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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Department of Human Services
Division:	Family Assistance Division
Contact Person:	Bill Russell
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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
1240-01-04	Financial Eligibility Requirements
Rule Number	Rule Title
1240-01-04-.02	Resource Eligibility Standards - Food Stamps/AFDC

Chapter Number	Chapter Title
Rule Number	Rule Title

Chapter 1240-01-04
Financial Eligibility Requirements

Amendments

Rule 1240-01-04-.02, Resource Eligibility Standards-Food Stamps/AFDC, is amended by deleting the rule in its entirety and by substituting instead the following, so that, as amended, the rule shall read as follows:

1240-01-04-.02 Resource Eligibility Standards - Food Stamps (SNAP)/Families First (AFDC).

- (1) Food Stamps/Supplemental Nutritional Assistance Program Households (SNAP) Only.
 - (a) No resource eligibility test shall be required for households at or below two hundred percent (200%) of the federal poverty level.
 - (b) Households with income above two hundred percent (200%) of the federal poverty level, containing a member who is sixty (60) years of age or older or a disabled person, shall have a resource eligibility limit of three thousand two hundred fifty dollars (\$3,250.00).
- (2) Families First/AFDC Only.
 - (a) Non-exempt resources of a Families First/AFDC aid group, liquid and non-liquid, may not exceed two thousand dollars (\$2,000.00). Resources in excess of this limit result in ineligibility. A person receiving SSI benefits cannot be included in the Families First/AFDC aid group. The SSI recipient's income and resources, including the SSI payment, are disregarded in determining eligibility for the other Families First/AFDC family members.
 - (b) Reserved for future use.

Authority: T.C.A. § 4-5-202; 71-1-105(12); 71-3-157(f); 7 C.F.R. 273.2(j)(2)(i)(B) and (C) and Section 401(a)(1), Social Security Act 42 U.S.C. 601(a)(1).

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 03/01/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/01/11

Rulemaking Hearing(s) Conducted on: (add more dates). 12/29/11

Date: March 12 2012

Signature: [Handwritten Signature]

Name of Officer: Bill Russell

General Counsel

Title of Officer: Tennessee Department of Human Services



Subscribed and sworn to before me on: March 12 2012

Notary Public Signature: [Handwritten Signature]

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.

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter
4-25-12
Date

Department of State Use Only

Filed with the Department of State on: 4/27/2012

Effective on: 7/26/2012
[Handwritten Signature]

Tré Hargett
Secretary of State

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PUNJICATIONS

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): December 29, 2011, 1:30 p.m. Central Time, Department of Human Services, 2nd Floor Conference Room 2, 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.

Following are comments received either orally or in writing at the public hearing(s) concerning the above rules or which were received within the time permitted for submission of comments following the hearing, together with the responses of the Department of Human Services. Similar or identical responses have been grouped together for purpose of response:

Community Food Advocates provided comments in writing in support of the proposed rule change as follows:

Comment One:

The majority of states have already made changes to eliminate the resource limit for most SNAP applicants.

Response:

The Department does not dispute the fact that the majority of states have either eliminated or modified their SNAP resource limits.

Comment Two:

Allowing households to retain their savings and receive SNAP benefits promotes long-term self sufficiency

Response:

The Department is in general agreement that families faced with a sudden loss of ongoing income should not be required to exhaust most of their savings before becoming eligible for assistance. By providing assistance to these families in the form of SNAP benefits, those savings can be utilized in ways that will allow for longer-term stability, such as making mortgage payments.

Comment Three:

The elimination of the paperwork and time required to determine resource eligibility will reduce the workload burden on DHS eligibility staff.

Response:

The Department concurs that the verification of resources is burdensome and time consuming. It is anticipated that SNAP applications will be processed more timely and accurately with this requirement removed.

Comment Four:

The change will not allow households with higher incomes to be eligible for SNAP.

Response:

DHS concurs that in relative terms this rule change will not increase the caseload significantly, primarily because the existing income limits will remain as they are today.

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.

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 T.C.A. § 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;

Currently, households applying for the Supplemental Nutrition Assistance Program (SNAP) with liquid resources in excess of \$2,000 (\$3,250 for households with an elderly or disabled member) are not eligible for SNAP benefits. The rule change eliminates the resource limit for all households (with or without an elderly/disabled member) with incomes below 200% of the federal poverty level. The rule also updates the name of the Title IV-A program to include the current name of the program (Families First) in addition to the prior name (AFDC), and makes the resource level in the rule for that program consistent with the amount (\$2,000) approved by the federal government in the Department's welfare reform waiver in 1996 and which has been in effect since and which is also permitted by federal law.

- (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;

7 C.F.R. 273.2(j)(2)(i)(B) and (C) and Section 401(a)(1), Social Security Act; 42 U.S.C 601(a)(1)

- (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;

This change will make it more possible for newly-unemployed persons to receive SNAP benefits. With the current resource limit in place, a household typically has to exhaust any savings they have before they could be eligible. Families impacted by lay-offs would likely be in favor of this rule.

Elimination of the paperwork and time required to verify liquid resources for almost all applicants will allow DHS to provide a higher level of customer service and issue benefits in a more timely and accurate fashion.

The impact to associations, corporations, and other governmental agencies is not significant - A small increase in the number of SNAP participants is expected, which will result in additional individuals using their Electronic Benefits Transfer (EBT) cards in grocery stores and markets. Since an increase in eligible households results in increased spending in their businesses, it is assumed these stores would be in favor of this rule change.

The client advocate community is in favor of this change, as reflected in their public hearing comments.

- (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;

The Department estimates that the fiscal impact of this rule to the State will not be significant. The changes required to ACCENT, the eligibility determination system for SNAP, are minimal, consisting primarily of a change in table values and the addition of language to the SNAP approval notice.

The rule change will, however, result in an increase in federal expenditures: The Department estimates that 700 cases per month are denied or closed due to excessive resources. Based on an average SNAP allotment of \$280/mo, the impact of 700 additional cases being eligible per month is \$15.3

million annually in federally-funded SNAP benefits. Note that this calculation does not consider the length of "spells" on SNAP, and assumes the once a household begins receipt of SNAP, eligibility continues for the entire year. In addition, this change may also result in some households choosing to apply when they would not have previously. This is not accounted for in the calculation of fiscal impact, but it may be offset by the fact that some of the 700 cases might also fail other eligibility factors.

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

Paul Lefkowitz, Director, Family Assistance Policy;
Richard Dobbs, Director, Food Stamps/EBT
Bill Russell, General Counsel, Department of Human Services

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

Paul Lefkowitz, Director, Family Assistance Policy;
Richard Dobbs, Director, Food Stamps/EBT
Bill Russell, General Counsel, Department of Human Services

- (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

Paul Lefkowitz, Director, Family Assistance Policy
Tennessee Department of Human Services
Citizens Plaza Bldg., 12th Floor
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400 Deaderick Street
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(615) 313-4731
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

“REDLINE VERSION-RULE 1240-01-04-.02 DATED FEBRUARY 14, 2012”

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

**CHAPTER 1240-01-04
FINANCIAL ELIGIBILITY REQUIREMENTS**

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1240-01-04-.02 RESOURCE ELIGIBILITY STANDARDS - FOOD STAMPS/AFDC. Eligibility shall exist if the value of nonexempt resource, both liquid and non-liquid assets, for the HH/AG do not exceed:

- (1) Food Stamps/Supplemental Nutritional Assistance Program Households (SNAP) Only.
 - ~~(a) — \$3,000 for all Food Stamps households with at least one member who is age 60 or older.~~
 - ~~(b) — \$2,000 for all other Food Stamp households.~~
 - (a) No resource eligibility test shall be required for households at or below two hundred percent (200%) of the federal poverty level.
 - (b) Households with income above two hundred percent (200%) of the federal poverty level, containing a member who is sixty (60) years of age or older or a disabled person, shall have a resource eligibility limit of three thousand two hundred fifty dollars (\$3,250.00).
- (2) Families First/AFDC Only
 - (a) Non-exempt resources of an Families First/AFDC aid group, liquid and non-liquid, may not exceed \$1,000 two thousand dollars (\$2,000.00). Resources in excess of this limit result in ineligibility. A person receiving SSI benefits cannot be included in the Families First/AFDC aid group. The SSI recipient's income and resources, including the SSI payment, are disregarded in determining eligibility for the other Families First/AFDC family members.
 - (b) Reserved for future use.

“REDLINE VERSION-RULE 1240-01-04-.02 DATED FEBRUARY 14, 2012”

Authority: TCA §§14-4-102, 14-8-104, 14-3-106, and 14-27-104; PL 97-35 and PL 99-198; 7 CFR 273.7, 273.8 and 273.9; 45 CFR 224.20. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed December 3, 1980; effective January 19, 1981. Amendment filed December 10, 1981; effective January 25, 1982. Amendment filed April 15, 1986; effective July 14, 1986.