

UPDATED INFORMATIVE DIGEST

On November 21, 2000, the United States Department of Agriculture issued a final rule amending Food Stamp Program regulations to implement several provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and subsequent amendments to those provisions made by Public Laws 104-208, 105-33, and 105-185. These regulations are also known as the Noncitizen Eligibility and Certification Provisions, Federal Register, Vol. 65, No. 225, November 21, 2000 (65 Federal Register 70134). Those rules became effective on January 20, 2001 and have been issued on an emergency basis effective June 1, 2001. However, included within the final federal rules were specific provisions that were subject to Office of Management and Budgets (OMB) approval before they could be implemented. OMB approval is provided in Federal Register, Vol. 66, No. 229 of November 28, 2001. The approved rules are required to be implemented no later than March 10, 2002. For CWD administrative ease of implementation, the Department has opted to implement on March 1, 2002 for all new applications; for ongoing cases implementation must take place no later than by the next recertification.

The regulation changes are beneficial to applicants and recipients of the Food Stamp Program. They include less restrictive application procedures for scheduling application interviews, and they mandate that an application cannot be denied prior to the 30th day of application. The regulations discuss the procedure for scheduling the initial application interview and the procedures the CWD must follow to allow for a second interview. If the applicant misses its first interview scheduled by the CWD, it is the household's responsibility to reschedule a second interview. When the first scheduled interview is missed, the CWD is required to send a Notice of Missed Interview informing the applicant that the interview was missed, that the applicant is responsible for rescheduling and the consequences of failure to reschedule within 30 days of the application date. If the household reschedules the interview within the 30 days of application, the application is not denied. If the household does not reschedule the interview within the 30-day processing time frame, the CWD can then issue a denial notice to be sent on the 30th day following the application date. This ensures that the CWD holds the food stamp application open throughout the application processing time frame of 30 days.

Another procedure that is required during the 12-month certification period is the use of a request for information (RFI). If during the certification period, the CWD receives any information that is unclear or that could compromise the household's eligibility, the CWD must first issue an RFI to the recipient and allow at least 10 days for the recipient to respond to the request. This procedure is important because it mandates that the CWD contact the household through a general notice request and allow the household 10 days to respond prior to the CWD being allowed to send a termination notice. This is beneficial to the recipient because it provides time for the recipient to avoid any adverse actions.

There is also a new requirement for determining whether a sponsored noncitizen is considered indigent. That is, a determination must be made by the CWD on whether the noncitizen's income, including income given to the sponsored noncitizen by the sponsor, exceeds 130 percent of the poverty guideline for the household size. This regulation clearly specifies that if the income is below 130 percent of the poverty level, the sponsored noncitizen is considered indigent. That is,

without adequate income to obtain food and shelter. When the sponsored noncitizen is found to be indigent, only the actual income the sponsored noncitizen receives is used to compute their food stamp benefits. When the sponsored noncitizen's income is above 130 percent of the poverty guideline, then the sponsor's income must be deemed to the sponsored noncitizen. This requirement for the CWD to first determine if the sponsored noncitizen is indigent provides the noncitizen with adequate means to obtain food and shelter.

There was neither written testimony received nor oral testimony presented as a result of this regulation at the May 23, 2002 public hearing.