

Minimize Fraud in MIBridges Benefits Programs Workgroup Report

(FY2016 Appropriation Bill - Public Act 84 of 2015)

February 1, 2016

Sec. 673(1). *The department shall conduct a workgroup to investigate means of minimizing fraud in the MIBridges benefits programs. The members of the workgroup shall include, but are not limited to, the departments of state and state police and members of the house of representatives and the senate. The workgroup shall, at a minimum, address the following possibilities and make recommendations on the implementation of any of the following items considered feasible:*

(a) Whether the department's policies concerning the replacement of lost bridge cards sufficiently deter improper use of those cards.

(b) What technologies may exist to deter the sale or other improper use of bridge cards.

(c) Whether a state driver license or state identification card might be used to replace the existing bridge cards.

(d) What federal policies exist that may inhibit or enhance adoption of fraud minimization actions.

(2) By February 1, 2016, the department shall provide to the senate and house appropriations subcommittees on the department budget, the senate and house fiscal agencies, the senate and house policy offices, and the state budget office a report on the workgroup findings. The report shall include a draft request for information to implement any recommended proposals, an action plan for implementation of any proposed changes, and an estimate of the costs that may be incurred and benefits that may be gained from the adoption of recommended workgroup suggestions.



Michigan Department of
Health & Human Services

RICK SNYDER, GOVERNOR
NICK LYON, DIRECTOR

Section 673 Boilerplate, FY 2016 Bridge Card Fraud Workgroup Report

The Michigan Department of Health and Human Services (MDHHS) was tasked with conducting a workgroup to address the following possibilities and make recommendations on the implementation of any of the following items considered feasible:

- (a) Whether the department’s policies concerning the replacement of lost Bridge Cards sufficiently deter improper use of those cards.
- (b) What technologies may exist to deter the sale or other improper use of Bridge Cards.
- (c) Whether a state driver license or state identification card might be used to replace the existing Bridge Cards.
- (d) What federal policies exist that may inhibit or enhance adoption of fraud minimization actions.

The workgroup met on Oct. 2, Oct. 16, Nov. 6, and Nov. 20, 2015, and was chaired by the Michigan Department of Health and Human Services Office of Inspector General (MDHHS-OIG). The MDHHS-OIG was represented by Al Kimichik, Inspector General, David Russell, Acting Recipient Enforcement Bureau Director, Douglas Woodard, Field Operations Director, Andrew Kustowski, Benefits Trafficking Unit Manager, and Eric D’Hondt, Acting Electronic Benefit Transfer (EBT) Specialist.

The MDHHS Field Operations Administration was represented by Sheryl Thompson, Dawn Sweeney and Jim McCreight. Other workgroup members from MDHHS included Bruce Noll, Legislative Affairs, and Jill Stigall, Budget Division. James Fackler, Grace Ueberroth, Darryl Hill and David Richmond represented the Michigan Department of State (MDOS). The Michigan State Police (MSP) was represented by Detective First Lt. James Grady and Sgt. Theresa Maylone. State Rep. Earl Poleski, Maria Ostrander and Maria Doering participated in the workgroup from the House of Representatives and state Sen. Peter MacGregor and Patty Hertrich were included from the Senate. Representatives from Wal-Mart (Erik Hingst and Dawn Nowlan) as well as Meijer (Patrick McCulloch and Kyle Wooten) were also invited to discuss EBT Retailer risk management and fraud scenarios and solutions with the workgroup.

Topics of discussion were identified at each workgroup meeting and ownership of each topic was assigned for further research and reporting at the next meeting. Below is the summary, assignment of ownership and recommendations for each identified topic.

Topic	Summary/Question	Owner
Combining Bridge Card and Driver’s License	Can the Bridge Card be combined with the Michigan driver’s license? Can the cost of replacement cards be waived for the first four cards or indefinitely for certain populations? Could a combined Bridge Card/driver license be issued over	James Fackler - MDOS

	the counter by the Department of State similar to MDHHS offices?	
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Response:

- There are a number of significant issues in altering the current driver license and personal identification (ID) card designs to meet the intention of this idea.
- There are no fee personal ID cards permitted in statute [MCL 28.292(14)]. (See Appendix B.1) This would be a significant cost to the department’s budget to take on the cost of issuing replacement cards (up to four), especially not actually knowing the frequency and volume. The law does not permit free driver licenses for lost or destroyed cards. Any cost consideration will need to factor in the added cost of branch personnel and wait times at our branches by adding more customers to our lines for replacement IDs/driver licenses.
- Our current driver license and personal ID card contract does not allow for over-the-counter issuance. Our card contract expires in 2019. Additionally, as Michigan produces “border crossing” authorized cards in agreement with the Department of Homeland Security (Western Hemisphere Travel Initiative (WHTI) approved document), our card facility has security requirements (National Association of State Procurement Officials (NASPO) Level 2 certifications) that are not easily met. No WHTI-approved state has over the counter issuance of cards.
 - Additionally, the federal REAL ID Act requires central-issuance of state-issued driver’s license and ID cards. The Department of Homeland Security (DHS) has indicated they are moving forward with enforcement of the Act. Michigan recently received an extension until October 2016 that will allow our cards to continue to be accepted for federal purposes, including boarding domestic airline flights. Over-the-counter issuance would jeopardize the status of our cards with DHS.
 - Michigan’s current card designs incorporate security features designed to prevent counterfeiting and tampering. These features (such as laser engraving and laser perforation) cannot be replicated in an over-the-counter environment. Creating an over-the-counter scenario greatly increases the risk of theft of consumables from branch offices (automated teller machines (ATM)s in branch offices provided opportunities for smash and grab thefts), the potential for employee fraud, the possibility of theft of consumables at shipping and delivery and the customer wait time for card processing. Mitigation of these risks would be a significant cost to our branch offices and possibly necessitate, severely restricting the locations for card issuance (regional offices). That would drastically affect the customer service of our branch and the MDHHS clients needing original and replacement cards. It could also mean upwards of a 100-mile drive for certain Michigan customers to get to “same-day” service. The cost to make our branch offices secure would greatly increase our facility and maintenance costs (adding new needs like secure production room, redundant power, etc.) and most likely restrict our location options for serving the public, while greatly increasing a branch office’s foot print and rent costs.

Topic	Summary/Question	Owner
Identification	What regulations currently prohibit identification of a Bridge Card redeemer? What language changes would be needed to regulations and departmental policy?	Sheryl Thompson – MDHHS Field Operations Administration

Response:

- Federal regulations would have to be changed.

- 7 CFR 278.2(b) – Participation of retail food stores. Equal treatment for coupon customers. (See Appendix A.6)
- 7 CFR 278 (h) Identifying coupon users. (See Appendix A.6)
- 7 CFR 274.7 (f)(1), and 7 CFR 274.7 (f)(2) Electronic Equal Treatment. (See Appendix A.4)

Topic	Summary/Question	Owner
Possession of Card	<p>EBT beneficiaries are allowed authorized representatives who can use their card. They can also give their card and personal identification number (PIN) to eligible household members and anyone else for the purpose of purchasing food for the beneficiary. What regulation changes are needed to change departmental policy on possession of another's EBT card?</p> <p>If the Bridge Card and driver license/personal ID card were combined, would a recipient be allowed to give their card to someone else to use on the recipient's behalf?</p>	<p>Dawn Sweeney - MDHHS Field Operations Administration</p> <p>James Fackler - MDOS</p>

Response:

- There is no provision in the Food Stamp Act or in Supplemental Nutrition Assistance Program (SNAP) regulations that would restrict SNAP recipients from designating a non-household member to use their benefits on the household's behalf. (Per Dick Gilbert of the U.S. Department of Agriculture (USDA) Food Nutrition Service (FNS).
- SNAP Regulation 7 CFR 273.2(n)(3) states in part: "A household may allow any household member or nonmember to use its ID card and benefits to purchase food or meals, if authorized, for the household." (See Appendix A.1)
- 7 CFR 274.7(a) states, in part: "*Program benefits may be used only by the household, or other persons the households selects, to purchase eligible food for the household*"..... *whoever the client entrusts with their card AND PIN is sufficient for that non-household member to be considered an "authorized user."* (See Appendix A.4)
- State law contains statutory prohibitions on possession of another individual's driver license or personal ID card. (See Appendix B.2 and B.5)

(See Appendix A.2)

Topic	Summary/Question	Owner
Photo on Bridge Card	What is FNS's stance on implementing photos on Bridge Cards? Would the cost of implementing the photos be more than the potential savings?	David Russell – MDHHS-OIG

Response:

- FNS regulations do allow photos on EBT cards, with requirements:
 - §274.8 Functional and technical EBT system requirements (See Appendix A.5) (b)(5) *Minimum card requirements.*
 - (iv) State agencies may require the use of a photograph of one or more household members on the card. If the state agency does require the EBT cards to contain a photo, it must establish procedures to ensure that all appropriate household members

or authorized representatives are able to access benefits from the account as necessary.

- Outreach to USDA-FNS:
 - Per Stephanie (Teff) Uchima of USDA-FNS:
 - States may exercise the photo option pursuant to CFR 274.8.
 - An FNS guidance document has been provided. (See Exhibit 1)
 - FNS guidance was drafted after Maine attempted to have a photo on their state EBT card.
 - All states must submit a plan, including procedures, to FNS for review and final FNS approval.
 - The photo process cannot affect eligibility determinations for SNAP benefits.
 - The photo process also cannot affect the selection of authorized representatives (official or unofficial).
 - For example, households can give an EBT card to children in the household to do shopping.
 - Uchima stated that the state of Georgia considered the EBT photo option, but after a cost benefit analysis, decided against it.
- Internet Research:
 - **Georgia:** Food stamp photos could cost state nearly \$8 million. See copyrighted article at: <http://gareport.com/story/2014/09/22/food-stamp-photos-could-cost-state-nearly-8-million/>
 - **Massachusetts:** An EBT photo ID would waste taxpayer dollars. See: https://www.heartland.org/sites/default/files/fact_sheet_-_costs_and_impact_of_ebt_photo_-_may_2013_2.pdf
 - The state of Massachusetts abandoned the photo ID requirement in 2004 as not cost effective.
 - In 2012, they estimated that the initial costs would be \$4 million to issue just one SNAP photo card per household, with ongoing annual costs of approximately \$4.4 million including cards, equipment, staffing costs and notices. Recent implementation estimates range from \$5 million to \$7 million.
 - Other states have estimated the cost of this initiative, ranging from a \$2 million estimate in Michigan to \$17.6 million in Washington State. Pennsylvania, Illinois, Connecticut, Arizona, Kentucky and other states have considered and rejected EBT photo IDs as costly and not effective in addressing SNAP fraud or trafficking.
 - **Maine:** Headline: Gov. Paul LePage sought to require food-stamp users to present an ID when buying groceries. Posted February 15, 2013. See copyrighted article at: <http://www.pressherald.com/2013/02/15/usda-rejects-maine-request-to-require-id-for-food-stamp-purchases/>
 - **New York:**
 - EBT Card Commission Report, April 1, 2012, page 15 states: *“Based on pricing data from New York, the only state in the Northeast region identified as currently including photos on EBT cards, the Department estimates that the cost for the cards alone would be approximately \$4 million initially, with ongoing annual costs of approximately \$4.4 million (which includes cards and equipment, staffing costs, and notices to clients). This is an estimate for one card only per family, when in fact each appropriate member of the household and any authorized representative of the household would also need a card. Additional cost estimates not yet available include those associated with the storage and transmission of digital images for replacement of cards, the design of the cards, changes to the issuance system and the DTA system, and card printer technology. These estimates reflect actual and expected caseloads, which have risen steadily since 2004. Several other states have*

estimated the cost of this initiative, from a \$2 million estimate in Michigan to \$17.6 million in Washington State.”

- Currently, the New York EBT:
 - Has photo on combined SNAP EBT/Medicaid card.
 - Temporary SNAP EBT card has no photo. Not good for Medicaid.
 - Authorized Representative EBT card has no photo. Can be used by grantee.

(See Exhibit 1)

Topic	Summary/Question	Owner
Retailer Fraud	Would combining the Bridge Card and driver license impact retailer fraud? Does combining the Bridge Card and driver license or personal identification increase or decrease potential fraud?	James Grady - MSP

Response:

- Combining a Bridge Card and driver license would provide minimum to no impact on retailer fraud.
- This combination will have a minimum to no effect on potential retail fraud.
- This combination could potentially create other fraudulent activity (identity theft, credit card fraud, etc.)

Topic	Summary/Question	Owner
Address on Card	Do federal regulations prohibit listing an address on the Bridge Card?	Dawn Sweeney - MDHHS Field Operations Administration
	Is it a state requirement that the driver license/personal ID card contain the address on the face of the card?	James Fackler - MDOS

Response:

- 7 CFR 274.8 (5) - Minimum Card Requirements (See Appendix A.5)
 - FNS regulations provide requirements for what can appear and not appear on the EBT card. QUEST rules can also be found here: https://quest.nacha.org/sites/quest.nacha.org/files/files/operating_rules/Chapter%202%20September%202014_v2_2-3.pdf
- MDOS identity documents require the address appear on the face of the driver license/personal ID card, which conflicts with requirements of the Bridge Card. (See Appendix B.1 and B.4)

Topic	Summary/Question	Owner
Confiscation of Driver License	What happens if a driver's license was confiscated by law enforcement? Is it possible for personal data and driver's status to be included in the card's scan stripe?	Grace Ueberroth - MDOS

Response:

- Law enforcement is currently required in language within MCL 257.625g (See Appendix B.3) to confiscate and destroy a license or permit when a driver who submits to a chemical test or is tested as the result of a court order tests positive for alcohol or controlled substances after a traffic stop. A paper license or permit is issued if the driver is otherwise eligible.

- Law enforcement will generally confiscate the license of a driver if that driver presents the license at a traffic stop and the driver's status on LEIN indicates the driver is currently suspended/denied/revoked. The driver is not issued any type of temporary paper license if suspended.
- A driver whose license is suspended may apply for a Michigan Personal ID. The driver must meet original requirements for an ID (Social Security Number (SSN), legal presence, identity, residency). Some of these requirements may be met by the driving record already established on the MDOS system. A \$10 fee is generally due unless the applicant meets no-fee ID criteria established within MCL 28.292 (14) (See Appendix B.1), or is eligible under MDOS good cause fee waiver policy.
- The inclusion of MDHHS Food Assistance Program (FAP) benefits on a driver's license or ID may lead to increased internal fraud by law enforcement and MDOS personnel to retain/confiscate licenses and IDs that include an FAP benefit.
- Yes, if driver's status is interpreted to mean the driver's status as an FAP recipient. A driver's eligibility to drive is subject to change and cannot be encoded on the license.
 - MDOS intends to eliminate the magnetic stripe on the driver's license and ID with the next contract in 2019. Information encoded in the magnetic stripe is also on the 2-D bar code on the back of the license or ID. The 2-D bar code is more consistently read by equipment, eliminates reliance on outdated technology and will allow MDOS to move some federally required commercial driver's license restrictions that by federal and state law must appear on the back of the driver's license. This change will allow the font size to be increased on the front of the license in response to law enforcement and other stakeholder complaints.
 - If the driver's FAP status is contained on a machine readable zone on the driver's license or ID, MDOS and MDHHS will need to create a method to allow the benefit status to be activated or transferred to a new card upon issuance and deactivated on a card still in the driver or ID holder's possession. Benefit status would need to be disabled immediately on lost or stolen cards. Currently the only method to notify MDOS of a stolen card is to replace it at a Secretary of State's office or through ExpressSOS. Active/inactive card status updates would need to be exchanged between the departments on a daily basis.

Topic	Summary/Question	Owner
Biometrics	Is it possible for a thumb print to be used for identification when a Bridge Card transaction is processed? If so, would an authorized representative be able to use it? Who would be responsible to purchase the thumb print readers? Could the Bridge Card still be used in all 50 states and at ATMs if it contained biometric information?	Dawn Sweeney - MDHHS Field Operations Administration

Response:

- All states would have to also require EBT card biometrics to meet USDA FNS specifications for interoperability between states. Michigan's Bridge Card, as all state EBT cards, can be used in any state per federal requirements. Biometric cost information was not obtained, but EBT retailers and third party processors would also have to alter their systems to accept a biometric card and add expensive equipment. That may be a hardship on retailers, especially small grocers. (See Exhibit 2)

Topic	Summary/Question	Owner
SB 384 & 385	Would passage of these bills reduce retail and recipient fraud? How?	Andrew Kustowski and Al Kimichik – MDHHS-OIG

Response:

- MDHHS - OIG has the personnel strategically located statewide, ready to enforce both sides of trafficking investigations; retailers and recipients as a comprehensive investigation.
- SB 384 and 385 assist the state to address the trafficking source and ensure a measured response on both ends of the issue -- retailers and recipients. EBT retailer venues have become the epicenter of Bridge Card trafficking.
- OIG has an established Benefits Trafficking Unit, a specialized investigative unit dedicated to trafficking investigations.
- MDHHS-OIG staff is ideally located geographically to address deconflicted cases statewide as they arise with the USDA-OIG and the Michigan State Police.
- There are no criminal prosecution thresholds to consider when taking on deconflicted state-level investigations. Presently, federal prosecutorial resources dictate that only very high dollar trafficking retailers are considered for prosecution.
- SB 384 and 385 eliminate the delay in addressing investigations. Presently, recipient investigations are put on hold until an active retailer investigation is completed and prosecuted. This results in a fragmented approach to the trafficking problem and is inefficient on several fronts. For example, while the retailer case moves through the judicial process, recipients move on to other retailers who are willing to traffic benefits.
- Investigations can be aligned for maximum impact: Retailers, runners and/or traffickers would be addressed in one comprehensive investigation. Presently one federal agency investigates retailers, while the state agency, OIG, investigates recipients and other individual traffickers.
- The bills will provide increased cost avoidance and savings through program disqualifications of bad actors.
- The bills allow the state to address continuing criminal enterprises and organized crime surrounding SNAP funds.

(See Exhibit 3)

Topic	Summary/Question	Owner
Media Campaign	An anti-trafficking media campaign is in development by the OIG. Will this help the public perception of recipient fraud? Will this increase the deterrence of trafficking?	David Russell – MDHHS-OIG

Response:

- As part of the USDA-Food and Nutrition Services sponsored grant, MDHHS-OIG is attempting to measure both of the above questions. OIG, along with MDHHS-Communications, is finalizing a survey that will be available on MDHHS's public website and potentially the State of Michigan website. This will allow a cross section of Michigan residents/visitors the ability to provide their understanding of trafficking. This survey will be repeated at the end of the two-year grant to measure the impact of MDHHS-OIG's media campaign. MDHHS-OIG will also be measuring the instances of found social media trafficking hits now and at the end of the campaign to determine the potential decrease in hits.

Topic	Summary/Question	Owner
Combining Bridge Card and ID/Driver's License	What are the FNS regulations regarding the ID/driver's license/Bridge Card combo? Are any other states doing this already?	Dawn Sweeney and Sheryl Thompson - MDHHS Field Operations Administration
Response:		
<ul style="list-style-type: none"> Michigan is not aware of any states that have combined the EBT card with the state ID/driver license. An FNS waiver would have to be approved to allow Michigan to combine the EBT card with the state driver license. Quest EBT card rules require a very specific card stock. Michigan's driver license uses a different stock. A more expensive card stock would have to be used to combine the cards. In addition, FNS has been asked if combining the cards comply with federal SNAP regulations. FNS has replied that they have to consult with the FNS national office for a response. Also, Michigan's EBT vendor, Xerox, has identified several problems with combining the Michigan driver license with EBT. A complex development process may make it cost prohibitive. Deeper analysis is required, however, development of a combined driver license EBT card would have to link state ID/license numbers to EBT accounts, and then maintain this data reliably and confidentially, such as in cases where the ID/license is lost/stolen, etc. Even a reissued license would have the same license number, and could be used by someone who fraudulent obtained the ID; whereas with a dedicated EBT card each has a unique card number that is never reused. 		
Topic	Summary/Question	Owner
Biometrics	What would the cost be to institute biometrics with the ID/driver's license/Bridge Card combo?	Dawn Sweeney and Sheryl Thompson - MDHHS Field Operations Administration
Response:		
<ul style="list-style-type: none"> As the biometric card industry is still in its early stages, reliable data is scarce. Estimated annual cost is approximately \$95 per card. Michigan averages approximately 31,000 EBT card replacements per month. This equates to 372,000 replacement cards per year. At that rate, annualized costs approach \$35 million. That cost does not include administrative costs to process EBT recipient biometrics at MDHHS local offices. Biometric equipment costs and vendor system interface costs are also not included in that figure. EBT retailers would also need to purchase specialized biometric readers to transact the card. Consideration of using new technologies will require in-depth analysis to determine if the new technology abides by federal regulations and is cost efficient in reducing Bridge Card fraud. In consideration of cost, biometrics is not a viable solution at this time. 		
Topic	Summary/Question	Owner
Bridge Card Replacement	What are the department's policies on the replacement of Bridge cards and do they sufficiently deter improper use of those cards?	Dawn Sweeney - MDHHS Field Operations Administration

Response:

- Per 7 CFR 274.6 (b), the state agency shall make replacement EBT cards available within two days and the department cannot charge more than the replacement cost of the card. (See Appendix A.3)
- After four replacement Bridge Cards within a 12-month period, upon the fifth request within the same 12-month period, a referral is made to OIG's Benefit Trafficking Unit for investigation.
- In FY 15, OIG investigated 124 cases of multiple Bridge Card replacements resulting in \$55,211 of fraud found and \$51,960 in cost avoidance.

(See Exhibit 4)

Conclusion

The workgroup met to investigate means of minimizing fraud in the MI Bridges benefits programs. Multiple options were researched, including consolidation of the state driver license/ID and the Bridge Card as well as incorporating biometrics into the existing Bridge Card. Outreach was conducted with prominent Michigan retailer organizations to explore new technology that could be incorporated as fraud control measures. MDHHS, MSP and MDOS defined the following obstacles to combining the driver license and Bridge Card:

- There are no over-the-counter issuance of driver's licenses or personal IDs.
- Cost of cards/replacements.
- Combined cards would create longer wait times and additional staffing needs at Secretary of State branch offices.
- Under certain circumstances, law enforcement generally confiscates driver's licenses that are suspended, denied or revoked or when a chemical test is refused by a card holder.
- Combining the cards would have no effect on retail fraud.
- MSP stated that combining a Bridge Card and driver's license could potentially increase identity theft and credit card fraud, etc.
- Federal regulations allow a Bridge Card holder to give their card to anyone to purchase food for the household.
- Federal regulations allow possession of a Bridge Card by other persons which promotes fraud.
- Federal regulations address accessibility and ease of use of a Bridge Card, which does not necessarily deter fraud.
- Restrictions on Michigan's Bridge Card would need to be adopted by all 49 other states due to a federal requirement that the Bridge Card must be able to be used nationwide.

As a result of the workgroup efforts, it is recommended that the current fraud control efforts be continued, including utilizing the existing Bridge Card security measures for benefit delivery. At this time, no technology proposals are being recommended. As technology evolves, MDHHS-OIG will continue to search out new options to better prevent and detect fraud within the constraints of federal regulations.



DEC 29 2014

Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

SUBJECT: Supplemental Nutrition Assistance Program – Guidance for State Agencies on Photos on Electronic Benefit Transfer (EBT) Cards

TO: All Regional Directors
Supplemental Nutrition Assistance Program

Recent efforts by States to implement photographs on the Supplemental Nutrition Assistance Program (SNAP) Electronic Benefit Transfer (EBT) card have been extremely problematic and have underscored the complex legal, operational, and civil rights issues that, if not well planned and executed, can adversely affect program access and may result in violations of Federal law, regulations and policy. In light of recent program policy and operational challenges faced by States in their efforts to plan for and implement this option, the Food and Nutrition Service (FNS) is providing this guidance on the photo EBT card option. All States intending to use photos on EBT cards must submit an implementation plan for FNS approval to ensure implementation is in accordance with all Federal requirements.

Under Section 7(h)(9) of the Food and Nutrition Act of 2008 (the Act), as amended, 7 U.S.C. 2016(h)(9), States have the option to require that an EBT card contain a photo of one or more household members. At the same time, the Act also requires that any States intending to issue a photo on the EBT card establish procedures to ensure that all other household members or any authorized representative of the household are able to utilize the card.

As a photo EBT card option is an issuance function and not an eligibility function, a State may not deny or terminate the entire household because a non-exempt household member does not agree to the placement of a photo on the household's EBT card. Rather, the entire household must have its SNAP eligibility determined, and household members who are exempt or agree to have their photos placed on the EBT card must receive their pro-rata share of benefits. Furthermore, applying this option must also preserve SNAP client rights and responsibilities afforded by the Act that ensure that all eligible household members maintain uninterrupted access to benefits regardless of whether their picture is on the EBT card and that SNAP recipients using either photo or non-photo EBT cards are treated equitably by retailers in accordance with Federal law.

Effective immediately, in accordance with Section 11 of the Act, which provides FNS the responsibility for monitoring and oversight of SNAP, and based on the observed experiences in States currently implementing the photo EBT option, FNS is herein requiring any State that intends to implement a photo EBT card option to submit a comprehensive implementation plan, addressing the areas

All Regional Directors
Page 2

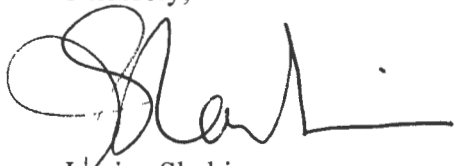
specified in the attachment, for approval by FNS. Any action tied to photo EBT cards that will directly impact clients, retailers or local State agency staff must be deferred until FNS has provided written approval of the State's implementation plan. Plans should be submitted to FNS no fewer than 120 days prior to the State's planned implementation date. If the State has not adequately addressed any issues identified by FNS, the planned implementation date may be delayed. Implementation prior to FNS approval will put the State at risk of losing Federal Financial Participation for the costs of administering SNAP.

As the Act allows for photo EBT cards, appropriate implementation and administration of this option is an allowable State administrative cost which FNS reimburses at approximately 50 percent. However, States are also reminded that any EBT contract modifications that increase costs require approval by FNS before signing. Moreover, increased EBT costs, whether contractual or procured from other sources also require an Implementation Advance Planning Document Update.

This guidance clarifies operational issues and provides parameters to help States that intend to put photos on EBT cards develop and execute plans consistent with Federal requirements. FNS stands ready to work with those States that are considering this option to help ensure that their implementation complies with SNAP and Federal civil rights provisions and protects program access and integrity.

If you have any questions related to this guidance, please contact Andrea Gold at andrea.gold@fns.usda.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jessica Shahin', with a long horizontal line extending to the right.

Jessica Shahin
Associate Administrator
Supplemental Nutrition Assistance Program

Attachment

Attachment

Photo EBT Card Policy Implementation Plan

States that intend to implement the photo EBT card option must submit a comprehensive implementation plan to FNS for approval before any pilot or full statewide implementation can begin. The plan should address SNAP policy, operational issues and civil rights concerns, and thoroughly describe how the State will ensure that Federal requirements are upheld.

States are reminded that adding a photo to the SNAP EBT card is an issuance function; therefore, States shall not deny or terminate the entire household based solely on whether a non-exempt household member agrees to have a photo on the household's EBT card. The entire household must have its eligibility determined in accordance with SNAP regulations and household members who are exempt or agree to have a photo on the household's EBT card must receive their pro-rata share of benefits. If a non-exempt household member does not agree to have a photo on the household's EBT card, the State must prorate the benefit in a manner that provides a rational basis acceptable to the Secretary. For example, the State could divide the household's benefit allotment by the household size and multiply that number by the number of household members receiving benefits. To illustrate, if a four-person household's monthly benefit allotment is \$200 and a non-exempt household member does not agree to have a photo placed on the EBT card, the \$200 would be divided by 4 to equal \$50, and then multiplied by 3 to equal \$150. The \$150 amount is posted and available for use.

This simple method of proration as illustrated would ensure the State meets the statutory requirement that the State establish procedures ensuring that any other appropriate member of the household may utilize the card.

Furthermore, the benefits associated with the non-agreeing household member (e.g. \$50 in the above example) must be held for issuance and allowed to accrue until the household member agrees. Since the non-agreeing household member remains eligible for SNAP, the benefits must be held in abeyance. Once the household member agrees, the benefits for that household member must be posted and become available for use. The State must specify in its implementation plan submitted to FNS how it will meet the technical specifications to hold in abeyance that portion of the non-agreeing household member's benefits until the household member agrees.

The State should carefully consider and include, at a minimum, the following areas in its plan:

Scheduling and Resources

1. Timetable with specific action steps for the State agency and its EBT contractor regarding photo EBT card option implementation. The timetable should address the procurement of any software and hardware for taking photos in local offices, storing the images and keeping them secure, integrating the photos into the card production process, and the transition of the current and new caseload to photo EBT cards over time.
2. Description of the capacity at the facility where the photo EBT cards will be produced, both for transition and ongoing production, and confirmation that the State and its EBT contractor will continue to meet regulatory time requirements for all EBT card issuances.

Information and Outreach

3. Description of the client, retailer and community education, outreach, and training the State will perform, including how and when the aforementioned activities will be performed.

Note: It is the State agency's responsibility under Section 7(h)(9)(B) of the Act to establish and implement procedures to ensure that all appropriate household members or authorized representatives are able to use the card. Education and training of the client and retailer community to ensure this statutory requirement is met must happen prior to implementation of the photo EBT card option.

4. Copies of all materials that will be used to inform clients, retailers and other stakeholders regarding photo EBT card implementation. Retailer and client notices must include FNS' required non-discrimination statement. Retailer and client notices must also clearly describe the following statutory and regulatory requirements: (a) all appropriate household members or any authorized representative of the household, regardless of whether they are pictured on the card, may utilize the card without having to submit additional verification of identity as long as the transaction is secured by use of the personal identification number (PIN); and (b) retailers must treat all SNAP clients in the same manner as non-SNAP clients. Taken together, these requirements mean, among other things, that retailers must not prohibit appropriate household members or authorized representatives from using an EBT card because they are not pictured on the card. And, all EBT cards, regardless of whether they have a photo on them or not, must be accepted in all aisles or check out lanes that accept credit or debit cards.

States are encouraged to add a statement on the photo EBT card stipulating that authorized parties other than the individual whose photograph is on the card can use the card to access benefits.

A State agency must be able to provide documentary evidence that a substantial number of retailers, including smaller independent retailers, have received notices from the State that explain the statutory and regulatory requirements described above and have a full understanding of those requirements.

Note: The State may not specifically reference groups exempt from the photo requirement in any materials designed for external stakeholders, as providing the categories of exempt groups may allow those who inadvertently see the card to speculate as to the age or circumstances of the cardholder. External stakeholder materials should simply note that EBT cards without a photo are valid.

Photograph Policy and Operations

5. Description of the universe of recipients that will be required to submit to photos, and persons who will be exempt from the photo requirement. At a minimum, States should consider exempting the elderly, the disabled, children under 18, homeless households, victims of domestic violence, and those who meet hardship conditions referenced in 7 CFR 273.2(e)(2). If the State's photo EBT card program will be optional for all SNAP recipients, the State must affirmatively demonstrate that SNAP clients, including non-applicants, will have a choice whether to have a photo on their EBT card and that their choice will not adversely affect SNAP benefits for the eligible persons in their household.

Note: Authorized representatives are not household members and therefore cannot be required to have their photo placed on the EBT card.

6. Proposed process for obtaining and acquiring existing photos from households and any outside agencies involved to assist the State with this process. If the State plans to share any SNAP client data with a Department of Motor Vehicles or any other entity in order to obtain photographs to implement photo EBTs, the State must also provide a detailed explanation of how the State's action complies with Section 11(e)(8) of the Act that limits use or disclosure of information obtained from SNAP applicant households. Additionally, States may not collect photos for any household members in conjunction with its photo EBT program that will not be placed on an EBT card.
7. Explanation of how the State will ensure and monitor timely issuance of SNAP benefits in accordance with SNAP regulations, especially for households that meet the expedited service requirements and for households in which non-exempt household members do not agree to have their photos placed on the EBT card.

8. Explanation of how the State will compute benefits in the case of a household in which non-exempt household members do not agree to have their photos placed on the EBT card and its mechanism for ensuring that the benefits of such household members are held in abeyance and promptly issued if these individuals choose to agree to have their photos placed on the EBT card.
9. Explanation of the methods to ensure uninterrupted benefit access. Deactivating existing cards prior to ensuring clients' receipt and activation of new photo EBT cards would result in interrupted access to benefits and therefore is not an allowable implementation strategy.
10. The State should provide all applicable written policy changes necessary to implement the photo EBT card option to FNS for review.

Benefit Issuance and Redemption

11. Explanation of how the State will ensure compliance with Section 7(h)(9)(B) of the Act and 7 CFR 278.2(b) so that household members and authorized representatives who are not pictured on the EBT card can continue to access SNAP benefits and so that retailers do not single out SNAP customers for special treatment in any way, regardless of whether they have a photo on their EBT card.
12. The State must ensure that interoperability will remain intact. Section 7(j) of the Act requires that EBT cards be interoperable and SNAP benefits are portable; therefore, SNAP recipients have the right to use their EBT card in other States at any authorized retail food store. Similarly, retailers must continue to accept EBT cards from other States, including those without photos. States may not impose any limitations regarding state borders or store types. The State must also provide an explanation of how it will ensure Federal law and regulations are followed so that all members of the household are able to use their card at all SNAP authorized retailers in accordance with Section 7(h)(9) of the Act. Retailer information, outreach and training must cover these topics.

Civil Rights

13. Explanation of how States will implement its photo EBT card program in a manner consistent with Federal civil rights laws and regulations. For example, there are serious civil rights implications and concerns if States require non-applicant heads of household (or other non-applicants) to have their photos added to EBT cards. FNS has recently found two States in violation of Title VI of the Civil Rights Act of 1964 for establishing photo requirements for non-applicants, as this could deter ineligible individuals from applying for benefits on behalf of eligible household members. It is imperative that States submit a thorough analysis of the potential civil rights implications of new photo EBT requirements *prior* to any implementation of such requirements.
14. Detailed description of the substantial legitimate justification the State must have for any policy or procedure that may have a disparate impact on a protected class, such as national origin. For example, given the serious potential adverse impact noted in the previous paragraph, the State would need to provide substantial legitimate justification for requiring non-applicants to have their photos taken during the application process and/or added to EBT cards. An acceptable justification for such a requirement would need to go beyond mere hypothetical potential benefits, and clearly show a tangible link between the requirement and purported benefit. Generalized justification such as fraud prevention intent does not meet this very high threshold.
15. Detailed description of how the notifications, communications, policies and procedures regarding the implementation of any new photo EBT card program will comply with Section 11(e) of the Food and Nutrition Act of 2008 and Limited English Proficiency (LEP) requirements under Title VI of the Civil Rights Act of 1964, affording meaningful access for persons with limited English proficiency.
16. Detailed description of how the notifications, communications, policies and procedures regarding the implementation of any new photo EBT card program will comply with applicable Federal civil rights laws. See Section 11(c)(2) of the Food and Nutrition Act of 2008.

Contingency Planning

17. Description of the resources that will be in place to handle complaint calls from clients, retailers, and external stakeholders and address unexpected events related to the photo EBT card option.

Post Implementation Review

Once implemented, the State agency must report to FNS within a time specified the results of a post implementation review designed to determine how well the policies and procedures are understood by all involved parties. In its Photo EBT Card Option Implementation Plan, the State should indicate how it will determine and monitor whether the system has been properly understood and implemented. Examples of documentary evidence to use in this report may include a survey or a State-conducted review of a sample of retailers and/or participants. Report results revealing an implementation contrary to statutory and regulatory requirements would necessitate corrective action by the State.

Act No. 194
Public Acts of 2013
Approved by the Governor
December 17, 2013
Filed with the Secretary of State
December 18, 2013
EFFECTIVE DATE: February 1, 2014

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senators Jones, Proos, Marleau, Robertson, Nofs and Schuitmaker

ENROLLED SENATE BILL No. 556

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 57v (MCL 400.57v), as added by 2012 PA 197.

The People of the State of Michigan enact:

Sec. 57v. (1) The department shall work with providers of automated teller machine services to create and implement a program or method of blocking access to cash benefits from Michigan bridge cards through point of sale devices and automated teller machines located in casinos, casino enterprises, liquor stores, or adult entertainment establishments.

(2) If the department requires a federal waiver to implement the provisions of this section, the department shall apply immediately upon enactment of this section for that federal waiver.

(3) As used in this section:

(a) "Adult entertainment establishment" means any of the following:

(i) An on-premises licensee that holds a topless activity permit described in section 916(3) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1916.

(ii) Any other retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(c) Subject to subsection (4), "casino" and "casino enterprise" mean those terms as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(d) "Gaming" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(e) "Liquor store" means a retailer as that term is defined in section 111 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1111, that is exclusively or primarily engaged in the sale of alcoholic liquor. For the purpose of this section only, a retailer does not include a retail food store.

(f) "Retail food store" means that term as defined in 7 USC 2012.

(4) As used in this section, the terms casino and casino enterprise do not include any of the following:

(a) A grocery store that sells groceries, including staple foods, and is located in a casino or a casino enterprise.

(b) Any other business establishment that offers gaming that is incidental to the principal purpose of that establishment.

Enacting section 1. This amendatory act takes effect February 1, 2014.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

.....
Governor

SENATE BILL No. 384

June 9, 2015, Introduced by Senators MACGREGOR, JONES, MARLEAU and PROOS and referred to the Committee on Judiciary.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 43b (MCL 400.43b), as added by 2002 PA 573.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 43b. (1) An office of inspector general is established as
2 a criminal justice agency in the ~~family independence agency.~~

3 **DEPARTMENT.** The primary duty of the inspector general is to
4 investigate cases of alleged fraud within the department. The
5 inspector general shall also perform the following activities:

6 (a) Investigate fraud, waste, and abuse in the programs
7 administered by the ~~family independence agency.~~**DEPARTMENT.**

8 (b) Make referrals for prosecution and disposition of
9 appropriate cases as determined by the inspector general.

10 (c) Review administrative policies, practices, and procedures.

11 (d) Make recommendations to improve program integrity and

Senate Bill No. 384 as amended September 10, 2015

1 accountability.

2 (2) THE DIRECTOR MAY APPOINT AGENTS WITH LIMITED ARREST POWERS
3 FOR THE ENFORCEMENT OF <<RETAIL TRAFFICKING OF FOOD ASSISTANCE
4 BENEFITS ADMINISTERED BY THE DEPARTMENT ACCORDING TO THE FEDERAL
5 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.>> THE
6 AGENTS APPOINTED UNDER THIS SECTION ARE AGENTS OF THE DEPARTMENT
7 OFFICE OF INSPECTOR GENERAL AND HAVE ALL POWERS CONFERRED UPON
8 PEACE OFFICERS FOR THE PURPOSE OF ENFORCING THE GENERAL LAWS OF
9 THIS STATE AS THEY PERTAIN TO ENFORCEMENT OF THIS ACT. THE DIRECTOR
10 MAY AUTHORIZE AGENTS OF THE OFFICE OF INSPECTOR GENERAL TO CARRY A
11 FIREARM.

12 (3) IN ADDITION TO THE LIMITED ARREST AUTHORITY GRANTED IN
13 SUBSECTION (2), AN AGENT OF THE OFFICE OF INSPECTOR GENERAL, WHILE
14 ON DUTY, MAY ARREST A PERSON WITHOUT A WARRANT IF 1 OR MORE OF THE
15 FOLLOWING CIRCUMSTANCES EXIST:

16 (A) THE AGENT HAS <<PROBABLE>> CAUSE TO BELIEVE THAT A FELONY
17 HAS BEEN COMMITTED AND <<PROBABLE>> CAUSE TO BELIEVE THAT THE PERSON
18 COMMITTED IT.

19 (B) THE AGENT HAS <<PROBABLE>> CAUSE TO BELIEVE A FELONY OFFENSE
20 FOR FINANCIAL GAIN UNDER SECTION 159G(D) OR 159G(E) OF THE MICHIGAN
21 PENAL CODE, 1931 PA 328, MCL 750.159G, HAS BEEN COMMITTED AND
22 <<PROBABLE>> CAUSE TO BELIEVE THAT THE PERSON COMMITTED IT.

23 (C) THE AGENT HAS <<PROBABLE>> CAUSE TO BELIEVE THAT A FELONY
24 OFFENSE UNDER SECTION 300A OF THE MICHIGAN PENAL CODE, 1931 PA 328,
25 MCL 750.300A, HAS BEEN COMMITTED AND <<PROBABLE>> CAUSE TO BELIEVE
26 THAT THE PERSON COMMITTED IT.

27 (D) THE AGENT HAS <<PROBABLE>> CAUSE TO BELIEVE THAT A FELONY
28 OFFENSE USING A FRAUDULENT DEVICE TO OBTAIN RELIEF UNDER SECTION 60

Senate Bill No. 384 as amended September 10, 2015

1 HAS BEEN COMMITTED AND <<PROBABLE>> CAUSE TO BELIEVE THAT THE PERSON
2 COMMITTED IT.

3 (E) THE AGENT HAS RECEIVED POSITIVE INFORMATION BY WRITTEN,
4 TELEGRAPHIC, TELETYPIC, TELEPHONIC, RADIO, OR OTHER AUTHORITATIVE
5 SOURCE THAT A PEACE OFFICER HOLDS A WARRANT FOR THE PERSON'S
6 ARREST.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

SENATE BILL No. 385

June 9, 2015, Introduced by Senators JONES, MACGREGOR, MARLEAU and PROOS and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 231 (MCL 750.231), as amended by 2006 PA 401.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 231. (1) Except as provided in subsection (2), sections
2 224, 224a, 224b, 224d, 226a, 227, 227c, and 227d do not apply to
3 any of the following:

4 (a) A peace officer of an authorized police agency of the
5 United States, of this state, or of a political subdivision of this
6 state, who is regularly employed and paid by the United States,
7 this state, or a political subdivision of this state.

8 (b) A person who is regularly employed by the state department
9 of corrections and who is authorized in writing by the director of
10 the department of corrections to carry a concealed weapon while in
11 the official performance of his or her duties or while going to or

1 returning from those duties.

2 (C) AN AGENT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
3 OFFICE OF INSPECTOR GENERAL APPOINTED UNDER SECTION 43B(2) OF THE
4 SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.43B.

5 (D) ~~(e)~~—A person employed by a private vendor that operates a
6 youth correctional facility authorized under section 20g of **THE**
7 **CORRECTIONS CODE OF 1953**, 1953 PA 232, MCL 791.220g, who meets the
8 same criteria established by the director of the state department
9 of corrections for departmental employees described in subdivision
10 (b) and who is authorized in writing by the director of the
11 department of corrections to carry a concealed weapon while in the
12 official performance of his or her duties or while going to or
13 returning from those duties.

14 (E) ~~(d)~~—A member of the United States army, air force, navy,
15 or marine corps or the United States coast guard while carrying
16 weapons in the line of or incidental to duty.

17 (F) ~~(e)~~—An organization authorized by law to purchase or
18 receive weapons from the United States or from this state.

19 (G) ~~(f)~~—A member of the national guard, armed forces reserve,
20 the United States coast guard reserve, or any other authorized
21 military organization while on duty or drill, or in going to or
22 returning from a place of assembly or practice, while carrying
23 weapons used for a purpose of the national guard, armed forces
24 reserve, United States coast guard reserve, or other duly
25 authorized military organization.

26 (H) ~~(g)~~—A security employee employed by the state and granted
27 limited arrest powers under section 6c of 1935 PA 59, MCL 28.6c.

1 (I) ~~(h)~~—A motor carrier officer appointed under section 6d of
2 1935 PA 59, MCL 28.6d.

3 (2) As applied to section 224a(1) only, subsection (1) is not
4 applicable to an individual included under subsection (1)(a), (b),
5 or ~~(e)~~—(D) unless he or she has been trained on the use, effects,
6 and risks of using a portable device or weapon described in section
7 224a(1).

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.

10 Enacting section 2. This amendatory act does not take effect
11 unless Senate Bill No. 384.

12 of the 98th Legislature is enacted into law.

INTRODUCTION

FIP, SDA and FAP

Electronic Benefit Transfer (EBT) allows clients who receive cash (FIP, SDA etc.), and food (FAP) to receive their benefits using debit card technology. Benefits are deposited electronically into a cash and/or food account. Clients access their benefits by using their personal identification number (PIN), along with their Bridge card.

EXCESSIVE CARD REPLACEMENT RULE

Issuance of four or more Electronic Benefit Transfer (EBT) cards has been shown to be a potential indicator of fraud and abuse of Food Assistance Program (FAP) benefits. It may also be an indicator of the potential need for a referral to protective services in situations where benefits are suspected of being misused.

In the departments ongoing efforts to combat fraud and abuse, and to comply with new Food and Nutrition Services (FNS) policy, the following procedure will be implemented:

- Xerox will send a card withholding letter to all households when they are at their 4th replacement card within a 12 month period, notifying them that they have reached the number of issued cards threshold, and at their 5th and each subsequent card replacement request their card will not be issued until they have gone into the local office to speak directly to the district manager or county director.
- Upon the client's request for a 5th card, a second card withholding letter will be sent by Xerox notifying the client that they have exceeded the number of card requests allowed, and that they must contact their local office to schedule an appointment to speak directly to the district manager or county director in order to get another card. Xerox will inform clients calling to request replacements of this requirement.
- The district manager or county director will meet with the client in question and review their situation and explanation. Based on this contact, the county director or district manager will make appropriate referrals and issue a new EBT card under their authority. The situation, referrals, and approval shall be recorded on the DHS-1054, Authorization to Approve Issuance

of Electronic Benefit Transfer (EBT) Card, form. Copies of the authorization document shall be stored in the local office and the case record for seven years either as a hard or scanned copy. Copies will also be forwarded to the appropriate business service center (BSC) director.

- To meet FNS guidelines, EBT replacement cards must be available for pick up or placed in the mail within two business days following notice by the household to the state agency that the card has been lost or stolen. A copy of the authorization form may be used to locally issue an EBT card as appropriate.

BRIDGE CARD ISSUANCE

Head of Household

The EBT vendor, XEROX issues Bridge cards to the program head of household, unless there is a third-party payee/protective payee for the cash program. The Bridge card is then issued to both the head of household and the third-party payee/protective payee. Bridge cards are automatically mailed by XEROX for:

- Head of Household changes.
- New case openings when a Bridge card has **not** previously been issued for the same recipient identification number.

Note: If a Bridge card has previously been issued for the head of household's recipient identification number and the client no longer has the card, they must contact XEROX to request a replacement card or a local office over-the-counter card can be issued.

Clients will receive the Bridge cards and card mailer with basic information two to five days after the case opening. The, DHS-Pub-322, How to Use Your Michigan Bridge Card, pamphlet will be sent to clients with initial Bridge cards.

Bridge cards will be mailed to the local office for clients who are using the county/district office as their mailing address.

Note: FAP clients must have their Bridge card and access to their benefits to meet the standard of promptness. FAP benefits are not available to the client until the day after the benefits are authorized.

Head of Household Changes

If the head of household on a case changes, existing benefits in the account do **not** transfer to the new head of household's Bridge card. The previous head of household retains access to the benefits in their account. Any subsequent benefits will be added to the new head of household's Bridge card.

**Authorized
Representative**

The authorized representative (AR) is chosen by the client and can only access the FAP account. Entering the AR's name in Bridges will automatically generate a Bridge card.

The AR's Bridge card is mailed to the client's address. It contains the head of household's and AR's names. The AR is identified with "ARFS" following the name on the card. It is the client's responsibility to give the Bridge card and the PIN to the AR.

Note: Bridge cards are not issued to the head of household's spouse unless the spouse is designated as the AR.

Clients who no longer want their AR to have access to their FAP benefits may contact XEROX and request them to deactivate or "status" the AR's card, thus ending the AR's access to benefits immediately. Once a card is deactivated it **cannot** be reactivated, even if the same person is requested again as the AR.

Changing the AR in Bridges, will deactivate the AR's card, however, not immediately. Advise a client who contacts DHS first, to also contact XEROX to deactivate the AR's card.

If a client wants to change the AR and the person is not listed in the current DHS-1171, Assistance Application, then a DHS-247, EBT Food Stamp Authorized Representative, must be completed: see BAM 110 Authorized Representative.

If the AR performs fraudulent activity involving a client's account, lost or stolen benefits are **not** replaced. If the fraudulent activity was done with the client's knowledge, it may result in criminal charges against the client and/or the client's benefits may be reduced.

**Third-Party Payee/
Protective Payee**

Third-party payees/protective payees on cash assistance cases are issued a Bridge card and can only access the client's cash benefit account. The Bridge card is mailed to the third-party payee/protective payee's address on Bridges and will contain only the third-party payee/protective payee's name. When there is a third-party payee/protective payee, the client **cannot** access the cash account. Clients with a third-party payee/protective payee still have access to the FAP account.

If a group has both an AR and a third-party payee/protective payee, it may be the same person or different people. If it is the same person, that person will receive two Bridge cards, one to access the FAP account and the other to access the cash benefits; see BAM 420, Third-Party Payee, for more information.

Cash Third-Party Payee/Protective Payee Changes

The following explains who can access the cash account when there is a change to the third-party payee/protective payee:

- If the third-party payee/protective payee changes, the new third-party payee/protective payee will be able to access any existing benefits in the cash account with their new Bridge card.
- If the third-party payee/protective payee is deleted in Bridges, the third-party payee/protective payee will no longer have access to any benefits. Access will revert to the head of household who will have access to all the benefits in the cash account.

**LOCAL OFFICE
ISSUED BRIDGE
CARD**

Local office over-the-counter-issued Bridge cards are permanent cards and do not have the client's name printed on them.. Cards may be issued by the local office upon receipt of an email from the eligibility/family independence specialist (ES/FIS). The ES/FIS must list the grantee's name and recipient identification and indicate in the email that an over-the-counter card is to be issued. The clerk must run a case summary and print a copy of the results. Valid photo identification must be presented by the cardholder to receive

the card. Never give over-the-counter Bridge cards that belong to the head of household to the AR.

Food Stamp Authorized Representative (AR) Bridge Card

It is **not** advised to issue an AR an over-the-counter Bridge card because of possible disagreements with the client. Issuing a Bridge card to an AR is only suggested in emergency situations (for example, the AR has lost their Bridge card and they need to immediately shop for an individual who is unable to shop).

An AR the over-the-counter Bridge card **cannot** be issued the same day a case is opened in Bridges.

PERSONAL IDENTIFICATION NUMBER (PIN)

The PIN is a four-digit code which identifies the user to the EBT vendor. Anyone with access to both the PIN and Bridge card has access to the recipient's benefits. Clients should be advised to keep their PIN a secret, memorize it, and not write the number on the card. Clients must enter the PIN each time they use an automated teller machine or point-of-sale (POS) device. When the PIN is entered, four stars will show on the screen instead of numbers to prevent anyone from seeing the clients' PIN.

PIN Selection/Change

When clients receive their initial Bridge card from XEROX via the mail, they **must** call the Interactive Voice Response Unit to select a PIN. Recipients may select/change their PIN at any time by calling the Interactive Voice Response Unit at **1(888) 678-8914**. Clients may also use the POS device in the local office.

PIN Lock/Reset

Clients have four consecutive attempts to enter the correct PIN. After the fourth incorrect attempt, clients are locked out and cannot use their Bridge card until 12:01 a.m. the next day. The client's card can be reset prior to 12:01 a.m. by contacting the Customer Service Representative and providing the correct personal information.

**INTEGRATED VOICE
RESPONSE UNIT**

Clients contact the Interactive Voice Response Unit, by calling **1(888) 678-8914** from a touchtone phone. The Interactive Voice Response Unit number is listed on the back of the Bridge card, and is available 24 hours a day, seven days a week. By calling the Interactive Voice Response Unit, the client will be able to:

- Select/change a PIN.
- Obtain account balance(s).
- Hear the last 10 transactions.
- Obtain information on where and how to use their card.
- Obtain benefit(s) availability dates.

**Customer Service
Representatives**

If clients have questions, or difficulties providing the information through the Interactive Voice Response Unit, they are transferred to a Customer Service Representative for further assistance. Examples of services offered by Customer Service Representative include:

- Procedures on how to select, change or reset a PIN.
- Explanations of why a card may not be working.
- Taking reports of lost/stolen/malfunctioning cards, and initiating processes to replace a card.
- Reviewing their account balance.
- Mailing a two-month account history statement to the caller's last known address.
- Deactivation of an AR's card.

Note: DHS staff should **never** call the Integrated Voice Response Unit/Customer Service Representative for the client.

**BRIDGE CARD
REPLACEMENT**

If the Bridge card is lost, stolen or damaged, the client, third-party payee/protective payee and/or the AR **must** immediately notify XEROX by calling the Interactive Voice Response Unit. Any benefit

loss that occurs prior to this notification is the client's responsibility and will **not** be replaced.

Once a Bridge card is reported as lost or stolen, XEROX immediately deactivates the current card and will reissue a new one at the client's request. Replacement cards are mailed in an active status, retain their original PIN and will arrive within two to five calendar days. The head of household or AR's card(s) are mailed to the head of household's address, and third-party payee/protective payee cards are mailed to the third-party payee/protective payee's address.

Note: It is the client's responsibility to change their PIN if they believe the original PIN is thought to be compromised.

If cash and/or FAP benefits are accessed after the clients contacts XEROX but before they actually deactivate the old card, the benefit replacement is the responsibility of XEROX and **not** DHS.

DHS only replaces FAP benefits when food is destroyed in a domestic misfortune or disaster; see BAM 502, Food Destroyed in a Domestic Misfortune or Disaster.

Local Office Replacement

Bridge cards can be replaced by the local office. To issue an over-the-counter Bridge card; see Local Office Issued Bridge Card in this item.

Note: The local office will **not** issue a replacement Bridge card to an AR that has a status reason of "stated by primary". This status reason indicates the client no longer wants the AR to have access to their benefits.

Replacement Fee

Clients may receive only one free Bridge card replacement during their lifetime. The client's authorized representatives or third-party/protective payees may receive one free Bridge card replacement only as well.

Clients' available benefits will be reduced to cover the cost of all subsequent replacement cards with no exceptions granted. Even if an error is made with the spelling of an authorized representative or third-party payee/protective payee's name and it is discovered on a

future date, there is no way to reverse the charge or reimburse the client.

The available benefit reduction will vary based on whether the card is replaced by the EBT vendor (\$3.02) or by the local office (\$3.72).

Example: Sally has an authorized representative, named Sam. Sam loses his card and receives the one free replacement authorized representative card. If Sam loses the replacement card or Sally changes her authorized representative, her available benefits will be reduced for any future authorized representative cards.

Note: Sally is still eligible to receive one free replacement card for herself before her available benefits will be reduced to cover the cost of her replacement card.

Benefit Reduction Process

The EBT vendor determines if the entire replacement fee is available. If the entire fee is available in the client's cash account, the fee will be deducted from the available benefits. If not available, they will determine if the entire replacement fee is available in the client's FAP account.

If neither account has the entire replacement fee available, the fee will be deducted the next time an account has the available balance (starting with the cash account).

If the replacement fee is still not available after 365 days, the fee will be expired.

BENEFIT ACCESS

Clients and/or their FSARs access benefits with their Bridge card and PIN at automated teller machines and at POS devices at retailers displaying the **Quest**® logo or sign. If the case closes, the cash or FAP benefits remaining on the Bridge card are still available to the client. They may continue to access these benefits in the account until they are depleted or expunged.

If the cash account balance contains enough to pay the transaction plus any applicable client fees; see Fees in this item, the account is debited for that amount. An approval message is sent back to the automated teller machine/POS device where either the purchase is completed or cash is dispensed.

If the cash account does not have sufficient funds to cover the transaction, a denial message is sent back to the access device. Clients can then contact the Interactive Voice Response Unit for information regarding their account.

Cash Benefits and Availability Dates

FIP and SDA clients receive ongoing benefits, early payments (EPs) and supplemental benefits less than \$1,000 in their EBT cash account. The ongoing semi-monthly cash assistance EBT deposits are available on the "Warrant Date" shown in the issuance deadline schedule in RFS 305. Supplements and EPs are available the day after authorized. Cash may be obtained only from a client's cash account.

Exception: Benefits on closed cases, EPs over \$1000, supplements over \$1000 and all replacement benefits are issued as warrants.

Clients can access benefits:

- At any automated teller machine that accepts **Quest®** clients.
- At a check cashier displaying the **Quest®** sign/logo.
- By making a purchase at retailers who accept the Bridge card.
- Through a cash-only POS transaction at a retailer which allows that option.
- As cash back when making a purchase through a POS device located in a retail or merchant establishment that accepts the **Quest®** logo.

Note: The amount of cash back allowed depends on the retailer's policy. The client should ask the retailer before shopping.

Fees

Clients are allowed four cash withdrawals per month from an automated teller machine without transaction fees. However, every automated teller machine transaction in excess of four per month will cost the client \$0.85 for each transaction. Such fees will be debited from their cash account balance at the time of the

transaction. This will be an automatic debit; clients will **not** be informed of it prior to the transaction.

Note: Clients are **not** assessed a fee for accessing cash benefits with their Bridge card at a POS terminal.

Surcharges

Unlike fees, an automated teller machine/network surcharge is the charge for using a particular bank's automated teller machine. Clients are given the option of paying the surcharge before their withdrawal. A question appears on the screen telling the client the cost of using that automated teller machine. If clients do **not** want to pay the surcharge, they may decline by pressing cancel, and their Bridge card is returned. They can then access another automated teller machine somewhere else with either a lesser surcharge or no surcharge at all.

FAP Benefits and Availability Dates

All FAP benefits are deposited into the client's EBT food account. New openings (including expedited issuances and supplements) are available to clients the day after the client information and benefit authorizations are authorized in Bridges.

Ongoing FAP benefits are available on the dates listed in RFS 305, and available on the same day of the month each month. The date depends on the last digit of the client's recipient ID number.

Clients access their FAP benefits:

- At any Food and Nutrition Service authorized POS retailer.
- Through the use of EBT paper vouchers issued by Food and Nutrition Service authorized merchants and retail establishments for eligible food items when:
 - The Food and Nutrition Service certified merchant or retail establishment does **not** have technical equipment to process the EBT transaction of food benefits.
 - There has been a technical problem that has resulted in the malfunction of the EBT system.

Note: Fees are **not** charged for accessing FAP benefits.

GROUP HOMES

Authorized Retailers

Group homes approved as Food and Nutrition Service-certified retailers are supplied with the necessary POS equipment for processing EBT transactions in the group homes. New group homes requesting to be Food and Nutrition Service-certified must contact Food and Nutrition Service to become an authorized retailer. Provide group homes with the address and phone number for the Food and Nutrition Service Field Office based on their county.

Retailers interested in accepting the Bridge Card for food benefits purchases must be authorized by Food and Nutrition Services (FNS). To become an authorized retailer apply online at www.fns.usda.gov/snap or call the Food Assistance Program at 877-823-4369.

Retailers not authorized by FNS are eligible to participate by accepting the Bridge Card for cash benefits only, and must contact Retailer Operations to receive a survey form and a list of certified third party providers with which they may contract to provide EBT cash benefit services. If you would like this information mailed to you, or if you have questions regarding your contract, call Retailer Operations at 1-888-529-1693.

Group homes acting as Food and Nutrition Service-certified retailers permit clients to exchange their benefit dollars for food by swiping their Bridge card through the home's POS device.

The Bridge card is swiped between the first and the 15th of the month to reduce the client's monthly FAP benefit by half. The group home's account is increased by the amount deducted from the client's account. A second transaction is done between the 16th and the last day of the month for the remaining balance, again debiting the client's account and crediting the group home's account.

Authorized Representatives

Those homes that are **not** approved as authorized retailers may be an authorized representative for the clients in their homes. In these situations, an employee (such as the food buyer) of the group home is identified as the AR for the residents in the home. This person is authorized by the client and the facility to act as an AR, accessing

only the client's FAP benefits at a Food and Nutrition Service retailer location with a POS terminal; see BAM 110, AUTHORIZED REPRESENTATIVES.

LEAVING MICHIGAN

Cash Assistance

EBT clients who move out of state can still access the remaining benefits from their Michigan EBT accounts by using out-of-state ATMs displaying electronic benefit logo or stores displaying a **Quest®** sign/logo.

Food Assistance

FAP clients who move out of state can still access their remaining food benefits at participating food retailers.

Note: If on the last day of the month a FAP case has an out-of-state address on Bridges and the negative action extends into the following month, the system will **not** issue an ongoing monthly issuance for the closure month; see BAM 220, Adequate Notice.

EXPUNGEMENT

Benefits in FAP or cash accounts that have not been accessed for 365 days will be expunged and not available to the client.

Replacing Expunged Benefits

FIP and SDA

See BAM 505, for replacing expunged cash benefits.

Exception: Unaccessed cash benefits which are entirely state funded, for example, SDA benefits and FIP benefits on certain cases will **not** be expunged. Instead, these benefits will be escheated; see BAM 505, DEFINITIONS, Escheated benefits.

PROGRAM INTEGRITY

The first line of defense in reducing inappropriate use of Bridge Cards is education. DHS provides client and retailer training. The trainings include guidelines for appropriate use of Bridge Cards as well as fraud and abuse information.

DHS county and district offices also utilize Bridge Card education videos in their lobbies. Michigan offers a toll free phone line (1-888-678-8914) that is available 24 hours a day, Seven days a week. The phone number is located on the back of the Bridge Card. Clients are also provided with written materials when they become eligible for assistance. DHS Pub-322, How to Use Your Bridge Card, includes the following information about appropriate use:

- Misuse of Food Benefits is a violation of state and federal laws.
- **Do not** sell, trade or give away Food Assistance benefits, PIN or Michigan Bridge Card.
- **Do not** allow a retailer to buy food benefits in exchange for cash.
- **Do not** use someone else's food benefits or Bridge Card for households.
- **It is prohibited to use cash assistance to purchase lottery tickets, alcohol, or tobacco. Cash assistance grants cannot be used for gambling, illegal activities, massage parlors, spas, tattoo shops, bail-bond agencies, adult entertainment, or cruise ships.**
- Clients who purchase any beverages, in any type of container with a deposit, who dump the contents out and return the containers for the deposit, may be disqualified from receiving Food Assistance Program (FAP) benefits.
- People who break Food Assistance Program rules may be disqualified from the program, fined, put in prison, or all three; and must repay the food benefits.

EBT authorized retailers are also provided with training and are required to understand and comply with all federal and state guidelines for EBT acceptance. Retailers interested in accepting the Bridge Card for food benefits purchases must be authorized by the federal Food and Nutrition Services (FNS).

**Over the Counter
Card
Reconciliation**

A monthly reconciliation of the DHS-3955-EBT and the DHS-3955-A-EBT must be performed by a supervisor or other employee not involved in the card issuance process. The reconciliation should include a verification of the client/authorized representative signature on the DHS-3955-A-EBT for each card issuance. If an issuance is not supported by a signed DHS-3955-A-EBT, the reconciler must contact the recipient/FSAR to verify the card was received. As part of the reconciliation print the Card Issuance/Replacement (RPT-0114) and the Card Issuance Replacement Detail (RPT-014) in EPPIC to verify the number of cards issued on the DHS-3955-EBT, Bridge Card Issuance Log.

Note: The DHS-4351, Monthly controlled Document Inventory and Reconciliation, provides the format for performing a reconciliation and documents that a reconciliation of the actual inventory with the inventory according to the records of documents used was performed. A DHS-4351 Monthly Controlled Document Inventory and Reconciliation, must be completed monthly and retained for six years.

1. Check status of previous card, if a replacement, using the Electronic Payment Processing and Information Control (EPPIC) Administrative Terminal.
 - If FSAR card is showing a status of Stated by Primary on the Recipient Card Management display, inform the authorized representative. End of procedure.
 - If any other status, go to next step.
2. Pull the next consecutive-numbered card from working supply.
3. Complete DHS-3955-EBT, Bridge Card Issuance Log, and DHS-3955-A-EBT, Bridge Card Issuance Log Attachment.
 - DHS-3955-EBT.

Enter date in Column 1, Date of Issuance.

Enter number from card in Column 2, Card Number.

Enter recipient's name from the Grantee Name on the Case-Search/ Summary screen in Bridges in Column 3,

Recipient Name. If card is being issued to the FSAR, enter name from AUTH REP field on screen print also.

Enter grantee's recipient identification number from the Individual # field from the Bridges screen-print in Column 4, Recipient ID/Case Number.

Initial in Column 5, Card Issued By.

- DHS-3955-A-EBT

Enter number from card on EBT Card Number line.

Enter recipient's name from the Grantee Name on the Case-Search/ Summary screen in Bridges on Client Name line.

Enter grantee's recipient identification number from the Individual # field from the Bridges screen-print on Recipient ID/Case Number line.

If card is being issued to FSAR, enter FSAR's name from AUTH REP field on IFSD screen print on Authorized Rep line.

4. Valid photo identification must be presented by the recipient/FSAR. Record identification type and number on ID Description and ID Number lines, respectively, of DHS-3955-A-EBT. In the absence of valid photo identification, collateral contact by a specialist or manager is acceptable.
5. Link card to grantee's recipient identification number using Recip Acct>Acct Maint or OTC Card-New Case on the Administrative Terminal.
 - Enter 16-digit number from card and grantee's recipient identification number.
 - When the card has been successfully replaced message appears, make one print of update screen.
 - If case is inactive in Bridges and is not being reopened, search for grantee's case number.
6. Request recipient/FSAR to sign on Client or Authorized Representative Signature line and enter date on Date line of DHS-3955-A-EBT.

7. Issue new card to recipient/FSAR and request recipient/FSAR to sign and print name on back of card.

Note: Replacement cards for the recipient are not to be given to the FSAR by local office staff. The FSAR should only receive his/her own card.
8. Assist grantee/FSAR in selecting a personal identification number (PIN) if needed/requested on the POS device.
9. Sign on Issued By Signature line and enter date on Date line of DHS-3955-A-EBT.
10. Attach signed DHS-3955-A-EBT to case search/summary screen and screen print of the card has been successfully replaced screen and retain packet with the Issuance Log.
11. File Issuance Log with attachments in a secured file. The logs and attachments must be retained for a period of four years.

Note: Access to this file should be limited to the person reconciling Issuance Log to actual inventory and appropriate staff.

RECONCILING DHS- 3955-EBT AND DHS- 3955-A-EBT

12. Pull DHS-3955-EBT, Bridge Card Issuance Log, with attachments from secured file at least once a month.
13. Verify a DHS-3955-A-EBT, Bridge Card Issuance Log Attachment, is attached for each line on DHS-3955-EBT.
14. Review each DHS-3955-A-EBT for completeness and accuracy.
 - EBT card Number line must be completed.
 - Client Name and Recipient ID/Case Number lines must be completed.
 - Signature of person receiving the EBT-9, Michigan EBT Bridge Card, must be on Client or Authorized Representative Signature line.

- Signature of person issuing the card must be on Issued By Signature line.
- Signature on Client or Authorized Representative Signature line must be different from signature on Issued By Signature line.
- ID Description and ID Number lines must be completed.
- Generate the Card Issuance/Replacement and Card Issuance/Replacement Detail reports in EPPIC. Print only the pages for your specific county using the .pdf version.
- Verify that the number of cards issued on the DHS-3955-EBT log match the EPPIC reports.

If above steps do not check out, resolve problem with Card Issuance Clerk, recipient or FSAR, as appropriate.

Note: It may be necessary to contact the recipient or FSAR to verify that card was received.

If above steps do check out, sign and date DHS-3955-EBT to indicate reconciliation was performed.

4351

Reconciling the DHS-4351, Monthly Controlled Document Inventory and Reconciliation

Each local/district office/ASC must maintain an inventory of controlled documents received and a record of the numbers on the documents; Bridge cards are controlled documents. All controlled documents received and added to the inventory and those distributed from the inventory must be recorded. A monthly physical inventory and a reconciliation of documents distributed must be made with documents recorded in the local office/district office/ASC records. The DHS-4351, Monthly Controlled Document Inventory and Reconciliation, must be used for this purpose and retained for six years.

The DHS-4351, Monthly Controlled Document Inventory and Reconciliation, provides the format for performing a reconciliation and documents that a reconciliation of the actual inventory with the

inventory according to the local office records of controlled documents used was performed.

EBT AUTHORIZATION AND SECURITY

To add, change or delete an employee's access to the Xerox EPPIC system, complete the DHS 245, Xerox EPPIC EBT System and either send via e-mail to:

DHS_Application_Security@Michigan.gov, or

Fax it to (517) 335-6146. E-mail is the preferred method.

To reset EPPIC, call and create a ticket for the reset at CSC Help Desk at 517-241-9700 or 1-800-968-2644

ID DELETION

Local office management responsible for EBT issuance must submit ID deletion on the DHS-245, Michigan User ID Request Form Xerox EPPIC EBT System, within two business days if the EBT Application or POS Device user either:

- Leaves DHS or the office in which the user requires EBT systems access.
- No longer requires access to the EBT systems as a component of their job function.

Managers must sign and email appropriate forms to DHS Access Security Office in central office.

The DHS-246, EPPIC EBT Program POS User ID Request Form, must also be completed and the user deleted from the POS device. Retain the DHS-246 in the local office security file.

LEGAL BASE

FIP

42 USC 604(g)

FAP

7 USC 2016(i)

7 CFR 274.12

Food and Nutrition Act of 2008

Appendix A Federal Regulations

A.1	7 CFR 273.2 Office operations and application processing.	Page 11
A.2	7 CFR 274.2 Providing benefits to participants.	Page 46
A.3	7 CFR 274.6 Replacement issuances and cards to households.	Page 49
A.4	7 CFR 274.7 Benefit redemption by eligible households.	Page 53
A.5	7 CFR 274.8 Functional and technical EBT system requirements.	Page 55
A.6	7 CFR 278.2 Participation of retail food stores.	Page 63

Food and Nutrition Service, USDA

§ 273.2

of household. If there is no principal source of earned income in the household, the household member, documented in the casefile as the head of the household at the time of the violation, shall be considered the head of household. The designation of head of household through the circumstances of this paragraph shall take precedence over a previous designation of head of household at least until the period of ineligibility is ended.

(e) *Strikers.* Households with a striking member are not eligible to participate in the Program, unless the household was eligible for benefits the day before the strike and is otherwise eligible at the time of application. A striker must be anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee affected by a lockout, however, must not be deemed to be a striker. Further, an individual who goes on strike but is exempt from work registration under § 273.7(b) the day before the strike, other than those exempt solely on the grounds that they are employed, must not be deemed to be a striker. Also, persons such as truck drivers who cannot do their jobs because the strike has left them with nothing to deliver, and employees who are not part of the bargaining unit and do not want to cross the picket line for fear of personal injury or death, must not be deemed to be strikers.

(1) Pre-strike eligibility must be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

(2) Eligibility at the time of application must be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of non-striking members during the month of application. If the household is eligible, the higher income figure must also be used in determining the household's benefits.

[Amdt. 132, 43 FR 47889, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.1, see the List of CFR

Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 273.2 Office operations and application processing.

(a) *Operation of food stamp offices and processing of applications—(1) Office operations.* State agencies must establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as, but not limited to, households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, households with adult members who are not proficient in English, and households with earned income (working households). The State agency must provide timely, accurate, and fair service to applicants for, and participants in, the Food Stamp Program. The State agency cannot, as a condition of eligibility, impose additional application or application processing requirements. The State agency must have a procedure for informing persons who wish to apply for food stamps about the application process and their rights and responsibilities. The State agency must base food stamp eligibility solely on the criteria contained in the Act and this part.

(2) *Application processing.* The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency must act promptly on all applications and provide food stamp benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. The State agency must make expedited service available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

(b) *Food Stamp application form—(1) Content.* Each application form shall contain:

(i) In prominent and boldface lettering and understandable terms a statement that the information provided by the applicant in connection with the application for food stamp

§ 273.2

7 CFR Ch. II (1-1-15 Edition)

benefits will be subject to verification by Federal, State and local officials to determine if such information is factual; that if any information is incorrect, food stamps may be denied to the applicant; and that the applicant may be subject to criminal prosecution for knowingly providing incorrect information;

(ii) In prominent and boldface lettering and understandable terms a description of the civil and criminal provisions and penalties for violations of the Food Stamp Act;

(iii) A statement to be signed by one adult household member which certifies, under penalty of perjury, the truth of the information contained in the application, including the information concerning citizenship and alien status of the members applying for benefits;

(iv) A place on the front page of the application where the applicant can write his/her name, address, and signature.

(v) In plain and prominent language on or near the front page of the application, notification of the household's right to immediately file the application as long as it contains the applicant's name and address and the signature of a responsible household member or the household's authorized representative. Regardless of the type of system the State agency uses (paper or electronic), it must provide a means for households to immediately begin the application process with name, address and signature;

(vi) In plain and prominent language on or near the front page of the application, a description of the expedited service provisions described in paragraph (i) of this section;

(vii) In plain and prominent language on or near the front page of the application, notification that benefits are provided from the date of application; and

(viii) The following nondiscrimination statement on the application itself even if the State agency uses a joint application form:

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, religion, political beliefs, or disability.

"To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."; and

(ix) For multi-program applications, contain language which clearly affords applicants the option of answering only those questions relevant to the program or programs for which they are applying.

(2) *Income and eligibility verification system (IEVS)*. If the State agency chooses to use IEVS in accordance with paragraph (f)(9) of this section, it must notify all applicants for food stamp benefits at the time of application and at each recertification through a written statement on or provided with the application form that information available through IEVS will be requested, used and may be verified through collateral contact when discrepancies are found by the State agency, and that such information may affect the household's eligibility and level of benefits. The regulations at §273.2(f)(4)(ii) govern the use of collateral contacts. The State agency must also notify all applicants on the application form that the alien status of applicant household members may be subject to verification by INS through the submission of information from the application to INS, and that the submitted information received from INS may affect the household's eligibility and level of benefits.

(3) *Jointly processed cases*. If a State agency has a procedure that allows applicants to apply for the food stamp program and another program at the same time, the State agency shall notify applicants that they may file a joint application for more than one program or they may file a separate application for food stamps independent of their application for benefits from any other program. All food stamp applications, regardless of whether they are joint applications or separate applications, must be processed for food stamp purposes in accordance with food stamp procedural, timeliness, notice, and fair hearing requirements. No household shall have its food stamp benefits denied solely on

the basis that its application to participate in another program has been denied or its benefits under another program have been terminated without a separate determination by the State agency that the household failed to satisfy a food stamp eligibility requirement. Households that file a joint application for food stamps and another program and are denied benefits for the other program shall not be required to resubmit the joint application or to file another application for food stamps but shall have its food stamp eligibility determined based on the joint application in accordance with the food stamp processing time frames from the date the joint application was initially accepted by the State agency.

(4) *Privacy Act statement.* As a State agency, you must notify all households applying and being recertified for food stamp benefits of the following:

(i) The collection of this information, including the social security number (SSN) of each household member, is authorized under the Food Stamp Act of 1977, as amended, 7 U.S.C. 2011-2036. The information will be used to determine whether your household is eligible or continues to be eligible to participate in the Food Stamp Program. We will verify this information through computer matching programs. This information will also be used to monitor compliance with program regulations and for program management.

(ii) This information may be disclosed to other Federal and State agencies for official examination, and to law enforcement officials for the purpose of apprehending persons fleeing to avoid the law.

(iii) If a food stamp claim arises against your household, the information on this application, including all SSNs, may be referred to Federal and State agencies, as well as private claims collection agencies, for claims collection action.

(iv) Providing the requested information, including the SSN of each household member, is voluntary. However, failure to provide an SSN will result in the denial of food stamp benefits to each individual failing to provide an SSN. Any SSNs provided will be used and disclosed in the same manner as SSNs of eligible household members.

(c) *Filing an application—(1) Household's right to file.* Households must file food stamp applications by submitting the forms to the food stamp office either in person, through an authorized representative, by fax or other electronic transmission, by mail, or by completing an on-line electronic application. The State agency must provide households that complete an on-line electronic application in person at the food stamp office the opportunity to review the information that has been recorded electronically and must provide them with a copy of that information for their records. Applications signed through the use of electronic signature techniques or applications containing a handwritten signature and then transmitted by fax or other electronic transmission are acceptable. State agencies must document the date the application was filed by recording the date of receipt at the food stamp office. When a resident of an institution is jointly applying for SSI and food stamps prior to leaving the institution, the filing date of the application that the State agency must record is the date of release of the applicant from the institution. The length of time a State agency has to deliver benefits is calculated from the date the application is filed in the food stamp office designated by the State agency to accept the household's application, except when a resident of a public institution is jointly applying for SSI and food stamps prior to his/her release from an institution in accordance with § 273.1(e)(2). Residents of public institutions who apply for food stamps prior to their release from the institution shall be certified in accordance with § 273.2(g)(1) or § 273.2(i)(3)(i), as appropriate. Each household has the right to file an application form on the same day it contacts the food stamp office during office hours. The household shall be advised that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative. State agencies shall document the date the application was filed by recording on

§ 273.2

7 CFR Ch. II (1-1-15 Edition)

the application the date it was received by the food stamp office. When a resident of an institution is jointly applying for SSI and food stamps prior to leaving the institution, the filing date of the application to be recorded by the State agency on the food stamp application is the date of release of the applicant from the institution.

(2) *Contacting the food stamp office.* (i) State agencies shall encourage households to file an application form the same day the household or its representative contacts the food stamp office in person or by telephone and expresses interest in obtaining food stamp assistance or expresses concerns which indicate food insecurity. If the State agency attempts to discourage households from applying for cash assistance, it shall make clear that the disadvantages and requirements of applying for cash assistance do not apply to food stamps. In addition, it shall encourage applicants to continue with their application for food stamps. The State agency shall inform households that receiving food stamps will have no bearing on any other program's time limits that may apply to the household. If a household contacting the food stamp office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the State agency shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for food assistance is received.

(ii) Where a project area has designated certification offices to serve specific geographic areas, households may contact an office other than the one designated to service the area in which they reside. When a household contacts the wrong certification office within a project area in person or by telephone, the certification office shall, in addition to meeting other requirements in paragraph (c)(2)(i) of this section, give the household the address and telephone number of the appropriate office. The certification office shall also offer to forward the household's application to the appropriate office that same day if the household

has completed enough information on the application to file or forward it the next day by any means that ensures the application arrives at the application office the day it is forwarded. The household shall be informed that its application will not be considered filed and the processing standards shall not begin until the application is received by the appropriate office. If the household has mailed its application to the wrong office within a project area, the certification office shall mail the application to the appropriate office on the same day, or forward it the next day by any means that ensures the application arrives at the application office the day it is forwarded.

(iii) In State agencies that elect to have Statewide residency, as provided in §273.3, the application processing timeframes begin when the application is filed in any food stamp office in the State.

(3) *Availability of the application form.* The State agency shall make application forms readily accessible to potentially eligible households. The State agency shall also provide an application form to anyone who requests the form. If the State agency maintains a Web page, it must make the application available on the Web page in each language in which the State agency makes a printed application available. The State agency must provide on the Web page the addresses and phone numbers of all State food stamp offices and a statement that the household should return the application form to its nearest local office. The applications must be accessible to persons with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516, 29 U.S.C. 794. Regardless of the type of system the State agency uses (paper or electronic), the State agency must provide a means for applicants to immediately begin the application process with name, address and signature.

(4) *Notice of right to file.* The State agency shall post signs in the certification office which explain the application processing standards and the right

to file an application on the day of initial contact. The State agency shall include similar information about same day filing on the application form.

(5) *Notice of Required Verification.* The State agency shall provide each household at the time of application for certification and recertification with a notice that informs the household of the verification requirements the household must meet as part of the application process. The notice shall also inform the household of the State agency's responsibility to assist the household in obtaining required verification provided the household is cooperating with the State agency as specified in (d)(1) of this section. The notice shall be written in clear and simple language and shall meet the bilingual requirements designated in §272.4(b) of this chapter. At a minimum, the notice shall contain examples of the types of documents the household should provide and explain the period of time the documents should cover.

(6) *Withdrawing application.* The household may voluntarily withdraw its application at any time prior to the determination of eligibility. The State agency shall document in the case file the reason for withdrawal, if any was stated by the household, and that contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time subsequent to a withdrawal.

(d) *Household cooperation.* (1) To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question

as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by paragraph (c)(5) of this section. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates with the State agency. The State agency shall not determine the household to be ineligible when a person outside of the household fails to cooperate with a request for verification. The State agency shall not consider individuals identified as nonhousehold members under §273.1(b)(2) as individuals outside the household.

(2) *Cooperation with QC Reviewer.* In addition, the household shall be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility as a part of a quality control review. If a household is terminated for refusal to cooperate with a quality control reviewer, in accordance with §§275.3(c)(5) and 275.12(g)(1)(ii) of this chapter, the household may reapply, but shall not be determined eligible until it cooperates with the quality control reviewer. If a household terminated for refusal to cooperate with a State quality control reviewer reappplies after 125 days from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a State quality control reviewer during the completed review period, but must provide verification in accordance with paragraph (f)(1)(ix) of this section. If a household terminated for refusal to cooperate with a Federal quality control reviewer reappplies after nine months from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a Federal quality control reviewer during the completed review period, but must provide verification in accordance with paragraph (f)(1)(ix) of this section. In the event that one or

more household members no longer resides with a household terminated for refusal to cooperate, the penalty for refusal to cooperate will attach to household of the person(s) who refused to cooperate. If the State agency is unable to determine which household member(s) refused to cooperate, the State agency shall determine the household to which the penalty shall apply.

(e) *Interviews.* (1) Except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this section, households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State agencies may not require households to report for an in-office interview during their certification period, though they may request households to do so. For example, State agencies may not require households to report en masse for an in-office interview during their certification periods simply to review their case files, or for any other reason. Interviews may be conducted at the food stamp office or other mutually acceptable location, including a household's residence. If the interview will be conducted at the household's residence, it must be scheduled in advance with the household. If a household in which all adult members are elderly or disabled is certified for 24 months in accordance with § 273.10(f)(1), or a household residing on a reservation is required to submit monthly reports and is certified for 24 months in accordance with § 273.10(f)(2), a face-to-face interview is not required during the certification period. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The applicant may bring any person he or she chooses to the interview. The interviewer must not simply review the information that appears on the application, but must explore and resolve with the household unclear and incomplete information. The interviewer must advise households of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The inter-

viewer must advise households that are also applying for or receiving PA benefits that time limits and other requirements that apply to the receipt of PA benefits do not apply to the receipt of food stamp benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for food stamp benefits. The interviewer must conduct the interview as an official and confidential discussion of household circumstances. The State agency must protect the applicant's right to privacy during the interview. Facilities must be adequate to preserve the privacy and confidentiality of the interview.

(2) The State agency must notify the applicant that it will waive the face-to-face interview required in paragraph (e)(1) of this section in favor of a telephone interview on a case-by-case basis because of household hardship situations as determined by the State agency. These hardship conditions include, but are not limited to: illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours which prevent the household from participating in an in-office interview. The State agency must document the case file to show when a waiver was granted because of a hardship. The State agency may opt to waive the face-to-face interview in favor of a telephone interview for all households which have no earned income and all members of the household are elderly or disabled. Regardless of any approved waivers, the State agency must grant a face-to-face interview to any household which requests one. The State agency has the option of conducting a telephone interview or a home visit that is scheduled in advance with the household if the office interview is waived.

(i) Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

(ii) Waiver of the face-to-face interview may not affect the length of the household's certification period.

(3) The State agency must schedule an interview for all applicant households who are not interviewed on the day they submit their applications. To the extent practicable, the State agency must schedule the interview to accommodate the needs of groups with special circumstances, including working households. The State agency must schedule all interviews as promptly as possible to insure eligible households receive an opportunity to participate within 30 days after the application is filed. The State agency must notify each household that misses its interview appointment that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview. If the household contacts the State agency within the 30 day application processing period, the State agency must schedule a second interview. The State agency may not deny a household's application prior to the 30th day after application if the household fails to appear for the first scheduled interview. If the household requests a second interview during the 30-day application processing period and is determined eligible, the State agency must issue prorated benefits from the date of application.

(f) *Verification.* Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification. Paragraph (i)(4) of this section contains verification procedures for expedited service cases.

(1) *Mandatory verification.* State agencies shall verify the following information prior to certification for households initially applying:

(i) *Gross nonexempt income.* Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the State agency, and all other sources of verification are unavailable, the eligibility worker shall determine an amount to be used

for certification purposes based on the best available information.

(ii) *Alien eligibility.* (A) The State agency must verify the eligible status of applicant aliens. If an alien does not wish the State agency to contact INS to verify his or her immigration status, the State agency must give the household the option of withdrawing its application or participating without that member. The Department of Justice (DOJ) Interim Guidance On Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Interim Guidance) (62 FR 61344, November 17, 1997) contains information on acceptable documents and INS codes. State agencies should use the Interim Guidance until DOJ publishes a final rule on this issue. Thereafter, State agencies should consult both the Interim Guidance and the DOJ final rule. Where the Interim Guidance and the DOJ final rule conflict, the latter should control the verification of alien eligibility. As provided in §273.4, the following information may also be relevant to the eligibility of some aliens: date of admission or date status was granted; military connection; battered status; if the alien was lawfully residing in the United States on August 22, 1996; membership in certain Indian tribes; if the person was age 65 or older on August 22, 1996; if a lawful permanent resident can be credited with 40 qualifying quarters of covered work and if any Federal means-tested public benefits were received in any quarter after December 31, 1996; or if the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time or is the spouse or unmarried dependent of such a person. The State agency must also verify these factors, if applicable to the alien's eligibility. The SSA Quarters of Coverage History System (QCHS) is available for purposes of verifying whether a lawful permanent resident has earned or can receive credit for a total of 40 qualifying quarters. However, the QCHS may not show all qualifying quarters. For instance, SSA records do not show current year earnings and in some cases the last year's

earnings, depending on the time of request. Also, in some cases, an applicant may have work from uncovered employment that is not documented by SSA, but is countable toward the 40 quarters test. In both these cases, the individual, rather than SSA, would need to provide the evidence needed to verify the quarters.

(B) An alien is ineligible until acceptable documentation is provided unless:

(1) The State agency has submitted a copy of a document provided by the household to INS for verification. Pending such verification, the State agency cannot delay, deny, reduce or terminate the individual's eligibility for benefits on the basis of the individual's immigration status; or

(2) The applicant or the State agency has submitted a request to SSA for information regarding the number of quarters of work that can be credited to the individual, SSA has responded that the individual has fewer than 40 quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited. If SSA indicates that the number of qualifying quarters that can be credited is under investigation, the State agency must certify the individual pending the results of the investigation for up to 6 months from the date of the original determination of insufficient quarters; or

(3) The applicant or the State agency has submitted a request to a Federal agency for verification of information which bears on the individual's eligible alien status. The State agency must certify the individual pending the results of the investigation for up to 6 months from the date of the original request for verification.

(C) The State agency must provide alien applicants with a reasonable opportunity to submit acceptable documentation of their eligible alien status as of the 30th day following the date of application. A reasonable opportunity must be at least 10 days from the date of the State agency's request for an acceptable document. When the State agency fails to provide an alien applicant with a reasonable opportunity as of the 30th day following the date of

application, the State agency must provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible.

(iii) *Utility expenses.* The State agency shall verify a household's utility expenses if the household wishes to claim expenses in excess of the State agency's utility standard and the expense would actually result in a deduction. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the State agency shall use the standard utility allowance, provided the household is entitled to use the standard as specified in § 273.9(d). If the household wishes to claim expenses for an unoccupied home, the State agency shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use the standard utility allowance.

(iv) *Medical expenses.* The amount of any medical expenses (including the amount of reimbursements) deductible under § 273.9(d)(3) shall be verified prior to initial certification. Verification of other factors, such as the allowability of services provided or the eligibility of the person incurring the cost, shall be required if questionable.

(v) *Social security numbers.* The State agency shall verify the social security number(s) (SSN) reported by the household by submitting them to the Social Security Administration (SSA) for verification according to procedures established by SSA. The State agency shall not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the SSN of a household member. Once an SSN has been verified, the State agency shall make a permanent annotation to its file to prevent the unnecessary reverification of the SSN in the future. The State agency shall accept as verified an SSN which has been verified by another program participating in the IEVS described in § 272.8. If an individual is unable to provide an SSN or does not have an SSN, the State agency shall require the individual to submit Form SS-5, Application for a Social Security Number, to the SSA in accordance with procedures in § 273.6. A

completed SSA Form 2853 shall be considered proof of application for an SSN for a newborn infant.

(vi) *Residency.* The residency requirements of § 273.3 shall be verified except in unusual cases (such as homeless households, some migrant farmworker households, or households newly arrived in a project area) where verification of residency cannot reasonably be accomplished. Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity. If verification cannot be accomplished in conjunction with the verification of other information, then the State agency shall use a collateral contact or other readily available documentary evidence. Documents used to verify other factors of eligibility should normally suffice to verify residency as well. Any documents or collateral contact which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed. No durational residency requirement shall be established.

(vii) *Identity.* The identity of the person making application shall be verified. Where an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school ID, an ID for health benefits or for another assistance or social services program, a voter registration card, wage stubs, or a birth certificate. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document, such as a birth certificate, may be imposed.

(viii) *Disability.* (A) The State agency shall verify disability as defined in § 271.2 as follows:

(1) For individuals to be considered disabled under paragraphs (2), (3) and

(4) of the definition, the household shall provide proof that the disabled individual is receiving benefits under titles I, II, X, XIV or XVI of the Social Security Act.

(2) For individuals to be considered disabled under paragraph (6) of the definition, the household must present a statement from the Veterans Administration (VA) which clearly indicates that the disabled individual is receiving VA disability benefits for a service-connected or non-service-connected disability and that the disability is rated as total or paid at the total rate by VA.

(3) For individuals to be considered disabled under paragraphs (7) and (8) of the definition, proof by the household that the disabled individual is receiving VA disability benefits is sufficient verification of disability.

(4) For individuals to be considered disabled under paragraphs (5) and (9) of the definition, the State agency shall use the Social Security Administration's (SSA) most current list of disabilities considered permanent under the Social Security Act for verifying disability. If it is obvious to the caseworker that the individual has one of the listed disabilities, the household shall be considered to have verified disability. If disability is not obvious to the caseworker, the household shall provide a statement from a physician or licensed or certified psychologist certifying that the individual has one of the nonobvious disabilities listed as the means for verifying disability under paragraphs (5) and (9) of the definition.

(5) For individuals to be considered disabled under paragraph (10) of the definition, the household shall provide proof that the individual receives a Railroad Retirement disability annuity from the Railroad Retirement Board *and* has been determined to qualify for Medicare.

(6) For individuals to be considered disabled under paragraph (11) of the definition, the household shall provide proof that the individual receives interim assistance benefits pending the receipt of Supplemental Security Income; or disability-related medical assistance under title XIX of the SSA; or

§ 273.2

7 CFR Ch. II (1–1–15 Edition)

disability-based State general assistance benefits. The State agency shall verify that the eligibility to receive these benefits is based upon disability or blindness criteria which are at least as stringent as those used under title XVI of the Social Security Act.

(B) For disability determinations which must be made relevant to the provisions of §273.1(a)(2)(ii), the State agency shall use the SSA's most current list of disabilities as the initial step for verifying if an individual has a disability considered permanent under the Social Security Act. However, only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of such disability shall be considered disabled for the purpose of this provision. If it is obvious to the caseworker that the individual is unable to purchase and prepare meals because he/she suffers from a severe physical or mental disability, the individual shall be considered disabled for the purpose of the provision even if the disability is not specifically mentioned on the SSA list. If the disability is not obvious to the caseworker, he/she shall verify the disability by requiring a statement from a physician or licensed or certified psychologist certifying that the individual (in the physician's/psychologist's opinion) is unable to purchase and prepare meals because he/she suffers from one of the nonobvious disabilities mentioned in the SSA list or is unable to purchase meals because he/she suffers from some other severe, permanent physical or mental disease or nondisease-related disability. The elderly and disabled individual (or his/her authorized representative) shall be responsible for obtaining the cooperation of the individuals with whom he/she resides in providing the necessary income information about the others to the State agency for purposes of this provision.

(ix) State agencies shall verify all factors of eligibility for households who have been terminated for refusal to cooperate with a State quality control reviewer, and reapply after 95 days from the end of the annual review period. State agencies shall verify all factors of eligibility for households who

have been terminated for refusal to cooperate with a Federal quality control reviewer and reapply after seven months from the end of the annual review period.

(x) *Household composition.* State agencies shall verify factors affecting the composition of a household, if questionable. Individuals who claim to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household to the satisfaction of the State agency. Individuals who claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness shall be responsible for proving a claim of separateness (at the State agency's request) in accordance with the provisions of §273.2(f)(1)(viii).

(xi) *Students.* If a person claims to be physically or mentally unfit for purposes of the student exemption contained in §273.5(b)(2) and the unfitness is not evident to the State agency, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

(xii) *Legal obligation and actual child support payments.* The State agency shall obtain verification of the household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays. Documents that are accepted as verification of the household's legal obligation to pay child support shall not be accepted as verification of the household's actual monthly child support payments. State agencies may and are strongly encouraged to obtain information regarding a household member's child support obligation and payments from Child Support Enforcement (CSE) automated data files. For households that pay their child support exclusively through their State CSE agency, the State agency may use information provided by that agency in determining a household's legal obligation to pay

child support, the amount of its obligation and amount the household has actually paid. A household would not have to provide additional verification unless it disagrees with the data presented by the State CSE agency. Before the State agency may use the CSE agency's information, the household must sign a statement authorizing release of the household's child support payment records to the State agency. State agencies that choose to rely on information provided by their State CSE agency in accordance with this paragraph (f)(1)(xii) must specify in their State plan of operation that they have selected this option. The State agency shall give the household an opportunity to resolve any discrepancy between household verification and CSE records in accordance with paragraph (f)(9) of this section.

(xiii) [Reserved]

(xiv) *Additional verification for able-bodied adults subject to the time limit.* (A) *Hours worked.* For individuals subject to the food stamp time limit of § 273.24 who are satisfying the work requirement by working, by combining work and participation in a work program, or by participating in a work or workfare program that is not operated or supervised by the State agency, the individuals' work hours shall be verified.

(B) *Countable months in another state.* For individuals subject to the food stamp time limit of § 273.24, the State agency must verify the number of countable months (as defined in § 273.24(b)(1)) an individual has used in another State if there is an indication that the individual participated in that State. The normal processing standards of 7 CFR 273.2(g) apply. The State agency may accept another State agency's assertion as to the number of countable months an individual has used in another State.

(2) *Verification of questionable information.* (i) The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level. The State agency shall establish guidelines to be followed in determining what shall be considered questionable information.

These guidelines shall not prescribe verification based on race, religion, ethnic background, or national origin. These guidelines shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision.

(ii) If a member's citizenship or status as a non-citizen national is questionable, the State agency must verify the member's citizenship or non-citizen national status in accordance with attachment 4 of the DOJ Interim Guidance. After DOJ issues final rules, State agencies should consult both the Interim Guidance and the final rule. Where the Interim Guidance and the DOJ final rule conflict, the latter should control the eligibility determination. The State agency must accept participation in another program as acceptable verification if verification of citizenship or non-citizen national status was obtained for that program. If the household cannot obtain the forms of verification suggested in attachment 4 of the DOJ Interim Guidance and the household can provide a reasonable explanation as to why verification is not available, the State agency must accept a signed statement, under penalty of perjury, from a third party indicating a reasonable basis for personal knowledge that the member in question is a U.S. citizen or non-citizen national. The signed statement must contain a warning of the penalties for helping someone commit fraud. Absent verification or third party attestation of U.S. citizenship or non-citizen national status, the member whose citizenship or non-citizen national status is in question is ineligible to participate until the issue is resolved. The member whose citizenship or non-citizen national status is in question will have his or her income and resources considered available to any remaining household members as set forth in § 273.11(c).

(3) *State agency options.* In addition to the verification required in paragraphs (f)(1) and (f)(2) of this section, the State agency may elect to mandate verification of any other factor which affects household eligibility or allotment level, including household size where not questionable. Such verification may be required Statewide

or throughout a project area, but shall not be imposed on a selective, case-by-case basis on particular households.

(i) The State agency may establish its own standards for the use of verification, provided that, at a minimum, all questionable factors are verified in accordance with paragraph (f)(2) of this section and that such standards do not allow for inadvertent discrimination. For example, no standard may be applied which prescribes variances in verification based on race, religion, ethnic background or national origin, nor may a State standard target groups such as migrant farmworkers or American Indians for more intensive verification than other households. The options specified in this paragraph, shall not apply in those offices of the Social Security Administration (SSA) which, in accordance with paragraph (k) of this section, provide for the food stamp certification of households containing recipients of Supplemental Security Income (SSI) and social security benefits. The State agency, however, may negotiate with those SSA offices with regard to mandating verification of these options.

(ii) If a State agency opts to verify a deductible expense and obtaining the verification may delay the household's certification, the State agency shall advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. This provision also applies to the allowance of medical expenses as specified in paragraph (f)(1)(iv) of this section. Shelter costs would be computed without including the unverified components. The standard utility allowance shall be used if the household is entitled to claim it and has not verified higher actual costs. If the expense cannot be verified within 30 days of the date of application, the State agency shall determine the household's eligibility and benefit level without providing a deduction of the unverified expense. If the household subsequently provides the missing verification, the State agency shall redetermine the household's benefits, and provide increased benefits, if any, in accordance with the timeliness standards in § 273.12 on reported changes. If the expense

could not be verified within the 30-day processing standard because the State agency failed to allow the household sufficient time, as defined in paragraph (h)(1) of this section, to verify the expense, the household shall be entitled to the restoration of benefits retroactive to the month of application, provided that the missing verification is supplied in accordance with paragraph (h)(3) of this section. If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in paragraph (h) of this section.

(4) *Sources of verification*—(i) *Documentary evidence*. State agencies shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as out-dated pay stubs) or identification papers that appear to be falsified.

(ii) *Collateral contacts*. A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. The State agency may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the State agency. Examples of

acceptable collateral contacts may include employers, landlords, social service agencies, migrant service agencies, and neighbors of the household who can be expected to provide accurate third-party verification. When talking with collateral contacts, State agencies should disclose only the information that is absolutely necessary to get the information being sought. State agencies should avoid disclosing that the household has applied for food stamps, nor should they disclose any information supplied by the household, especially information that is protected by §273.1(c), or suggest that the household is suspected of any wrong doing.

(iii) *Home visits.* Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, and the home visit is scheduled in advance with the household. Home visits are to be used on a case-by-case basis where the supplied documentation is insufficient. Simply because a household fits a profile of an error-prone household does not constitute lack of verification. State agencies shall assist households in obtaining sufficient verification in accordance with paragraph (c)(5) of this section.

(iv) *Discrepancies.* Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in §272.8, the State agency may obtain verification from a third party as specified in paragraph (f)(9)(v) of this section.

(v) *Homeless households.* Homeless households claiming actual shelter expenses or those with extremely low shelter costs may provide verification of their shelter expenses to qualify for the homeless shelter deduction if the State agency has such a deduction. If a homeless household has difficulty in

obtaining traditional types of verification of shelter costs, the caseworker shall use prudent judgment in determining if the verification obtained is adequate. For example, if a homeless individual claims to have incurred shelter costs for several nights and the costs are comparable to costs typically incurred by homeless people for shelter, the caseworker may decide to accept this information as adequate information and not require further verification.

(5) *Responsibility of obtaining verification.* (i) The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information. The State agency must assist the household in obtaining this verification provided the household is cooperating with the State agency as specified under paragraph (d)(1) of this section. Households may supply documentary evidence in person, through the mail, by facsimile or other electronic device, or through an authorized representative. The State agency must not require the household to present verification in person at the food stamp office. The State agency must accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application.

(ii) Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, the State agency may require a collateral contact or a home visit in accordance with paragraph (f)(4) of this section. The State agency, generally, shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the State agency shall either designate another collateral contact, ask the household to designate

another collateral contact or to provide an alternative form of verification, or substitute a home visit. The State agency is responsible for obtaining verification from acceptable collateral contacts.

(6) *Documentation.* Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

(7) *State Data Exchange and Beneficiary Data Exchange.* The State agency may verify SSI benefits through the State Data Exchange (SDX), and Social Security benefit information through the Beneficiary Data Exchange (BENDEX), or through verification provided by the household. The State agency may use SDX and BENDEX data to verify other food stamp eligibility criteria. The State agency may access SDX and BENDEX data without release statements from households, provided the State agency makes the appropriate data request to SSA and executes the necessary data exchange agreements with SSA. The household shall be given an opportunity to verify the information from another source if the SDX or BENDEX information is contradictory to the information provided by the household or is unavailable. Determination of the household's eligibility and benefit level shall not be delayed past the application processing time standards of paragraph (g) of this section if SDX or BENDEX data is unavailable.

(8) *Verification subsequent to initial certification—(i) Recertification.* (A) At recertification the State agency shall verify a change in income if the source has changed or the amount has changed by more than \$50. Previously unreported medical expenses, actual utility expenses and total recurring medical expenses which have changed by more than \$25 shall also be verified at recertification. The State agency shall not verify income if the source has not changed and if the amount is unchanged or has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify total medical expenses, or actual

utility expenses claimed by households which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. For households eligible for the child support deduction or exclusion, the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. A household would not have to provide any additional verification unless they disagreed with the information provided by the State CSE agency. State agencies that choose to use information provided by their State CSE agency in accordance with this paragraph (f)(8)(i)(A) must specify in their State plan of operation that they have selected this option. For all other households eligible for the child support deduction or exclusion, the State agency shall require the household to verify any changes in the legal obligation to pay child support, the obligated amount, and the amount of legally obligated child support a household member pays to a nonhousehold member. The State agency shall verify reportedly unchanged child support information only if the information is incomplete, inaccurate, inconsistent or outdated.

(B) Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in §273.2(f)(1)(v).

(C) For individuals subject to the food stamp time limit of §273.24 who are satisfying the work requirement by working, by combining work and participation in a work program, or by participating in a work program that is not operated or supervised by the State agency, the individuals' work hours shall be verified.

(D) Other information which has changed may be verified at recertification. Unchanged information shall not be verified unless the information is incomplete, inaccurate, inconsistent or outdated. Verification under this

paragraph shall be subject to the same verification procedures as apply during initial verification.

(ii) *Changes.* Changes reported during the certification period shall be subject to the same verification procedures as apply at initial certification, except that the State agency shall not verify changes in income if the source has not changed and if the amount has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify total medical expenses or actual utility expenses which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated.

(9) *Optional use of IEVS.* (i) The State agency may obtain information through IEVS in accordance with procedures specified in §272.8 of this chapter and use it to verify the eligibility and benefit levels of applicants and participating households.

(ii) The State agency may access data through the IEVS provided the disclosure safeguards and data exchange agreements required by part 272 are satisfied.

(iii) The State agency shall take action, including proper notices to households, to terminate, deny, or reduce benefits based on information obtained through the IEVS which is considered verified upon receipt. This information is social security and SSI benefit information obtained from SSA, and TANF benefit information and UIB information obtained from the agencies administering those programs. If the State agency has information that the IEVS-obtained information about a particular household is questionable, this information shall be considered unverified upon receipt and the State agency shall take action as specified in paragraph (f)(9)(iv) of this section.

(iv) Except as noted in this paragraph, prior to taking action to terminate, deny, or reduce benefits based on information obtained through the IEVS which is considered unverified upon receipt, State agencies shall independently verify the information. Such unverified information is unearned income information from IRS, wage information from SSA and SWICAs, and questionable IEVS information dis-

cussed in paragraph (f)(9)(iii) of this section. Independent verification shall include verification of the amount of the asset or income involved, whether the household actually has or had access to such asset or income such that it would be countable income or resources for food stamp purposes, and the period during which such access occurred. Except with respect to unearned income information from IRS, if a State agency has information which indicates that independent verification is not needed, such verification is not required.

(v) The State agency shall obtain independent verification of unverified information obtained from IEVS by means of contacting the household and/or the appropriate income, resource or benefit source. If the State agency chooses to contact the household, it must do so in writing, informing the household of the information which it has received, and requesting that the household respond within 10 days. If the household fails to respond in a timely manner, the State agency shall send it a notice of adverse action as specified in §273.13. The State agency may contact the appropriate source by the means best suited to the situation. When the household or appropriate source provides the independent verification, the State agency shall properly notify the household of the action it intends to take and provide the household with an opportunity to request a fair hearing prior to any adverse action.

(10) *Optional use of SAVE.* Households are required to submit documents to verify the immigration status of applicant aliens. State agencies that verify the validity of such documents through the INS SAVE system in accordance with §272.11 of this chapter must use the following procedures:

(i) The State agency shall provide an applicant alien with a reasonable opportunity to submit acceptable documentation of their eligible alien status prior to the 30th day following the date of application. A reasonable opportunity shall be at least 10 days from the date of the State agency's request for an acceptable document. An alien

who has been given a reasonable opportunity to submit acceptable documentation and has not done so as of the 30th day following the date of application shall not be certified for benefits until acceptable documentation has been submitted. However, if the 10-day reasonable opportunity period provided by the State agency does not lapse before the 30th day following the date of application, the State agency shall provide the household with benefits no later than 30 days following the date of application *Provided* the household is otherwise eligible.

(ii) The written consent of the alien applicant shall not be required as a condition for the State agency to contact INS to verify the validity of documentation.

(iii) State agencies which access the ASVI database through an automated access shall also submit INS Form G-845, with an attached photocopy of the alien's document, to INS whenever the initial automated access does not confirm the validity of the alien's documentation or a significant discrepancy exists between the data provided by the ASVI and the information provided by the applicant. Pending such responses from either the ASVI or INS Form G-845, the State agency shall not delay, deny, reduce, or terminate the alien's eligibility for benefits on the basis of the individual's alien status.

(iv) If the State agency determines, after complying with the requirements of this section, that the alien is not in an eligible alien status, the State agency shall take action, including proper notices to the household, to terminate, deny or reduce benefits. The State agency shall provide households the opportunity to request a fair hearing under § 273.15 prior to any adverse action.

(v) The use of SAVE shall be documented in the casefile or other agency records. When the State agency is waiting for a response from SAVE, agency records shall contain either a notation showing the date of the State agency's transmission or a copy of the INS Form G-845 sent to INS. Once the SAVE response is received, agency records shall show documentation of the ASVI Query Verification Number or contain a copy of the INS-annotated

Form G-845. Whenever the response from automated access to the ASVI directs the eligibility worker to initiate secondary verification, agency records shall show documentation of the ASVI Query Verification Number and contain a copy of the INS Form G-845.

(11) *Use of disqualification data.* (i) Pursuant to § 273.16(i), information in the disqualified recipient database will be available for use by any State agency that executes a computer matching agreement with FNS. The State agency shall use the disqualified recipient database for the following purposes:

(A) Ascertain the appropriate penalty to impose based on past disqualifications in a case under consideration;

(B) Conduct matches as specified in § 273.16 on:

(1) Program application information prior to certification and for a newly added household member whenever that might occur; and

(2) The current recipient caseload at the time of recertification for a period of 1 year after the implementation date of this match. State agencies do not need to include minors, as that term is defined by each State.

(3) States having the ability to conduct a one-time match of their entire active caseload against active cases from the disqualified recipient database may do so and be exempted from the 1-year requirement to conduct matches at recertification.

(ii) State agencies shall not take any adverse action to terminate, deny, suspend, or reduce benefits to an applicant, or SNAP recipient, based on disqualified recipient match results unless the match information has been independently verified. The State agency shall provide to an applicant, or recipient, an opportunity to contest any adverse disqualified recipient match result pursuant to the provisions of § 273.13.

(iii) Independent verification shall take place separate from and prior to issuing a notice of adverse action—a two-step process. Independent verification for disqualification purposes means contacting the applicant or recipient household and/or the State agency that originated the disqualification record immediately to obtain

corroborating information or documentation to support the reported disqualification information in the intentional Program violation database.

(A) Documentation may be in any form deemed appropriate and legally sufficient by the State agency considering the adverse action. Such documentation may include, but shall not be limited to, electronic or hard copies of court decisions, administrative disqualification hearing determinations, signed disqualification consent agreements or administrative disqualification hearing waivers.

(B) A State may accept a verbal or written statement from another State agency attesting to the existence of the documentation listed in paragraph (f)(11)(iii)(A) of this section.

(C) A State may accept a verbal or written statement from the household affirming the accuracy of the disqualification information if such a statement is properly documented and included in the case record.

(D) If a State agency is not able to provide independent verification because of a lack of supporting documentation, the State agency shall so advise the requesting State agency or FNS, as appropriate, and shall take immediate action to remove the unsupported record from the disqualified recipient database in accordance with § 273.16(i)(6).

(iv) Once independent verification has been received, the requesting State agency shall review and immediately enter the information into the case record and send the appropriate notice(s) to the record subject and any remaining members of the record subject's SNAP household.

(v) Information from the disqualified recipient database is subject to the disclosure provisions in § 272.1(c) of this chapter and the routine uses described in the most recent "Notice of Revision of Privacy Act System of Records" published in the FEDERAL REGISTER.

(g) *Normal processing standard*—(1) *Thirty-day processing.* The State agency shall provide eligible households that complete the initial application process an opportunity to participate (as defined in § 274.2(b)) as soon as possible, but no later than 30 calendar days following the date the application was

filed, except for residents of public institutions who apply jointly for SSI and food stamp benefits prior to release from the institution in accordance with § 273.1(e)(2). An application is filed the day the appropriate food stamp office receives an application containing the applicant's name and address, which is signed by either a responsible member of the household or the household's authorized representative. Households entitled to expedited processing are specified in paragraph (i) of this section. For residents of public institutions who apply for food stamps prior to their release from the institution in accordance with § 273.1(e)(2), the State agency shall provide an opportunity to participate as soon as possible, but not later than 30 calendar days from the date of release of the applicant from the institution.

(2) *Combined allotments.* Households which apply for initial month benefits (as described in § 273.10(a)) after the 15th of the month, are processed under normal processing timeframes, have completed the application process within 30 days of the date of application, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month, may be issued a combined allotment at State agency option which includes prorated benefits for the month of application and benefits for the first full month of participation. The benefits shall be issued in accordance with § 274.2(c) of this chapter.

(3) *Denying the application.* Households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than 30 days following the date the application was filed. If the household has failed to appear for a scheduled interview and has made no subsequent contact with the State agency to express interest in pursuing the application, the State agency shall send the household a notice of denial on the 30th day following the date of application. The household must file a new application if it wishes to participate in the program. In cases where the State agency was able to conduct an interview and request all of the necessary verification on the same day the application was filed, and no subsequent requests for verification have

been made, the State agency may also deny the application on the 30th day if the State agency provided assistance to the household in obtaining verification as specified in paragraph (f)(5) of this section, but the household failed to provide the requested verification.

(h) *Delays in processing.* If the State agency does not determine a household's eligibility and provide an opportunity to participate within 30 days following the date the application was filed, the State agency shall take the following action:

(1) *Determining cause.* The State agency shall first determine the cause of the delay using the following criteria:

(i) A delay shall be considered the fault of the household if the household has failed to complete the application process even though the State agency has taken all the action it is required to take to assist the household. The State agency must have taken the following actions before a delay can be considered the fault of the household:

(A) For households that have failed to complete the application form, the State agency must have offered, or attempted to offer, assistance in its completion.

(B) If one or more members of the household have failed to register for work, as required in § 273.7, the State agency must have informed the household of the need to register for work, determined if the household members are exempt from work registration, and given the household at least 10 days from the date of notification to register these members.

(C) In cases where verification is incomplete, the State agency must have provided the household with a statement of required verification and offered to assist the household in obtaining required verification and allowed the household sufficient time to provide the missing verification. Sufficient time shall be at least 10 days from the date of the State agency's initial request for the particular verification that was missing.

(D) For households that have failed to appear for an interview, the State agency must notify the household that it missed the scheduled interview and that the household is responsible for

rescheduling a missed interview. If the household contacts the State agency within the 30 day processing period, the State agency must schedule a second interview. If the household fails to schedule a second interview, or the subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the 20th day but before the 30th day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the 30th day; otherwise, the delay shall be the fault of the household. If the household has failed to appear for the first interview, fails to schedule a second interview, and/or the subsequent interview is postponed at the household's request until after the 30th day following the date the application was filed, the delay shall be the fault of the household. If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.

(ii) Delays that are the fault of the State agency include, but are not limited to, those cases where the State agency failed to take the actions described in paragraphs (h)(1)(i) (A) through (D) of this section.

(2) *Delays caused by the household.* (i) If by the 30th day the State agency cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application. However, the State agency shall give the household an additional 30 days to take the required action, except that, if verification is lacking, the State agency has the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing.

(A) The State agency has the option of sending the household either a notice of denial or a notice of pending status on the 30th day. The option chosen may vary from one project area to another, provided the same procedures apply to all households within a project area. However, if a notice of denial is sent and the household takes the required action within 60 days following the date the application was

filed, the State agency shall reopen the case without requiring a new application. No further action by the State agency is required after the notice of denial or pending status is sent if the household failed to take the required action within 60 days following the date the application was filed, or if the State agency chooses the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing, and the household fails to provide the necessary verification by this 30th day.

(B) State agencies may include in the notice a request that the household report all changes in circumstances since it filed its application. The information that must be contained on the notice of denial or pending status is explained in § 273.10(g)(1) (i) and (iii).

(ii) If the household was at fault for the delay in the first 30-day period, but is found to be eligible during the second 30-day period, the State agency shall provide benefits only from the month following the month of application. The household is not entitled to benefits for the month of application when the delay was the fault of the household.

(3) *Delays caused by the State agency.*

(i) Whenever a delay in the initial 30-day period is the fault of the State agency, the State agency shall take immediate corrective action. Except as specified in §§ 273.2(f)(1)(i)(F) and 273.2(f)(10)(i), the State agency shall not deny the application if it caused the delay, but shall instead notify the household by the 30th day following the date the application was filed that its application is being held pending. The State agency shall also notify the household of any action it must take to complete the application process. If verification is lacking the State agency has the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing.

(ii) If the household is found to be eligible during the second 30-day period, the household shall be entitled to benefits retroactive to the month of application. If, however, the household is

found to be ineligible, the State agency shall deny the application.

(4) *Delays beyond 60 days.* (i) If the State agency is at fault for not completing the application process by the end of the second 30-day period, and the case file is otherwise complete, the State agency shall continue to process the original application until an eligibility determination is reached. If the household is determined eligible, and the State agency was at fault for the delay in the initial 30 days, the household shall receive benefits retroactive to the month of application. However, if the initial delay was the household's fault, the household shall receive benefits retroactive only to the month following the month of application. The State agency may use the original application to determine the household's eligibility in the months following the 60-day period, or it may require the household to file a new application.

(ii) If the State agency is at fault for not completing the application process by the end of the second 30-day period, but the case file is not complete enough to reach an eligibility determination, the State agency may continue to process the original application, or deny the case and notify the household to file a new application. If the case is denied, the household shall also be advised of its possible entitlement to benefits lost as a result of State agency caused delays in accordance with § 273.17. If the State agency was also at fault for the delay in the initial 30 days, the amount of benefits lost would be calculated from the month of application. If, however, the household was at fault for the initial delay, the amount of benefits lost would be calculated from the month following the month of application.

(iii) If the household is at fault for not completing the application process by the end of the second 30-day period, the State agency shall deny the application and require the household to file a new application if it wishes to participate. If however, the State agency has chosen the option of holding the application pending only until 30 days following the date of the initial request for the particular verification that was missing, and verification is not received by that 30th day, the State

agency may immediately close the application. A notice of denial need not be sent if the notice of pending status informed the household that it would have to file a new application if verification was not received within 30 days of the initial request. The household shall not be entitled to any lost benefits, even if the delay in the initial 30 days was the fault of the State agency.

(i) *Expedited service*—(1) *Entitlement to expedited service.* The following households are entitled to expedited service:

(i) Households with less than \$150 in monthly gross income, as computed in § 273.10 provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, and lump sum payments as specified in § 273.9(c)(8)) do not exceed \$100;

(ii) Migrant or seasonal farmworker households who are destitute as defined in § 273.10(e)(3) provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, and lump sum payments as specified in § 273.9(c)(8)) do not exceed \$100;

(iii) Households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage, and utilities (including entitlement to a SUA, as appropriate, in accordance with § 273.9(d)).

(2) *Identifying households needing expedited service.* The State agency's application procedures shall be designed to identify households eligible for expedited service at the time the household requests assistance. For example, a receptionist, volunteer, or other employee shall be responsible for screening applications as they are filed or as individuals come in to apply.

(3) *Processing standards.* All households receiving expedited service, except those receiving it during months in which allotments are suspended or cancelled, shall have their cases processed in accordance with the following provisions. Those households receiving expedited service during suspensions or cancellations shall have their cases processed in accordance with the provisions of § 271.7(e)(2).

(i) *General.* For households entitled to expedited service, the State agency shall make available to the recipient

coupons or an ATP card not later than the seventh calendar day following the date an application was filed. For a resident of a public institution who applies for benefits prior to his/her release from the institution in accordance with § 273.1(e)(2) and who is entitled to expedited service, the date of filing of his/her food stamp application is the date of release of the applicant from the institution. Whatever system a State agency uses to ensure meeting this delivery standard shall be designed to allow a reasonable opportunity for redemption of ATPs no later than the seventh calendar day following the day the application was filed.

(ii) *Drug addicts and alcoholics, group living arrangement facilities.* For residents of drug addiction or alcoholic treatment and rehabilitation centers and residents of group living arrangements who are entitled to expedited service, the State agency shall make available to the recipient coupons or an ATP card not later than the 7 calendar days following the date an application was filed.

(iii) *Out-of-office interviews.* If a household is entitled to expedited service and is also entitled to a waiver of the office interview, the State agency shall conduct the interview (unless the household cannot be reached) and complete the application process within the expedited service standards. The first day of this count is the calendar day following application filing. If the State agency conducts a telephone interview and must mail the application to the household for signature, the mailing time involved will not be calculated in the expedited service standards. Mailing time shall only include the days the application is in the mail to and from the household and the days the application is in the household's possession pending signature and mailing.

(iv) *Late determinations.* If the prescreening required in paragraph (i)(2) of this section fails to identify a household as being entitled to expedited service and the State agency subsequently discovers that the household is entitled to expedited service, the State agency shall provide expedited

service to households within the processing standards described in paragraphs (i)(3) (i) and (ii) of this section, except that the processing standard shall be calculated from the date the State agency discovers the household is entitled to expedited service.

(v) *Residents of shelters for battered women and children.* Residents of shelters for battered women and children who are otherwise entitled to expedited service shall be handled in accordance with the time limits in paragraph (i)(3)(i) of this section.

(4) *Special procedures for expediting service.* The State agency shall use the following procedures when expediting certification and issuance:

(i) In order to expedite the certification process, the State agency shall use the following procedures:

(A) In all cases, the applicant's identity (i.e., the identity of the person making the application) shall be verified through a collateral contact or readily available documentary evidence as specified in paragraph (f)(1) of this section.

(B) All reasonable efforts shall be made to verify within the expedited processing standards, the household's residency in accordance with § 273.2(f)(1)(vi), income statement (including a statement that the household has no income), liquid resources and all other factors required by § 273.2(f), through collateral contacts or readily available documentary evidence. However, benefits shall not be delayed beyond the delivery standards prescribed in paragraph (i)(3) of this section, solely because these eligibility factors have not been verified.

State agencies also may verify factors other than identity, residency, and income provided that verification can be accomplished within expedited processing standards. State agencies should attempt to obtain as much additional verification as possible during the interview, but should not delay the certification of households entitled to expedited service for the full timeframes specified in paragraph (i)(3) of this section when the State agency has determined it is unlikely that other verification can be obtained within these timeframes. Households entitled to expedited service will be asked to

furnish a social security number for each person applying for benefits or apply for one for each person applying for benefits before the second full month of participation. Those household members unable to provide the required SSN's or who do not have one prior to the second full month of participation shall be allowed to continue to participate only if they satisfy the good cause requirements with respect to SSN's specified in § 273.6(d), except that households with a newborn may have up to 6 months following the month the baby was born to supply an SSN or proof of an application for an SSN for the newborn in accordance with § 273.6(b)(4). The State agency may attempt to register other household members but shall postpone the registration of other household members if it cannot be accomplished within the expedited service timeframes. With regard to the work registration requirements specified in § 273.7, the State agency shall, at a minimum, require the applicant to register (unless exempt or unless the household has designated an authorized representative to apply on its behalf in accordance with § 273.1(f)). The State agency may attempt registration of other household members by requesting that the applicant complete the work registration forms for other household members to the best of his or her ability. The State agency may also attempt to accomplish work registration for other household members in a timely manner through other means, such as calling the household. The State agency may attempt to verify questionable work registration exemptions, but such verification shall be postponed if the expedited service timeframes cannot be met.

(ii) Once an acceptable collateral contact has been designated, the State agency shall promptly contact the collateral contact, in accordance with the provisions of paragraph (f)(4)(ii) of this section. Although the household has the primary responsibility for providing other types of verification, the State agency shall assist the household in promptly obtaining the necessary verification.

(iii) Households that are certified on an expedited basis and have provided

§ 273.2

7 CFR Ch. II (1-1-15 Edition)

all necessary verification required in paragraph (f) of this section prior to certification shall be assigned normal certification periods. If verification was postponed, the State agency may certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or, at the State agency's option, may assign normal certification periods to those households whose circumstances would otherwise warrant longer certification periods. State agencies, at their option, may request any household eligible for expedited service which applies after the 15th of the month and is certified for the month of application and the subsequent month only to submit a second application (at the time of the initial certification) if the household's verification is postponed.

(A) For households applying on or before the 15th of the month, the State agency may assign a one-month certification period or assign a normal certification period. Satisfaction of the verification requirements may be postponed until the second month of participation. If a one-month certification period is assigned, the notice of eligibility may be combined with the notice of expiration or a separate notice may be sent. The notice of eligibility must explain that the household has to satisfy all verification requirements that were postponed. For subsequent months, the household must reapply and satisfy all verification requirements which were postponed or be certified under normal processing standards. If the household does not satisfy the postponed verification requirements and does not appear for the interview, the State agency does not need to contact the household again.

(B) For households applying after the 15th of the month, the State agency may assign a 2-month certification period or a normal certification period of no more than 12 months. Verification may be postponed until the third month of participation, if necessary, to meet the expedited timeframe. If a two-month certification period is assigned, the notice of eligibility may be combined with the notice of expiration or a separate notice may be sent. The

notice of eligibility must explain that the household is obligated to satisfy the verification requirements that were postponed. For subsequent months, the household must reapply and satisfy the verification requirements which were postponed or be certified under normal processing standards. If the household does not satisfy the postponed verification requirements and does not attend the interview, the State agency does not need to contact the household again. When a certification period of longer than 2 months is assigned and verification is postponed, households must be sent a notice of eligibility advising that no benefits for the third month will be issued until the postponed verification requirements are satisfied. The notice must also advise the household that if the verification process results in changes in the household's eligibility or level of benefits, the State agency will act on those changes without advance notice of adverse action.

(C) Households which apply for initial benefits (as described in §273.10(a)) after the 15th of the month, are entitled to expedited service, have completed the application process, and have been determined eligible to receive benefits for the initial month and the next subsequent month, shall receive a combined allotment consisting of prorated benefits for the initial month of application and benefits for the first full month of participation within the expedited service timeframe. If necessary, verification shall be postponed to meet the expedited timeframe. The benefits shall be issued in accordance with §274.2(c) of this chapter.

(D) The provisions of paragraph (i)(4)(iii)(C) of this section do not apply to households which have been determined ineligible to receive benefits for the month of application or the following month, or to households which have not satisfied the postponed verification requirements. However, households eligible for expedited service may receive benefits for the initial month and next subsequent month under the verification standards of paragraph (i)(4) of this section.

(E) If the State agency chooses to exercise the option to require a second

application in accordance with paragraph (i)(4)(iii) of this section and receives the application before the third month, it shall not deny the application but hold it pending until the third month. The State agency will issue the third month's benefits within 5 working days from receipt of the necessary verification information but not before the first day of the month. If the postponed verification requirements are not completed before the end of the third month, the State agency shall terminate the household's participation and shall issue no further benefits.

(iv) There is no limit to the number of times a household can be certified under expedited procedures, as long as prior to each expedited certification, the household either completes the verification requirements that were postponed at the last expedited certification or was certified under normal processing standards since the last expedited certification. The provisions of this section shall not apply at recertification if a household reapplies before the end of its current certification period.

(v) Households requesting, but not entitled to, expedited service shall have their applications processed according to normal standards.

(j) *PA, GA and categorically eligible households.* The State agency must notify households applying for public assistance (PA) of their right to apply for food stamp benefits at the same time and must allow them to apply for food stamp benefits at the same time they apply for PA benefits. The State agency must also notify such households that time limits or other requirements that apply to the receipt of PA benefits do not apply to the receipt of food stamp benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for food stamp benefits. If the State agency attempts to discourage households from applying for cash assistance, it shall make clear that the disadvantages and requirements of applying for cash assistance do not apply to food stamps. In addition, it shall encourage applicants to continue with their application for food stamps. The State agency shall in-

form households that receiving food stamps will have no bearing on any other program's time limits that may apply to the household. The State agency may process the applications of such households in accordance with the requirements of paragraph (j)(1) of this section, and the State agency must base their eligibility solely on food stamp eligibility criteria unless the household is categorically eligible, as provided in paragraph (j)(2) of this section. If a State has a single Statewide GA application form, households in which all members are included in a State or local GA grant may have their application for food stamps included in the GA application form. State agencies may use the joint application processing procedures described in paragraph (j)(1) of this section for GA recipients in accordance with paragraph (j)(3) of this section. The State agency must base eligibility of jointly processed GA households solely on food stamp eligibility criteria unless the household is categorically eligible as provided in paragraph (j)(4) of this section. The State agency must base the benefit levels of all households solely on food stamp criteria. The State agency must certify jointly processed and categorically eligible households in accordance with food stamp procedural, timeliness, and notice requirements, including the 7-day expedited service provisions of paragraph (i) of this section and normal 30-day application processing standards of paragraph (g) of this section. Individuals authorized to receive PA, SSI, or GA benefits but who have not yet received payment are considered recipients of benefits from those programs. In addition, individuals are considered recipients of PA, SSI, or GA if their PA, SSI, or GA benefits are suspended or recouped. Individuals entitled to PA, SSI, or GA benefits but who are not paid such benefits because the grant is less than a minimum benefit are also considered recipients. The State agency may not consider as recipients those individuals not receiving GA, PA, or SSI benefits who are entitled to Medicaid only.

(1) *Applicant PA households.* (i) If a joint PA/food stamp application is used, the application may contain all

§ 273.2

7 CFR Ch. II (1-1-15 Edition)

the information necessary to determine a household's food stamp eligibility and level of benefits. Information relevant only to food stamp eligibility must be contained in the PA form or must be an attachment to it. The joint PA/food stamp application must clearly indicate that the household is providing information for both programs, is subject to the criminal penalties of both programs for making false statements, and waives the notice of adverse action as specified in paragraph (j)(1)(iv) of this section.

(ii) The State agency may conduct a single interview at initial application for both public assistance and food stamp purposes. A household's eligibility for food stamp out-of-office interview provisions in paragraph (e)(2) of this section does not relieve the household of any responsibility for a face-to-face interview to be certified for PA.

(iii) For households applying for both PA and food stamps, the State agency must follow the verification procedures described in paragraphs (f)(1) through (f)(8) of this section for those factors of eligibility which are needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility which are needed to determine both PA eligibility and food stamp eligibility, the State agency may use the PA verification rules. However, if the household has provided the State agency sufficient verification to meet the verification requirements of paragraphs (f)(1) through (f)(8) of this section, but has failed to provide sufficient verification to meet the PA verification rules, the State agency may not use such failure as a basis for denying the household's food stamp application or failing to comply with processing requirements of paragraph (g) of this section. Under these circumstances, the State agency must process the household's food stamp application and determine eligibility based on its compliance with the requirements of paragraphs (f)(1) through (f)(8) of this section.

(iv) In order to determine if a household will be eligible due to its status as a recipient PA/SSI household, the State agency may temporarily post-

pone, within the 30-day processing standard, the food stamp eligibility determination if the household is not entitled to expedited service and appears to be categorically eligible. However, the State agency shall postpone denying a potentially categorically eligible household until the 30th day in case the household is determined eligible to receive PA benefits. Once the PA application is approved, the household is to be considered categorically eligible if it meets all the criteria concerning categorical eligibility in § 273.2(j)(2). If the State agency can anticipate the amount and the date of receipt of the initial PA payment, but the payment will not be received until a subsequent month, the State agency shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and notify the household. Portions of initial PA payments intended to retroactively cover a previous month shall be disregarded as lump sum payments under § 273.9(c)(8). If the amount or date of receipt of the initial PA payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the PA payments shall be handled as a change in circumstances. However, the State agency is not required to send a notice of adverse action if the receipt of the PA grant reduces, suspends or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced, suspended, or terminated when the grant is received. The case may be terminated if the household is not categorically eligible in accordance with § 273.12(c). The State agency shall ensure that the denied application of a potentially categorically eligible household is easily retrievable. For a household filing a joint application for food stamps and PA benefits or a household that has a PA application pending and is denied food stamps but is later determined eligible to receive PA benefits and is otherwise categorically eligible, the State agency shall provide benefits using the original application and any other pertinent information occurring subsequent to that application. Except for residents of public institutions who apply jointly for SSI and food stamp benefits prior

to their release from a public institution in accordance with §273.1(e)(2), benefits shall be paid from the beginning of the period for which PA or SSI benefits are paid, the original food stamp application date, or December 23, 1985 whichever is later. Residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution shall be paid benefits from the date of their release from the institution. In situations where the State agency must update and reevaluate the original application of a denied case, the State agency shall not reinterview the household, but shall use any available information to update the application. The State agency shall then contact the household by phone or mail to explain and confirm changes made by the State agency and to determine if other changes in household circumstances have occurred. If any information obtained from the household differs from that which the State agency obtained from available information or the household provided additional changes in information, the State agency shall arrange for the household or its authorized representative to initial *all* changes, re-sign and date the updated application and provide necessary verification. In no event can benefits be provided prior to the date of the original food stamp application filed on or after December 23, 1985. Any household that is determined to be eligible to receive PA benefits for a period of time within the 30-day food stamp processing time, shall be provided food stamp benefits back to the date of the food stamp application. However, in no event shall food stamp benefits be paid for a month for which such household is ineligible for receipt of any PA benefits for the month, unless the household is eligible for food stamp benefits and an NPA case. Benefits shall be prorated in accordance with §273.10(a)(1)(ii) and (e)(2)(ii)(B). Household that file joint applications that are found categorically eligible after being denied NPA food stamps shall have their benefits for the initial month prorated from the date from which the PA benefits are payable, or the date of the original food stamp application, whichever is later. The State

agency shall act on reevaluating the original application either at the household's request or when it becomes otherwise aware of the household's PA and/or SSI eligibility. The household shall be informed on the notice of denial required by §273.10(g)(1)(ii) to notify the State agency if its PA or SSI benefits are approved.

(v) The State agency may not require households which file a joint PA/food stamp application and whose PA applications are denied to file new food stamp applications. Rather, the State agency must determine or continue their food stamp eligibility on the basis of the original applications filed jointly for PA and food stamp purposes. In addition, the State agency must use any other documented information obtained subsequent to the application which may have been used in the PA determination and which is relevant to food stamp eligibility or level of benefits.

(2) *Categorically eligible PA and SSI households.* (i) The following households are categorically eligible for food stamps unless the entire household is institutionalized as defined in §273.1(e) or disqualified for any reason from receiving food stamps.

(A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive cash through a PA program funded in full or in part with Federal money under Title IV-A or with State money counted for maintenance of effort (MOE) purposes under Title IV-A;

(B) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind benefits or services from a program that is more than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to forward purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193.

(C) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind benefits or services from a program that is more than 50 percent

funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes three and four of the TANF block grant, as set forth in Section 401 of P.L. 104-193, and requires participants to have a gross monthly income at or below 200 percent of the Federal poverty level.

(D) Any household in which all members receive or are authorized to receive SSI benefits, except that residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution in accordance with §273.1(e)(2), are not categorically eligible upon a finding by SSA of potential SSI eligibility prior to such release. The State agency must consider the individuals categorically eligible at such time as SSA makes a final SSI eligibility and the institution has released the individual.

(E) Any household in which all members receive or are authorized to receive PA and/or SSI benefits in accordance with paragraphs (j)(2)(i)(A) through (j)(2)(i)(D) of this section.

(ii) The State agency, at its option, may extend categorical eligibility to the following households only if doing so will further the purposes of the Food Stamp Act:

(A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed to further purposes one and two of the TANF block grant, as set forth in Section 401 of P.L. 104-193. States must inform FNS of the TANF services under this paragraph that they are determining to confer categorical eligibility.

(B) Subject to FNS approval, any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive or are authorized to receive non-cash or in-kind services from a program that is less than 50 percent funded with State money counted for MOE purposes under Title IV-A or Federal money under Title IV-A and that is designed

to further purposes three and four of the TANF block grant, as set forth in Section 401 of P.L. 104-193, and requires participants to have a gross monthly income at or below 200 percent of the Federal poverty level.

(iii) Any household in which one member receives or is authorized to receive benefits according to paragraphs (j)(2)(i)(B), (j)(2)(i)(C), (j)(2)(ii)(A) and (j)(2)(ii)(B), of this section and the State agency determines that the whole household benefits.

(iv) For purposes of paragraphs (j)(2)(i), (j)(2)(ii), and (j)(2)(iii) of this section, "authorized to receive" means that an individual has been determined eligible for benefits and has been notified of this determination, even if the benefits have been authorized but not received, authorized but not accessed, suspended or recouped, or not paid because they are less than a minimum amount.

(v) The eligibility factors which are deemed for food stamp eligibility without the verification required in paragraph (f) of this section because of PA/SSI status are the resource, gross and net income limits; social security number information, sponsored alien information, and residency. However, the State agency must collect and verify factors relating to benefit determination that are not collected and verified by the other program if these factors are required to be verified under paragraph (f) of this section. If any of the following factors are questionable, the State agency must verify, in accordance with paragraph (f) of this section, that the household which is considered categorically eligible:

(A) Contains only members that are PA or SSI recipients as defined in the introductory paragraph (j) of this section;

(B) Meets the household definition in §273.1(a);

(C) Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for PA or SSI purposes; and

(D) Includes no persons who have been disqualified as provided for in paragraph (j)(2)(vi) of this section.

(vi) Households subject to retrospective budgeting that have been suspended for PA purposes as provided for in Temporary Assistance for Needy Families (TANF) regulations, or that receive zero benefits shall continue to be considered as authorized to receive benefits from the appropriate agency. Categorical eligibility shall be assumed at recertification in the absence of a timely PA redetermination. If a recertified household is subsequently terminated from PA benefits, the procedures in § 273.12(f)(3), (4), and (5) shall be followed, as appropriate.

(vii) Under no circumstances shall any household be considered categorically eligible if:

(A) Any member of that household is disqualified for an intentional Program violation in accordance with § 273.16 or for failure to comply with monthly reporting requirements in accordance with § 273.21;

(B) The entire household is disqualified because one or more of its members failed to comply with workfare in accordance with § 273.22; or

(C) The head of the household is disqualified for failure to comply with the work requirements in accordance with § 273.7.

(D) Any member of that household is ineligible under § 273.11(m) by virtue of a conviction for a drug-related felony.

(viii) These households are subject to all food stamp eligibility and benefits provisions (including the provisions of § 273.11(c)) and cannot be reinstated in the Program on the basis of categorical eligibility provisions.

(ix) No person shall be included as a member in any household which is otherwise categorically eligible if that person is:

(A) An ineligible alien as defined in § 273.4;

(B) Ineligible under the student provisions in § 273.5;

(C) An SSI recipient in a cash-out State as defined in § 273.20; or

(D) Institutionalized in a nonexempt facility as defined in § 273.1(e).

(E) Ineligible because of failure to comply with a work requirement of § 273.7.

(x) For the purposes of work registration, the exemptions in § 273.7(b) shall be applied to individuals in categori-

cally eligible households. Any such individual who is not exempt from work registration is subject to the other work requirements in § 273.7.

(xi) When determining eligibility for a categorically eligible household all provisions of this subchapter except for those listed below shall apply:

(A) Section 273.8 except for the last sentence of paragraph (a).

(B) Section 273.9(a) except for the fourth sentence in the introductory paragraph.

(C) Section 273.10(a)(1)(i).

(D) Section 273.10(b).

(E) Section 273.10(c) for the purposes of eligibility.

(3) *Applicant GA households.* (i) State agencies may use the joint application processing procedures in paragraph (j)(1) of this section for GA households, except for the effective date of categorical eligibility, when the criteria in paragraphs (j)(3)(i) (A) and (B) of this section are met. Benefits for GA households that are categorically eligible, as provided in paragraph (j)(4) of this section, shall be provided from the date of the original food stamp application, the beginning of the period for which GA benefits are authorized, or the effective date of State GA categorical eligibility (February 1, 1991) or local GA categorical eligibility (August 1, 1992), whichever is later:

(A) The State agency administers a GA program which uses formalized application procedures and eligibility criteria that test levels of income and resources; and,

(B) Administration of the GA program is integrated with the administration of the PA or food stamp programs, in that the same eligibility workers process applications for GA benefits and PA or food stamp benefits.

(ii) State agencies in which different eligibility workers process applications for GA benefits and PA or food stamp benefits, but procedures otherwise meet the criteria in paragraph (j)(3)(i) of this section may, with FNS approval, jointly process GA and food stamp applications. If approved, State agencies shall adhere to the joint application processing procedures in paragraph (j)(1) of this section, except for the effective date of categorical eligibility for GA households. Benefits

shall be provided GA households that are categorically eligible, as provided in paragraph (j)(4) of this section, from the date of the original food stamp application, the beginning of the period for which GA benefits are authorized, or the effective date of State GA categorical eligibility (February 1, 1992) or local GA categorical eligibility (August 1, 1992), whichever is later.

(4) *Categorically eligible GA households.* Households in which each member receives benefits from a State or local GA program which meets the criteria for conferring categorical eligibility in paragraph (j)(4)(i) of this section shall be categorically eligible for food stamps unless the individual or household is ineligible as specified in paragraph (j)(4)(iv) and (j)(4)(v) of this section.

(i) *Certification of qualifying programs.* Recipients of benefits from programs that meet the criteria in paragraphs (j)(4)(i)(A) through (j)(4)(i)(C) of this section shall be considered categorically eligible to receive benefits from the Food Stamp Program. If a program does not meet all of these criteria, the State agency may submit a program description to the appropriate FNS regional office for a determination. The description should contain, at a minimum, the type of assistance provided, the income eligibility standard, and the period for which the assistance is provided.

(A) The program must have income standards which do not exceed the gross income eligibility standard in § 273.9(a)(1). The rules of the GA program apply in determining countable income.

(B) The program must provide GA benefits as defined in § 271.2 of this part.

(C) The program must provide benefits which are not limited to one-time emergency assistance.

(ii) *Verification requirements.* In determining whether a household is categorically eligible, the State agency shall verify that each member receives PA benefits, SSI, or GA from a program that meets the criteria in paragraph (j)(4)(i) section or that has been certified by FNS as an appropriate program and that it includes no individuals who have been disqualified as pro-

vided in paragraph (j)(4)(iv) or (j)(2)(v) of this section. The State agency shall also verify household composition if it is questionable, in accordance with § 273.2(f), in order to determine that the household meets the definition of a household in § 273.1(a).

(iii) *Deemed eligibility factors.* When determining eligibility for a categorically eligible household, all Food Stamp Program requirements apply except the following:

(A) *Resources.* None of the provisions of § 273.8 apply to categorically eligible households except the second sentence of § 273.8(a) pertaining to categorical eligibility and § 273.8(i) concerning transfer of resources. The provision in § 273.10(b) regarding resources available the time of the interview does not apply to categorically eligible households.

(B) *Gross and net income limits.* None of the provisions in § 273.9(a) relating to income eligibility standards apply to categorically eligible households, except the fourth sentence pertaining to categorical eligibility. The provisions in §§ 273.10(a)(1)(i) and 273.10(c) relating to the income eligibility determination also do not apply to categorically eligible households.

(C) *Zero benefit households.* All eligible households of one or two persons must be provided the minimum benefit, as required by § 273.10(e)(2)(ii)(C).

(D) Residency.

(E) Sponsored alien information.

(iv) *Ineligible household members.* No person shall be included as a member of an otherwise categorically eligible household if that person is:

(A) An ineligible alien, as defined in § 273.4;

(B) An ineligible student, as defined in § 273.5;

(C) Disqualified for failure to provide or apply for an SSN, as required by § 273.6;

(D) A household member, not the head of household, disqualified for failure to comply with a work requirement of § 273.7;

(E) Disqualified for intentional program violation, as required by § 273.16;

(F) An SSI recipient in a cash-out State, as defined in § 273.20; or

(G) An individual who is institutionalized in a nonexempt facility, as defined in § 273.1(e).

(v) *Ineligible households.* A household shall not be considered categorically eligible if:

(A) It refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility, as described in §§ 273.2(d) and 273.21(m)(1)(ii);

(B) The household is disqualified because the head of household fails to comply with a work requirement of § 273.7;

(C) The household is ineligible under the striker provisions of § 273.1(g); or

(D) The household is ineligible because it knowingly transferred resources for the purpose of qualifying or attempting to qualify for the Program, as provided in § 273.8(i).

(vi) *Combination households.* Households consisting entirely of recipients of PA, SSI and/or GA from a program that meets the requirements of § 273.2(j)(4)(i) shall be categorically eligible in accordance with the provisions for paragraphs (j)(2)(iii) and (j)(2)(v) of this section for members receiving PA and SSI or provisions of paragraphs (j)(4)(iv) and (v) of this section for members receiving GA.

(5) *Households with some PA or GA recipients.* State agencies that use the joint application processing procedures in paragraphs (j)(1) and (j)(3) of this section may apply these procedures to a food stamp applicant household in which some, but not all, members are in the PA/GA filing unit, except for procedures concerning categorical eligibility. If the State agency decides not to use the joint application procedures for these households, the households shall file separate applications for PA/GA and food stamp benefits. This decision shall not be made on a case-by-case basis, but shall be applied uniformly to all households of this type in a project area.

(k) *SSI households.* For purposes of this paragraph, SSI is defined as Federal SSI payments made under title XVI of the Social Security Act, federally administered optional supplementary payments under section 1616

of that Act, or federally administered mandatory supplementary payments made under section 212(a) of Pub. L. 93-66. Except in cashout States (§ 273.20), households which have not applied for food stamps in the thirty preceding days, and which do not have applications pending, may apply and be certified for food stamp benefits in accordance with the procedures described in § 273.2(k)(1)(i) or § 273.2(k)(1)(ii) and with the notice, procedural and timeliness requirements of the Food Stamp Act of 1977 and its implementing regulations. Households applying simultaneously for SSI and food stamps shall be subject to food stamp eligibility criteria, and benefit levels shall be based solely on food stamp eligibility criteria until the household is considered categorically eligible. However, households in which all members are either PA or SSI recipients or authorized to receive PA or SSI benefits (as discussed in § 273.2(j)) shall be food stamp eligible based on their PA/SSI status as provided for in § 273.2(j)(1)(iv) and (j)(2). Households denied NPA food stamps that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility if they become SSI recipients. The State agency shall make an eligibility determination based on information provided by SSA or by the household.

(1) *Initial application and eligibility determination.* At each SSA office, the State agency shall either arrange for SSA to complete and forward food stamp applications, or the State agency shall outstation State food stamp eligibility workers at the SSA Offices with SSA's concurrence, based upon an agreement negotiated between the State agency and the SSA.

(i) If the State agency arranges with the SSA to complete and forward food stamp applications the following actions shall be taken:

(A) Whenever a member of a household consisting only of SSI applicants or recipients transacts business at an SSA office, the SSA shall inform the household of:

(1) Its right to apply for food stamps at the SSA office without going to the food stamp office; and

§ 273.2

7 CFR Ch. II (1-1-15 Edition)

(2) Its right to apply at a food stamp office if it chooses to do so.

(B) The SSA will accept and complete food stamp applications received at the SSA Office from SSI households and forward them, within one working day after receipt of a signed application, to a designated office of the State agency. SSA shall also forward to the State agency a transmittal form which will be approved by SSA and FNS. The SSA will use the national food stamp application form for joint processing. State agencies may substitute a State food stamp application, provided that prior approval is received from both FNS and SSA. SSA shall approve, deny, or comment upon FNS-approved State food stamp applications within thirty days of their submission to SSA.

(C) SSA will accept and complete food stamp applications from SSI households received by SSA staff in contact stations. SSA will forward all food stamp applications from SSI households to the designated food stamp office.

(D) The SSA staff shall complete joint SSI and food stamp applications for residents of public institutions in accordance with § 273.1(e)(2).

(E) The State agency shall designate an address for the SSA to forward food stamp applications and accompanying information to the State agency for eligibility determination. Applications and accompanying information must be forwarded to the agreed upon address in accordance with the time standards contained in § 273.2(k)(1)(i)(B).

(F) Except for applications taken in accordance with paragraph (k)(1)(i)(D) of this section, the State agency shall make an eligibility determination and issue food stamp benefits to eligible SSI households within 30 days following the date the application was received by the SSA. Applications shall be considered filed for normal processing purposes when the signed application is received by SSA. The expedited processing time standards shall begin on the date the State agency receives a food stamp application. The State agency shall make an eligibility determination and issue food stamp benefits to a resident of a public institution who applies jointly for SSI and

food stamps within 30 days following the date of the applicant's release from the institution. Expedited processing time standards for an applicant who has applied for food stamps and SSI prior to release shall also begin on the date of the applicant's release from the institution in accordance with § 273.2(i)(3)(i). SSA shall notify the State agency of the date of release of the applicant from the institution. If, for any reason, the State agency is not notified on a timely basis of the applicant's release date, the State agency shall restore benefits in accordance with § 273.17 to such applicant back to the date of release. Food stamp applications and supporting documentation sent to an incorrect food stamp office shall be sent to the correct office, by the State agency, within one working day of their receipt in accordance with § 273.2(c)(2)(ii).

(G) Households in which all members are applying for or participating in SSI will not be required to see a State eligibility worker, or otherwise be subjected to an additional State interview. The food stamp application will be processed by the State agency. The State agency shall not contact the household further in order to obtain information for certification for food stamp benefits unless: the application is improperly completed; mandatory verification required by § 273.2(f)(1) is missing; or, the State agency determines that certain information on the application is questionable. In no event would the applicant be required to appear at the food stamp office to finalize the eligibility determination. Further contact made in accordance with this paragraph shall not constitute a second food stamp certification interview.

(H) SSA shall refer non-SSI households to the correct food stamp office. The State agencies shall process those applications in accordance with the procedures noted in § 273.2. Applications from such households shall be considered filed on the date the signed application is taken at the correct State agency office, and the normal and expedited processing time standards shall begin on that date.

(I) The SSA shall prescreen all applications for entitlement to expedited services on the day the application is

Food and Nutrition Service, USDA

§ 273.2

received at the SSA office and shall mark "Expedited Processing" on the first page of all households' applications that appear to be entitled to such processing. The SSA will inform households which appear to meet the criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the food stamp office. The household may take the application from SSA to the food stamp office for screening, an interview, and processing of the application. This provision does not apply to applications described in paragraph (k)(1)(i)(D) of this section.

(J) The State agency shall prescreen all applications received from the SSA for entitlement to expedited service on the day the application is received at the correct food stamp office. All SSI households entitled to expedited service shall be certified in accordance with § 273.2(i) except that the expedited processing time standard shall begin on the date the application is received at the correct State agency office, unless the applicant is a resident of a public institution as described in § 273.1(e)(2).

(K) The State agency shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA are already participating in the Food Stamp Program directly through the State agency.

(L) If SSA takes an SSI application or redetermination on the telephone from a member of a pure SSI household, a food stamp application shall also be completed during the telephone interview. In these cases, the food stamp application shall be mailed to the claimant for signature for return to the SSA office or to the State agency. SSA shall then forward any food stamp applications it receives to the State agency. The State agency may not require the household to be interviewed again in the food stamp office. The State agency shall not contact the household further in order to obtain information for certification for food stamp benefits except in accordance with § 273.2(k)(1)(i)(F).

(M) To SSI recipients redetermined for SSI by mail, the SSA shall send a stuffer informing them of their right to file a food stamp application at the

SSA office (if they are members of a pure SSI household) or at their local food stamp office, and their right to an out-of-office food stamp interview to be performed by the State agency if the household is unable to appoint an authorized representative.

(N) Section 272.4 bilingual requirements shall not apply to the Social Security Administration.

(O) State agencies shall provide and SSA shall distribute an information sheet or brochure to all households processed under this paragraph. This material shall inform the household of the following: The address and telephone number of the household's correct food stamp office, the remaining actions to be taken in the application process, and a statement that a household should be notified of the food stamp determinations within thirty days and can contact the food stamp office if it receives no notification within thirty days, or has other questions or problems. It shall also include the client's rights and responsibilities (including fair hearings, authorized representatives, out-of-office interviews, reporting changes and timely reapplication), information on how and where to obtain coupons, and how to use coupons (including the commodities clients may purchase with coupons).

(P) As part of the SSA-State agency joint food stamp processing agreement, States may negotiate, on behalf of project areas, to have SSA provide initial eligibility and payment data where the local area is unable to access accurate and timely data through the State's SDX. However, in negotiating such agreements, SSA may challenge a State's determination that it does not have the computer capability to use SDX data. If SSA, FNS, and the State are unable to resolve this matter, and SSA determines that a State does have the capability to provide accurate and timely SDX data to the food stamp project area, SSA is not required to provide alternate means of transmitting initial SSI eligibility and payment data.

(ii) If the State agency chooses to outstation eligibility workers at SSA offices, with SSA's concurrence, the following actions shall be completed.

§ 273.2

7 CFR Ch. II (1-1-15 Edition)

(A) SSA will provide adequate space for State food stamp eligibility workers in SSA offices.

(B) The State agency shall have at least one outstationed worker on duty at all time periods during which households will be referred for food stamp application processing. In most cases this would require the availability of an outstationed worker throughout normal SSA business hours.

(C) The following households shall be entitled to file food stamp applications with, and be interviewed by an outstationed eligibility worker:

(1) Households containing an applicant for or recipient of SSI;

(2) Households which do not have an applicant for or recipient of SSI, but which contain an applicant for or recipient of benefits under title II of the Social Security Act, if the State agency and SSA have an agreement to allow the processing of such households at SSA offices.

(D) Households shall be interviewed for food stamps on the day of application unless there is insufficient time to conduct an interview. The State agency shall arrange for the outstationed worker to interview applicants as soon as possible.

(E) The State agency shall not refuse to provide service to persons served by the SSA office because they do not reside in the county or project area in which the SSA office is located, provided, however, that they reside within the jurisdictions served by the SSA office and the State agency. The State agency is not required to process the applications of persons who are not residing within the SSA office jurisdiction but who do reside within the State agency's jurisdiction, other than to forward the forms to the correct food stamp offices.

(F) The State agency may permit the eligibility worker outstationed at the SSA to determine the eligibility of households, or may require that completed applications be forwarded elsewhere for the eligibility determination.

(G) Applications from households entitled to joint processing through an outstationed eligibility worker shall be considered filed on the date they are submitted to that worker. Both the

normal and expedited service time standards shall begin on that date.

(H) Households not entitled to joint processing shall be entitled to obtain and submit applications at the SSA office. The outstationed eligibility worker need not process these applications except to forward them to the correct food stamp office where they shall be considered filed upon receipt (any activities beyond acceptance and referral of the application would require SSA concurrence). Both the normal and expedited service time standards shall begin on that date.

(iii) Regardless of whether the State agency or SSA conducts the food stamp interview, the following actions shall be taken:

(A) *Verification.* (1) The State agency shall ensure that information required by § 273.2(f) is verified prior to certification for households initially applying. Households entitled to expedited certification services shall be processed in accordance with § 273.2(i).

(2) The State agency has the option of verifying SSI benefit payments through the State Data Exchange (SDX), the Beneficiary Data Exchange (BENDEX) and/or through verification provided by the household.

(3) State agencies may verify other information through SDX and BENDEX but only to the extent permitted by data exchange agreements with SSA. Information verified through SDX or BENDEX shall not be reverified unless it is questionable. Households shall be given the opportunity to provide verification from another source if all necessary information is not available on the SDX or the BENDEX, or if the SDX/BENDEX information is contradictory to other household information.

(B) *Certification period.* (1) State agencies shall certify households under these procedures for up to twelve months, according to the standards in § 273.10(f), except for State agencies which must assign the initial certification period to coincide with adjustments to the SSI benefit amount as designated in § 273.10(f)(3)(iii).

(2) In cases jointly processed in which the SSI determination results in denial, and the State agency believes that food stamp eligibility or benefit

levels may be affected, the State agency shall send the household a notice of expiration advising that the certification period will expire the end of the month following the month in which the notice is sent and that it must re-apply if it wishes to continue to participate. The notice shall also explain that its certification period is expiring because of changes in circumstances which may affect food stamp eligibility or benefit levels and that the household may be entitled to an out-of-office interview, in accordance with § 273.2(e)(2).

(C) *Changes in circumstances.* (1) Households shall report changes in accordance with the requirements in § 273.12. The State agency shall process changes in accordance with § 273.12.

(2) Within ten days of learning of the determination of the application for SSI through SDX, the household, advisement from SSA where SSA agrees to do so for households processed under § 273.2(k)(1)(i), or from any other source, the State agency shall take required action in accordance with § 273.12. State agencies are encouraged to monitor the results of the SSI determination through SDX and BENDEX to the extent practical.

(3) The State agency shall process adjustments to SSI cases resulting from mass changes, in accordance with provisions of § 273.12(e).

(D) *SSI households applying at the food stamp office.* The State agency shall allow SSI households to submit food stamp applications to local food stamp offices rather than through the SSA if the household chooses. In such cases all verification, including that pertaining to SSI program benefits, shall be provided by the household, by SDX or BENDEX, or obtained by the State agency rather than being provided by the SSA.

(E) *Restoration of lost benefits.* The State agency shall restore to the household benefits which were lost whenever the loss was caused by an error by the State agency or by the Social Security Administration through joint processing. Such an error shall include, but not be limited to, the loss of an applicant's food stamp application after it has been filed with SSA or with a State agency's outstationed

worker. Lost benefits shall be restored in accordance with § 273.17.

(2) *Recertification.* (i) The State agency shall complete the application process and approve or deny timely applications for recertification in accordance with § 273.14 of the food stamp regulations. A face-to-face interview shall be waived if requested by a household consisting entirely of SSI participants unable to appoint an authorized representative. The State agency shall provide SSI households with a notice of expiration in accordance with § 273.14(b), except that such notification shall inform households consisting entirely of SSI recipients that they are entitled to a waiver of a face-to-face interview if the household is unable to appoint an authorized representative.

(ii) Households shall be entitled to make a timely application (in accordance with § 273.14(b)(3)) for food stamp recertification at an SSA office under the following conditions.

(A) In SSA offices where § 273.2(k)(1)(i) is in effect, SSA shall accept the application of a pure SSI household and forward the completed application, transmittal form and any available verification to the designated food stamp office. Where SSA accepts and refers the application in such situations, the household shall not be required to appear at a second office interview, although the State agency may conduct an out-of-office interview, if necessary.

(B) In SSA offices where § 273.2(k)(1)(ii) is in effect, the outstationed worker shall accept the application and interview the recipient and the State agency shall process the application according to § 273.14.

(1) *Households applying for or receiving social security benefits.* An applicant for or recipient of social security benefits under title II of the Social Security Act shall be informed at the SSA office of the availability of benefits under the Food Stamp Program and the availability of a Food Stamp Program application at the SSA office. The SSA office is not required to accept applications and conduct interviews for title II applicants/recipients in the manner prescribed in § 273.2(k) for SSI applicants/recipients unless the State agency has chosen to outstation eligibility

workers at the SSA office and has an agreement with SSA to allow the processing of such households at SSA offices. In these cases, processing shall be in accordance with § 273.2(k)(1)(ii).

(m) *Households where not all members are applying for or receiving SSI.* An applicant for or recipient of SSI shall be informed at the SSA office of the availability of benefits under the Food Stamp Program and the availability of a food stamp application at the SSA office. The SSA office is not required to accept applications or to conduct interviews for SSI applicants or recipients who are not members of households in which all are SSI applicants or recipients unless the State agency has chosen to outstation eligibility workers at the SSA office. In this case, processing shall be in accordance with § 273.2(k)(1)(ii).

(n) *Authorized representatives.* Representatives may be authorized to act on behalf of a household in the application process, in obtaining food stamp benefits, and in using food stamp benefits.

(1) *Application processing and reporting.* The State agency shall inform applicants and prospective applicants that indicate that they may have difficulty completing the application process, that a nonhousehold member may be designated as the authorized representative for application processing purposes. The household member or the authorized representative may complete work registration forms for those household members required to register for work. The authorized representative designated for application processing purposes may also carry out household responsibilities during the certification period, such as reporting changes in the household's income or other household circumstances in accordance with §§ 273.12(a) and 273.21. Except for those situations in which a drug and alcohol treatment center or other group living arrangement acts as the authorized representative, the State agency must inform the household that the household will be held liable for any overissuance that results from erroneous information given by the authorized representative.

(i) A nonhousehold member may be designated as an authorized representative for the application process provided that the person is an adult who is sufficiently aware of relevant household circumstances and the authorized representative designation has been made in writing by the head of the household, the spouse, or another responsible member of the household. Paragraph (n)(4) of this section contains further restrictions on who can be designated an authorized representative.

(ii) Residents of drug or alcohol treatment centers must apply and be certified through the use of authorized representatives in accordance with § 273.11(e). Residents of group living arrangements have the option to apply and be certified through the use of authorized representatives in accordance with § 273.11(f).

(2) *Obtaining food stamp benefits.* An authorized representative may be designated to obtain benefits. Even if the household is able to obtain benefits, it should be encouraged to name an authorized representative for obtaining benefits in case of illness or other circumstances which might result in an inability to obtain benefits. The name of the authorized representative must be recorded in the household's case record and on the food stamp identification (ID) card, as provided in § 274.10(a)(1) of this chapter. The authorized representative for obtaining benefits may or may not be the same individual designated as an authorized representative for the application process or for meeting reporting requirements during the certification period. The State agency must develop a system by which a household may designate an emergency authorized representative in accordance with § 274.10(c) of this chapter to obtain the household's benefits for a particular month.

(3) *Using benefits.* A household may allow any household member or non-member to use its ID card and benefits to purchase food or meals, if authorized, for the household. Drug or alcohol treatment centers and group living arrangements which act as authorized representatives for residents of the facilities must use food stamp benefits

for food prepared and served to those residents participating in the Food Stamp Program (except when residents leave the facility as provided in § 273.11(e) and (f)).

(4) *Restrictions on designations of authorized representatives.* (i) The State agency must restrict the use of authorized representatives for purposes of application processing and obtaining food stamp benefits as follows:

(A) State agency employees who are involved in the certification or issuance processes and retailers who are authorized to accept food stamp benefits may not act as authorized representatives without the specific written approval of a designated State agency official and only if that official determines that no one else is available to serve as an authorized representative.

(B) An individual disqualified for an intentional Program violation cannot act as an authorized representative during the disqualification period, unless the State agency has determined that no one else is available to serve as an authorized representative. The State agency must separately determine whether the individual is needed to apply on behalf of the household, or to obtain benefits on behalf of the household.

(C) If a State agency has determined that an authorized representative has knowingly provided false information about household circumstances or has made improper use of coupons, it may disqualify that person from being an authorized representative for up to one year. The State agency must send written notification to the affected household(s) and the authorized representative 30 days prior to the date of disqualification. The notification must specify the reason for the proposed action and the household's right to request a fair hearing. 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. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and which intentionally misrepresent households circumstances, may be

prosecuted under applicable Federal and State statutes for their acts.

(D) Homeless meal providers, as defined in § 271.2 of this chapter, may not act as authorized representatives for homeless food stamp recipients.

(ii) In order to prevent abuse of the program, the State agency may set a limit on the number of households an authorized representative may represent.

(iii) In the event employers, such as those that employ migrant or seasonal farmworkers, are designated as authorized representatives or that a single authorized representative has access to a large number of authorization documents or coupons, the State agency should exercise caution to assure that each household has freely requested the assistance of the authorized representative, the household's circumstances are correctly represented, the household is receiving the correct amount of benefits and that the authorized representative is properly using the benefits.

[Amdt. 132, 43 FR 47889, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Subpart B—Residency and Citizenship

§ 273.3 Residency.

(a) A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in § 271.2 of this chapter) or office within the State. No individual may participate as a member of more than one household or in more than one project area, in any month, unless an individual is a resident of a shelter for battered women and children as defined in § 271.2 and was a member of a household containing the person who had abused him or her. Residents of shelters for battered women and children shall be handled in accordance with § 273.11(g). The State agency shall not impose any durational residency requirements. The

Food and Nutrition Service, USDA

§ 274.2

through June), and November 15 (July through September). Requests for payment submitted after the required date for a quarter shall not be considered until the following quarter, when such requests for payments are scheduled to be processed.

[75 FR 18381, Apr. 12, 2010, as amended at 79 FR 10, Jan. 2, 2014]

§ 274.2 Providing benefits to participants.

(a) *General.* Each State agency is responsible for the timely and accurate issuance of benefits to certified eligible households, including EBT system compliance with the expedited service benefit delivery standard and the normal application processing standards, as prescribed by these regulations. Those households located in rural areas or comprised of elderly or disabled members who have difficulty reaching issuance offices, and households which do not reside in a permanent dwelling or of a fixed mailing address shall be given assistance in obtaining an EBT card. State agencies shall assist these households by arranging for the mailing of EBT cards to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.

(b) *Availability of benefits.* All newly certified households, except those that are given expedited service, shall be given an opportunity to participate no later than 30 calendar days following the date the application was filed. An opportunity to participate consists of providing households with an active EBT card and PIN, and benefits that have been posted to the household's EBT account and are available for spending. State agencies, utilizing a centralized mailing system, must mail EBT cards and PINs, if applicable, in time to assure that the benefits can be spent after they are received but before the 30-day standard expires. A household has not been provided an opportunity to participate within the 30-day standard if the EBT card or PIN is mailed on the 29th or 30th day. For households entitled to expedited service, the State agency shall make benefits available to the household not later than the seventh calendar day following the date of application.

(c) *Combined allotments.* For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (combined) allotment, or as two separate allotments, made available at the same time, in accordance with the timeframes specified in § 273.2 of this chapter.

(d) *Ongoing households.* State agencies shall establish an availability date for household access to their benefits and inform households of this date. All households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month. The date upon which a household receives its initial allotment after certification need not be the date that the household must receive its subsequent allotments.

(1) State agencies may stagger issuance throughout the month, or for a shorter period. When staggering benefit delivery, however, State agencies shall not allow more than 40 days to elapse between the issuance of any two allotments provided to a household participating longer than two consecutive, complete months. Regardless of the issuance schedule used, the State agency shall adhere to the reporting requirements specified in § 274.4.

(2) Upon the request of the Tribal organization that exercises governmental jurisdiction over a reservation, the State agency shall stagger the issuance of benefits for eligible households located on reservations for at least 15 days each month.

(3) When a participating household is transferred from one issuance system or procedure to another issuance system or procedure, the State agency shall not permit more than 40 days to elapse between the last issuance under the previous system or procedure, and the first issuance under the new system or procedure. The 40-day requirement does not apply to instances in which actions by recipients, such as failure to submit a monthly report, disrupt benefits. Transfers include, but are not limited to, households being moved into or out of a staggered issuance procedure and households on a fluctuating schedule within a staggered system. If the State agency determines

§ 274.2

that more than 40 days may elapse between issuances, the State agency shall divide the new issuance into two parts, with one part being issued within the 40-day period, and the second part, or supplemental issuance, being issued on the household's established issuance date in the new system or procedure. The supplemental issuance cannot provide the household more benefits than the household is entitled to receive.

(4) Notwithstanding the above provisions, in months in which benefits have been suspended under the provisions of § 271.7 of this chapter, State agencies may stagger issuance to certified households following the end of the suspension. In such situations, State agencies may, at their option, stagger issuance from the date issuance resumes through the end of the month or over a five-day period following the resumption of issuance, even if this results in benefits being issued after the end of the month in which the suspension occurred.

(e) *Household training.* The State agency shall provide training to each household prior to implementation and as needed during ongoing operation of the EBT system. Training functions for an EBT system may be incorporated into certification procedures. At a minimum, the household training shall include:

(1) Content which will familiarize each household with the provisions of paragraphs (e) through (h) of this section and §§ 274.6 and 274.7;

(2) Notification to the household of the procedures for manual transactions and re-presentation as described in § 274.8(d);

(3) The appropriate utilization and security of the PIN;

(4) Each household's responsibilities for reporting loss or damage to the EBT card and who to report them to, both during and outside business hours. Information on a 24 hour hotline telephone number shall be provided to each household during training;

(5) Written materials and/or other information, including the specific rights to benefits in an EBT system, shall be provided as prescribed under 7 CFR 272.4(b) for bilingual households and for households with disabilities. This shall include the statement of non-discrimi-

7 CFR Ch. II (1-1-15 Edition)

nation found in Departmental Regulation 4300-3 (available from USDA, Office of Civil Rights, Room 326-W, Whitten Building, Washington, DC 20250). Written materials shall be prepared at an educational reading level suitable for SNAP households;

(6) Information on the signs or other appropriate indicators located in checkout lanes that enable the household to identify lanes equipped to accept EBT cards.

(7) Disclosure information regarding adjustments and a household's rights to notice, fair hearings, and provisional credits. The disclosure must also state where to call to dispute an adjustment and request a fair hearing.

(f) *EBT cards and Personal Identification Numbers (PINs).* (1) State agencies which issue EBT cards by mail shall, at a minimum, use first class mail and sturdy nonforwarding envelopes or packages to send EBT cards to households.

(2) The State agency shall permit SNAP households to select their PIN.

(i) PIN assignment procedures shall be permitted in accordance with industry standards as long as PIN selection is available to clients if they so desire and clients are informed of this option.

(ii) If assigning a PIN by mail in conjunction with card issuance, State agencies shall mail the PIN separate from the card one business day after the card is mailed.

(g) *Adjustments.* (1) The State agency may make adjustments to benefits posted to household accounts after the posting process is complete but prior to the availability date for household access in the event benefits are erroneously posted.

(2) A State agency shall make adjustments to an account to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error. A system error is defined as an error resulting from a malfunction at any point in the redemption process: from the system host computer, to the switch, to the third party processors, to a store's host computer or POS device. These adjustments may occur after the availability date and may result in either a debit or credit to the household.

(i) *Client-initiated adjustments.* The State agency must act on all requests for adjustments made by client households within 90 calendar days of the error transaction. The State agency has 10 business days from the date the household notifies it of the error to investigate and reach a decision on an adjustment and move funds into the client account. This timeframe also applies if the State agency or entity other than the household discovers a system error that requires a credit adjustment to the household. Business days are defined as calendar days other than Saturdays, Sundays, and Federal holidays.

(ii) *Retailer-initiated adjustments.* The State agency must act upon all adjustments to debit a household's account no later than 10 business days from the date the error occurred, by placing a hold on the adjustment balance in the household's account. If there are insufficient benefits to cover the entire adjustment, a hold shall be placed on any remaining balance that exists, with the difference being subject to availability only in the next future month. The household shall be given, at a minimum, adequate notice in accordance with § 273.13 of this chapter. The notice must be sent at the time the initial hold is attempted on the household's current month's remaining balance, clearly state the full adjustment amount, and advise the household that any amount still owed is subject to collection from the household's next future month's benefits.

(A) The household shall have 90 days from the date of the notice to request a fair hearing.

(B) Should the household dispute the adjustment and request a hearing within 10 days of the notice, a provisional credit must be made to the household's account by releasing the hold on the adjustment balance within 48 hours of the request by the household, pending resolution of the fair hearing. If no request for a hearing is made within 10 days of the notice, the hold is released on the adjustment balance, and this amount is credited to the retailer's account. If there are insufficient funds available in the current month to cover the full adjustment amount, the hold may be maintained and settled at one

time after the next month's benefits become available.

(3) The appropriate management controls and procedures for accessing benefit accounts after the posting shall be instituted to ensure that no unauthorized adjustments are made in accordance with paragraph (h)(3) of this section.

(h) *Stale account handling.* Stale benefit accounts are those Program benefit accounts which are not accessed for three months or longer.

(1) If EBT accounts are inactive for 3 months or longer, the State agency may store such benefits offline.

(i) Benefits stored off-line shall be made available upon reapplication or re-contact by the household;

(ii) The State agency shall attempt to notify the household of this action before storage of the benefits off-line and describe the steps necessary to bring the benefits back on-line;

(2) The State agency shall expunge benefits that have not been accessed by the household after a period of one year. Issuance reports shall reflect the adjustment to the State agency issuance totals to comply with monthly issuance reporting requirements prescribed under § 274.4.

(3) Procedures shall be established to permit the appropriate managers to adjust benefits that have already been posted to a benefit account prior to the household accessing the account; or, after an account has become dormant. The procedures shall also be applicable to removing stale accounts for off-line storage of benefits or when the benefits are expunged. Whenever benefits are expunged or stored off-line, the State agency shall document the date, amount of the benefits and storage location in the household case file.

[75 FR 18381, Apr. 12, 2010., as amended at 78 FR 51657, Aug. 21, 2013]

§ 274.3 Retailer management.

(a) *Retailer participation.* (1) All authorized retailers must be afforded the opportunity to participate in the EBT system. An authorized food retailer shall not be required to participate in an EBT system.

(i) Retailers who do not have immediate access to telephones at the time

§ 274.6

7 CFR Ch. II (1–1–15 Edition)

shall limit access to authorized personnel.

§ 274.6 Replacement issuances and cards to households.

(a) *Providing replacement issuance.* (1) Subject to the restrictions in paragraph (a)(3) of this section, State agencies shall provide replacement issuances to a household when the household reports that food purchased with Program benefits was destroyed in a household misfortune.

(2) Where a Federal disaster declaration has been issued and the household is eligible for disaster SNAP benefits under the provisions of part 280, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

(3) *Replacement restrictions.* (i) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing. The report will be considered timely if it is made to the State agency within 10 days of the date food purchased with Program benefits is destroyed in a household misfortune.

(ii) No limit on the number of replacements shall be placed on the replacement of food purchased with Program benefits which was destroyed in a household misfortune.

(iii) Except for households certified under 7 CFR part 280, replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(4) *Household statement of loss.* (i) Prior to issuing a replacement, the State agency shall obtain from a member of the household a signed statement attesting to the household's loss. The required statement may be mailed to the State agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.

(ii) If the signed statement or affidavit is not received by the State agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day

after the weekend or holiday, the State agency shall consider the statement timely received.

(iii) The statement shall be retained in the case record. It shall attest to the destruction of food purchased with the original issuance and the reason for the replacement. It shall also state that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim.

(5) *Time limits for making issuance replacements.* (i) Replacement issuances shall be provided to households within 10 days after report of loss or within two (2) working days of receiving the signed household statement required in paragraph (a)(4) of this section, whichever date is later.

(ii) The State agency shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

(iii) The household shall be informed of its right to a fair hearing to contest the denial or delay of a replacement issuance. Replacements shall not be made while the denial or delay is being appealed.

(6) *Verifying issuance and household misfortune.* (i) Upon receiving a request for replacement of an issuance for food destroyed in a household misfortune, the State agency shall determine if the issuance was validly issued. The State agency shall also comply with all applicable provisions in paragraphs (a)(3) through (a)(5) of this section.

(ii) Prior to replacing destroyed food that was purchased with Program benefits, the State agency shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit.

(7) *Documentation and reconciliation of replacement issuances.* (i) The State agency shall document in the household's case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household

statement required in paragraph (a)(4) of this section.

(ii) The State agency shall maintain, in readily-identifiable form, a record of the replacements granted to the household, the reason, and the month. The record may be a case action sheet maintained in the case file, notations on the master issuance file, if readily accessible, or a document maintained solely for this purpose.

(iii) When a request for replacement is made late in an issuance month, the replacement will be issued in a month subsequent to the month in which the original benefit was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement and may be posted to the month of issuance of the original benefit, so that all duplicate transactions may be identified.

(b) *Providing replacement EBT cards or PINs.* The State agency shall make replacement EBT cards available for pick up or place the card in the mail within two business days following notice by the household to the State agency that the card has been lost, stolen or damaged unless the State agency implements a replacement procedure pursuant to paragraph (b)(5) of this section.

(1) The State agency shall ensure that a duplicate account is not established which would permit households to access more than one account in the system.

(2) An immediate hold shall be placed on accounts at the time notice is received from a household regarding the need for card or PIN replacement. The State agency shall implement a reporting system which is continually operative. Once a household reports that their EBT card has been lost or stolen, the State agency shall assume liability for benefits subsequently drawn from the account and replace any lost or stolen benefits to the household. The State agency or its agent shall maintain a record showing the date and time of all reports by households that their card is lost or stolen.

(3) The State agency may impose a replacement fee by reducing the monthly allotment of the household receiving the replacement card; however, the fee may not exceed the cost to replace the card. If the State agency in-

tends to collect the fee by reducing the monthly allotment, it must follow FNS reporting procedures for collecting program income. State agencies currently operating EBT systems must inform FNS of their proposed collection operations. State agencies in the process of developing an EBT system must include the procedure for collection of the fee in their system design document. All plans must specify how the State agency intends to account for card replacement fees and include identification of the replacement threshold, frequency, and circumstances in which the fee shall be applicable. State agencies may establish good cause policies that provide exception rules for cases where replacement card fees will not be collected.

(4) *Replacement card.* The State agency shall issue replacement cards and PINs in accordance with § 274.2(f) of this chapter.

(5) *State option to withhold replacement card.* The State agency may require an individual member of a household to contact the State agency to provide an explanation in cases where the number of requests for card replacements is determined excessive. If they so require, the State agency must establish a threshold for the number of card replacements during a specified period of time to be considered excessive. That threshold shall not be less than four cards requested within 12 months prior to the request, unless the State agency has additional evidence indicating a suspected trafficking violation, as defined at § 271.2 of this chapter. If a trafficking violation is suspected prior to the fourth card request, the State agency shall refer the client for investigation and, if deemed appropriate, may provide a notice to the client, requiring the individual or household to contact the State agency to provide an explanation prior to receiving a subsequent replacement card.

(i) The State agency shall notify the household in writing when it has reached the threshold, indicating that the next request for card replacement will require contact with the State agency to provide an explanation for the requests, before the replacement card will be issued. The State agency

§ 274.6

7 CFR Ch. II (1–1–15 Edition)

shall also notify the household in writing once the threshold has been exceeded that the State agency is withholding the card until contact is made. These notices must:

(A) Be written in clear and simple language;

(B) Meet the language requirements described at § 272.4(b) of this chapter;

(C) Specify the number of cards requested and over what period of time;

(D) Explain that the next request, or the current request if the threshold has been exceeded, requires contact with the State agency before another card is issued;

(E) Provide all applicable information on how contact is to be made in order for the client to comply, such as whom to contact, a telephone number and address;

(F) Include a statement that explains what is considered a misuse or fraudulent use of benefits and the possibility of referral to the fraud investigation unit for suspicious activity.

(ii) Following notification, should another card be requested, the State agency shall require that the household contact the State agency to provide an explanation for the requests. If the client makes contact, the State agency shall make the replacement EBT card available for pick up or place the card in the mail in accordance with § 274.2(f) of this chapter within two business days following household contact with the State agency, regardless of whether or not an explanation was provided.

(A) If a household does not contact the State agency in response to the State agency's notice, the State agency shall not issue a replacement card to the household and the case must be referred for investigation.

(B) The State agency shall educate the client on the proper use of the card if the explanation is deemed appropriate and the State agency shall not require contact upon subsequent requests, unless the pattern of card activity has changed since the initial contact and indicates possible trafficking activity.

(C) The State agency shall refer the individual for investigation in cases where the individual contacts the State agency but refuses to explain the

card losses or the explanation provided appears to be indicative of trafficking in accordance with § 271.2 of this chapter. The State agency shall issue a replacement card to any household that makes the required contact so that the household has access to benefits in its EBT account while the investigation is underway and while awaiting a hearing, in accordance with § 273.16(e)(5).

(iii) In all cases, a State agency shall act to protect households containing homeless persons, elderly or disabled members, victims of crimes and other vulnerable persons who may lose EBT cards but are not committing fraud.

(6) *Excessive Replacement Card Notice.* The State agency shall monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the household that their account is being monitored for potential, suspicious activity. If another replacement card is subsequently requested and trafficking is suspected, the State agency shall refer that case to the State's fraud investigation unit.

(i) The State agency shall be exempt from sending the Excessive Replacement Card Notice if they have chosen to exercise the option to withhold the replacement card until contact is made with the State agency, in accordance with paragraph (b)(5) of this section, as long as the State agency has chosen to use the minimum threshold, which requires sending the first warning notice on the fourth card replacement request within 12 months. If the State agency chooses to use a threshold higher than the fourth card replacement request, the State agency must send the Excessive Replacement Card Notice on the fourth card request in accordance with this section.

(ii) The State agency shall notify the household in writing upon their fourth card request that their case is being monitored. This notice shall, at a minimum:

(A) Be written in clear and simple language;

(B) Meet the language requirements described at § 272.4(b) of this chapter;

(C) Specify the number of cards requested and over what period of time;

(D) Explain that the transactions of the cardholder's account are being

Food and Nutrition Service, USDA

§ 274.7

monitored for potential trafficking activity;

(E) Include a statement that explains what is considered a misuse or fraudulent use of benefits and the possibility of referral to the State's fraud investigation unit for suspicious activity.

(F) Provide contact information, including a telephone number, should the household have questions or concerns regarding the notice.

[75 FR 18381, Apr. 12, 2010, as amended at 78 FR 51657, Aug. 21, 2013]

§ 274.7 Benefit redemption by eligible households.

(a) *Eligible food.* Program benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households, the purchase of prepared meals, and for other households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with benefits.

(b) *Prior payment prohibition.* Program benefits shall not be used to pay for any eligible food purchased prior to the time at which an EBT card is presented to authorized retailers or meal services. Neither shall benefits be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a nonprofit cooperative food purchasing venture.

(c) *Transaction limits.* No minimum dollar amount per transaction or maximum limit on the number of transactions shall be established. In addition, no transaction fees shall be imposed on SNAP households utilizing the EBT system to access their benefits.

(d) *Access to balances.* (1) Households shall be permitted to determine their SNAP account balances without making a purchase or standing in a check-out line.

(2) The State agency shall ensure that the EBT system is capable of providing a transaction history for a period of up to 2 calendar months to households upon request.

(3) Households shall be provided printed receipts at the time of transaction in accordance with § 274.8(b)(7).

(e) *Access to retail stores.* (1) The EBT system shall provide for minimal disruption of access to and service in retail stores by eligible households.

(2) The EBT system shall not result in a significant increase in the cost of food or cost of transportation to authorized retailers for SNAP households.

(f) *Equal treatment.* The EBT system shall be implemented and operated in a manner that maintains equal treatment for SNAP households in accordance with § 278.2(b) of this chapter. The following requirements for the equal treatment of SNAP households shall directly apply to EBT systems:

(1) Retailers shall not establish special checkout lanes which are only for SNAP households. If special lanes are designated for the purpose of accepting other electronic debit or credit cards and/or other payment methods such as checks, SNAP customers with EBT cards may also be assigned to such lanes as long as other commercial customers are assigned there as well.

(2) Checkout lanes equipped with POS devices shall be made available to SNAP households during all retail store hours of operation.

(g) *Households eligible for prepared meals.* (1) *Meals-on-wheels.* Eligible household members 60 years of age or over or members who are housebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses, may use Program benefits to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS.

(2) *Communal dining facilities.* Eligible household members 60 years of age or over and their spouses, or those receiving SSI and their spouses, may use Program benefits issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FNS for that purpose.

(3) *Residents of certain institutions.* (i) Members of eligible households who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment rehabilitation program may use Program benefits to purchase food prepared for them during the course of such program by a private

Food and Nutrition Service, USDA

§ 274.7

monitored for potential trafficking activity;

(E) Include a statement that explains what is considered a misuse or fraudulent use of benefits and the possibility of referral to the State's fraud investigation unit for suspicious activity.

(F) Provide contact information, including a telephone number, should the household have questions or concerns regarding the notice.

[75 FR 18381, Apr. 12, 2010, as amended at 78 FR 51657, Aug. 21, 2013]

§ 274.7 Benefit redemption by eligible households.

(a) *Eligible food.* Program benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households, the purchase of prepared meals, and for other households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with benefits.

(b) *Prior payment prohibition.* Program benefits shall not be used to pay for any eligible food purchased prior to the time at which an EBT card is presented to authorized retailers or meal services. Neither shall benefits be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a nonprofit cooperative food purchasing venture.

(c) *Transaction limits.* No minimum dollar amount per transaction or maximum limit on the number of transactions shall be established. In addition, no transaction fees shall be imposed on SNAP households utilizing the EBT system to access their benefits.

(d) *Access to balances.* (1) Households shall be permitted to determine their SNAP account balances without making a purchase or standing in a check-out line.

(2) The State agency shall ensure that the EBT system is capable of providing a transaction history for a period of up to 2 calendar months to households upon request.

(3) Households shall be provided printed receipts at the time of transaction in accordance with § 274.8(b)(7).

(e) *Access to retail stores.* (1) The EBT system shall provide for minimal disruption of access to and service in retail stores by eligible households.

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§ 274.8

7 CFR Ch. II (1–1–15 Edition)

nonprofit organization or institution or publicly operated community mental health center which is authorized by FNS to redeem benefits in accordance with §§ 278.1 and 278.2(g) of this chapter.

(ii) Eligible residents of a group living arrangement may use Program benefits issued to them to purchase meals prepared especially for them at a group living arrangement which is authorized by FNS to redeem benefits in accordance with §§ 278.1 and 278.2(g) of this chapter.

(iii) Residents of shelters for battered women and children as defined in § 278.1(g) of this chapter may use their Program benefits to purchase meals prepared especially for them at a shelter which is authorized by FNS to redeem benefits in accordance with §§ 278.1 and 278.2(g) of this chapter.

(4) *Homeless households.* (i) Homeless SNAP households may use their Program benefits to purchase prepared meals from authorized homeless meal providers.

(ii) Eligible homeless households may use Program benefits to purchase meals from restaurants authorized by FNS for such purpose.

(h) Eligible households residing in areas of Alaska determined by FNS as areas where access to authorized retailers is difficult and which rely substantially on hunting and fishing for subsistence may use all or any part of the Program benefits issued to purchase hunting and fishing equipment such as nets, hooks, rods, harpoons and knives, but may not use benefits to purchase firearms, ammunition, and other explosives.

(i) State agencies shall implement a method to ensure that access to prepared meals and hunting and fishing equipment is limited to eligible households as described in paragraphs (g) through (h) of this section.

§ 274.8 Functional and technical EBT system requirements.

(a) *Functional requirements.* The State agency shall ensure that the EBT system is capable of performing the following functional requirements prior to implementation:

(1) *Authorizing household benefits.* (i) Issuing and replacing EBT cards to eligible households;

(ii) Permitting eligible households to select a personal identification number (PINs) at least four digits in length;

(iii) Establishing benefit cards and accounts with the central computer database;

(iv) Maintaining the master household issuance record file data and current authorization information;

(v) Training households and other users in system usage;

(vi) Authorizing benefit delivery;

(vii) Posting benefits to each household's account for regular and supplemental issuances;

(viii) Providing households with access to information on benefit availability;

(ix) Ensuring the privacy of household data and providing benefit and data security;

(x) Inventorying and securing accountable documents; and

(xi) Zeroing out benefit accounts and other account authorization activity.

(2) *Providing food benefits to households.* (i) Verifying the identity of authorized households or authorized household representatives at issuance terminals or POS;

(ii) Verifying the PIN and/or PIN offset, primary account number (PAN), terminal identification number and retailer identification number;

(iii) Determining the sufficiency of the household's account balance in order to debit or credit household benefit accounts at the point of sale;

(iv) Sending messages authorizing or rejecting purchases;

(v) Providing back-up purchase procedures when the system is unavailable;

(vi) Ensuring that benefits are available and carried over from month-to-month.

(vii) Responding to issuance problems in a timely manner.

(3) *Crediting retailers and financial institutions for redeemed benefits.* (i) Verifying electronic transactions flowing to or from participating retailers' bank accounts;

(ii) Creating and maintaining a file containing the individual records of EBT transactions;

§ 274.8

nonprofit organization or institution or publicly operated community mental health center which is authorized by FNS to redeem benefits in accordance with §§ 278.1 and 278.2(g) of this chapter.

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7 CFR Ch. II (1–1–15 Edition)

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(iii) Establishing benefit cards and accounts with the central computer database;

(iv) Maintaining the master household issuance record file data and current authorization information;

(v) Training households and other users in system usage;

(vi) Authorizing benefit delivery;

(vii) Posting benefits to each household's account for regular and supplemental issuances;

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(ix) Ensuring the privacy of household data and providing benefit and data security;

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(iv) Sending messages authorizing or rejecting purchases;

(v) Providing back-up purchase procedures when the system is unavailable;

(vi) Ensuring that benefits are available and carried over from month-to-month.

(vii) Responding to issuance problems in a timely manner.

(3) *Crediting retailers and financial institutions for redeemed benefits.* (i) Verifying electronic transactions flowing to or from participating retailers' bank accounts;

(ii) Creating and maintaining a file containing the individual records of EBT transactions;

(iii) Totaling all credits accumulated by each retailer;

(iv) Providing balance information to retailers or third party processors from individual POS terminals, as needed;

(v) Providing each retailer information on total deposits in the system on a daily basis;

(vi) Preparing a daily tape in a National Automated Clearinghouse format or other process approved by FNS with information on benefits redeemed for each retailer and in summary;

(vii) Transmitting the ACH tape to a financial institution for transmission through the ACH or other method approved by FNS;

(viii) Transferring the information on the ACH tape or other process approved by FNS containing daily redemption activity of each retailer to the FNS Minneapolis Computer Support Center at least once weekly. Transmittal may be by tape, disc, remote job entry or other means acceptable to FNS.

(4) Managing retailer participation in accordance with § 274.3(e).

(b) *Performance and technical standards.* The State agency shall ensure that EBT systems comply with POS technical standards established by the American National Standards Institute (ANSI) or International Organization for Standardization (ISO) where applicable. This includes the draft EBT ISO 8583 Processor Interface Technical Specifications contained in the ANSI standards, which delineates a standard message format for retailers and third parties. In addition, the State agency shall ensure that the EBT system meets performance and technical standards in the areas of system processing speeds, system availability and reliability, system security, system ease-of-use, minimum card and terminal requirements, performance bonding, and a minimum transaction set. With prior written approval from FNS, the State agency may utilize the prevailing industry performance standards in its region in lieu of those identified in this section. The standards shall be included in all requests for proposals and contracts.

(1) *System processing speeds.* (i) For leased line systems, 98 percent of EBT transactions shall be processed within 10 seconds or less and all EBT trans-

actions shall be processed within 15 seconds. Leased line systems rent telecommunications carriers specifically to connect to the central authorizing computer. For dial-up systems, 95 percent of the EBT transactions shall be processed within 15 seconds or less and all EBT transactions shall be processed within 20 seconds or less. Dial-up systems utilize existing telecommunications lines to dial up and connect to the central computer at the time of the transaction. Processing response time shall be measured at the POS terminal from the time the 'enter' or 'send' key is pressed to the receipt and display of authorization or disapproval information. Third party processors, as defined in paragraph (h)(5) of this section, shall be required by the State agency to comply with the same processing response times required of the primary processor.

(ii) The EBT system shall provide reports, as determined by the State agency, that document transaction processing response time and the number and type of problematic transactions that could not be processed within the standard response time.

(2) *System availability and reliability.*

(i) The EBT system central computer shall be available 99.9 percent of scheduled up-time, 24 hours a day, 7 days per week. Scheduled up-time shall mean the time the database is available for transactions excluding scheduled downtime for routine maintenance. The total system, including the system's central computer, any network or intermediate processing facilities and cardholder authorization processors, shall be available 98 percent of scheduled up-time, 24 hours per day, 7 days per week. Scheduled downtime for routine maintenance shall occur during non-peak transaction periods. State certification procedures shall determine whether intermediate processing facilities and cardholder authorization processors are capable of complying with system availability standards prescribed herein prior to permitting the interface with the central computer system.

(ii) The system central computer shall permit no more than 2 inaccurate EBT transactions for every 10,000 EBT

transactions processed. The transactions to be included in measuring system accuracy shall include all types of SNAP transactions permitted at POS terminals and processed through the host computer, manual transactions entered into the system, credits to household accounts, and funds transfers to retailer accounts.

(iii) Reconciliation reports and other information regarding problematic transactions shall be made available to the State agency by the system operator, individual retailers, households or financial institutions as appropriate. Reports on problematic transactions, including inaccurate transactions, shall be delineated by the source of the problem such as card failure, POS terminal failure, interruption of telecommunications, or other component failure. Errors shall be resolved in a timely manner.

(3) *System security.* As an addition to or component of the Security Program required of Automated Data Processing systems prescribed under §277.18(m) of this chapter, the State agency shall ensure that the following EBT security requirements are established:

(i) Storage and control measures to control blank unissued EBT cards and PINs, and unused or spare POS devices;

(ii) Measures to ensure communication access control. Communication controls shall include the transmission of transaction data and issuance information from POS terminals to workstations and terminals at the data processing center. The following specific security measures shall be included, as appropriate, in the system design documentation, operating procedures or the State agency Security Program:

(A) Computer hardware controls that ensure acceptance of data from authorized terminals only. These controls shall include the use of mechanisms such as retailer identification codes, terminal identifiers and user identification codes, and/or other mechanisms and procedures recognized by the industry;

(B) Software controls, placed at either the terminal or central computer or both, that establish separate control files containing lists of authorized retailers, terminal identifying codes, and

user access and identification codes. EBT system software controls shall include separate checks against the control files in order to validate each transaction prior to authorization and limiting the number of unsuccessful PIN attempts that can be made utilizing standard industry practices before the card is deactivated;

(C) Communications network security that utilizes the Data Encryption Standard algorithm to encrypt the PIN, at a minimum, from the point of entry. Other security may include authentication codes and check-sum digits, in combination with data encoded on the magnetic stripe such as the PIN and/or PIN offset, to ensure data security during electronic transmission. Any of the network security measures may be utilized together or separately and may be applied at the terminal or central computer as indicated in the approved system design to ensure communications control;

(D) Manual procedures that provide for secure access to the system with minimal risk to household or retailer accounts. Manual procedures may include the utilization of manager identification codes in obtaining telephonic authorization from the central computer system; requirements for separate entry with audio response unit verification and authorization number; and/or the utilization of 24 hour hotline telephone numbers to authorize transactions.

(iii) Message validation shall include but shall not be limited to:

(A) Message format checks for completeness of the message, correct order of data, existence of control characters, number and size of data fields and appropriate format standards as specified in the approved system design;

(B) Range checks for acceptable date fields, number and valid account numbers, purchase and refund upper limitations in order to prevent and control damage to the system accounts;

(C) Reversal of messages that are not fully processed and recorded.

(iv) Administrative and operational procedures shall ensure that:

(A) Functions affecting an account balance are separated or dually controlled during processing and when requesting Federal reimbursement through a concentrator bank under the provisions of paragraph (i) of this section. These functions may include but are not limited to the set up of accounts, transmittal of funds to and from accounts, access to files to change account records, and transmittal of retailer deposits to the ACH network or other means approved by FNS for crediting retailer bank accounts;

(B) Passwords, identity codes or other security procedures must be utilized by State agency or local personnel and at data processing centers;

(C) Software programming changes shall be dual controlled to the extent possible;

(D) System operations functions shall be segregated from reconciliation duties;

(v) A separate EBT security component shall be incorporated into the State agency Security Program for Automated Data Processing (ADP) systems where appropriate as prescribed under §277.18(m) of this chapter. The periodic risk analyses required by the Security Program shall address the following items specific to an EBT system:

(A) EBT system vulnerability to theft and unauthorized use;

(B) Completeness and timeliness of the reconciliation system;

(C) Vulnerability to tampering with or creating household accounts;

(D) Erroneous posting of issuances to household accounts;

(E) Manipulation of retailers' accounts such as creation of false transactions or intrusion by unauthorized computer users;

(F) Capability to monitor systematic abuses at POS terminals such as debits for a complete allotment, excessive manual issuances, and multiple manual transactions at the same time. Such monitoring may be accomplished through the use of exception reporting;

(G) Tampering with information on the ACH tape or similar information utilized in a crediting method approved by FNS; and,

(H) The availability of a complete audit trail. A complete audit trail

shall, at a minimum, be able to provide a complete transaction history of each individual system activity that affects an account balance. The audit trail shall include the tracking of issuances from the Master File and Issuance File, network transactions from POS terminals to EBT central computer database and system file updates.

(vi) The State agency shall incorporate the contingency plan approved by FNS into the Security Program.

(4) *System ease-of-use.* (i) For all system users, the State agency shall ensure that the system:

(A) Minimizes the number of separate steps required to complete a transaction;

(B) Minimizes the number of codes or commands needed to make use of the system;

(C) Makes available clear and comprehensive account balance information with a minimum number of actions necessary;

(D) Provides training and instructions for all system users especially those persons with disabilities;

(E) Makes available prompts on POS terminals or balance only terminals, where appropriate;

(F) Identifies procedures for problem resolution;

(G) Provides reasonable accommodation for the needs of households with disabilities in keeping with the Americans with Disabilities Act of 1990.

(ii) In addition to the requirements of paragraph (h)(4)(i) of this section, the State agency shall ensure that retailers utilizing the EBT system:

(A) Have available manual backup procedures;

(B) Can obtain timely information on daily credits to their banks;

(C) Have available deposit information in a format readily comparable to information maintained in the store; and

(D) Have available instructions on resolving problems with equipment and retailer accounts.

(5) *Minimum card requirements.* (i) The address of the office where a card can be returned if found or no longer in use should be printed on the card.

(ii) FNS reserves the right to require State agencies to place a Department

logo on the EBT card and/or sleeves or jackets.

(iii) EBT cards and/or sleeves or jackets shall not contain the name of any State or local official. EBT informational materials shall not indicate association with any political party or other political affiliation.

(iv) State agencies may require the use of a photograph of one or more household members on the card. If the State agency does require the EBT cards to contain a photo, it must establish procedures to ensure that all appropriate household members or authorized representatives are able to access benefits from the account as necessary.

(6) *POS terminals.* POS terminals shall meet the following requirements:

(i) Balance information shall not be displayed on the screen of the POS terminal except for balance-only inquiry terminals;

(ii) PINs shall not be displayed at the terminal; and

(iii) PIN encryption shall occur from the point of entry in a manner which prevents the unsecured transmission between any point in the system.

(7) *Transaction receipts.* Households shall be provided printed receipts at the time of transaction. At a minimum this information shall:

(i) State the date, merchant's name and location, transaction type, transaction amount and remaining balance for the SNAP account;

(ii) Comply with the requirements of 12 CFR part 205 (Regulation E) in addition to the requirements of this section; and

(iii) Identify the SNAP household member's account number (the PAN) using a truncated number or coded transaction number. The households' name shall not appear on the receipt except when a signature is required when utilizing a manual transaction voucher.

(8) *Performance bonding.* The State agency may require a performance bond in accordance with §277.8 of this chapter or utilize other contractual clauses it deems necessary to enforce the requirements of this section.

(9) *Minimum transaction set.* At a minimum, the State agency shall ensure that the EBT system, including third

party processors and retailers driving their own terminals, is capable of providing for authorizing or rejecting purchases, refunds or customer credits, voids or cancellations, key entered transactions, balance inquiries and settlement or close-out transactions. The system must be capable of completing this transaction set across State borders nationwide in accordance with standards specified in paragraph (h)(10) of this section.

(10) *Interoperability.* State agencies must adopt uniform standards to facilitate interoperability and portability nationwide. The term "interoperability" means the EBT system must enable benefits issued in the form of an EBT card to be redeemed in any State. The term "portability" means the EBT system must enable benefits issued in the form of an EBT card to be used in any State by a household to purchase food at a retail food store or a wholesale food concern approved under the Food and Nutrition Act of 2008. The standards must include the following:

(i) *EBT system connectivity.* State agencies are responsible for establishing telecommunications links, transaction switching facilities and any other arrangements with other State agencies necessary for the routing of interoperable transactions to such other State EBT authorization systems. State agencies are also responsible for facilitating the settlement of such interoperable transactions and the handling of adjustments. These connections need not be direct connections between State authorization systems but may be facilitated through agreements and linkages with other designated agents or third party processors. All State agencies must agree to the timing and disposition of disputes, error resolution, and adjustments in accordance with Department regulations at §273.13(a) and §273.15(k) of this chapter and paragraph (f) of this section. State agencies or their designated agents must draw funds from State SNAP accounts for SNAP benefits transacted by that State's SNAP recipients, regardless of where benefits were transacted.

(ii) *Message format.* Each authorization system must use the ISO 8583 message format, modified for EBT, in a

version mutually agreed to between the authorization agent and the party connected for all transactions. Each authorization system must process each financial transaction as a single message financial transaction, except for pre-authorized transactions and reversals, processed as paired transactions.

(iii) *Card Primary Account Number (PAN) Requirements.* Track 2 on each card shall contain the PAN. Each Government entity must obtain an Issuer Identification Number (IIN) from the American Banker's Association (ABA). The IIN should be included as the first six digits of the PAN. The PAN must comply with ISO 7812, Identification Cards—Numbering System and Registration Procedures for Issuer Identifiers. Each State agency must be responsible for generating, updating, and distributing IIN files of all States to each retailer, processor, or acquirer that is directly connected to the State's authorization system. Each terminal operator that uses a routing table for routing acquired transactions must, within 7 calendar days of receiving an IIN routing table update, modify its routing tables to reflect the updated routing information.

(iv) *Third Party Processor requirements.* Each Third Party Processor or terminal operator must have primary responsibility and liability for operating the telecommunications and processing system (including software and hardware) through which transactions initiated at POS terminals it owns, operates, controls or for which it has signed an agreement to accept EBT transactions, are processed and routed, directly or indirectly, to the appropriate State authorization system. Each terminal operator must maintain the necessary computer hardware and software to interface either directly with a State authorization system or with a third party service provider to obtain access to one or more State authorization systems. Each terminal operator must also establish a direct or indirect telecommunications connection for the routing of transactions to the State authorization system or to a processor directly or indirectly connected to the State authorization system.

(v) *REDE File.* The State agency must ensure that their EBT system verifies FNS retailer numbers for all interstate transactions against the National REDE file of all FNS EBT retailers to validate these transactions.

(c) *Concentrator bank responsibilities.* The concentrator bank shall be a Federally-insured financial institution or other entity acceptable to the Federal Reserve which has the capability to take retailer credits and/or debits, obtained from the EBT system operator, and transmit them to the ACH network operated by the Federal Reserve or through another process for crediting retailers approved by FNS. Transmittal shall be by tape or on-line in a format suitable for the ACH or as approved by FNS.

(1) The minimum functions of the concentrator bank are:

(i) Preparing a daily ACH tape or other crediting process approved by FNS with information on benefits redeemed and creditable to each retailer;

(ii) Transferring the ACH tape or other crediting process approved by FNS to the Federal Reserve or other entity approved by FNS;

(iii) Initiating and accepting reimbursement from the appropriate U.S. Treasury account through the ASAP system or other payment process approved by FNS. At the option of FNS, the State agency may designate another entity as the initiator of reimbursement for SNAP redemptions provided the entity is acceptable to FNS and U.S. Treasury;

(iv) Cooperating in the reconciliation of discrepancies and error resolution when necessary.

(2) With the approval of FNS, another procedure, other than the ACH system, may be utilized to credit retailer accounts and/or debit FNS' account, if it meets the needs of FNS and the EBT system.

(3) The State agency shall be liable for any errors in the creation of the ACH tape or its transmission. The State agency may transfer the liability associated with creation of the ACH tape, its transmission or another crediting process approved by FNS as appropriate to the EBT system operator or the concentrator bank. Appropriate system security administrative and

§ 274.8

7 CFR Ch. II (1-1-15 Edition)

operational procedures shall be instituted in accordance with paragraph (h)(3) of this section.

(d) *Re-presentation.* The State agency shall ensure that a manual purchase system is available for use during times when the EBT system is inaccessible.

(1) Under certain circumstances, when a manual transaction occurs due to the inaccessibility of the host computer and the transaction is rejected because insufficient funds are available in a household's account, the State agency may permit the re-presentation of the transaction during subsequent months. At the State agency's option, re-presentation may be permitted within the EBT system as follows:

(i) Re-presentation of manual vouchers when there are insufficient funds in the EBT account to cover the manual transaction may be permitted only under the following circumstances:

(A) The manual transaction occurred because the host computer was down and authorization was obtained by the retailer for the transaction; or

(B) The manual transaction occurred because telephone lines were down.

(ii) Re-presentation of manual vouchers shall not be permitted when the EBT card, magnetic stripe, PIN pad, card reader, or POS terminal fails and telephone lines are operational. Manual transactions shall not be utilized to extend credit to a household via re-presentation when the household's account balance is insufficient to cover the planned purchase.

(iii) The State agency may debit the benefit allotment of a household following the insufficient funds transaction in either of two ways:

(A) Any amount which equals at least \$10 or up to 10 percent of the transaction. This amount will be deducted monthly until the total balance owed is paid-in-full. State agencies may opt to re-present at a level that is less than the 10 percent maximum, however, this lesser amount must be applied to all households.

(B) \$50 in the first month and the greater of \$10 or 10 percent of the allotment in subsequent months until the total balance owed is paid-in-full. If the monthly allotment is less than \$50,

the State shall debit the account for \$10.

(2) The State agency shall establish procedures for determining the validity of each re-presentation and subsequent procedures authorizing a debit from a household's monthly benefit allotment. The State agency may ask households to voluntarily pay the amount of a re-presented transaction or arrange for a faster schedule of payment than identified in paragraph (d)(1)(iii) of this section.

(3) The State agency shall ensure that retailers provide notice to households at the time of the manual transaction that re-presentation may occur if there are insufficient benefits in the account to cover the transaction. The statement shall be printed on the paper voucher or on a separate sheet of paper. The State agency shall also provide notice to the household prior to the month when a benefit allotment is reduced when a re-presentation is necessary. Notice shall be provided to the household for each insufficient transaction that is to be re-presented in a future month. The notice shall be provided prior to the month it occurs and shall state the amount of the reduction in the benefit allotment.

(4) The Department shall not accept liability under any circumstances for the overissuance of benefits due to the utilization of manual vouchers, including those situations when the host computer is inaccessible or telecommunications lines are not functioning. However, the State agency, in consultation with authorized retailers and with the mutual agreement of the State agency's vendor, if any, may accept liability for manual purchases within a specified dollar limit. Costs associated with liabilities accepted by the State agency shall not be reimbursable.

(5) The State agency shall be strictly liable for manual transactions that result in excess deductions from a household's account.

(e) *Store-and-forward.* As an alternative to manual transactions:

(1) State agencies may opt to allow retailers, at the retailer's own choice and liability, to perform store-and-forward transactions when the EBT system cannot be accessed for any reason.

Food and Nutrition Service, USDA

§ 275.1

The retailer may forward the transaction to the host one time within 24 hours of when the system again becomes available. Should the 24-hour window cross into the beginning of a new benefit issuance period, retailers may draw against all available benefits in the account.

(2) State agencies may also opt, in instances where there are insufficient funds to authorize an otherwise approvable store-and-forward transaction, to allow the retailer to collect the balance remaining in the client's account, in accordance with the requirements detailed in this section.

(i) State Agencies may elect to allow store-and-forward to provide remaining balances to retailers as follows:

(A) The EBT processor may provide partial approval of the store-and-forward transaction, crediting the retailer with the balance remaining in the account through a one-step process;

(B) The transaction should be in accordance with the standard message format requirements for store and forward; and

(C) Re-presentation, as described in paragraph (d) of this section, to obtain the uncollected balance from current or future months' benefits shall not be allowed for store-and-forward transactions.

(ii) In States that elect not to give retailers the option described in this paragraph, all store-and-forward transactions with insufficient funds will be denied in full.

[75 FR 18381, Apr. 12, 2010, as amended at 79 FR 11, Jan. 2, 2014]

PART 275—PERFORMANCE REPORTING SYSTEM

Subpart A—Administration

Sec.

- 275.1 General scope and purpose.
- 275.2 State agency responsibilities.
- 275.3 Federal monitoring.
- 275.4 Record retention.

Subpart B—Management Evaluation (ME) Reviews

- 275.5 Scope and purpose.
- 275.6 Management units.
- 275.7 Selection of sub-units for review.
- 275.8 Review coverage.
- 275.9 Review process.

Subpart C—Quality Control (QC) Reviews

- 275.10 Scope and purpose.
- 275.11 Sampling.
- 275.12 Review of active cases.
- 275.13 Review of negative cases.
- 275.14 Review processing.

Subpart D—Data Analysis and Evaluation

- 275.15 Data management.

Subpart E—Corrective Action

- 275.16 Corrective action planning.
- 275.17 State corrective action plan.
- 275.18 Project area/management unit corrective action plan.
- 275.19 Monitoring and evaluation.

Subpart F—Responsibilities for Reporting on Program Performance

- 275.20 ME review schedules.
- 275.21 Quality control review reports.
- 275.22 Administrative procedure.

Subpart G—Program Performance

- 275.23 Determination of State agency program performance.
- 275.24 High performance bonuses.

AUTHORITY: 7 U.S.C. 2011–2036.

EDITORIAL NOTE: OMB control numbers relating to this part 275 are contained in § 271.8.

Subpart A—Administration

§ 275.1 General scope and purpose.

Under the Food Stamp Act, each State agency is responsible for the administration of the Food Stamp Program in accordance with the Act, Regulations, and the State agency's plan of operation. To fulfill the requirements of the Act, each State agency shall have a system for monitoring and improving its administration of the program. The State agency is also responsible for reporting on its administration to FNS. These reports shall identify program deficiencies and the specific administrative action proposed to meet the program requirements established by the Secretary. If it is determined, however, that a State has failed without good cause to meet any of the program requirements established by the Secretary, or has failed to carry out the approved State plan of operation, the Department shall suspend and/or disallow from the State

Food and Nutrition Service, USDA

§ 278.2

the same manner and to the same extent as sections 7213(a) (1), (2) and (3) apply with respect to unauthorized disclosures of returns and return information described in those sections. The sanction under section 7213(a)(4) of the Internal Revenue Code of 1986 will apply with respect to the willful offer of any item of material value in exchange for any SSN or related record in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section.

(4) *FNS initiated matches.* Under the restrictions noted in paragraph (r) of this section, FNS will periodically initiate cross matches of retailer data with other Federal and State agencies' files for the purpose of verifying information provided by applicant and participating firms, and for the purposes of administering and enforcing other Federal or State laws. Such matches could involve all firms participating after implementation for the purpose of verifying information such as, but not limited to, SSNs and retail sales data.

(r) *Public and Private Nonprofit Homeless Meal Providers.* FNS shall authorize as retail food stores, those public and private nonprofit homeless meal providers which apply and qualify for authorization to accept food stamps from homeless food stamp recipients. Such meal providers must be public or private nonprofit organizations as defined by the Internal Revenue Service (I.R.C. 501(c)(3)), must serve meals that include food purchased by the provider, must meet the requirements of paragraphs (a) and (b) of this section, and must be approved by an appropriate State or local agency, pursuant to § 272.9. Public and private nonprofit homeless meal providers shall be responsible for obtaining approval from an appropriate State or local agency and shall provide written documentation of such approval to FNS prior to approval of the meal provider's application for authorization. (If such approval is subsequently withdrawn, FNS authorization shall be withdrawn). Public and private nonprofit homeless meal providers serving meals which consist wholly of donated foods shall

not be eligible for authorization. In an area in which FNS, in consultation with the Department's Office of Inspector General, finds evidence that the authorization of a public and private nonprofit homeless meal provider would damage the Food Stamp Program's integrity, FNS shall limit the participation of that public and private nonprofit homeless meal provider, unless FNS determines that the establishment or shelter is the only one of its kind serving the area.

(s) Each authorized retail food store shall post in a suitable and conspicuous location in the store a sign designed and provided by FNS which provides information on how persons may report abuses they have observed in the operation of the program. Refusal or repeated failure to display such a sign by an authorized retail food store may result in the withdrawal of the firm's approval to participate in the program.

(t) *Periodic notification.* The FNS will issue periodic notification to participating retail stores and wholesale food concerns to clarify program eligibility criteria, including the definitions of "Retail food store", "Staple foods", "Eligible foods", and "Perishable foods". At a minimum, such information will be provided to stores at the time of authorization, reauthorization and upon request.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 278.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

EFFECTIVE DATE NOTE: At 61 FR 53600, Oct. 15, 1996, in § 278.1, paragraph (i) was redesignated as paragraph (j) and a new paragraph (i) was added. This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 278.2 Participation of retail food stores.

(a) *Use of coupons.* Coupons may be accepted by an authorized retail food store only from eligible households or the households' authorized representative, and only in exchange for eligible food. Coupons may not be accepted in exchange for cash, except when cash is

returned as change in a transaction in which coupons were accepted in payment for eligible food under paragraph (d) of this section. Coupons may not be accepted in payment of interest on loans or for any other nonfood use. An authorized retail food store may not accept coupons from another retail food store, except that public or private nonprofit homeless meal providers may redeem coupons for eligible food through authorized retail food stores.

(b) *Equal treatment for coupon customers.* Coupons shall be accepted for eligible foods at the same prices and on the same terms and conditions applicable to cash purchases of the same foods at the same store except that tax shall not be charged on eligible foods purchased with coupons. However, nothing in this part may be construed as authorizing FNS to specify the prices at which retail food stores may sell food. However, public or private nonprofit homeless meal providers may only request *voluntary* use of food stamps from homeless food stamp recipients and may not request such household using food stamps to pay more than the average cost of the food *purchased* by the public or private nonprofit homeless meal provider contained in a meal served to the patrons of the meal service. For purposes of this section, "average cost" is determined by averaging food costs over a period of up to one calendar month. Voluntary payments by food stamp recipients in excess of such costs may be accepted by the meal providers. The value of donated foods from any source shall not be considered in determining the amount to be requested from food stamp recipients. All indirect costs, such as those incurred in the acquisition, storage, or preparation of the foods used in meals shall also be excluded. In addition, if others have the option of eating free or making a monetary donation, food stamp recipients must be provided the same option of eating free or making a donation in money or food stamps. No retail food store may single out coupon users for special treatment in any way.

(c) *Accepting coupons.* No authorized retail food store may accept coupons marked "paid," "canceled," or "specimen." Nor may a retail food store accept coupons bearing any cancellation

or endorsement, or coupons of other than the 1-dollar denomination which have been detached from the coupon books prior to the time of purchase or delivery of eligible food unless the detached coupons are accompanied by the coupon books which bear the same serial numbers that appear on the detached coupons. However, in the case of public or private nonprofit homeless meal providers, retail food stores may accept detached coupons which have been accepted by the homeless meal provider. It is the right of the household member or the authorized representative to detach the coupons from the book.

(d) *Making change.* An authorized retail food store shall use, for the purpose of making change, uncanceled and unmarked 1-dollar coupons which were previously accepted for eligible foods. If change in an amount of less than 1-dollar is required, the eligible household shall receive the change in cash. However, in the case of public or private nonprofit homeless meal providers, neither cash change nor credit slips shall be provided under any circumstances when food stamps are used to purchase meals. At no time may cash change in excess of 99 cents be returned in a coupon transaction. An authorized retail food store may not engage in a series of coupon transactions the purpose of which is to provide the same food stamp customer an amount of cash change greater than the maximum 99 cents cash change allowed in one transaction.

(e) *Accepting coupons before delivery.* Food retailers may not accept coupons before delivering the food, retain custody of any unspent coupons, or in any way prevent an eligible household from using coupons in making purchases from other authorized firms. However, a nonprofit cooperative food purchasing venture may accept coupons from a member of the cooperative at the time the member places a food order. The food ordered must be made available to the member within 14 days from the day the cooperative receives the member's coupons.

(f) *Paying credit accounts.* Food stamp benefits shall not be accepted by an authorized retail food store in payment for items sold to a household on credit.

A firm that commits such violations shall be disqualified from participation in the Food Stamp Program for a period of one year.

(g)(1) *Redeeming coupons.* Authorized retail food stores may exchange coupons accepted in accordance with this part for face value upon presentation through the banking system or through a wholesale food concern authorized to accept coupons from that retailer. Authorized drug addict or alcoholic treatment and rehabilitation programs, group living arrangements, and shelters for battered women and children may present coupons for redemption through authorized wholesale food concerns. A drug addict or alcoholic treatment center, group living arrangement, or shelter for battered women and children may purchase food in authorized retail food stores as the authorized representative of its participating households. Public or private nonprofit homeless meal providers may purchase food in authorized retail food stores and through authorized wholesale food concerns. Authorized drug addict and alcoholic treatment and rehabilitation programs, group living arrangements, shelters for battered women and children, and public or private nonprofit homeless meal providers for homeless food stamp households shall not present coupons directly to an insured financial institution for redemption.

(2) Notwithstanding paragraph (g)(1) of this section, authorized drug addict and alcoholic treatment and rehabilitation programs, group living arrangements, shelters for battered women and children, and public or private nonprofit homeless meal providers for homeless food stamp households may be authorized to redeem EBT benefits directly through an insured financial institution in areas where an Electronic Benefit Transfer (EBT) system has been implemented.

(h) *Identifying coupon users.* Coupons may not knowingly be accepted from persons who have no right to possession of coupons. If a food retailer has any cause to believe that a person presenting coupons has no right to use the coupons, the food retailer should request the person to show the ID card of the household to establish the right of that person to use the coupons. Where

photo ID cards are in use, the person presenting the ID card need not be pictured on the card. Public or private nonprofit homeless meal providers redeeming detached coupons through retail food stores shall present their retailer authorization card as proof of their eligibility to redeem coupons through retail food stores.

(i) *Checking meal delivery service recipients.* A nonprofit meal delivery service shall require the recipient of a delivered meal to show the marked ID card establishing the recipient's right to use coupons for that service the first time that the recipient offers coupons in payment for the service, and shall request the marked ID card at any time the nonprofit meal delivery service has cause to question the continued eligibility of the recipient to use coupons for delivered meals.

(j) *Checking hunting and fishing equipment users.* Authorized Alaskan retailers shall require coupon customers wanting to purchase hunting and fishing equipment with coupons to show their ID cards to determine that they live in an area designated by FNS as one in which persons are dependent upon hunting and fishing for subsistence.

(k) *Checking participants in restaurants.* A restaurant operating under a State contract shall require a household purchasing meals to show the marked ID card establishing the household's right to purchase meals with coupons unless the personnel of the restaurant know that the program participant tendering coupons is eligible to use coupons to purchase meals.

(l) *Checking public or private nonprofit homeless meal provider recipients.* Public or private nonprofit homeless meal providers shall establish a food stamp patron's right to purchase meals with coupons.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 278.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Appendix B Michigan Laws

- B.1 1972 PA 222 MCL 28.292 Page 68
Official state personal identification card; contents; duties of secretary of state; methods; form; emergency medical information card; fingerprint or finger image; retention and use of individual's digital photographic image; limitation; evidence of blindness; placement on donor registry; information; issuance; manufacture; fees; expiration; renewal; waiver of fee; correction for change of name or address; application for renewal; other information; emancipated minor; participation in anatomical gift donor registry; validity.
- B.2 1972 PA 222 MCL 28.295 Page 72
Conduct constituting felony or misdemeanor; penalties; exceptions; cancellation or return.
- B.3 1949 PA 300 MCL 257.625g Page 73
Duties of peace officer if person refuses chemical test or if test reveals unlawful alcohol content or presence of controlled substance or other intoxicating substance; test results; duration of temporary license or permit; definitions.
- B.4 1949 PA 300 MCL 257.307 Page 74
Application for operator's or chauffeur's license to operate noncommercial motor vehicle; documents to be supplied to verify citizenship or identity and legal presence; manner; contents; image and signature; equipment; signature and certification; application fee; duties of secretary of state; donor registry; driving record from another jurisdiction; operation of commercial motor vehicle; application for original, renewal, or upgrade of vehicle group designation or indorsement; verification of identity and citizenship or residency; issuing renewal license by mail or other methods; information manual; social security number; electronic access to donor registry; agreements with federal government; termination of license issued by another state; duties of secretary of state; access to prisoner information.
- B.5 1949 PA 300 MCL 257.310 Page 79
Operator's or chauffeur's license; issuance; applicant for motorcycle indorsement or vehicle group designation or indorsement; contents of license; fingerprint or finger image; digitized license; information; manufacture; unlawful acts; penalties; temporary driver's permit; medical data;

emergency contact information; designation of patient advocate or emancipated status; duplicates of license; emergency medical information card; participation in anatomical gift donor registry.

STATE PERSONAL IDENTIFICATION CARD (EXCERPT)

Act 222 of 1972

28.292 Official state personal identification card; contents; duties of secretary of state; methods; form; emergency medical information card; fingerprint or finger image; retention and use of individual's digital photographic image; limitation; evidence of blindness; placement on donor registry; information; issuance; manufacture; fees; expiration; renewal; waiver of fee; correction for change of name or address; application for renewal; other information; emancipated minor; participation in anatomical gift donor registry; validity.

Sec. 2. (1) An official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the individual to whom the card is issued.

(b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of or verification and certification by the applicant, as determined by the secretary of state, and expiration date of the official state personal identification card.

(c) An indication that the identification card contains 1 or more of the following:

(i) The blood type of the individual.

(ii) Immunization data of the individual.

(iii) Medication data of the individual.

(iv) A statement that the individual is deaf.

(d) In the case of a holder of an official state personal identification card who has indicated his or her wish to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a heart insignia on the front of the official state personal identification card.

(e) If requested by an individual who is a veteran of the armed forces of this state, another state, or the United States, other than an individual who was dishonorably discharged from the armed forces of this state, another state, or the United States, a designation that the individual is a veteran. The designation shall be in a style and format considered appropriate by the secretary of state. The secretary of state shall require proof of discharge or separation of service from the armed forces of this state, another state, or the United States, and the nature of that discharge, for the purposes of verifying an individual's status as a veteran under this subdivision. The secretary of state shall consult with the department of military and veterans affairs in determining the proof that shall be required to identify an individual's status as a veteran for the purposes of this subsection. The secretary of state may provide the department of military and veterans affairs and agencies of the counties of this state that provide veteran services with information provided by an applicant under this subsection for the purpose of veterans' benefits eligibility referral.

(f) Physical security features designed to prevent tampering, counterfeiting, or duplication of the official state personal identification card for fraudulent purposes.

(2) In conjunction with the application for an official state personal identification card, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(ii) Information describing the donor registry program maintained by Michigan's federally designated organ procurement organization or its successor organization under section 10120 of the public health code, 1978 PA 368, MCL 333.10120. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization as defined in section 10120 of the public health code, 1978 PA 368, MCL 333.10120.

(iii) Information giving the applicant the opportunity to have his or her name placed on the registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her official state personal identification card that he or she is willing to make an anatomical gift in the event of death pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the donor registry.

(3) The secretary of state may fulfill the requirements of subsection (2) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for the issuance or renewal of an official state personal identification card.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for applications processed by electronic means.

(4) The secretary of state shall prescribe the form of the official state personal identification card. The secretary of state shall designate a space on the identification card where the applicant may place a sticker or decal of a uniform size as the secretary may specify to indicate that the cardholder carries a separate emergency medical information card. The sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The sticker or decal also may be used to indicate that the cardholder has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506. The emergency medical information card, carried separately by the cardholder, may contain the information described in subsection (2)(c), information concerning the cardholder's patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered emergency medical information. An original identification card or the renewal of an existing identification card issued to an individual less than 21 years of age shall be portrait or vertical in form and an identification card issued to an individual 21 years of age or over shall be landscape or horizontal in form. Except as otherwise required in this act, other information required on the identification card under this act may appear on the identification card in a form prescribed by the secretary of state.

(5) The identification card shall not contain a fingerprint or finger image of the applicant.

(6) Except as provided in this subsection, the secretary of state shall retain and use an individual's digital photographic image and signature described in subsection (1)(b) only for programs administered by the secretary of state as specifically authorized by law. An individual's digital photographic image or signature shall only be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) The secretary of state shall forward to the department of state police the images of individuals required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, upon the department of state police providing the secretary of state an updated list of those individuals.

(d) As necessary to comply with a law of this state or the United States.

(7) If an individual presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or is the holder of an official state personal identification card, the secretary of state shall mark the individual's identification card in a manner that clearly indicates that the cardholder is legally blind.

(8) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (2)(a)(ii). Information about an individual's indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state and forwarded under this section is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall establish and maintain the donor registry in a manner that complies with that section and that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks.

(9) An official state personal identification card may contain an identifier for voter registration purposes.

(10) An official state personal identification card shall contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the individual's identification card number, birth date, expiration date, full legal name, date of transaction, gender, address, state of issuance, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the individual's driving record or other personal identifier. The identification card shall identify the encoded information.

(11) An official state personal identification card shall be issued only upon authorization of the secretary of state, and shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the identification card without ready detection.

(12) Except as otherwise provided in this act, an applicant shall pay a fee of \$10.00 to the secretary of state for each original or renewal official state personal identification card issued. The department of treasury shall deposit the fees received and collected under this section in the state treasury to the credit of the general fund. The legislature shall appropriate the fees credited to the general fund under this act to the secretary of state for

the administration of this act. Appropriations from the Michigan transportation fund created under section 10 of 1951 PA 51, MCL 247.660, shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(13) An original or renewal official state personal identification card expires on the birthday of the individual to whom it is issued in the fourth year following the date of issuance or on the date the individual is no longer considered to be legally present in the United States under section 1, whichever is earlier. The secretary of state shall not issue an official state personal identification card under this act for a period greater than 4 years. Except as provided in this subsection, the secretary of state may issue a renewal official state personal identification card for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state shall require renewal in person by an individual required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(14) The secretary of state shall waive the fee under this section if the applicant is any of the following:

(a) An individual 65 years of age or older.

(b) An individual who has had his or her operator's or chauffeur's license suspended, revoked, or denied under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or physical infirmity or disability.

(c) An individual who presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368.

(d) An individual who presents other good cause for a fee waiver.

(e) An individual who wishes to add or remove a heart insignia described in subsection (1)(d).

(15) An individual who has been issued an official state personal identification card shall apply for a renewal official state personal identification card if the individual changes his or her name.

(16) An individual who has been issued an official state personal identification card shall apply for a corrected identification card if he or she changes his or her residence address. The secretary of state may correct the address on an identification card by a method prescribed by the secretary of state. A fee shall not be charged for a change of residence address.

(17) Except as otherwise provided in subsections (15) and (16), an individual who has been issued an official state personal identification card may apply for a renewal official state personal identification card for 1 or more of the following reasons:

(a) The individual wants to change any information on the identification card.

(b) An identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible.

(18) An individual may indicate on an official state personal identification card in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the individual is deaf.

(19) If an applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the official state personal identification card shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(20) The secretary of state shall inquire of each individual who applies for or who holds an official state personal identification card, in person or by mail, whether he or she agrees to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. An individual who has agreed to participate in the donor registry shall not be considered to have revoked that agreement solely because the individual's official state personal identification card has expired. Enrollment in the donor registry constitutes a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's anatomical gift.

(21) A valid official state personal identification card presented by the individual to whom the card is issued shall be considered the same as a valid state of Michigan driver license when identification is requested except as otherwise specifically provided by law.

History: 1972, Act 222, Imd. Eff. July 25, 1972;—Am. 1975, Act 307, Eff. Jan. 1, 1976;—Am. 1977, Act 286, Eff. Mar. 30, 1978;—Am. 1980, Act 444, Imd. Eff. Jan. 15, 1981;—Am. 1984, Act 335, Eff. Oct. 1, 1985;—Am. 1986, Act 68, Imd. Eff. Apr. 7, 1986;—Am. 1989, Act 125, Imd. Eff. June 28, 1989;—Am. 1996, Act 204, Eff. Jan. 1, 1997;—Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 1998, Act 2, Eff. July 1, 1998;—Am. 1998, Act 118, Eff. July 3, 1998;—Am. 1999, Act 89, Eff. Sept. 1, 1999;—Am. 2001, Act 238, Imd. Eff. Jan. 3, 2002;—Am. 2002, Act 553, Eff. Oct. 1, 2002;—Am. 2003, Act 143, Eff. Oct. 1, 2003;—Am. 2005, Act 143, Imd. Eff. Sept. 29, 2005;—Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008;—Am. 2008, Act 40, Imd. Eff. Mar. 17, 2008;—Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011;—Am. 2013, Act 28, Eff. May 1, 2014.

Compiler's note: Enacting section 1 of Act 553 of 2002 provides:

“Enacting section 1. There is appropriated from the amount provided in section 310(16) of the Michigan vehicle code, 1949 PA 300,

MCL 257.310, a sufficient amount to carry out the provisions of the 2002 amendatory act that amended section 2 of 1972 PA 222, MCL 28.292, and the 2002 amendatory act that provided an appropriation in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310.”

STATE PERSONAL IDENTIFICATION CARD (EXCERPT)
Act 222 of 1972

28.295 Conduct constituting felony or misdemeanor; penalties; exceptions; cancellation or return.

Sec. 5. (1) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates an official state personal identification card photograph, the negative of the photograph, an official state personal identification card image, an official state personal identification card, or the electronic data contained on an official state personal identification card or a part of an official state personal identification card or who uses an official state personal identification card, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(2) A person who sells or possesses with the intent to deliver to another a reproduced, altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card, or who possesses 2 or more reproduced, altered, counterfeited, forged, or duplicated official state identification card photographs, negatives of the photograph or photographs, image or images, official state identification card or cards, or electronic data contained on official state identification card or cards, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(3) A person who is in possession of an altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(4) A person shall not steal or, without the cardholder's permission, knowingly take or knowingly remove an official state personal identification card from the person or possession of another. A person shall not use an official state personal identification card that is stolen or knowingly taken or knowingly removed from the person or possession of another. Except as provided in subsection (5), a person who violates this subsection is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year.

(5) A person shall not use an official state personal identification card in the commission of a felony if the card is stolen or knowingly taken or knowingly removed from the person or possession of another. A person who violates this subsection is guilty of the penalties provided for the felony committed with the use of the card.

(6) Subsections (2) and (3) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of an official state personal identification card or part of an official state personal identification card to document the person's identity for a legitimate business purpose.

(7) Subsections (1)(a) and (b) and (2) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(8) The department may cancel the official state personal identification card of a person who violates this section. The person shall return his or her official state personal identification card upon the request or order of the department.

History: Add. 1977, Act 286, Eff. Mar. 30, 1978;—Am. 1984, Act 335, Eff. Oct. 1, 1985;—Am. 2004, Act 149, Eff. Sept. 1, 2004;—Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011.

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

257.625g Duties of peace officer if person refuses chemical test or if test reveals unlawful alcohol content or presence of controlled substance or other intoxicating substance; test results; duration of temporary license or permit; definitions.

Sec. 625g. (1) If a person refuses a chemical test offered under section 625a(6), the peace officer who requested the person to submit to the chemical test shall comply with subdivisions (a) and (b). If a person submits to the chemical test or a chemical test is performed under a court order and the test reveals an unlawful alcohol content, or the presence of a controlled substance or other intoxicating substance, or any combination of them, the peace officer who requested the person to submit to the test shall do all of the following, other than subdivision (b)(i):

(a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.

(b) Except as provided in subsection (2), immediately do all of the following:

(i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 625d to the secretary of state.

(ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.

(iii) Destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered under section 625a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) and (b)(ii) and indicate in the notice under subsection (1)(b)(ii) that a subsequent chemical test is pending. If the report reveals an unlawful alcohol content, or the presence of a controlled substance or other intoxicating substance, or any combination of them, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b)(iii). If the report does not reveal an unlawful alcohol content, or the presence of a controlled substance or other intoxicating substance, or any combination of them, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address provided at the time of arrest.

(3) A temporary license or permit issued under this section is valid for 1 of the following time periods:

(a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended under section 625f, whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.

(b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.

(4) As used in this section:

(a) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(b) "Intoxicating substance" means that term as defined in section 625.

(c) "Unlawful alcohol content" means any of the following, as applicable:

(i) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(ii) If the person tested was operating a commercial motor vehicle within this state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(iii) If the person tested is not a person described in subparagraph (i) or (ii), 0.08 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or, beginning October 1, 2018, 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

History: Add. 1967, Act 253, Eff. Nov. 2, 1967;—Am. 1980, Act 515, Eff. Apr. 1, 1981;—Am. 1991, Act 95, Eff. Jan. 1, 1992;—Am. 1994, Act 450, Eff. May 1, 1995;—Am. 1999, Act 73, Eff. Oct. 1, 1999;—Am. 2003, Act 61, Eff. Sept. 30, 2003;—Am. 2013, Act 23, Imd. Eff. May 9, 2013;—Am. 2014, Act 315, Eff. Jan. 12, 2015.

Administrative rules: R 325.2651 et seq. of the Michigan Administrative Code.

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

257.307 Application for operator's or chauffeur's license to operate noncommercial motor vehicle; documents to be supplied to verify citizenship or identity and legal presence; manner; contents; image and signature; equipment; signature and certification; application fee; duties of secretary of state; donor registry; driving record from another jurisdiction; operation of commercial motor vehicle; application for original, renewal, or upgrade of vehicle group designation or indorsement; verification of identity and citizenship or residency; issuing renewal license by mail or other methods; information manual; social security number; electronic access to donor registry; agreements with federal government; termination of license issued by another state; duties of secretary of state; access to prisoner information.

Sec. 307. (1) If an applicant for an operator's license or chauffeur's license to operate a noncommercial motor vehicle is a citizen of the United States, the applicant shall supply a photographic identity document, a birth certificate, or other sufficient documents as the secretary of state may require, to verify the identity and citizenship of the applicant. If an applicant for an operator's or chauffeur's license is not a citizen of the United States, the applicant shall supply a photographic identity document and other sufficient documents to verify the identity of the applicant and the applicant's legal presence in the United States under subdivision (b). The documents required under this subsection shall include the applicant's full legal name, date of birth, and address and residency and demonstrate that the applicant is a citizen of the United States or is legally present in the United States. If the applicant's full legal name differs from the name of the applicant that appears on a document presented under this subsection, the applicant shall present documents to verify his or her current full legal name. The secretary of state shall accept as 1 of the required identification documents an identification card issued by the department of corrections to prisoners who are placed on parole or released from a correctional facility, containing the prisoner's legal name, photograph, and other information identifying the prisoner as provided in section 37(4) of the corrections code of 1953, 1953 PA 232, MCL 791.237. An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full legal name, date of birth, residence address, height, sex, eye color, signature, intent to make an anatomical gift, other information required or permitted on the license under this chapter, and, only to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) If the applicant is not a citizen of the United States, the applicant shall provide, and the department shall verify, documents demonstrating his or her legal presence in the United States. Nothing in this act shall obligate or be construed to obligate this state to comply with title II of the real ID act of 2005, Public Law 109-13. The secretary of state may adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for the administration of this subdivision. A determination by the secretary of state that an applicant is not legally present in the United States may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(c) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your

residence address is located."

(d) For an original or renewal operator's or chauffeur's license with a vehicle group designation or indorsement, the names of all states where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

(e) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal driver qualification requirements under 49 CFR parts 383 and 391 or meets the applicable qualifications of the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

(ii) The vehicle in which the applicant will take the driving 28 skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant is not subject to disqualification by the United States Secretary of Transportation, or a suspension, revocation, or cancellation under any state law for conviction of an offense described in section 312f or 319b.

(iv) The applicant does not have a driver's license from more than 1 state or jurisdiction.

(f) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement shall provide his or her fingerprints as prescribed by state and federal law.

(2) An applicant for an operator's or chauffeur's license may have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire equipment purchased or leased under this section under standard purchasing procedures of the department of technology, management, and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. A digital photographic image and signature captured under this section shall appear on the applicant's operator's license or chauffeur's license. A person's digital photographic image and signature shall be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) By the secretary of state for forwarding to the department of state police the images of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, upon the department of state police providing the secretary of state an updated list of the names of those persons.

(d) As necessary to comply with a law of this state or of the United States.

(3) An application shall contain a signature or verification and certification by the applicant, as determined by the secretary of state, and shall be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the application for an operator's license or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Information describing the anatomical gift donor registry program under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization as defined in section 10102 of the public health code, 1978 PA 368, MCL 333.10102.

(iii) Information giving the applicant the opportunity to be placed on the donor registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the donor registry.

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (4)(a)(ii). Information about an applicant's indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state under subsection (4) and forwarded under subsection (14) is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state.

(8) If a person applies for a commercial learner's permit for an original vehicle group designation or indorsement to operate a commercial motor vehicle, the secretary of state may verify the person's identity, may require proof of Michigan domicile under 49 CFR 383.5, and may verify the person's proof of United States citizenship or proof of lawful permanent residency as required under 49 CFR 383.71 and 383.73, if that information is not on the person's Michigan driving record. If a person applies for a renewal of an operator's or chauffeur's license to operate a commercial motor vehicle, the secretary of state may verify the person's identity, may require proof of Michigan domicile under 49 CFR 383.5, and may verify the person's proof of citizenship or lawful permanent residency under 49 CFR 383.71 and 383.73, if that information is not on the person's Michigan driving record. If a person applies for an upgrade of a vehicle group designation or indorsement, the secretary of state may verify the person's identity, may require proof of Michigan domicile under 49 CFR 383.5, and may verify the person's proof of citizenship or lawful permanent residency under 49 CFR 383.71 and 383.73, if that information is not on the person's Michigan driving record. The secretary of state shall request the person's complete driving record from all states where the applicant was previously licensed to drive any type of motor vehicle over the last 10 years before issuing a vehicle group designation or indorsement to the applicant. If the applicant does not hold a valid commercial motor vehicle driver license from a state where he or she was licensed in the last 10 years, this complete driving record request must be made not earlier than 24 hours before the secretary of state issues the applicant a vehicle group designation or indorsement. For all other drivers, this request must be made not earlier than 10 days before the secretary of state issues the applicant a vehicle group designation or indorsement. If the application is for the renewal of a vehicle group designation or indorsement, and if the secretary of state enters on the person's driving record maintained under section 204a a notation that the request was made and the date of the request, the secretary of state is required to request the applicant's complete driving record from other states only once under this section. The secretary of state shall also check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement.

(9) Except for a vehicle group designation or indorsement or as provided in this subsection or section 314(5), the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period or until the person is no longer determined to be legally present under this section by mail or by other methods prescribed by the secretary of state. The secretary of state may check the applicant's driving record through the national driver register and the commercial driver license information system before issuing a license under this section. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(10) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 CFR part 383.

(11) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and state law and rules related to this chapter.

(b) To carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) To check an applicant's driving record through the national driver register and the commercial driver

license information system when issuing a license under this act.

(d) With the department of community health, for comparison with vital records maintained by the department of community health under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(e) As otherwise required by law.

(12) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(13) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number.

(14) As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks, in a manner that complies with that section.

(15) The secretary of state, with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into agreements with the United States government to verify whether an applicant for an operator's license or a chauffeur's license under this section who is not a citizen of the United States is authorized under federal law to be present in the United States.

(16) The secretary of state shall not issue an operator's license or a chauffeur's license to a person holding an operator's license or chauffeur's license issued by another state without confirmation that the person is terminating or has terminated the operator's license or chauffeur's license issued by the other state.

(17) The secretary of state shall do all of the following:

(a) Ensure the physical security of locations where operator's licenses and chauffeur's licenses are produced and the security of document materials and papers from which operator's licenses and chauffeur's licenses are produced.

(b) Subject all persons authorized to manufacture or produce operator's licenses or chauffeur's licenses and all persons who have the ability to affect the identity information that appears on operator's licenses or chauffeur's licenses to appropriate security clearance requirements. The security requirements of this subdivision and subdivision (a) may require that licenses be manufactured or produced in this state.

(c) Provide fraudulent document recognition programs to department of state employees engaged in the issuance of operator's licenses and chauffeur's licenses.

(18) The secretary of state shall have electronic access to prisoner information maintained by the department of corrections for the purpose of verifying the identity of a prisoner who applies for an operator's or chauffeur's license under subsection (1).

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1951, Act 270, Eff. Sept. 28, 1951;—Am. 1958, Act 217, Eff. Sept. 13, 1958;—Am. 1964, Act 260, Imd. Eff. June 3, 1964;—Am. 1967, Act 212, Eff. Nov. 2, 1967;—Am. 1972, Act 357, Imd. Eff. Jan. 9, 1973;—Am. 1975, Act 122, Imd. Eff. July 1, 1975;—Am. 1976, Act 358, Imd. Eff. Dec. 23, 1976;—Am. 1980, Act 174, Imd. Eff. June 23, 1980;—Am. 1982, Act 25, Imd. Eff. Mar. 4, 1982;—Am. 1983, Act 216, Imd. Eff. Nov. 11, 1983;—Am. 1984, Act 30, Eff. Apr. 28, 1984;—Am. 1988, Act 346, Eff. Jan. 1, 1990;—Am. 1989, Act 286, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 181, Imd. Eff. July 18, 1990;—Am. 1996, Act 205, Eff. Jan. 1, 1997;—Am. 1998, Act 120, Eff. July 3, 1998;—Am. 1998, Act 330, Imd. Eff. Aug. 10, 1998;—Am. 1999, Act 88, Eff. Sept. 1, 1999;—Am. 1999, Act 118, Eff. Apr. 1, 2000;—Am. 2001, Act 159, Imd. Eff. Nov. 6, 2001;—Am. 2002, Act 259, Imd. Eff. May 1, 2002;—Am. 2002, Act 534, Eff. Oct. 1, 2002;—Am. 2003, Act 152, Eff. Oct. 1, 2003;—Am. 2004, Act 52, Eff. May 1, 2004;—Am. 2004, Act 362, Imd. Eff. Oct. 4, 2004;—Am. 2004, Act 502, Imd. Eff. Dec. 29, 2004;—Am. 2005, Act 142, Imd. Eff. Sept. 29, 2005;—Am. 2006, Act 298, Imd. Eff. July 20, 2006;—Am. 2008, Act 7, Imd. Eff. Feb. 15, 2008;—Am. 2008, Act 36, Imd. Eff. Mar. 17, 2008;—Am. 2011, Act 159, Imd. Eff. Sept. 30, 2011;—Am. 2012, Act 26, Imd. Eff. Feb. 23, 2012;—Am. 2012, Act 55, Eff. June 30, 2012;—Am. 2015, Act 11, Eff. July 8, 2015.

Compiler's note: Section 2 of Act 216 of 1983 provides: "Not later than 2 years after the effective date of this amendatory act, the secretary of state shall report to the legislature regarding the effect on highway safety that eliminating the age requirement under subsection (5) has had."

Section 2 of Act 30 of 1984 provides: "The secretary of state shall implement section 307 as amended by this amendatory act beginning with operator's and chauffeur's licenses which expire on May 19, 1984."

Section 2 of Act 346 of 1988 provides:

"(1) Except as otherwise provided in this section, this amendatory act shall take effect October 1, 1989.

"(2) Sections 634, 710g, 722, 723, 724, 802, and 907 of this amendatory act shall take effect January 1, 1989.

"(3) Sections 4B and 801 of this amendatory act shall take effect upon the date of enactment of this amendatory act."

Section 2 of Act 173 of 1989 provides:

"(1) The amendments made to sections 8b, 57, 67a, 301, 303, 305, 306, 307, 309, 310, 312d, 312e, 312f, 312g, 312h, 314, 314b, 319a, 321a, 323, 728, 732, 743, and 907 of Act No. 300 of the Public Acts of 1949, being sections 257.8b, 257.57, 257.67a, 257.301, 257.303, 257.305, 257.306, 257.307, 257.309, 257.310, 257.312d, 257.312e, 257.312f, 257.312g, 257.312h, 257.314, 257.314b, 257.319a, 257.321a, 257.323, 257.728, 257.732, 257.743, and 257.907 of the Michigan Compiled Laws, by Act No. 346 of the Public Acts of 1988 shall take effect January 1, 1990.

"(2) Enacting section 2 of Act No. 346 of the Public Acts of 1988 is repealed."

Enacting section 1 of Act 330 of 1998 provides:

“Enacting section 1. The family independence agency shall request from the federal government an exemption from the provisions regarding the recording of social security numbers added by this 1998 amendatory act, which are intended to be used for the collection of child support, as required by federal law in order for this state to receive certain federal funds. Upon the granting of the exemption, those provisions referred to by this enacting section shall not be utilized or enforced by the state or a local governmental entity.”

In subsection (1)(e)(ii), the reference to “driving 28 skills tests” evidently should read “driving skills tests.”

Administrative rules: R 460.16101 et seq. of the Michigan Administrative Code.

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

257.310 Operator's or chauffeur's license; issuance; applicant for motorcycle indorsement or vehicle group designation or indorsement; contents of license; fingerprint or finger image; digitized license; information; manufacture; unlawful acts; penalties; temporary driver's permit; medical data; emergency contact information; designation of patient advocate or emancipated status; duplicates of license; emergency medical information card; participation in anatomical gift donor registry.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. An original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and a license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full legal name, date of birth, address of residence, height, eye color, sex, digital photographic image, expiration date, and signature of the licensee.

(c) In the case of a licensee who has indicated his or her wish to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a heart insignia on the front of the license.

(d) Physical security features designed to prevent tampering, counterfeiting, or duplication of the license for fraudulent purposes.

(e) If requested by an individual who is a veteran of the armed forces of this state, another state, or the United States, other than an individual who was dishonorably discharged from the armed forces of this state, another state, or the United States, a designation that the individual is a veteran. The designation shall be in a style and format considered appropriate by the secretary of state. The secretary of state shall require proof of discharge or separation of service from the armed forces of this state, another state, or the United States, and the nature of that discharge, for the purposes of verifying an individual's status as a veteran under this subdivision. The secretary of state shall consult with the department of military and veterans affairs in determining the proof that shall be required to identify an individual's status as a veteran for the purposes of this subsection. The secretary of state may provide the department of military and veterans affairs and agencies of the counties of this state that provide veteran services with information provided by an applicant under this subsection for the purpose of veterans' benefits eligibility referral.

(3) Except as otherwise required under this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, full legal name, date of transaction, gender, address, state of issuance, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the driving record or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required under 49 CFR part 383.

(7) Except as provided in subsection (11), a person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, image, license, or electronic data contained on a license or a part of a license or who uses a license, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or

aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(8) Except as provided in subsections (11) and (16), a person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(9) Except as provided in subsections (11) and (16), a person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(10) Except as provided in subsection (16), a person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue the applicant a temporary driver's permit. The temporary driver's permit entitles the applicant, while having the permit in his or her immediate possession, to operate a motor vehicle upon the highway for a period not exceeding 60 days before the secretary of state has issued the applicant an operator's or chauffeur's license. The secretary of state may establish a longer duration for the validity of a temporary driver's permit if necessary to accommodate the process of obtaining a background check that is required for an applicant by federal law.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf. The secretary of state shall not require an applicant for an original or renewal operator's or chauffeur's license to provide emergency contact information as a condition of obtaining a license. However, the secretary of state may inquire whether an operator or chauffeur would like to provide emergency contact information. Emergency contact information obtained under this subsection shall be disclosed only to a state or federal law enforcement agency for law enforcement purposes or to the extent necessary for a medical emergency.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(16) Subsections (8), (9), and (10) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of a license to document the identity of the licensee for a legitimate business purpose.

(17) A sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing an emergency medical information card, but shall meet the specifications of the secretary of state. An emergency medical information card may contain information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(18) The secretary of state shall inquire of each licensee, in person or by mail, whether the licensee agrees to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(19) A licensee who has agreed to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, shall not be considered to have revoked that agreement solely because the licensee's license has been revoked or suspended or has expired. Enrollment in

the donor registry constitutes a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's anatomical gift.

History: 1949, Act 300, Eff. Sept. 23, 1949;—Am. 1953, Act 144, Eff. Oct. 2, 1953;—Am. 1957, Act 164, Eff. Sept. 27, 1957;—Am. 1958, Act 217, Eff. Sept. 13, 1958;—Am. 1966, Act 206, Eff. Aug. 1, 1966;—Am. 1967, Act 212, Eff. Nov. 2, 1967;—Am. 1972, Act 357, Imd. Eff. Jan. 9, 1973;—Am. 1976, Act 358, Imd. Eff. Dec. 23, 1976;—Am. 1977, Act 259, Eff. Mar. 30, 1978;—Am. 1978, Act 139, Eff. May 1, 1979;—Am. 1980, Act 174, Imd. Eff. June 23, 1980;—Am. 1985, Act 219, Imd. Eff. Jan. 10, 1986;—Am. 1988, Act 346, Eff. Oct. 1, 1989;—Am. 1988, Act 404, Eff. Mar. 30, 1989;—Am. 1989, Act 286, Imd. Eff. Dec. 26, 1989;—Am. 1996, Act 205, Eff. Jan. 1, 1997;—Am. 1998, Act 226, Imd. Eff. July 3, 1998;—Am. 2001, Act 216, Imd. Eff. Dec. 28, 2001;—Am. 2002, Act 126, Eff. Apr. 22, 2002;—Am. 2002, Act 554, Eff. Oct. 1, 2002;—Am. 2002, Act 652, Eff. Jan. 1, 2003;—Am. 2003, Act 152, Eff. Oct. 1, 2003;—Am. 2004, Act 495, Eff. Jan. 31, 2005;—Am. 2005, Act 141, Imd. Eff. Sept. 29, 2005;—Am. 2008, Act 7, Imd. Eff. Feb. 15, 2008;—Am. 2008, Act 36, Imd. Eff. Mar. 17, 2008;—Am. 2012, Act 498, Eff. Mar. 28, 2013;—Am. 2013, Act 27, Eff. May 1, 2014.

Compiler's note: Section 2 of Act 346 of 1988 provides:

“(1) Except as otherwise provided in this section, this amendatory act shall take effect October 1, 1989.

“(2) Sections 634, 710g, 722, 723, 724, 802, and 907 of this amendatory act shall take effect January 1, 1989.

“(3) Sections 4B and 801 of this amendatory act shall take effect upon the date of enactment of this amendatory act.”

Section 2 of Act 173 of 1989 provides:

“(1) The amendments made to sections 8b, 57, 67a, 301, 303, 305, 306, 307, 309, 310, 312d, 312e, 312f, 312g, 312h, 314, 314b, 319a, 321a, 323, 728, 732, 743, and 907 of Act No. 300 of the Public Acts of 1949, being sections 257.8b, 257.57, 257.67a, 257.301, 257.303, 257.305, 257.306, 257.307, 257.309, 257.310, 257.312d, 257.312e, 257.312f, 257.312g, 257.312h, 257.314, 257.314b, 257.319a, 257.321a, 257.323, 257.728, 257.732, 257.743, and 257.907 of the Michigan Compiled Laws, by Act No. 346 of the Public Acts of 1988 shall take effect January 1, 1990.

“(2) Enacting section 2 of Act No. 346 of the Public Acts of 1988 is repealed.”