

§ 281.7

part 275. When necessary, warning procedures and other Federal sanctions prescribed in part 276 will be implemented.

§ 281.7 Indian tribal organization failure.

When Performance Reporting System reviews indicate that continuing deficiencies exist and corrective action proposals (including training and technical assistance to overcome these deficiencies), and/or appropriate sanctions have not, in the opinion of FNS, resulted in a sufficient degree of improvement, FNS will conduct a review to determine if the ITO has failed to properly administer SNAP. FNS shall examine the relevant factors specified in § 281.3(b)(1) and shall follow the notification and determination procedures set forth in § 281.3 (c) and (d). If ITO failure is determined, FNS shall require the appropriate agency of the State government to resume administration of the Program on the reservation in accordance with an approved termination and transition arrangement.

§ 281.8 Transfer of program administration.

The transfer of program administration from an agency of the State government to an ITO pursuant to a determination of failure as provided for in § 281.3, or from an ITO to an agency of the State government pursuant to § 281.7, shall be contingent on the establishment of an effective termination and transition arrangement and an approved Plan of Operation from the State agency assuming program administration. Grant closeout procedures shall be followed in accordance with part 277. FNS shall approve the transition plan, monitor its implementation and resolve any issues which may arise during the transition and after the transfer of program administration.

§ 281.9 Funding.

(a) *Agency of State government.* From the funds available to carry out this provision beginning July 1, 1979, FNS may pay to each agency of State government administering a SNAP on a reservation, 75 percent of all approved

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administrative costs, such as: Certification, issuance, outreach, fair hearings and quality control, incurred on the reservation for residents of the reservation and approved by FNS to meet standards set by the Food and Nutrition Act of 2008. FNS may pay each agency of State government administering a SNAP on a reservation 75 percent of all approved administrative costs incurred off the reservation for activities begun after the effective date of these regulations that are primarily directed at providing better services for Indians on the reservation, such as hiring an interpreter or an Indian outreach worker, or moving a certification or issuance center closer to a reservation. The provisions of part 277 apply to any funds received under this section.

(b) *Indian tribal organization acting as State agency.* From the funds available to carry out the provisions of this part beginning October 1, 1979, FNS is authorized to pay to each ITO acting as a State agency and administering a SNAP on a reservation 75 percent of all administrative costs approved by FNS as needed for operation of a SNAP on a reservation. Any approval for payment of funds in excess of 75 percent must be based on compelling justification that such additional amounts are necessary for the effective operation of SNAP on the reservation. The provisions of part 277 apply to any funds received under this section.

§ 281.10 Appeals.

(a) *Failure/capability.* (1) Any State agency or ITO may appeal the determination made by FNS on:

(i) Whether or not the reservation definition is met;

(ii) The failure or absence of failure of an agency of State government to properly administer SNAP;

(iii) The capability or incapability of an ITO to administer SNAP;

(iv) The failure of an ITO to properly administer SNAP;

(v) The Federal matching percentage level of administrative funding made available by FNS. To prevail the State agency must show a compelling justification that additional funding is needed for the effective administration of the Program on the reservation.