CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support
(As Amended at ARRS, April 13, 2021)

921 KAR 3:025. Technical requirements.

RELATES TO: KRS 205.2005, 7 C.F.R. Parts 271-285, 273.4, 273.5, 273.7, 273.11, 45 C.F.R. 261.2, 7 U.S.C. 2011, 2014, 2015(d), 20 U.S.C. 28 Part F, Pub. L. 116-260 Section 702(e)

STATUTORY AUTHORITY: KRS 194A.050(1), 7 C.F.R. 271.4, Part 272, Part 273

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 7 C.F.R. 271.4 requires the cabinet to administer a Supplemental Nutrition Assistance Program (SNAP) within the state. 7 C.F.R. Parts 272 and 273 establish requirements for the cabinet to participate in the SNAP. In addition, 7 U.S.C. 2014 establishes that an otherwise-qualified alien who is blind or receiving a disability benefit, who has lived in the United States for at least five (5) years, or who is under eighteen (18) years of age shall be eligible to participate in SNAP regardless of the date he entered the United States. This administrative regulation establishes the technical eligibility requirements used by the cabinet in the administration of SNAP. Pursuant to Section 702(e) of Pub. L. 116-260, the Consolidated Appropriations Act of 2021, SNAP eligibility was temporarily expanded for qualifying students.

Section 1. Definitions. (1) "Exempt" means excused by the department from participation in the Supplemental Nutrition Assistance Program Employment and Training Program (E&T).

(2) "Qualified alien" is defined by 7 C.F.R. 273.4.

(3) "Student" means a person who is between the ages of eighteen (18) and forty-nine (49), physically and mentally fit, and enrolled at least half-time in an institution of higher education.

Section 2. Technical Eligibility. In accordance with 7 C.F.R. Parts 271 through 285 promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, the cabinet shall utilize national uniform requirements of technical eligibility for SNAP.

Section 3. Technical Eligibility Criteria. Technical eligibility requirements shall apply to all households and consist of the criteria established in this section.

(1) Residency. A household:

(a) Shall reside in the county in which the household receives benefits; and

(b) May apply for benefits in any county in accordance with 921 KAR 3:030, Section 3.

(2) Identity.

(a) The applicant's identity shall be verified; and

(b) If an authorized representative applies for the household, the applicant's and the authorized representative's identities shall be verified.

(3) Citizenship and alien status.

(a) An individual shall satisfy the citizenship and alien status requirement if the individual is a:

1. Citizen of the United States;

2. U.S. noncitizen national; or

3. Qualified alien who is lawfully residing in Kentucky.

(b) Except as provided in paragraph (c) of this subsection, an individual whose status is questionable shall be ineligible to participate until verified.

(c) An individual whose status is pending verification from a federal agency shall be eligible to participate for up to six (6) months from the date of the original request for verification.

(d) A single household member shall attest in writing to the citizenship or alien status requirements as established in 921 KAR 3:030 for each household member.

(4) Household size. If information is obtained by the Department for Community Based Services (DCBS) that household size differs from the household's stated size, the size of household shall be verified through readily available documentary evidence or through a collateral contact.

(5) Students. A student shall be ineligible to participate unless the student is:

(a)1. Engaged in paid employment for an average of twenty (20) hours per week; or

2. If self-employed, employed for an average of twenty (20) hours per week and receiving weekly earnings at least equal to the federal minimum wage multiplied by twenty (20) hours;

(b) Participating in a state or federally financed work study program during the regular school year;

(c) Responsible for the care of a dependent household member under the age of six (6);

(d) Responsible for the care of a dependent household member who has reached the age of six (6), but is under age twelve (12) and for whom the cabinet has determined that adequate child care is not available to enable the individual to attend class and to satisfy the work requirements of paragraphs (a) or (b) of this subsection;

(e) Receiving benefits from the Kentucky Transitional Assistance Program (K-TAP);

(f) Assigned to or placed in an institution of higher learning through a program pursuant to:

1. 7 C.F.R. 273.5(a);

2. 45 C.F.R. 261.2; or

3. 19 U.S.C. 2296;

(g) Enrolled in an institution of higher learning as a result of participation in a work incentive program pursuant to 42 U.S.C. 681;

(h) Enrolled in an institution of higher learning as a result of participation in E&T in accordance with 921 KAR 3:042; [~~or~~]

(i) A single parent with responsibility for the care of a dependent household member under age twelve (12)<u>; or</u>

<u>(j) Enrolled at least half-time in an institution of higher education and:</u>

<u>1. Eligible to participate in a state or federally financed work study program during the regular school year; or</u>

<u>2. Has an expected family contribution of $0 in the current academic year pursuant to 20 U.S.C. 28 Part F</u>.

(6) Social Security number (SSN).

(a) Households applying for or participating in SNAP shall comply with SSN requirements by providing the SSN of each household member or applying for a number prior to certification.

(b) Failure to comply without good cause shall be determined for each household member and shall result in an individual's disqualification from participation in SNAP until this requirement is met.

(7) Work registration. All household members, unless exempt, shall be required to comply with the work registration requirements established in Section 4 of this administrative regulation.

(8) Work requirement.

(a) Except for individuals who may be eligible for up to three (3) additional months in accordance with paragraph (e) of this subsection, an individual shall not be eligible to participate in SNAP as a member of a household if the individual received SNAP for more than three (3) countable months during any three (3) year period, during which the individual did not:

1. Work eighty (80) hours or more per month;

2. Participate in and comply with the requirements of the E&T component pursuant to 7 U.S.C. 2015(d) for twenty (20) hours or more per week;

3. Participate in and comply with the requirements of a program pursuant to:

a. 7 C.F.R. 273.5(a); or

b. 19 U.S.C. 2296;

4. Participate in and comply with the requirements established in 921 KAR 3:042; or

5. Receive SNAP benefits pursuant to paragraph (b), (c), or (d) of this subsection.

(b) Paragraph (a) of this subsection shall not apply to an individual if the individual is:

1. Under eighteen (18) or fifty (50) years of age or older;

2. Physically or mentally unfit for employment as determined by the cabinet;

3. A parent or other adult member of a household containing a dependent child under the age of eighteen (18);

4. Exempt from work registration pursuant to Section 4(4) of this administrative regulation; or

5. Pregnant.

(c) Paragraph (a) of this subsection shall not apply if, pursuant to an approved waiver by FNS, the county or area in which the individual resides:

1. Has an unemployment rate of over ten (10) percent; or

2. Does not have a sufficient number of jobs to provide employment.

(d) Subsequent eligibility.

1. An individual denied eligibility pursuant to paragraph (a) of this subsection shall regain eligibility to participate in SNAP if, during a thirty (30) day period, the individual meets one of the conditions of paragraph (a)1. through 4. of this subsection, or the individual was not meeting the work requirements in accordance with paragraph (b) of this subsection.

2. An individual who regains eligibility pursuant to subparagraph 1. of this paragraph shall remain eligible as long as the individual meets the requirements of subparagraph 1. of this paragraph.

(e) Loss of employment or training.

1. An individual who regains eligibility pursuant to paragraph (d)1. of this subsection and who no longer meets the requirements of paragraph (a)1. through 4. of this subsection shall remain eligible for a consecutive three (3) month period, beginning on the date the individual first notifies the cabinet that the individual no longer meets the requirements of paragraph (a)1. through 4. of this subsection.

2. An individual shall not receive benefits pursuant to subparagraph 1. of this paragraph for more than a single three (3) month period in any three (3) year period.

(f) If the individual does not meet all other technical and financial eligibility criteria pursuant to 7 U.S.C. 2011, nothing in this section shall make an individual eligible for SNAP benefits.

(9) Quality control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

(10) Drug felons. An individual convicted under federal or state law of an offense classified as a felony by the law of the jurisdiction involved and that has an element of possession, use, or distribution of a controlled substance as defined in 21 U.S.C. 862(a), may remain eligible for SNAP benefits if the individual meets the requirements established in KRS 205.2005.

(11) Child support arrears.

(a) In accordance with 7 C.F.R. 273.11(q) to disqualify a noncustodial parent for refusing to cooperate, a noncustodial parent of a child under the age of eighteen (18) shall not be eligible to participate in SNAP if the individual is delinquent in payment of court-ordered support as determined by the Department for Income Support, Child Support Enforcement, unless the individual:

1. Is enrolled in a drug treatment program;

2. Is participating in a state or federally funded employment training program;

3. Meets good cause for nonpayment. Good cause shall include temporary situations resulting from illness, job change, or pendency of unemployment benefits;

4. Is a member of a household containing a child under the age of eighteen (18);

5. Is a member of a household containing an individual who is pregnant or three (3) months post-partum; or

6. Is:

a. Within twelve (12) months of incarceration for a period of at least thirty (30) days; and

b. Cooperating with the Department for Income Support, Child Support Enforcement.

(b) The disqualification of an individual in accordance with paragraph (a) of this subsection shall be in place as long as the individual remains delinquent as determined by Department for Income Support, Child Support Enforcement.

(c) The income, expenses, and resources of an individual disqualified in accordance with paragraph (a) of this subsection shall be processed in accordance with 921 KAR 3:035, Section 5(4).

Section 4. Work Registration. (1) Unless a household member is exempt from work requirements as established in subsection (4) of this section, a household member shall register for work:

(a) At the time of initial application for SNAP; and

(b) Every twelve (12) months following the initial application.

(2) Work registration shall be completed by the:

(a) Member required to register; or

(b) Person making application for the household.

(3) Unless otherwise exempt, a household member excluded from the SNAP case shall register for work during periods of disqualification. An excluded person shall be an:

(a) Ineligible alien; or

(b) Individual disqualified for:

1. Refusing to provide or apply for a Social Security number; or

2. An intentional program violation.

(4) An individual meeting the criteria of 7 C.F.R. 273.7(b)(1) shall be exempt from work registration requirements.

(5) A household member who loses exemption status due to a change in circumstances shall register for work in accordance with 7 C.F.R. 273.7(b)(2).

(6) After registering for work, a nonexempt household member shall:

(a) Respond to a cabinet request for additional information regarding employment status or availability for work;

(b) In accordance with 7 C.F.R. 273.7(a)(1)(vi), accept a bona fide offer of suitable employment pursuant to 7 C.F.R. 273.7(h), at a wage not lower than the state or federal minimum wage; or

(c) In accordance with 7 C.F.R. 273.7(a)(1)(ii), participate in the E&T Program if assigned by the cabinet.

(7) A household member making a joint application for SSI and SNAP in accordance with 921 KAR 3:035 shall have work requirements waived in accordance with 7 C.F.R. 273.7(a)(6).

(8) The cabinet's E&T worker shall explain to the SNAP applicant the:

(a) Work requirements for each nonexempt household member;

(b) Rights and responsibilities of the work-registered household members; and

(c) Consequences of failing to comply.

Section 5. Determining Good Cause. (1) A determination of good cause shall be undertaken if a:

(a) Work registrant has failed to comply with work registration requirements as established in Section 4 of this administrative regulation; or

(b) Household member has, pursuant to Section 7 of this administrative regulation, voluntarily:

1. Quit a job; or

2. Reduced the household member's work effort.

(2) In accordance with 7 C.F.R. 273.7(i)(2), good cause shall be granted for circumstances beyond the control of the individual, such as:

(a) Illness of the individual;

(b) Illness of another household member requiring the presence of the individual;

(c) A household emergency;

(d) Unavailability of transportation; or

(e) Lack of adequate care for a child who is six (6) to twelve (12) years of age for whom the individual is responsible.

(3) Good cause for leaving employment shall be granted if:

(a) A circumstance established in subsection (2) of this section exists;

(b) The employment became unsuitable in accordance with 7 C.F.R. 273.7(h); or

(c) A circumstance established in 7 C.F.R. 273.7(i)(3) exists.

Section 6. Disqualification. (1) A participant shall be disqualified from the receipt of SNAP benefits if the participant:

(a) Fails to comply with the work registration requirements; or

(b) Is determined to have voluntarily, without good cause, quit a job or reduced the work effort as established in Section 5 of this administrative regulation.

(2) An individual disqualified from participation in SNAP shall be ineligible to receive SNAP benefits until the latter of the:

(a) Date the individual complies; or

(b) Lapse of the following time periods:

1. Two (2) months for the first violation;

2. Four (4) months for the second violation; or

3. Six (6) months for the third or a subsequent violation.

(3) Ineligibility shall continue until the ineligible member:

(a) Becomes exempt from the work registration; or

(b)1. Serves the disqualification period established in subsection (2)(b) of this section; and

2. Complies with the work registration requirements.

(4) A disqualified household member who joins a new household shall:

(a) Remain ineligible for the remainder of the disqualification period established in subsection (2)(b) of this section;

(b) Have income and resources counted with the income and resources of the new household; and

(c) Not be included in the household size in the determination of the SNAP allotment.

Section 7. Disqualification for Voluntary Quit or Reduction in Work Effort. (1) Within thirty (30) days prior to application for SNAP or any time after application, an individual shall not be eligible to participate in SNAP if the individual voluntarily, without good cause:

(a) Quits a job:

1. Of thirty (30) hours or more per week; and

2. With weekly earnings at least equal to the federal minimum wage times thirty (30) hours; or

(b) Reduces the individual's work effort:

1. To less than thirty (30) hours per week; and

2. So that after the reduction, weekly earnings are less than the federal minimum wage times thirty (30) hours.

(2) The cabinet shall impose a disqualification period established in Section 6(2)(b) of this administrative regulation on an individual meeting subsection (1)(a) or (1)(b) of this section.

Section 8. Curing Disqualification for Voluntary Quit or Reduction in Work Effort. (1) Eligibility and participation may be reestablished by:

(a) Securing new employment with salary or hours comparable to the job quit;

(b) Increasing the number of hours worked to the amount worked prior to the work effort reduction and disqualification; or

(c) Serving the minimum period of disqualification imposed pursuant to Section 6(2)(b) of this administrative regulation.

(2) If the individual applies again and is determined to be eligible, an individual may reestablish participation in SNAP.

(3) If an individual becomes exempt from work registration, the disqualification period shall end, and the individual shall be eligible to apply to participate in SNAP.

Section 9. Hearing Process. If aggrieved by a cabinet action or inaction that affects participation, a SNAP participant may request a hearing in accordance with 921 KAR 3:070.

Section 10. This administrative regulation was found deficient by the Interim Joint Committee on Health, Welfare, and Family Services on September 23, 2020.

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.