment program after the second drug-related felony conviction.

{Effective 1/3/2005}

1-008.03G Disqualification of Fleeing Felons and Probation or Parole Violators: An individual is disqualified from participation if s/he is:

1. Fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime that would be classified as a felony (or in the State of New Jersey, a high misdemeanor); or
2. Violating a condition of probation or parole under a federal or state law.

Only the individual is disqualified, not the entire household.

{Effective 9/4/2002}

1-008.03H Disqualification for Fraudulent Information: An individual found guilty by a federal, state, or local court or by a state agency of having made a fraudulent statement or false representation with respect to his/her identity or place of residence in order to receive multiple food stamp benefits simultaneously is disqualified from participation in the Food Stamp Program for a period of ten years. Only the individual is disqualified, not the entire household.

{Effective 1/3/2005}

1-008.03J Disqualification for Use of Food Stamp Benefits to Purchase Firearms, Ammunition, and Explosives: An individual found guilty by a federal, state, or local court of having used or received food stamp benefits in a transaction involving the sale of firearms, ammunition, or explosives is permanently disqualified from participation in the Food Stamp Program. Only the individual is disqualified, not the entire household.

{Effective 1/3/2005}

1-008.04 Appeal Rights of the Household: No further administrative appeal procedure exists after a hearing decision is made which is adverse to the household member. A determination of intentional program violation cannot be reversed by a subsequent fair hearing decision on the same level. However, the household member is entitled to seek relief in a court having appropriate jurisdiction under Neb. Rev. Stat. Section 84-917. The period of disqualification may be subject to stay or other injunctive remedy.

1-008.05 Court-Imposed Penalties: A court of appropriate jurisdiction, either the State, a political subdivision of the State, or the United States as prosecutor or plaintiff, may find an individual guilty of civil or criminal fraud. Court decisions will not address disqualification periods. Court orders regarding penalties for intentional program violation which are received by the local office must be referred to Food Programs and Office of the General Counsel at the Central Office.

Court ordered penalties may be imposed separate and apart from any action taken by the Central Office to disqualify the individual through a disqualification hearing unless it is contrary to the court order.

The worker is encouraged to refer for criminal prosecution those individuals suspected of committing an intentional program violation if the worker suspects that large amounts of food stamps benefits are being fraudulently obtained or that an individual has committed more than one act of alleged intentional program violation.

1-008.05A Notice of Court Decision: If the court finds that the household member committed intentional program violation, the worker contacts the Special Investigations Unit for further instructions. After receiving instructions from the Special Investigations Unit, the worker mails a written notice to the household member before the disqualification whenever possible. The notice must inform the household member of the decision and the reason for the decision. The worker must send the remaining household members a notice of the hearing decision and the allotment amount for the next month, if appropriate.

1-008.05B Reversed Intentional Program Violation Disqualifications: In cases where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, the individual must be reinstated in the program if the household is eligible. The worker must restore any benefits that were lost as a result of the disqualification.

1-009 Program Informational Activities: Program informational activities convey information about the Food Stamp Program, including household rights and responsibilities, to applicant and recipient households through means such as publications, telephone hot lines, films, media, and face-to-face contacts.

1-009.01 Posters and Pamphlets: The local office must display available posters which provide information on civil rights, claims, overpayments, and food stamp benefit reduction. All program informational material must be available in languages other than English and must include a statement that the program is available to all persons without regard to age, race, color, sex, disability, religion, national origin, or political beliefs.

{Effective 9/4/2002}