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Social Security Act and recoveries of prior excess UC benefits.

(f) *Court-ordered deductions.* State agencies may attempt to recover claims for intentional program violations from nonparticipating households by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from unemployment compensation. Subject to State and local law, State agencies may seek such judicial action before or after attempting to reach a voluntary agreement as described in paragraph (d) of this section.

(1) The State agency shall determine an amount to be withheld each week by considering as many of the factors listed in paragraph (e) of this section as it has knowledge of and shall recommend such amount to the court. The State agency shall notify the court of any mandatory deductions from an individual's UC benefits of which it has knowledge.

(2) The State agency shall assure that any individual against whom a court-ordered deduction is sought is notified of:

- (i) The total amount to be deducted from UC benefits otherwise due;
- (ii) The amount of UC benefits to be deducted each week; and
- (iii) The number of weeks the deduction will be made.

(3) The State agency shall provide the UC agency the information specified in paragraph (f)(1) of this section and a copy of the court order or a summary as the UC agency may request.

(g) *Agreement with UC agencies.* State agencies using the procedures specified in this section shall execute written agreements with UC agencies, including UC agencies in other States when circumstances and experience indicate that would be useful. The agreements shall include:

(1) The requirements specified in this section which affect both agencies, including the identifying information the State agency will provide, the frequency of and the procedures for exchanging information;

(2) The particular costs, both initial and ongoing, which the State agency shall reimburse the UC agency. Such

costs shall be limited to those attributable to the repayment of claims for intentional Program violations for which the State agency does not otherwise reimburse the UC agency; and

(3) The frequency of transmittals of deductions from UC benefits to the State agency and of reports of amounts deducted for each individual and the total amount transmitted.

[Amdt. 320, 55 FR 6239, Feb. 22, 1990]

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

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EDITORIAL NOTE: OMB control numbers relating to this part 273 are contained in § 271.8.

§ 273.1 Household concept.

(a) *Household definition*—(1) *General definition.* A household is composed of one of the following individuals or groups of individuals, provided they are not residents of an institution (except as otherwise specified in paragraph (e) of this section), are not residents of a commercial boarding house, or are not boarders (except as otherwise specified in paragraph (c) of this section):

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- (i) An individual living alone;
- (ii) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others;
- (iii) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(2) *Special definition:* (i) The following individuals living with others or groups of individuals living together *shall be* considered as customarily purchasing food and preparing meals together, even if they do not do so:

(A) A spouse as defined in § 271.2 of a member of the household;

(B) A child under 22 years of age who is living with his or her natural, adoptive, or stepparents, unless the child is also living with his or her own child(ren) or spouse.

(C) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child is considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, except that a child who is living with his or her own child(ren) or spouse is not considered to be under parental control.

(ii) Although a group of individuals living together and purchasing and preparing meals together constitutes a single household under the provisions of paragraph (a)(1)(iii) of this section, an otherwise eligible member of such a household who is 60 years of age or older and who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act or suffers from a nondisease-related, severe, permanent disability may be considered, together with any of the others who is the spouse of the elderly and disabled individual, an individual household provided that the income (all income under § 273.9(b)) of the others with whom the individual resides (excluding the income of the spouse of the elderly and disabled individual) does not exceed 165% of the poverty line.

(b) *Nonhousehold members.* (1) For the purposes of defining a household under

the provisions of paragraph (a)(1) of this section, the following individuals shall not be included as a member of the household, unless specifically included as a household member under the provisions of paragraph (a)(2) of this section. If not included as a member of the household under the provisions of paragraph (a)(2) of this section, such individuals shall not be included as a member of the household for the purpose of determining household size, eligibility, or benefit level. The income and resources of such individuals shall be handled in accordance with the provisions of § 273.11(d). The following individuals (if otherwise eligible) may participate as separate households:

(i) *Roomers.* Individuals to whom a household furnishes lodging, but not meals, for compensation.

(ii) *Live-in-attendants.* Individuals who reside with a household to provide medical, housekeeping, child care or similar personal services.

(iii) *Others.* Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent, but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household.

(2) Some household members are ineligible to receive Program benefits under the provisions of the Food Stamp Act (such as SSI recipients in cash-out States, certain aliens, and certain students). Others may become ineligible for such reasons as being disqualified for committing an intentional Program violation or refusing to comply with a regulatory requirement. These individuals shall be included as a member of the household for the purpose of defining a household under the provisions of paragraphs (a)(1) and (a)(2) of this section. However, such individuals *shall not* be included as eligible members of the household when determining the household's size for the purpose of comparing the household's monthly income with the income eligibility standard or assigning a benefit level by household size. The income and resources of such

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individuals shall be handled in accordance with the provisions of § 273.11 (c) or (d), as appropriate. These individuals are not eligible to participate as separate households. Ineligible individuals include the following:

(i) *Ineligible students.* Individuals who do not meet the eligible student requirements of § 273.5.

(ii) *Ineligible aliens.* Individuals who do not meet the citizenship or eligible alien status requirements of § 273.4(a) or the eligible sponsored alien requirements of § 273.11(j).

(iii) *SSI recipients in "cash-out" States.* Recipients of SSI benefits who reside in a State designated by the Secretary of Health and Human Services to have specifically included the value of the coupon allotments in its State supplemental payments.

(iv) *Intentional Program violation.* Individuals disqualified for intentional Program violation, as set forth in § 273.16.

(v) *SSN disqualified.* Individuals disqualified for failure to provide an SSN, as set forth in § 273.6. A completed SSA Form 2853 shall be considered proof of application for an SSN for a newborn infant.

(vi) *Workfare sanctioned.* Individuals against whom a sanction was imposed while they were participating in a household disqualified for failure to comply with workfare requirements set forth in § 273.22.

(vii) Persons disqualified for non-compliance with the work requirements of § 273.7.

(c) *Boarders.* (1) Boarders are defined as individuals or groups of individuals residing with others and paying reasonable compensation to the others for lodging and meals (excluding residents of a commercial boarding house). Boarders are ineligible to participate in the Program independent of the household providing the board. They may participate as members of the household providing the boarder services to them, at such household's request. In no event shall boarder status be granted to those individuals or groups of individuals described in paragraph (a)(2) of this section which includes children or siblings residing with elderly or disabled parents or siblings.

(2) The household within which a boarder resides (including the household of the proprietor of a boarding house) may participate in the program if the household meets all the eligibility requirements for program participation.

(3) To determine if an individual is paying reasonable compensation for meals and lodging in making a determination of boarder status, only the amount paid for meals shall be used, provided that the amount paid for meals is distinguishable from the amount paid for lodging. A reasonable monthly payment shall be either of the following:

(i) Boarders whose board arrangement is for more than two meals a day shall pay an amount which equals or exceeds the maximum food stamp allotment for the appropriate size of the boarder household; or

(ii) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the maximum food stamp allotment for the appropriate size of the boarder household.

(4) An individual furnished both meals and lodging by a household but paying compensation of less than a reasonable amount to the household for such services shall be considered a member of the household providing the services.

(5) None of the income or resources of individuals determined to be boarders and who are not members of the household providing the boarder services (as prescribed in paragraph (c)(3) of this section) shall be considered available to such household. However, the amount of the payment that a boarder gives to a household shall be treated as self-employment income to the household. The procedures for handling self-employment income from boarders (other than such income received by a household that owns and operates a commercial boarding house) are set forth in § 273.11(b). The procedures for handling income from boarders by a household that owns and operates a commercial boarding household are set forth in § 273.11(a). For Program purposes, a commercial boarding house is defined as an establishment licensed as an enterprise which offers meals and

lodging for compensation. In project areas without licensing requirements, a commercial boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise.

(6) Notwithstanding the provisions of paragraphs (c)(1), (c)(2), and (c)(4) of this section, foster care individuals placed in the home of relatives or other individuals or families by a Federal, State, or local governmental foster care program, shall be considered boarders. The Federal, State, or local governmental, or court ordered, foster care payments received by the household for such foster care boarder shall not be considered as available income to the household and such payment is exempt from the computation of net self-employment income from boarders under the provisions of §273.11(b). Foster care boarders may participate in the Program as members of the household providing the boarder services to them, at such household's request. If the household chooses this option, foster care payments received by the household shall be considered unearned income to the household and counted in their entirety in determining the household's income eligibility and benefit level. The provisions of this paragraph (c)(6) do not apply to individuals qualified to participate in the Program under paragraph (e) of this section.

(d) *Head of household.* (1) A State agency shall not use the head of household designation to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to make application for benefits. When designating the head of household, the State agency shall allow the household to select an adult parent of children (of any age) living in the household, or an adult who has parental control over children (under 18 years of age) living in the household, as the head of household provided that all adult household members agree to the selection. The State agency shall permit such households to select their

head at each certification action or whenever there is a change in household composition. The State agency shall provide written notice to all households at the time of application and as otherwise appropriate that specifies the household's right to select its head of household in accordance with this paragraph. The written notice shall identify which households have the option to select their head of household, the circumstances under which a household may change its designation of head of household, and how such changes must be reported to the State agency. If all adult household members do not agree to the selection or decline to select an adult parent as the head of household, the State agency may designate the head of household or permit the household to make another selection. In no event shall the household's failure to select an adult parent of children or an adult who has parental control over children as the head of household delay the certification or result in the denial of benefits of an otherwise eligible household. For households that do not consist of adult parents and children or adults who have parental control of children living in the household, the State agency shall designate the head of household or permit the household to do so.

(2) For purposes of failure to comply with §273.7 and §273.22 (to the extent that workfare programs operated under this paragraph are included as components of State agency E&T programs), the head of household shall be the principal wage earner unless the household has selected an adult parent of children as specified in §273.1(d)(1). The principal wage earner shall be the household member (including excluded members) who is the greatest source of earned income in the two months prior to the month of the violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours. No person of any age living with a parent or person fulfilling the role of a parent who is registered for work or exempt from work registration requirements because such parent or person fulfilling the role of a parent is subject to and

participating in any work requirement under title IV of the Social Security Act, or in receipt of unemployment compensation (or has registered for work as part of the application for or receipt of unemployment compensation), or is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours shall be considered the head of household unless the person is an adult parent of children as specified in § 273.1(d)(1) and the household elects to designate the adult parent as its head 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) *Residents of institutions.* (1) Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals (over 50% of three meals daily) as part of the institution's normal services. Residents of institutions are not eligible for participation in the program with the following exceptions:

(i) Residents of federally subsidized housing for the elderly built under section 202 of the Housing Act of 1959.

(ii) Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center, and their children who live with them.

(iii) Disabled or blind individuals (as defined in paragraphs (2) through (11) of the definition of "Elderly or disabled member," contained in § 271.2) who are residents of group living arrangements (as defined in § 271.2).

(iv) Women or women with their children temporarily residing in a shelter for battered women and children as defined in § 271.2. Such persons temporarily residing in shelters for battered women and children shall be considered individual household units for the pur-

poses of applying for and participating in the Program.

(v) Residents of public or private nonprofit shelters for homeless persons.

(2) Residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Prerelease Program for the Institutionalized (42 U.S.C. 1383 (j)) shall be permitted to apply for food stamps at the same time they apply for SSI. These prerelease applicants shall be processed in accordance with the provisions in § 273.2(c), (g), (i), (j), and (k), § 273.10(a) and § 273.11(i), as appropriate.

(f) *Authorized representatives.* The head of household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the Program, in obtaining benefits, and/or in using benefits at authorized retail food firms and meal services. Rules pertaining to the use of authorized representatives to obtain household benefits or to use household benefits are in § 274.5. Rules pertaining to designating authorized representatives to apply for the Program are specified in this section.

(1) *Making application for the program.* When the head of the household or the spouse cannot make application, another household member may apply or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. In conjunction with these provisions, another household member, or the household's authorized representative, may complete work registration forms for those household members required to register for work. The State agency shall inform the household that the household will be held liable for any over issuance which results from erroneous information given by the authorized representative, except as provided in § 273.11(e) and § 273.16(a). Adults who are non-household members may

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be designated as authorized representatives for certification purposes only under the following conditions:

(i) The authorized representative has been designated in writing by the head of the household, or the spouse, or another responsible member of the household; and

(ii) The authorized representative is an adult who is sufficiently aware of relevant household circumstances.

(2) *Drug addict/alcoholic treatment centers and group homes as authorized representatives.* Narcotic addicts or alcoholics who regularly participate in a drug or alcoholic treatment program (as defined in § 271.2) on a resident basis and their children who live with them and disabled or blind residents of group living arrangements (as defined in § 271.2) who receive benefits under title II or title XVI of the Social Security Act may elect to participate in the Food Stamp Program.

(i) The residents of drug or alcoholic treatment centers shall apply and be certified for program participation through the use of an authorized representative who shall be an employee of and designated by the publicly operated community mental health center or the private nonprofit organization or institution that is administering the treatment and rehabilitation program.

(ii) Residents of group living arrangements shall either apply and be certified through use of an authorized representative employed and designated by the group living arrangement or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for food stamps on his/her own behalf; the determination should be based on the resident's physical and mental ability to handle his/her own affairs. The group living arrangement is encouraged to consult with any other agencies of the State providing other services to individual residents prior to a determination. All of the residents of the group living arrangement do not have to be certified either through an authorized representative or individually in order for one or the other method to be used. Applications shall be accepted for any individual applying

as a one-person household or for any grouping of residents applying as a household as defined in § 273.1. If the residents are certified on their own behalf, the coupon allotment may either be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents; used by eligible residents to purchase and prepare food for their own consumption; and/or to purchase meals prepared and served by the group living arrangement. In any case, the group living arrangement is responsible for complying with the requirements set forth in § 273.11(f). If the group living arrangement has its status as an authorized representative suspended by FNS (as discussed in § 273.11(f)(6)), residents applying on their own behalf shall still be able to participate if otherwise eligible.

(3) In the event the only adult living with a household is classified as a non-household member as defined in paragraph (b) of this section, that individual may be the authorized representative for the minor household members.

(4) The following restrictions apply to authorized representatives: (i) State agency employees who are involved in the certification and/or issuance processes and retailers that are authorized to accept food coupons may not act as authorized representatives without the specific written approval of the designated State agency official and only if that official determines that no one else is available to serve as an authorized representative.

(ii) Individuals disqualified for an intentional Program violation shall not act as authorized representatives during the period of disqualification, unless the individual disqualified is the only adult member of the household able to act on its behalf and the State agency has determined that no one else is available to serve as an authorized representative. The State agency shall separately determine whether these individuals are needed to apply on behalf of the household, to obtain coupons, and to use the coupons for food for the household. For example, the household may have an authorized representative to obtain its coupons each month, but not be able to find anyone to purchase

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food regularly with the coupons. If the State agency also is unable to find anyone to serve as an authorized representative to purchase food regularly with the coupons, the disqualified member shall be allowed to do so.

(iii) The State agency shall insure that authorized representatives are properly designated. The name of the authorized representative shall be contained in the household's case file. Limits shall not be placed on the number of households an authorized representative may represent. In the event employers, such as those that employ migrant or seasonal farm-workers, are designated as authorized representatives or that a single authorized representative has access to a large number of ATP's or coupons, the State agency should exercise caution to assure that: The household has freely requested the assistance of the authorized representative; the household's circumstances are correctly represented and the household is receiving the correct amount of benefits; and that the authorized representative is properly using the coupons. State agencies which have obtained evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of coupons, may disqualify that authorized representative from participating as an authorized representative in the Food Stamp Program for up to one year. The State agency shall send written notification to the affected household(s) and the authorized representative thirty days prior to the date of disqualification. The notification shall include: The proposed action; the reason for the proposed action; the household's right to request a fair hearing; the telephone number of the office; and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcoholic treatment centers and those group homes which act as authorized representatives for their residents.

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

(g) *Strikers.* (1) Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.

(2) For food stamp purposes, a striker shall 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 lock-out, however, shall not be deemed to be a striker. Further, an individual who goes on strike who is exempt from work registration, in accordance with § 273.7(b), the day prior to the strike, other than those exempt solely on the grounds that they are employed, shall not be deemed to be a striker. Examples of non-strikers who are eligible for participation in the program include but are not limited to:

(i) Employees whose workplace is closed by an employer in order to resist demands of employees (e.g., a lockout);

(ii) Employees unable to work as a result of striking employees (e.g., truckdrivers who are not working because striking newspaper pressmen prevent newspapers from being printed); and,

(iii) Employees who are not part of the bargaining unit on strike who do not want to cross a picket line due to fear of personal injury or death.

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

(4) Eligibility at time of application shall be determined by comparing the striking member's income before the strike (as calculated for paragraph (g)(3) of this section) to the striker's current income and adding the higher of the two to the current income of nonstriking members during the month of application. To determine benefits (and eligibility for households subject to the net income eligibility standard),

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deduction shall be calculated for the month of application as for any other household. Whether the striker's pre-strike earnings are used or his current income is used, the earnings deduction shall be allowed if appropriate.

(5) Strikers whose households are eligible to participate under the criteria in § 273.1(g) shall be subject to the work registration requirements under § 273.7 unless exempt under § 273.7(b) the day of application.

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

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 273.2 Application processing.

(a) *General purpose.* The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency shall 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. Expedited service shall be 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 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 cer-

tifies, under penalty of perjury, the truth of the information contained in the application, including the information concerning citizenship and alien status;

(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;

(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; and

(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.

(2) *Income and eligibility verification system (IEVS).* All applicants for food stamp benefits shall be notified at the time of application and at each recertification through a written statement on or provided with the application form that information available through the State income and eligibility verification (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. All applicants shall also be notified on the application form that the alien status of any household member 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) *Deviations.* All State agencies shall use an application form designed by FNS. FNS may approve a deviation (design/contents) from that form to accommodate the use of a multi-program application form, the requirements of a computer system (including the use of on-line applications), or other exigencies for which the State agency can