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Effective Date: 04/07/2011

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	Tennessee Department of Human Services
<b>Division:</b>	Family Assistance
<b>Contact Person:</b>	Phyllis Simpson
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1240-01-02	Family Assistance Unit - Food Stamp Program
Rule Number	Rule Title
1240-01-02-.02	Household Concept - Food Stamps Only

Chapter Number	Chapter Title
Rule Number	Rule Title

Chapter 1240-01-02  
Family Assistance Unit  
Food Stamp Program

Amendments

Rule 1240-01-02-.02 Household Concept - Food Stamps Only, is amended by deleting subparts (i) and (ii) under paragraph (6), subparagraph (a), part 2. Subparts (iii) through (xi) under part 2 subparagraph (a) paragraph (6) are not being amended. As amended paragraph (6), subparagraph (a), part 2, subparts (i) and (ii) shall read as follows:

- (i) Be working an average of 20 hours each week or an average of 80 hours per month or if self-employed, be working an average of 20 hours per week or an average of 80 hours per month or receiving monthly earnings at least equal to the Federal minimum wage multiplied by 80 hours;
- (ii) Must participate in a State or federally funded work-study program (funded in full or in part by Title IV, Part C of the Higher Education Act of 1965, as amended) during the school year;

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C. § 2015(e)(4); 7 C.F.R. § 272.3(c)(1)(ii); 7 C.F.R. § 273.5(b)(5) Food and Nutrition Service Waiver September 1, 2010; and 7 C.F.R. § 273.5(b)(6).

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services (board/commission/ other authority) on 12/14/2010, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/28/10

Rulemaking Hearing(s) Conducted on: (add more dates). 11/30/10



Date: December 14, 2010

Signature: Phyllis Simpson

Name of Officer: Phyllis Simpson

Assistant General Counsel

Title of Officer: Tennessee Department of Human Services

Subscribed and sworn to before me on: December 14, 2010

Notary Public Signature: Debra E Batts

My commission expires on: May 20, 2014

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.  
Attorney General and Reporter

1-7-11  
Date

**Department of State Use Only**

Filed with the Department of State on: 1/7/11

Effective on: 4/7/11

Tre Hargett

Tre Hargett  
Secretary of State

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## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Date(s), Time(s) and Place(s) of Public Hearing(s): November 30, 2010, 1:30 p.m. Central Time, Department of Human Services, 2<sup>nd</sup> Floor Conference Room #1, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37243.

A public hearing was held on the date, time and place noted above by the Department of Human Services to receive comments regarding amendments to the above referenced rules. No comments were received.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

In September 2010, the Food and Nutrition Service approved the Department of Human Services' request to waive federal regulation 7 C.F.R. § 273.5(b)(5) regarding the minimum 20 hour per week work requirement and to average student work hours for the purpose of determining Supplemental Nutrition Assistance Program (SNAP) (Food Stamp Program) eligibility. Under the waiver, higher education students whose employment hours fluctuate from week to week will be considered to have met the minimum work hour requirement of 20 hours per week as long as they maintain an average of 20 work hours per week or 80 work hours per month.

The United States Department of Agriculture establishes standards of eligibility for participation by households in the Food Stamp Program pursuant to 7 U.S.C. § 2014. For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules substantially codify existing federal law, such that, pursuant to Section 6 of the Regulatory Flexibility Act, the Regulatory Flexibility Act's provisions do not apply to these rules. In addition, these rulemaking hearing rules do not appear to affect small businesses as defined in the Act because these rules are related to the determination of eligibility and provision of benefits to individuals and households who file an application for them. These rules do not regulate or attempt to regulate businesses.

## **Impact on Local Governments**

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rules have no projected financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 1240-01-02-.02(6)(a)2(i). This revision reflects that in order to be eligible as a student for Food Stamps, the student would need to work an average of 20 hours per week or 80 hours per month.

Rule 1240-01-02-.02(6)(a)2(ii). Is clarified in order to read like the federal regulation and reflects that in order to qualify for Food Stamp benefits as a student, work study may be either State or federally funded to be considered an exemption.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 4-5-201 et seq.; 71-1-105 and 71-5-304; 7 U.S.C. § 2015(e)(4) ; 7 C.F.R. § 272.3(c)(1)(ii); 7 C.F.R. § 273.5(b)(5) Food and Nutrition Service Waiver September 2010 and 7 C.F.R. § 273.5(b)(6)

The change in the hours determination is due to a waiver granted by the United States Department of Agriculture (USDA) and approved indefinitely. The work study change is so that the state rule will show what the federal regulation shows.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Rule 1240-01-02-.02. This change could possibly affect current and potential recipients who are classified as students in the Food Stamp Program.

A rulemaking hearing was held on November 30, 2010. No comments urging adoption or rejection of this rule were received.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No increase or decrease in state or local expenditures.

Since food stamp purchases are exempt from state and local sales tax, there would be no increase in state and local revenue.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Sandra Ramsey, Program Manager, Food Stamp Policy

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Sandra Ramsey, Program Manager, Food Stamp Policy  
Richard Dobbs, Director, Food Stamp Policy  
Phyllis Simpson, Assistant General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Sandra Ramsey, Program Manager, Food Stamp Policy  
Tennessee Department of Human Services  
Citizens Plaza Bldg., 12<sup>th</sup> Floor  
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

**“REDLINE VERSION-RULE 1240-01-02-.02 DATED DECEMBER 13, 2010”**

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-01-02  
FAMILY ASSISTANCE UNIT  
FOOD STAMP PROGRAM**

**1240-01-02-.02 HOUSEHOLD CONCEPT - FOOD STAMPS ONLY.**

(1) Household Definition. A household may be composed of any of the following individuals or groups of individuals provided that such individuals or groups of individuals are not residents of an institution, except as defined in §1240-01-02-.02(4)(b) or residents of a commercial boarding house.

(a) Household

1. An individual living alone.
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others.
3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.
4. Boarders may participate as members of the household which provides the boarder services at the household's request.
5. An individual who is sixty (60) years of age or older (and the spouse of such individual) who lives with others and who is unable to purchase and prepare meals separately because he/she suffers from a disability considered permanent under the Social Security Act or some other non-disease-related severe permanent disability. In order for this individual and spouse to be eligible for separate household status, the combined gross income of all others with whom the individual resides (excluding the individual and his/her spouse's income) cannot exceed one hundred sixty-five percent (165%) of the poverty level as shown in the Table below:

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
165% of Poverty	\$1490	\$2004	\$2518	\$3032	\$3547	\$4061	\$4575	\$5089	\$5604	\$6119

For each additional member add \$515

(b) Separate household status shall not be granted to:

1. Children under 18 years of age under the parental control of a member of the household;
2. A spouse of a member of the household. A spouse refers to either of two individuals:

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- (i) Who would be defined as married to each other under applicable state law; or
    - (ii) Who are living together and are holding themselves out to the community as husband and wife.
  - 3. Boarders;
  - 4. Siblings (natural, adopted, half or stepbrothers and sisters) under 18 years of age who are not under the parental control of another sibling;
  - 5. Children under age 22 who live in the home with a parent (natural, step, or adoptive).
- (2) Head Of Household. The head of the household is the person in whose name application is made for participation in the program. The household may select any adult parent of a child in the household as the head of the household if all adult members who apply for Food Stamps agree to that selection. The selection of the head of household shall be made at each certification of the household's eligibility for the Food Stamp Program, but may not change between certifications unless there is a change in household composition. If the head of the household is unable to file the application, the spouse, another responsible household member, or an authorized representative may apply for the household.
- (3) Non-Household Members. In some cases, individuals may reside with a household who cannot be considered members of that household. Such persons shall not be considered in determining the household's eligibility or benefit level. Non-household members who are otherwise eligible may participate in the program as separate households. Note: The status of roomer, boarder, or live-in attendant shall not be extended to any of the individuals listed in 1240-01-02-.02(1)(b) above.
- (a) Roomers. Roomers are individuals to whom the household furnishes lodging for compensation, but not meals.
  - (b) Boarders. A boarder is defined as an individual residing in a household and paying compensation to the household for lodging and meals. If an applicant household identifies any individual in the household as a boarder, the following provisions apply:
    - 1. Boarder status shall not be extended to any of the individuals listed in 1240-01-02-.02 (1) (b) above with the exception of (1) (b) 4.
    - 2. Boarder status shall also not be extended to persons paying less than a reasonable monthly payment for meals. An individual furnished both meals and lodging by the household, but paying compensation of less than a reasonable amount, will be considered a member of the household which provides the meals and lodging. When the boarder's payment for room is distinguishable from the payment for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid in cash. A reasonable monthly payment shall be either of the following:
      - (i) Boarders whose board arrangement is for more than two meals a day shall pay an amount which equals or exceeds the coupon allotment for the appropriate size of the boarder household; or

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- (ii) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two thirds of the coupon allotment for the appropriate size of the boarder household.
- 3. Boarders are ineligible to participate in the program independent of the household providing the board. They may participate as members of the household providing boarder services to them at such household's request. The household within which the boarder resides including the household of the proprietor of a boarding house may participate in the program if the household meets all the eligibility requirements for program participation.
- 4. None of the income or resources of individuals determined to be boarders who are not considered members of the household providing the boarder services (as prescribed in (3) above) shall be considered available to such household. However, the amount of the payment that a boarder gives to a household shall be treated as self-employment income to the household.
- (c) Live-in Attendants. An "attendant" is an individual whose presence in the household is solely for medical, housekeeping, child care, or similar reasons and is not a part of the normal household composition.
- (d) Students. Students are persons enrolled in an institution for higher education who are ineligible because they fail to meet the eligibility criteria set forth in section 1240-01-02 (6)(2).
- (e) Others. Other individuals who share living quarters with the household but who do not customarily purchase food or prepare meals with the household are also non-household members.

*Note: Non-household members shall not have their income and resources considered available to the household. Cash payment from the non-household member to the household is considered income unless the non-household member is making vendor payments. If the household shares deductible expenses with the non-household member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be divided evenly among persons actually paying or contributing to the expense and only the household's pro rata share may be deducted.*

- (4) Ineligible Households. Households which are ineligible by law are as follows:
  - (a) Residents of Commercial Boarding Houses. A boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit. Residents of such boarding houses are not eligible for program benefits. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise. The household of the proprietor of a boarding house may participate in the program as a household separate and apart from the residents of the boarding house, if that household meets all the eligibility requirements for program participation.
  - (b) Residents of Institutions. Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the program, with the following exceptions:

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1. Residents of federally subsidized housing for the elderly, built under either Section 202 of the National Housing Act of 1959 or Section 236 of the National Housing Act.
  2. Narcotic addicts or alcoholics who, for the purposes of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center.
  3. Disabled or blind individuals who are residents of group living arrangements [as defined in the Definition Section 1240-1-8-.01(34)] and who receive benefits under Title II (RSDI) or Title XVI (SSI) of the Social Security Act.
  4. Residents of shelters for battered women and children as defined in 1240-1-8-.01(74). Such persons temporarily residing in shelters for battered women and children shall be considered individual household units for the purpose of applying for and participating in the program.
  5. Residents of non-profit shelters that provide meals to the homeless.
- (c) Fleeing felons and probation/parole violators. No member of a household who is otherwise eligible to participate in the Food Stamp Program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is:
1. Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or
  2. Violating a condition of probation or parole imposed under a federal or state law.
- (5) Absent Wage Earners. Wage earners absent from the household because of work-related travel or who must frequently, but temporarily, reside away from the household for periods of time because of the distance of their work from the household should usually be included as household members. Each case should be evaluated on its own merits. If an absent wage earner can establish that he/she is a separate household, he/she should be excluded from the case in establishing the household allotment. The wage earner and the household are responsible for establishing to the satisfaction of the worker that they are not part of the same household before the wage earner can be excluded.
- (6) Special Households
- (a) Students
1. Definition of a Student.
    - (i) For purposes of this section a student is any person who meets the following criteria:
      - (I) Between the ages of 18 and 50;
      - (II) Physically and mentally fit; and

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- (iii) Enrolled at least half-time in an institution of higher education.
  - (ii) Such persons shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements of part 2 of this subparagraph.
2. Student Eligibility Criteria. Any person who is physically and mentally fit between the ages of 18 and 50 and who is enrolled at least half-time in an institution of higher education shall not be eligible for participation in the Food Stamp Program unless such person meets at least one of the following criteria:
- (i) ~~Is employed for a minimum~~ Be working an average of 20 hours per each week or an average of 80 hours per month or and is paid for such employment (cannot substitute wages equivalent to 20 times the minimum hourly wage, but must actually work 20 hours regardless of wage); if self-employed, be employed for a minimum working an average of 20 hours per week and or an average of 80 hours per month or receiveing weekly monthly earnings at least equal to the federal minimum wage multiplied by 280 hours;
  - (ii) ~~Must participate in a State or Federally financed~~ funded work-study program (funded in full or in part by Title IV, Part C of the Higher Education Act of 1965, as amended) during the school year;
  - (iii) Is responsible for the care of a dependent household member under the age of six;
  - (iv) Is responsible for the care of a dependent household member over the age of five but under the age of twelve for whom adequate child care is not available;
  - (v) Is receiving benefits from the Aid to Families with Dependent Children Program or its successor program(s);
  - (vi) Assigned to or placed in an institution of higher education through a program under the Job Training and Partnership Act (JTPA);
  - (vii) Is at least age 50, the maximum age for students attending institutions of higher education who are prohibited from receiving food stamp benefits;
  - (viii) Is participating in JOBSWORK or the Families First Employment and Training Program, or successor program(s), and is enrolled in an institution of higher education as a result of participation in this program;
  - (ix) Is a full-time student who is a single parent, responsible for the care of a child under age 12, regardless of the availability of adequate child care;
  - (x) Is a student assigned to an institution of higher learning by the Food Stamp Employment and Training Program;
  - (xi) Is enrolled in a program under Section 236 of the Trade Act of 1974.

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3. Validity of Enrollment Period Status. Once a student enrolls in an institution of higher education, such enrollment shall be deemed to continue through normal periods of class attendance, vacation, and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next school term (excluding summer school).
4. Eligibility During Periods of Non-Enrollment. Students eligible during the school year would continue to be eligible during summer months. However, students not eligible during the school year would remain ineligible during vacation periods unless they actually obtain work or otherwise meet the criteria applied to determine student eligibility. Students who fail to maintain continuous enrollment status or who do not intend to register for the next normal school session (excluding summer school) would lose their student status and be treated as any other person/household.
5. When Student Is Not Eligible. If the student is not eligible and is a member of an otherwise eligible household, the remaining household members may continue participation or be certified eligible for participation.
6. Income and Resources of an Ineligible Student. The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits for the household.
7. Work Registration. Students who meet the criteria for eligibility are exempt from work registration requirements.
8. Reporting a Change in Student Status. The student is responsible for reporting changes in his/her circumstances which would have an impact on his/her eligibility under the eligibility requirements for reporting changes.
9. Students' Income. Students have unusual sources of income. Income peculiar to student households includes scholarships, fellowships, educational grants, deferral payment loans, veteran's educational benefits, cash gifts or awards for educational expenses, and cash or vendor payments from parents. Such sources of income result in an uneven cash flow. The payments are usually received in one payment but are intended to cover a specific period of time, a semester, school year, etc.; likewise, the major expenses of education (tuition and mandatory fees) are also paid at one time, again emphasizing the uneven cash flow.
10. Disqualified vs. Ineligible Students. A student is only disqualified because of failure to meet the enumeration requirement or fraud. A student is ineligible if he/she fails to meet the student eligibility requirements. However, the other household members, if any, may be certified if otherwise eligible. See §§1240-01-02-.02(6)(b) and 1240-01-02-.02(6)(c) for procedures involving the income and resources of these students.
  - (b) Excluded Household Members. The following individuals residing within a household shall be excluded from the household when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of excluded individuals shall be considered available to the remaining household members. Such individuals may not participate in the program as separate households:

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1. Ineligible aliens or individuals with questionable citizenship.
2. Individuals disqualified for failure to provide or to apply for a social security number.
3. Individuals disqualified for intentional program violation.
4. Persons disqualified for non-compliance with the Food Stamp Program work requirements, including voluntary quit.
5. An individual who is convicted of trafficking food stamp benefits of \$500 or more is permanently disqualified.
6. Individuals who have been convicted by a federal, state, or local court of a second violation of trading food stamp benefits for a controlled substance.
7. Individuals who have been found by a federal, state, or local court to have committed a first violation of trading firearms, ammunition, or explosives for food stamp benefits.
8. An individual who is found to have made fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously shall be ineligible to participate in the Food Stamp Program for ten (10) years.
9. An individual who is determined to be a fleeing felon or parole violator under 1240-01-02-.02(4)(c) above is ineligible for the Food Stamp Program.
10. An individual who is an ineligible able-bodied adult without dependents.
11. An individual convicted under federal or state law of a felony offense which occurred after August 22, 1996 and which involved the possession, use or distribution of a controlled substance, unless the individual is complying with or has already complied with all obligations (including any substance abuse treatment requirements) imposed by the criminal court, and
  - (i) the conviction was not classified as a Class A felony or its equivalent, if the offense occurred outside of Tennessee; and
  - (ii) is currently participating in a substance abuse treatment program approved by the Department of Human Services; or
  - (iii) if not actively participating in a substance abuse treatment program approved by the Department of Human Services, is currently enrolled in such a program, but is on a waiting list for participation, and enters the treatment program at the first opportunity; or
  - (iv) has satisfactorily completed a substance abuse program approved by the Department of Human Services; or
  - (v) a treatment provider licensed by the Department of Health, Division of Alcohol and Drug Abuse Services, has determined that the individual does not need substance abuse treatment according to TennCare guidelines.

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- (c) Applying Financial Eligibility Standards for Excluded Household Members.
1. Ineligible Aliens/Questionable Citizenship/Enumeration Disqualification.
    - (i) Resources. The resources of such excluded household members shall continue to be counted in their entirety to the remaining household members.
    - (ii) Income. The earned and/or unearned income of the above household members shall continue to be counted as income, less a pro rata share for the excluded individual. All but the excluded member(s)' share is counted as income for the remaining household members.
    - (iii) Deductible Expenses. That portion of the excluded individual's earned income which is attributed to the household shall have the 20% earned income deduction applied. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the excluded member(s) shall be evenly divided among the household members, including the excluded member(s). All but the excluded member(s)' share is counted as a deductible expense for the remaining household members.
    - (iv) Determining Eligibility and Benefit Level. Excluded members shall not be included when determining the household's size for the purpose of assigning a benefit level to the household or for purposes of comparing the household's monthly income with the income eligibility standards or the household's resources with the resource eligibility limits.
    - (v) Reduction or Termination of Benefits Within the Certification Period. Whenever an individual is excluded within the household's certification period, the worker shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file. A notice of adverse action shall be issued which informs the household of the exclusion, the reason for the exclusion, the eligibility and benefit level of the remaining members, and the actions the household must take to end the exclusion.
  2. Individuals disqualified for intentional program violation, conviction of trafficking in food stamp benefits of \$500 or more, fraudulent misrepresentation of identity or residence in order to receive multiple benefits simultaneously; found by a federal, state or local court to have committed a second violation of trading food stamp benefits for a controlled substance; found by a federal, state or local court to have committed a first violation of trading of firearms, ammunition or explosives for benefits; convicted of a felony offense which occurred after August 22, 1996 and involved the possession, use or distribution of a controlled substance, except as provided at 1240-01-02-.02(6)(b)11; or determined to be a fleeing felon or a probation/parole violator as defined in 1240-01-02-.02(6)(b)9, or for non-compliance with the Program work requirements as stated in 1240-01-03-.43 and .44.
    - (i) Resources. The resources of such disqualified household members shall continue to count in their entirety to the remaining household members.

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- (ii) Income. The earned and/or unearned income of the disqualified member(s) shall continue to count in their entirety to the remaining household members.
  - (iii) Deductible Expenses. The entire household's allowable earned income deduction, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.
  - (iv) Determining Eligibility and Benefit Level. The disqualified member(s) shall not be included when determining the household's size for the purpose of assigning a benefit level to the household, or comparing the household's monthly income with the eligibility standards, or for comparing the household's resources with the resource eligibility limits.
  - (v) Reduction or Termination of Benefits Within the Certification Period. Whenever an individual is disqualified within the household's certification period, the worker shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file. The worker shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits unless the household has already had a fair hearing on the amount of the claim.
- (d) PA and SSI Households
1. Definitions of Cash Assistance Households. Cash Assistance Households are those in which all members are receiving Aid to Families with Dependent Children (AFDC) or its successor programs(s).
    - (i) Joint Cash Assistance - Food Stamp Application. Households in which all members are applying for Cash Assistance may be allowed to apply for Food Stamp benefits at the same time they apply for Cash Assistance.
  2. SSI Households
    - (i) SSI Definitions. The following definitions will apply to SSI households:
      - (I) "SSI" means monthly cash payments made under the authority of Title XVI of the Social Security Act, as amended, to the aged, blind, and disabled. "SSI recipient" means an individual or an individual and his/her eligible spouse who receive SSI.
      - (II) Persons potentially eligible for SSI cannot be required to make application for SSI benefits as a condition of Food Stamp or Cash Assistance eligibility.
    - (ii) Eligibility Standards. SSI recipients and their essential persons may apply for and participate in the Food Stamp Program as other non-assistance households and must meet all income and resource standards, as well as all non-financial eligibility criteria. Persons potentially eligible for SSI cannot be required to make application for SSI benefits as a condition of Food Stamp or AFDC eligibility.

February, 2010 (Revised)

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(e) Authorized Representatives/Designated Agents

1. Food Stamps

(i) An authorized representative must be:

(I) Designated in writing by the head of the household or the spouse, or another responsible member of the household; and

(II) An adult who is sufficiently aware of relevant household circumstances. In the event the only adult member of a household is classified as a non-household member, that person may be designated as the authorized representative for the minor household members.

(ii) The head of the household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the following capacities:

(I) Making Application For The Program. When the head of the household or the spouse cannot make application, another responsible household member may apply or an adult non-household member may be designated as the authorized representative for that purpose. The Food Stamp Application, and/or a written statement shall be completed and signed by the head of the household, spouse, or responsible household member designating this authorized representative. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. The worker shall inform the household that the household will be held liable for any overissuance which results from erroneous information given by the authorized representative, unless the household is participating in a drug or alcohol treatment center. The household's authorized representative may complete Form DES-511 or DES-511C for those household members required to register for work.

(II) Obtaining The Coupons. An authorized representative may be designated to obtain coupons. These designations shall be made at the time the application is completed and an authorized representative shall be named on the ID Card. The authorized representative for coupon issuance may be the same individual designated to make application. The authorized representative may use coupons to purchase food provided he/she has the household's ID card with the full knowledge and consent of the household. The household should be encouraged to name an authorized representative for obtaining coupons in case of illness or other circumstances which might result in inability to obtain coupons. The household may also designate an emergency authorized representative at a later date. An emergency authorized representative is someone who obtains coupons when neither a household member nor the authorized representative is able to obtain them because of unforeseen circumstances. An emergency

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authorized representative shall be designated in writing on the ATP card each time an emergency authorized representative is used.

(III) Restriction On Authorized Representatives

- I. County office employees involved in the certification and/or issuance process and retailers authorized to accept food coupons may not act as authorized representative without the specific written approval of the Regional Supervisor or his/her designee, and only if that official determines that no one else is available to serve as an authorized representative.
  - II. County offices which have obtained evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of coupons, may disqualify that authorized representative from participating as an authorized representative in the Food Stamp Program for up to one year. The worker shall send written notification to the affected household(s) and the authorized representative thirty days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcoholic treatment centers and those group homes which act as authorized representatives for their residents.
2. AFDC. A designated agent is an adult named by a person requesting AFDC to act for him/her in filing an application, gathering required information, representing him/her at a fair hearing, and like matters. The designated agent acts for the applicant/recipient in such matters but cannot receive/expend the person's AFDC grant unless he/she is also the person's legally appointed guardian or has been named alternate/protective payee.
- (f) Categorically Eligible Households. Certain households comprised of SSI and/or AFDC recipients are categorically eligible for Food Stamps as provided in rule 1240-01-14-.15.

**Authority:** T.C.A. §§4-5-201 et seq., 4-5-202, 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014; and 7 C.F.R. §§ 273.1, 273.1(b)(2), 273.9, and 273.10. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed November 6, 1980; effective December 22, 1980. New rule filed December 10, 1981; effective January 25, 1982. Amendment filed April 2, 1982; effective May 17, 1982. Amendment filed August 17, 1982; effective September 16, 1982. Amendment filed March 3, 1983; effective April 4, 1983. Amendment filed March 28, 1983; effective April 27, 1983. Amendment filed May 17, 1983; effective June 16, 1983. Amendment filed September 4, 1984; effective October 4, 1984. Amendment filed October 29, 1985; effective January 14, 1986. Amendment filed April 15, 1986; effective July 14, 1986. Amendment filed July 23, 1986; effective October 29, 1986. Amendment filed August 5, 1986; effective November 29, 1986. Amendment filed September 29, 1986; effective December 29, 1986. Amendment filed November 28, 1986; effective February 28, 1987. Amendment filed May 8, 1987; effective August 29, 1987. Amendment filed April 4, 1997; effective June 18, 1997. Amendment filed July 28, 2000; effective October 11, 2000. Amendment filed September 18, 2001; effective December 2, 2001.

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*Amendment filed August 28, 2002; effective November 11, 2002. Amendment filed December 11, 2002; effective February 24, 2003. Amendment filed February 27, 2004; effective May 12, 2004. Amendment filed December 9, 2004; effective February 22, 2005. Amendment filed December 5, 2005; effective February 18, 2006. Amendment filed December 11, 2006; effective February 24, 2007. Amendment filed November 16, 2007; effective January 30, 2008. Amendment filed December 30, 2008; effective March 15, 2009. Amendment filed November 9, 2009; effective February 7, 2010.*