

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support
(New Administrative Regulation)

921 KAR 3:095. Elderly Simplified Application Project or "ESAP".

RELATES TO: 7 C.F.R. 273.2, 273.10

STATUTORY AUTHORITY: KRS 194A.050(1), 205.1783, 7 C.F.R. 271.4

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. KRS 205.1783(1)(b) requires the cabinet to request a waiver from the United States Department of Agriculture to implement an Elderly Simplified Application Project for individuals who have no earned income and who are over sixty (60) years of age or who are disabled. KRS 205.1783(f) requires the cabinet to promulgate administrative regulations necessary to administer this section. 7 C.F.R. 271.4 delegates the administration of the Supplemental Nutrition Assistance Program (SNAP) to the state agency. This administrative regulation establishes requirements for the Elderly Simplified Application Project (ESAP), a demonstration project administered by the cabinet to improve access to SNAP for elderly and disabled individuals.

Section 1. Definitions.

- (1) "Elderly Simplified Application Project" or "ESAP" means a SNAP program for individuals who are age sixty (60) and older or disabled, with no earned income.
- (2) "Regular SNAP benefits" means SNAP benefits received in accordance with the procedures established in:
 - (a) 921 KAR 3:020, Financial requirements;
 - (b) 921 KAR 3:027, Technical requirements;
 - (c) 921 KAR 3:030, Application process; and
 - (d) 921 KAR 3:035, Certification process.
- (3) "Shelter costs" means monthly rent or mortgage expenses as stated by the applicant.

Section 2. ESAP Program Procedures. Unless a different procedure or process for a SNAP requirement is specified in this administrative regulation, all SNAP requirements specified in 921 KAR Chapter 3 shall apply to ESAP, including the process for:

- (1) A fair hearing;
- (2) An administrative disqualification hearing;
- (3) An appeal;
- (4) A disqualification;
- (5) A claim and collection of a claim; and
- (6) EBT issuance.

Section 3. Eligibility for ESAP.

- (1) With the exception established in subsection (4) of this section, an individual shall qualify for ESAP benefits if the individual:
 - (a) Is a Kentucky resident;
 - (b) Is:
 1. Age sixty (60) or older; or
 2. Disabled;
 - (c) Has no earned income; and
 - (d) Is not institutionalized.

- (2) If an individual who otherwise meets the requirements established in subsection (1) of this section resides with an individual who is not a member of the applicant's household as defined in 921 KAR 3:010, the individual shall be eligible if food is purchased and prepared separately.
- (3) The cabinet shall use available computer matches to verify an applicant's marital and institutional status.
- (4) Except as permitted by subsection (6) of this section, if a household member does not meet the criteria established in subsection (1) or (2) of this section, the household:
 - (a) Shall not be eligible for ESAP; and
 - (b) May apply for regular SNAP benefits in accordance with 921 KAR 3:030.
- (5) An individual shall not receive ESAP benefits and regular SNAP benefits at the same time.
- (6) A child under the age of eighteen (18) who resides with an individual who is eligible for ESAP may be included in the household.

Section 4. ESAP Application Process.

- (1) ESAP eligibility shall be reviewed when an application for SNAP benefits is completed and submitted to the cabinet.
- (2) In accordance with 7 C.F.R. 273.2(g), the cabinet shall provide an eligible household an opportunity to participate within thirty (30) calendar days of the date the application required by subsection (1) is submitted to the cabinet.

Section 5. ESAP Certification Process.

- (1) The cabinet shall process a SNAP application pursuant to 921 KAR 3:030.
- (2) Information necessary to certify a household for ESAP shall be obtained from computer matches, with the exception of information considered questionable.
- (3) The cabinet shall certify an eligible household for ESAP benefits for thirty-six (36) months, with a reminder notice of change reporting requirements sent in the 11th month and 23rd month of the certification period.
- (4) In accordance with 7 C.F.R. 273.10(g), the cabinet shall send an applicant a notice of certification or denial.
- (5) In the month preceding the last month of the household's certification period, the cabinet shall send a program participant an "ESAP-2, Elderly Simplified Assistance Program (ESAP) Recertification," which shall be submitted to the cabinet prior to the end of the certification period for consideration of continued eligibility.

Section 6. ESAP Benefits.

- (1) The cabinet shall notify an ESAP household of their approved monthly benefit amount.
- (2) The ESAP benefit amount shall be based on:
 - (a) Shelter costs;
 - (b) Household size; and
 - (c) Medical expenses.

Section 7. Changes in Household Circumstances.

- (1) A household receiving ESAP benefits shall be required to report changes to the cabinet that result in an individual no longer meeting the eligibility requirements of Section 3 of this administrative regulation within ten (10) calendar days.
- (2) The cabinet shall process changes in household circumstances based on information received from computer matches.
- (3) If information voluntarily reported by the household is contradictory to computer match data, the cabinet shall not act upon the information until the next recertification unless the information is a change in a household member's:
 - (a) Name;

- (b) Date of birth; or
- (c) Address.

(4) If a change in household circumstances results in a change in the benefit amount, the cabinet shall provide the household with notice of the change.

Section 8. Incorporation by Reference.

- (1) "ESAP-2, Elderly Simplified Assistance Program (ESAP) Recertification," 06/23, 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. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

LESA DENNIS, Acting Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 26, 2023

FILED WITH LRC: June 7, 2023 at 2:345 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on August 21, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by August 14, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until August 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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