

Technical Amendment
June 24, 2021

921 KAR 3:035. Certification process.

RELATES TO: 7 C.F.R. 271.2, 273.1, 273.2, 273.4, 273.5, 273.10, 273.11, 273.12, 273.14, 274, 280.1, 7 U.S.C. 2014, 2015(d), 42 U.S.C. 5122, 5179

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

NECESSITY, FUNCTION, AND CONFORMITY: 7 C.F.R. 271.4 requires the Cabinet for Health and Family Services to administer a Supplemental Nutrition Assistance Program (SNAP) within the state. KRS 194A.050(1) requires the secretary 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. This administrative regulation establishes the certification process used by the cabinet in the administration of SNAP.

Section 1. Eligibility and Benefit Levels.

- (1) Eligibility and benefit levels shall be determined by the cabinet by considering a household's circumstance for the entire period for which each household is certified.
- (2) Certification criteria shall be applicable to all households.
- (3) Certain households shall require special or additional certification procedures as established in Section 5 of this administrative regulation.

Section 2. Certification Periods.

- (1) In accordance with 7 C.F.R. 273.10(f), the cabinet shall establish a definite period of time within which a household shall be eligible to receive benefits.
- (2) Except as provided in subsection (3) of this section, a household shall be certified for:
 - (a) Four (4) months if the household contains an able-bodied adult without dependent (ABAWD) in accordance with 7 U.S.C. 2015(d);
 - (b) Twelve (12) months if the household includes a member who is not ABAWD or elderly or disabled with no earned income; or
 - (c) Twenty-four (24) months if all household members:
 1. Are elderly or have a disability as defined in 921 KAR 3:010; and
 2. Have no earned income.
- (3)
 - (a) A household shall be certified for one (1) or two (2) months if the household meets criteria to:
 1. Expedite benefits in accordance with 7 C.F.R. 273.2(i)(1); and
 2. Postpone verification.
 - (b) At the end of a one (1) or two (2) month certification, a household may be recertified for a four (4), twelve (12), or twenty-four (24) month certification as established in subsection (2) of this section.
- (4)
 - (a) In accordance with 7 C.F.R. 273.12, a household certified for twelve (12) or twenty-four (24) months in accordance with subsection (2)(b) or (c) of this section shall complete an interim report using the FS-2, MID REVIEW NOTICE, during the sixth month or twelfth month of the household's certification period, respectively.
 - (b) If a household fails to return a completed FS-2 or the required verification, the cabinet shall take action in accordance with 7 C.F.R. 273.12(a)(5).

Section 3. Certification Notices to Households. In accordance with 7 C.F.R. 273.10(g), the cabinet shall provide an applicant with one (1) of the following written notices as soon as a

determination is made, but no later than thirty (30) days after the date of the initial application:

- (1) Notice of eligibility;
- (2) Notice of denial; or
- (3) Notice of pending status.

Section 4. Application for Recertification. The cabinet shall process an application for recertification as established in 921 KAR 3:030, Section 1, as follows:

- (1) If a household files the application:
 - (a) By the 15th day of the last month of the certification, the cabinet shall:
 1. Allow the household to return verification or complete a required action through the last calendar day of the application month; and
 2. Provide uninterrupted benefits, if the household is otherwise eligible; or
 - (b) After the 15th day, but prior to the last day of the last month of the certification, the cabinet shall allow the household thirty (30) days to return verification or complete a required action; or
- (2) If the household fails to provide information required for the cabinet to process the application for recertification within a time period established in subsection (1) of this section, the cabinet shall take action in accordance with 7 C.F.R. 273.14(e)(2).

Section 5. Certification Process for Specific Households. Pursuant to 7 C.F.R. 273.11, certain households have circumstances that are substantially different from other households and therefore shall require special or additional certification procedures.

- (1) A household with a self-employed member shall have its case processed as established in this subsection.
 - (a) Income shall be annualized over a twelve (12) month period, if self-employment income:
 1. Represents a household's annual income; or
 2. Is received on a monthly basis that represents a household's annual support.
 - (b) Self-employment income, which is intended to meet the household's needs for only part of the year, shall be averaged over the period of time the income is intended to cover.
 - (c) Income from a household's self-employment enterprise that has been in existence for less than one (1) year shall be averaged over the period of time the business has been in operation and a monthly amount projected over the coming year.
 - (d) The cabinet shall calculate the self-employment income on anticipated earnings if the:
 1. Averaged annualized amount does not accurately reflect the household's actual circumstances; and
 2. Household has experienced a substantial increase or decrease in business.
- (2) A household with a boarder shall have its case processed as established in this subsection.
 - (a) Income from the boarder shall:
 1. Be treated as self-employment income; and
 2. Include all direct payments to the household for:
 - a. Room;
 - b. Meals; and
 - c. Shelter expenses.
 - (b) Deductible expenses shall include:
 1. Cost of doing business;
 2. Twenty (20) percent of the earned income; and
 3. Shelter costs.

(3) A household with a member ineligible due to an intentional program violation, or failure to comply with the work requirements or work registration requirements, shall be processed as established in this subsection.

(a) Income and resources of the ineligible member shall be counted in their entirety as income available to the remaining household members.

(b) Remaining household members shall receive standard earned income, medical, dependent care, and excess shelter deductions.

(c) The ineligible member shall not be included if:

1. Assigning benefit levels;

2. Comparing monthly income with income eligibility standards; and

3. Comparing household resources with resource eligibility standards.

(4) A household with a member ineligible due to failure to provide a Social Security number, delinquency in payment of court-ordered child support through the Department of Income Support, Child Support Enforcement Program in accordance with 921 KAR 3:027, Section 3(11), or ineligible immigrant status shall be processed as established in this subsection.

(a) All resources of an ineligible member shall be considered available to the remaining household members.

(b) A pro rata share, as established in 7 C.F.R. 273.11(c)(2)(ii), of the ineligible member's income shall be attributed to remaining household members.

(c) The twenty (20) percent earned income deduction shall be applied to the pro rata share of earnings.

(d) The ineligible member's share of dependent care and shelter expenses shall not be counted.

(e) The ineligible member shall not be included as established in subsection (3)(c) of this section.

(5) A household with a nonhousehold member shall be processed as established in this subsection.

(a) With the exception of an ineligible member, the income and resources of a nonhousehold member shall not be considered available to the household with whom they reside.

(b) If the earned income of a household member and a nonhousehold member are combined into one (1) wage, the cabinet shall:

1. Count that portion due to the household as earned income, if identifiable; or

2. Count a pro rata share of earned income, if the nonhousehold member's share cannot be identified.

(c) A nonhousehold member shall not be included in the household size, if determining the eligibility and benefits for the household.

(6) The cabinet shall process the case of a drug or alcoholic treatment program resident, as established in 7 C.F.R. 271.2, as established in this subsection.

(a) An eligible household shall include:

1.

a. A narcotic addict; or

b. An alcoholic; and

2. A child of the narcotic addict or alcoholic.

(b) Certification shall be accomplished through use of the treatment program's authorized representative.

(c) SNAP processing standards and notice provisions shall apply to a resident recipient.

(d) A treatment program shall notify the cabinet of a change in a resident's circumstance.

- (e) Upon departure of the treatment program, the resident shall be eligible to receive remaining benefits, if otherwise eligible.
 - (f) The treatment program shall be responsible for knowingly misrepresenting a household circumstance.
- (7) The case processing procedures established in this subsection shall apply to residents of a group living arrangement, as defined in 7 C.F.R. 271.2.
- (a) Application shall be made by a resident or through use of the group living arrangement's authorized representative.
 - (b) Certification provisions applicable to all other households shall be applied.
 - (c) Responsibility for reporting changes shall depend upon who files the application:
 - 1. If a resident applies, the household shall report a change in household circumstance to the cabinet; or
 - 2. If the group living arrangement acts as authorized representative, the group living arrangement shall report a change in household circumstance.
 - (d) Eligibility of the resident shall continue after departure from the group living arrangement, if otherwise eligible.
 - (e) Unless the household applied on its own behalf, the group living arrangement shall be responsible for knowingly misrepresenting a household circumstance.
- (8) A case of a resident in a shelter for battered women and children shall be processed as established in this subsection.
- (a) The shelter shall:
 - 1. Have FNS authorization to redeem SNAP benefits at wholesalers; or
 - 2. Meet the federal definition of a shelter as defined in 7 C.F.R. 271.2.
 - (b) A shelter resident shall be certified for benefits as established in 7 C.F.R. 273.11(g).
 - (c) The cabinet shall promptly remove the resident from the former household's case, upon notification.
- (9) The case of an SSI recipient shall be processed as established in this subsection.
- (a) An application may be filed at the:
 - 1. Social Security Administration (SSA) Office; or
 - 2. Local Department for Community Based Services office.
 - (b) The cabinet shall not require an additional interview for applications filed at the SSA.
 - (c) The cabinet shall obtain all necessary verification prior to approving benefits.
 - (d) Certification periods shall conform to Section 2 of this administrative regulation.
 - (e) A household change in circumstance shall conform to Section 7 of this administrative regulation.
- (10) A household with a member who is on strike shall have its eligibility determined by:
- (a) Comparing the striking member's income the day prior to the strike, to the striker's current income;
 - (b) Adding the higher of the prestrike income or current income to other current household income; and
 - (c) Allowing the appropriate earnings deduction.
- (11) Sponsored immigrants.
- (a) Income of a sponsored immigrant, as defined in 7 C.F.R. 273.4(c)(2), shall be:
 - 1. Deemed income from a sponsor and sponsor's spouse, which shall:
 - a. Include total monthly earned and unearned income; and
 - b. Be reduced by:
 - (i) The twenty (20) percent earned income disregard, if appropriate; and
 - (ii) The SNAP gross income eligibility limit for a household equal in size to the sponsor's household;
 - 2. Subject to appropriate income exclusions as established in 921 KAR 3:020, Section 3; and

3. Reduced by the twenty (20) percent earned income disregard, if appropriate.
- (b) If the sponsor is financially responsible for more than one (1) sponsored immigrant, the sponsor's income shall be pro-rated among each sponsored immigrant.
- (c) A portion of income, as established in paragraph (a) of this subsection, of the sponsor and of the sponsor's spouse shall be deemed unearned income until the sponsored immigrant:
 1. Becomes a naturalized citizen;
 2. Is credited with forty (40) qualifying quarters of work;
 3. Meets criteria to be exempt from deeming, in accordance with 7 C.F.R. 273.4(c)(3);
 4. Is no longer considered lawfully admitted for permanent residence and leaves the United States; or
 5. Dies, or the sponsor dies.
- (d) In accordance with 7 U.S.C. 2014(i)(2)(E), deeming requirements shall not apply to sponsored immigrant children under eighteen (18) years of age.

Section 6. Disaster Certification. The cabinet shall distribute emergency SNAP benefits, pursuant to 42 U.S.C. 5122, to a household residing in a county determined to be a disaster area in accordance with 42 U.S.C. 5179 and 7 C.F.R. 280.1.

Section 7. Reporting Changes.

- (1) Within ten (10) days of the end of the month in which the change occurs, a household shall report a change that causes:
 - (a) The household's gross monthly income to exceed 130 percent of poverty level based on household size; or
 - (b) A household member, who does not have an exemption from work requirements, as established in 921 KAR 3:027, Section 3(8)(b), to work less than twenty (20) hours per week.
- (2) An applying household shall report a change related to its SNAP eligibility and benefits:
 - (a) At the certification interview; or
 - (b) Within ten (10) days of the date of the notice of eligibility, if the change occurs after the interview, but prior to receipt of the notice.

Section 8. Incorporation by Reference.

- (1) The "FS-2, MID REVIEW NOTICE", 1/21, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.
(6 Ky.R. 171; eff. 10-3-1979; 8 Ky.R. 82; 192; eff. 9-2-1981; 540; eff. 2-1-1982; 950; eff. 4-7-1982; 9 Ky.R. 279; eff. 9-8-1982; 1067; eff. 4-6-1983; 1256; eff. 6-1-1983; 10 Ky.R. 183; eff. 8-3-1983; 969; eff. 3-2-1984; 11 Ky.R. 89; eff. 8-7-1984; 1340; eff. 4-9-1985; 12 Ky.R. 1789; eff. 6-10-1986; 17 Ky.R. 1867; eff. 12-18-1990; 18 Ky.R. 893; eff. 10-16-1991; 2047; eff. 2-7-1992; 19 Ky.R. 317; eff. 8-28-1992; 21 Ky.R. 647; eff. 9-21-1994; 2825; eff. 6-21-1995; Recodified from 904 KAR 3:035, 10-30-1998; Am. 25 Ky.R. 2216; eff. 5-19-1999; 30 Ky.R. 126; 636; eff. 8-20-2003; TAm eff. 10-27-2004; TAm eff. 1-27-2006; 33 Ky.R. 254; 800; eff. 9-20-2006; 35 Ky.R. 1934; 2074; eff. 3-11-2009; 37 Ky.R. 1918; 2427; eff. 5-6-2011; 38 Ky.R. 1804; eff. 6-20-2012; 41 Ky.R. 205; 1074; eff. 11-19-2014; 42 Ky.R. 614; eff. 11-18-2015; 42 Ky.R. 2841; 43 Ky.R. 42; 218; eff. 8-17-2016; 45 Ky.R. 202, 1680; eff. 12-12-2018; TAm eff. 6-24-2021; 47 Ky.R. 591, 1416, 1594, 2401; eff. 7-21-2021.)