

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

**DCF**

**Department for Children and Families**

**BULLETIN NO.:** 18-06F

**FROM:** Sean Brown, Deputy Commissioner  
Economic Services Division

**DATE:** December 10, 2018

**SUBJECT:** 3SquaresVT Rule Repeal

**CHANGES ADOPTED EFFECTIVE** January 1, 2019

**INSTRUCTIONS**

- Maintain Manual - See instructions below.  
 Proposed Regulation - Retain bulletin and attachments until you receive Manual Maintenance Bulletin: \_\_\_\_\_  
 Information or Instructions - Retain until \_\_\_\_\_

**RULE REFERENCE(S):**

271.1	273.3	273.8	273.13	273.18	280.1
271.2	273.4	273.9	273.14	273.20	
271.7	273.5	273.10	273.15	273.21	
273.1	273.6	273.11	273.16	273.22	
273.2	273.7	273.12	273.17	280	

This proposed rule repeals the 3SquaresVT rules in their entirety. 3SquaresVT is a completely federally-regulated program. The current state rules no longer reflect the governing federal law. Staff will continue to use the 3SquaresVT Policy Manual to determine eligibility. Current program options and waivers will be maintained (subject to approval by the federal Food and Nutrition Service).

## **Rulemaking Process**

### ***A. Informal Public Input Process***

1. The proposed rule was filed with the Interagency Committee on Administrative Rules (ICAR) on June 7, 2018 and presented at its meeting on July 9, 2018.
2. The proposed rule was filed with the Secretary of State's Office on July 12, 2018.
3. The Secretary of State published notice of rulemaking on its website on July 18, 2018.
4. The department posted the proposed rule on its website <http://dcf.vermont.gov/esd/rules/proposed-adopted> and notify advocates, subscribers, and members of the public of the proposed rule.

### ***B. Formal Notice and Comment Period***

1. A public hearing was held on August 27, 2018 at 9:00 am at St. Leo's Hall, 109 South Main St., Waterbury, Vermont 05671. There were no attendees.
2. The comment period on the proposed rules closed on Monday, September 3, 2018. The Department received one written comment from Vermont Legal Aid.
3. On November 7, 2018 copies of the final proposed rule were filed with the Secretary of State and the Legislative Committee on Administrative Rules (LCAR).
4. The department presented the rule to LCAR and LCAR approved the rule on November 29, 2018.
5. The department expects to file the final rule on or before December 17, 2018.
6. The anticipated effective date of the rule is January 1, 2019. This date is subject to change.

### ***Specific comments on the Proposed Rule and the Department's Response***

Written comments were submitted by Jessica Radbord, a staff attorney for Vermont Legal Aid.

**Comment:** The commenter did not object to repealing the text of the 3SquaresVT rules but asserted that the Department is "obliged to promulgate regulations to capture Vermont's program options, waivers, and interpretations of federal regulations as they apply to state law."

**Response:** The Department has treated this comment as a request to adopt rules since many, or all, of the current program options, waivers, and interpretations of federal regulations as they apply to state law are not a part of the 3SquaresVT rules. On October 3, 2018, the Department provided Vermont Legal Aid with a written denial of the request to adopt such rules. In its letter, the Department explained that neither 33 V.S.A. § 105 nor the Vermont Administrative Procedures Act require the Department to adopt rules. Together, the federal SNAP regulations, the state plan of operation, and DCF's operating guidelines – the 3SquaresVT Program Manual – provide all the direction necessary

for DCF to administer the 3SquaresVT program. The 3SquaresVT Program Manual, publicly available online at <https://www.ahsnet.ahs.state.vt.us/Public/3sVT/index.htm>, contains all federal regulatory eligibility and enrollment criteria, as well as state options and waivers. There is no need for DCF to adopt rules to administer the federal laws governing the 3SquaresVT program. In addition, there is no need for DCF to adopt rules to protect 3SquaresVT applicants' or recipients' right to benefits. DCF would consider whether due process necessitated rulemaking if, in the future, DCF stopped exercising a state option or chose not to renew an available waiver impacting benefit levels.

The department will post the rule on the Department for Children and Families' website at <http://dcf.vermont.gov/esd/laws-rules> and notify advocates and members of the public about the rule

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking go to the website of the Office of the Vermont Secretary of State at: <http://www.sec.state.vt.us/administrative-rules.aspx> or call Louise Corliss at 828-2863

For information on upcoming hearings before the Legislative Committee on Administrative Rules go to the website of the Vermont Legislature at: <https://legislature.vermont.gov/committee/detail/2018/39> or call 828-5952.

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