

P A T H

Department of Prevention, Assistance, Transition, and Health Access

BULLETIN NO. 01-05F

FROM Eileen I. Elliott, Commissioner
for the Secretary

DATE

SUBJECTS Food Stamp Changes Related to the Expiration of Vermont's Welfare Restructuring Project (WRP), Categorical Eligibility, and Resource Value of Vehicles

CHANGES ADOPTED EFFECTIVE 7/1/01

INSTRUCTIONS

Maintain Manual - See instructions below.

Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin:

Information or Instructions - Retain until _____

MANUAL REFERENCE(S)

T.O.C. 271.1 - 280

271.2

273.8a

273.9a

273.2j

273.8e

273.9b

273.7g

273.8g

273.9c

273.7n

273.8h

273.9d

This bulletin implements changes in food stamp policy required by the expiration of waivers granted for the duration of Vermont's seven-year Welfare Restructuring Project (WRP). It also implements changes authorized as state options by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001 and by guidance from the Food and Nutrition Service (FNS).

Expiration of Welfare Restructuring Project Waivers

On July 1, 1994, the department implemented several food stamp provisions under federal waiver authority. These waivers have been in effect since WRP began in July 1994. When WRP and the waivers expire on June 30, 2001, Vermont must comply with federal food stamp regulations. This bulletin deals with the loss of the waivers as described in the following sections.

Vehicle Resource Value

The WRP waiver authority allows the resource value of one licensed vehicle per family to be excluded, regardless of the value of the vehicle, for families who had received Aid to Needy Families with Children (ANFC) benefits following random assignment to WRP Groups 2 or 3, the experimental groups operating under WRP waiver rules.

New federal regulations give states the option of substituting their public assistance vehicle rules for food stamp vehicle rules. Bulletin 01-06 implements changes to Vermont's ANFC program on July 1, 2001, including the ANFC vehicle rules. Those same rules, excluding up to two vehicles per assistance group, are implemented for food stamp households. This provision is effective for all households, with or without children, certified or recertified on or after July 1, 2001.

Categorical Eligibility

The WRP waiver authority allows the value of assets accumulated from earnings to be excluded for families who had received ANFC benefits following random assignment to WRP Groups 2 or 3.

New federal guidance offers states flexibility in conferring categorical food stamp eligibility on families with children. A categorically eligible food stamp household does not have to pass the resource, gross income, or net income tests. Receipt of financial assistance (ANFC) by all household members continues to confer categorical eligibility on food stamp households. Under the broader guidelines, however, categorical eligibility may be expanded to include families that receive services funded by general fund used to fulfill the state maintenance-of-effort (MOE) requirement for the federal Temporary Assistance for Needy Families (TANF) block grant. This bulletin confers categorical eligibility on low-income families with children in which a member has received a Vermont earned income tax credit (EITC), part of whose general fund support is used to fulfill Vermont's TANF MOE requirement, within the 12 calendar months prior to certification or recertification.

Parenting Incentive Payments and Work-Related Disqualification

One WRP waiver allows the income exclusion of incentive payments to ANFC parents for successful completion of parenting education or related volunteer work, and another waives food stamp work-related or voluntary quit disqualification for food stamp household members sanctioned under WRP work requirements. Current policy, which adequately addresses both provisions, is clarified to include parenting incentive payments as a type of excluded nonrecurring lump-sum payment.

Child Support Passalong

The WRP waiver allows Vermont to exclude up to \$50 per month of child support for families in WRP Groups 2 and 3 in determining their eligibility for food stamps.

When the waiver expires on July 1, 2001, the total amount of child support payments made to a food stamp household will count as unearned income. Most families that receive child support income will experience a decrease in food stamp benefits.

Specific changes to policy pages:

After filing the final proposed rule on May 18, 2001, and before the hearing of the Joint Legislative Committee on Administrative Rules, PATH staff held a telephone conference call with an attorney from Vermont Legal Aid to discuss the changes made in the last filing of this rule and the issues remaining. This collaborative process resulted in two additional changes to the rule. Substantive changes made since the filing of the final proposed rule are indicated below as occurring "*[s]ince the last filing and with the approval of the Joint Legislative Committee on Administrative Rules.*"

TOC P.1-P.6 Since the proposed filing, the department has added the table of contents to the bulletin cover sheet. The bulletin revises the table of contents to reflect changes on policy pages.

271.2 P.7 Updates definition of public assistance (PA) consistent with 273.2j.

273.2j - Deletes text about general assistance (GA) that is not applicable in Vermont. Since the proposed filing, the department has clarified wording about PA grant amounts that cannot be anticipated and has added clarification at 273.2j 1 iv P.3 that receipt of the Vermont earned income tax credit (EITC) confers categorical eligibility on an otherwise eligible household with children.

Deletes redundant text and revises text for clarity.

Deletes text about postponing eligibility determination that is not applicable in Vermont and incorporates Vermont note.

Deletes references to sections previously deleted.

Deletes obsolete reference to ANFC Welfare Restructuring Project (WRP) Group 2 and Group 3 families.

273.2j 2i ***Since the last filing and with the approval of the Joint Legislative Committee on Administrative Rules,*** in the first paragraph of 2i, the department has added families in which a parent is participating in the postsecondary program authorized under Act 147 to the list of families qualifying for categorical eligibility for food stamps. Federal food stamp rules require states to confer categorical eligibility upon families receiving financial assistance or services from a program funded at least 50 percent by Temporary Assistance to Needy Families (TANF) or state funds claimed as TANF maintenance-of-effort (TANF-MOE). State funding for the postsecondary program is claimed as TANF-MOE. The change corrects this omission. In the second paragraph of 2i, the department has changed the phrase, "as defined in paragraph (j)," to "as defined in the introductory paragraph of 273.2(j)." This change clarifies the location of the referenced paragraph, since (j) consists of a number of paragraphs.

Adds provision conferring categorical eligibility upon households that receive the Vermont EITC. Since the proposed filing, the department has corrected a policy cite and has added a provision extending categorical eligibility based on EITC receipt to participating households in the middle of their certification period on July 1, 2001.

- 273.2j 2ii Since the proposed filing the department has added clarification that receipt of the Vermont EITC confers categorical eligibility on an otherwise eligible household with children.
- 273.7g2 Deletes obsolete reference to ANFC WRP Group 3 individuals sanctioned under ANFC for failure to meet WRP work requirements; adds clarification that such individuals are still considered exempt from food stamp work requirements.
- 273.7n2 Deletes obsolete reference to ANFC WRP Group 3 individuals sanctioned under ANFC for failure to meet WRP work requirements.
- 273.8a Deletes reference to text deleted at 273.2(j) (4).
- 273.8 e 16 Deletes obsolete reference to ANFC WRP Group 2 and Group 3 waiver allowing the exclusion of assets accumulated from earnings and nonliquid assets purchased with those savings.
- 273.8e 16 P.2 Deletes page with obsolete reference to ANFC WRP Group 2 and 3 Group waiver allowing the exclusion of assets accumulated from earnings and nonliquid assets purchased with those savings.
- 273.8g Incorporates a PP&D policy clarification that the department uses the NADA average loan value, rather than the wholesale value, to determine the fair market value of a vehicle. Vermont has permission to use the average loan value through a federal waiver. Since the proposed filing, the department has corrected a reference to wholesale value in the last sentence. The reference now reads "fair market value."
- 273.8h Adds a provision for households certified on or after July 1, 2001, to exclude the entire value of one operable motor vehicle per household with one adult, and of two operable motor vehicles per household with more than one adult.
- 273.8h 2v Adds a provision to exclude the entire value of any licensed vehicle considered inaccessible because, if sold, the vehicle would produce a return of not more than \$1,500; updates policy cite. Since the proposed filing, the department has clarified that each nonexcluded licensed vehicle shall be evaluated separately against the \$4,650 limit.
- 273.8h 5ii Updates the list of equity-exempt vehicles by adding provisions to exempt equity in one licensed vehicle per adult household member and any vehicle a household member under age 18 drives to school, training, or work.
- Deletes obsolete reference to ANFC WRP Group 2 and Group 3 waiver allowing the exclusion of one vehicle per assistance group as a resource.
- 273.9a Deletes reference to text deleted at 273.2(j) (4); deletes references to nonapplicable sections previously deleted; revises text for clarity.

- 273.9a 2 – Deletes these two pages because their content has been updated, clarified, and
273.9a3 moved to 273.9a.
- 273.9b2 Revises and incorporates WRP text about counting direct child support under recoupment; replaces reference to ANFC with Reach Up, the program of financial assistance established by Act 147. Since the proposed filing, the department has deleted the last paragraph in (i) because it is unnecessary and confusing.
- 273.9c 6 Adds clarification at 273.9 (c)(8) that the provision for excluding nonrecurring lump-sum income includes Reach Up parenting incentive payments.
- 273.9c 13 Deletes obsolete references at 273.9 (c)(14) to two WRP provisions: exclusion of the first \$50 of child support (the passalong) in the calculation of food stamp benefits for Group 2 and 3 families and exclusion of Reach Up parenting incentive payments for all ANFC families.
- 273.9d 5i Adds condo and association fees to allowable shelter costs; revises text for clarity.

Summary of Written Comments and Department's Response

A public hearing was held on April 23, 2001, at 9:00 a.m., in the AHS Secretary's Conference Room, State Office Complex, Waterbury. Representatives from Chittenden Community Action/CVOEO, the Office of Economic Opportunity, and the Council on Aging for Southern Vermont attended the hearing. Vermont Legal Aid submitted written comments. Comments and the department's responses are summarized below.

- Comment** Has the department considered and rejected any other state options that would expand participation in the food stamp program? Some states have triggered categorical eligibility provisions by providing informational pamphlets to families upon application for food stamps. If the pamphlet were paid for with Temporary Assistance to Needy Families (TANF) or TANF maintenance-of-effort (MOE) funds, then any family receiving the pamphlet would be categorically eligible for food stamps. The department should consider this approach to eliminate the vehicle rules for as many families as possible.
- Response** The department has explored several options, including categorical eligibility initiatives implemented by other states prior to publication of food stamp final rules in December 2000. Upon reconsideration of these initiatives, FNS has determined that receipt of an informational pamphlet does not qualify a family as an eligible family under a state's TANF plan because the family is not subject to any income test. To be categorically eligible for food stamps, the family must qualify as an eligible family under the state's TANF plan. States that have implemented provisions such as the one suggested by the commenter, which is more liberal than the final rule allows, are being instructed by FNS to revise their policies.

Comment The language in the definition of public assistance is not clear that those who receive SSI, AABD, SSI/AABD, or Reach Up are included. Some individuals may receive the AABD supplement only.

Response The department has clarified the definition to address the commenter's concern.

Comment The commenter agrees that the provision allowing general assistance (GA) applicants to apply simultaneously for food stamps should not be contained in the section on categorical eligibility, and asks if this is allowed under a different section of policy.

Response The deleted language comes from federal rules applicable to all states and refers to using one application for GA and food stamps. In some states, the states to whom this language may apply, GA is an ongoing program similar to public assistance. Because Vermont's GA program is an emergency program with its own application form, this federal language is not relevant and should be deleted to avoid confusion. In practice, GA applicants not already receiving food stamps are required to apply, if appropriate, and provided with the necessary forms.

Comment The second paragraph at 273.2j(1) would be clearer if it read "PA grant amounts that cannot be anticipated..."

Response The department agrees with the comment and has changed "grants" to "grant amounts" for clarity.

Comment The department should clarify policy that food stamp eligibility of a participant whose PA application is denied should be independently evaluated. The department should also clarify policy on determining food stamp eligibility for a household whose PA grant has closed. The department should take this opportunity to avoid the problems other states have had.

Response The department believes that Vermont has avoided the problems experienced in other states. Policy at 273.2(j)(1)(iv) and (v) specify that households filing a joint application for PA and food stamps will not have to reapply for food stamps if PA is denied. Food stamp eligibility will be determined or continued on the basis of that joint application. Department procedures and an integrated computer processing system help to ensure that policy is followed.

The department believes policy on determining food stamp eligibility for a household whose PA has closed is clear. It is located in another section of the food stamp manual not included in this bulletin, at 273.12(f)(4) and 273.12(f)(5).

- Comment** The description included at the beginning of the policy says this provision is meant to include those "that receive or are authorized to receive" the EITC. The language in 273.2(j)(2), however, appears to limit categorical eligibility to those who actually receive the EITC. This subsection should be expanded to the extent allowed by federal law to include families who may not have filed for the EITC. The federal requirements could be met if the department handed out information regarding the EITC to food stamp applicants.
- Response** While the department may hand out information about the Vermont EITC, receipt of that information does not authorize an individual to receive the EITC. Only the Vermont Department of Taxes may authorize an individual to receive the Vermont EITC. Other states have attempted to confer categorical eligibility through TANF-funded informational pamphlets and have been advised that tightened federal regulations do not allow that practice.
- The department agrees that the bulletin cover sheet incorrectly refers to categorical eligibility being conferred by authorization to receive the Vermont EITC. The cover sheet has been corrected.
- Comment** There appears to be a typographical error in a regulatory citation. It should be (j)(2)(iii).
- Response** The department agrees there is a typographical error and has corrected the policy cite.
- Comment** This regulation incorporates a PP&D policy clarification that the department uses the NADA average loan value, rather than the wholesale value, to determine the fair market value of a vehicle. The last sentence on page 273.8g, however, still references the wholesale value and should be changed.
- Response** The department agrees with the comment and has corrected the reference to say fair market value.
- Comment** The last sentence of subsection 273.8(h)(4) could be clarified to say that each vehicle is evaluated separately against the resource limit and that the value of multiple vehicles are not added together.
- Response** The department has inserted "separately" into the first sentence for clarification.
- Comment** Where is equity value defined? It should be clear that equity value is the fair market value minus any encumbrances.
- Response** It is department practice to insert definitions into policy for terms having policy-related meanings that differ from commonly used meanings. Food stamp policy on vehicles as resources relies on the dictionary definition of equity. The department does not agree that further definition is required.

- Comment** The paragraph regarding child support recoupment at 273.9b(2)(i) should explicitly state that this does not apply to the state retaining child support arrearages in order to repay the state for current or past ANFC/Reach Up receipt.
- Response** The department believes that this paragraph is unnecessary and, as the commenter points out, confusing. It has been deleted.
- Comment** Eliminating the disregard of up to \$50 in child support would result in a reduction of \$17 in food stamp benefits for families who receive child support income. It's our understanding that the state could reimburse the federal government for the \$17 for each of those families.
- Response** In the past, federal rules had allowed states the option to exclude from unearned income up to \$50 per month of child support payments as long as the state paid the federal agency for the increased dollar value of food stamp allotments resulting from the exclusion. New federal rules that went into effect January 1, 2001, removed the option to exclude child support payments.

Vertical lines in the left margin indicate significant changes. Dotted lines at the left indicate changes to clarify, rearrange, correct references, etc., without changing regulation content.

Manual Maintenance

Food Stamps Policy

<u>Remove</u>		<u>Insert</u>	
TOC P.1	(98-24)	TOC P.1	(01-05)
TOC P.2	(97-2F)	TOC P.2	(01-05)
TOC P.3	(98-4)	TOC P.3	(01-05F)
TOC P.4	(95-1)	TOC P.4	(01-05F)
TOC P.5	(95-1)	TOC P.5	(01-05F)
Nothing		TOC P.6	(01-05)
271.2 P. 7	(98-24)	271.2 P. 7	(01-05F)
273.2j	(95-1)	273.2j	(01-05F)
273.2j 1 ii	(87-27)	273.2j 1 iii	(01-05)
273.2j 1 iv P.1	(87-27)	273.2j 1 iv P.2	(01-05)
273.2j 1 iv P.2	(89-56)	273.2j 1 iv P.3	(01-05F)
273.2j 1v	(95-1)	273.2j 2i P.2	(01-05F)
273.2j 2i	(95-1)	273.2j 2ii	(01-05F)
273.2j 2iii	(95-1)	273.2j 2v P.2	(01-05)
273.2j 2vii B	(95-1)	Nothing	
273.7g 2	(98-24F)	273.7g 2	(01-05)

Manual Maintenance

Food Stamps Policy

<u>Remove</u>		<u>Insert</u>	
273.7n 2	(98-24F)	273.7n 2	(01-05)
273.8a	(95-1)	273.8a	(01-05)
273.8e 16	(98-24F)	273.8e 16	(01-05)
273.8e 16 P.2	(98-24F)	Nothing	
273.8g	(87-27F)	273.8g	(01-05F)
273.8h	(98-4)	273.8h	(01-05)
273.8h 2	(97-2F)	273.8h 2v	(01-05F)
273.8h 6 P.1	(98-24F)	273.8h 5ii	(01-05)
273.8h 6 P.2	(98-24F)	Nothing	
273.9a	(97-2F)	273.9a	(01-05)
273.9a 2	(83-20)	Nothing	
273.9a 3	(88-12)	Nothing	
273.9b 2	(95-1)	273.9b 2	(01-05)
273.9c 6	(89-56)	273.9c 6	(01-05F)
273.9c 13	(98-24F)	273.9c 13	(01-05)
273.9c 16	(95-1)	Nothing	
273.9d 5 i	(97-2F)	273.9d 5 i	(01-05)