

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF SOCIAL SERVICES**

**9000 Food Stamp Program**

**9000 Statement of Purpose**

[271.1(a)]

The purpose of the Food Stamp Program is to provide more nutritious diets to individuals of limited financial means. The purpose of this manual of State rules and regulations is to ensure that the provisions of the Food Stamp Act of 1977 are applied to individuals applying for or receiving benefits in Delaware. Food Stamp benefits provided to eligible households shall not be considered income or resources for any purpose under any Federal, State, or local laws.

**9001 Legal Base**

[271.4(a)]

These rules are adopted by the Division of Social Services pursuant to 31 Delaware Code Section 512.

**9002 Penalties**

[271.5(b)]

(a) Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of Food Stamp benefits may subject any individual, partnership, corporation, or other legal entity to prosecution under sections 15 (b) and (c) of the Food Stamp Act or under any other applicable Federal, State, or local law, regulation or ordinance. Sections 15 (b) and (c) of the Food Stamp Act read as follows:

(b) Whoever knowingly uses, transfers, acquires, alters, or possesses food stamp benefits or authorization cards in any manner not authorized by this Act or the regulations issued pursuant to this Act shall, if such food stamp benefits or authorization cards are of the value of \$5,000 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than \$250,000 or imprisoned for not more than twenty (20) years, or both, or if such food stamp benefits or authorization cards are of a value of more than \$100, but less than \$5,000, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(c) Whoever presents, or causes to be presented, food stamp benefits for payments or redemption of the value of \$100 or more, knowing the same to have been received, transferred or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act shall be guilty of a felony and shall, upon conviction thereof, be fined not more than \$20,000 or imprisoned for not more than five years, or both, or, if such food stamp benefits are of a value of less than \$100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than one year, or both.

**9003 Disclosure**

[272.1(c)]

Use or disclosure of information obtained from Food Stamp applicant households is restricted to:

1. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other Federal assistance programs or federally assisted State programs which provide assistance on a means-tested basis to low income individuals, or general assistance programs subject to the joint processing requirements in DSSM 9042 .

2. Employees of the U.S. Comptroller General's Office for audit examination authorized by any other provision of law; and

3. Local, State, or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request must include the identity of the individual requesting the information and his authority to do so, the violation being investigated and the identity of the person on whom the information is requested.

DSS shall also make available to law enforcement officers, on official duty, the address, social security number, and a photograph (if available) of a food stamp recipient if the officer furnishes the recipient's name and informs DSS that

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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the individual is fleeing to avoid prosecution, custody or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation.

4. Persons directly connected with the administration or enforcement of the programs required to participate in the State Income and Eligibility Verification System (IEVS), to the extent that the food stamp information is useful in establishing or verifying eligibility or benefit amounts under those programs.

5. Persons directly connected with the administration of the Child Support Program (IV- D) in order to assist in the administration of that program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Title II (RSDI) and Title XVI (SSI) of the Social Security Act.

6. Persons directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the Systematic Alien Verification for Entitlements (SAVE) Program, to the extent the information is necessary to identify the individual for verification purposes. (Also see DSSM 2013.5 )

Recipients of information released under this section must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in this section. In addition, information received through the IEVS must be protected from unauthorized disclosure as required by regulations established by the information provider. Information released to DSS pursuant to section 6103 (1) of the Internal Revenue Code of 1954 is subject to the safeguards established by the Secretary of the Treasury in section 6103 (1) of the Internal Revenue Code and implemented by the Internal Revenue Service in its publication Tax Information and Security Guidelines.

**9004 Non-Discrimination Policy**

[272.6(a)]

We will not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of food stamp benefits, the conduct of fair hearings, or the conduct of any other program service for reasons of race, color, national origin, sex, religious creed, age, disability, political beliefs, or retaliation. Discrimination in any aspect of program administration is prohibited by these regulations: the Food Stamp Act, the Age Discrimination Act of 1975 (Public Law 94- 135), the Rehabilitation Act of 1973 (Public Law 93- 112, sec. 504), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal Law. Title VI complaints shall be processed in accord with 7 CFR, Part 15.

**11 DE Reg. 325 (09/01/07)**

**9005 Right to File a Complaint**

[272.6(b)]

Applicants and recipients may file non-discrimination complaints with the Division. (See DSSM 1007.6 ). Complaints filed with respect to the Food Stamp Program will be reviewed and forwarded to USDA.

**9006 Notice Provisions**

[273.13(a)]

Before taking any action to reduce or to terminate a household's food stamp benefits within the certification period, the household must be sent advance notice which is both "timely" and "adequate".

**9006.1 Timely Notice**

The notice must be mailed to the household at least ten (10) days prior to the date on which the action becomes effective.

The ten-day timely notice period is also used to determine whether benefits are to continue if a request for a hearing is filed during the timely notice period. Therefore, if the ten-day timely notice period ends on a week- end or holiday, the ten-day period for filing a request will be extended to the next full work day.

**9006.2 Adequate Notice**

The notice is considered adequate when:

- 1) It is in writing;
- 2) It is a clear expression of the proposed action;
- 3) It explains the proposed action and the reasons for it;

- 4) It explains that the household has a right to request a fair hearing;
- 5) It gives a telephone number and the name of a person to contact for further information;
- 6) It notifies the household of the circumstances under which the benefits may continue;
- 7) It notifies the household of its liability for any overissuance received while awaiting a fair hearing if the final hearing decision is adverse to the household;
- 8) It notifies the household of the availability of free legal services.

### **9006.3 Exemptions From Notice**

[273.13(b)]

Do not provide individual notices of adverse action when:

- 1) The State initiates a mass change (see DSSM 9086);
- 2) The Division determines, based on reliable information, that all members of a household have died or that the household has moved from the project area;
- 3) The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the allotment would terminate;
- 4) The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification and the household was so notified at the time of certification;
- 5) The household jointly applied for TANF/ GA/RCA and food stamp benefits and has been receiving food stamp benefits pending the approval of the TANF/GA/RCA grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the TANF/GA grant;
- 6) A household member is disqualified for intentional Program violation in accordance with DSSM 2023, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by intentional Program violation disqualifications are explained in DSSM 2023.
- 7) DSS has assigned a longer certification period to a household certified on an expedited basis and for whom verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the postponed verification and that DSS may act on the verified information without further notice as provided in DSSM 9041.
- 8) DSS must change the household's benefits back to the original benefit level as required in DSSM 9085.
- 9) DSS is terminating the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement if the facility loses either its certification from DHSS or has its status as an authorized representative suspended due to FNS disqualifying it as a retailer. Residents of group living arrangements applying on their own behalf are still eligible to participate.
- 10) Converting a household from cash repayment to benefit reduction as a result of failure to make agreed upon repayment as discussed in DSSM 7004.3.
- 11) The household voluntarily requests in writing or in the presence of a case worker, that its participation be terminated. If the household does not provide a written request, send the household a letter confirming the voluntary withdrawal. Written information does not entail the same rights as a notice of adverse action except that the household may request a fair hearing.
- 12) DSS determines, based on reliable information, that the household will not be residing in the project area and, therefore, will be unable to obtain its next allotment. Inform the household of its termination no later than its next scheduled issuance date. Do not delay terminating the household's participation in order to provide advance notice.  
If the following conditions are met, dispense with the timely notice requirement in DSSM 9006.2 . However, the household must be notified that its benefits will be reduced or terminated no later than the date the household receives, or would have received its allotment:
  - a) The household reports the information which results in the reduction or termination.
  - b) The reported information is in writing. Information reported on a TANF monthly report form will satisfy this requirement.
  - c) Based solely upon the household's written information, DSS can determine the household's allotment or ineligibility.
  - d) The household retains its right to a fair hearing.

**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

e) The household retains its right to continued benefits by requesting a fair hearing within the time period provided by the notice of adverse action.

f) The Division continues the household's previous benefit level, if required, within five working days of the household's request for a fair hearing.

**11 DE Reg. 795 (12/01/07)**

**9007 Citizenship and Alien Status**

**9007.1 Citizenship and Alien Status**

[7 CFR 273.4]

The following residents of the United States (U.S.) are eligible to participate in the Food Stamp Program based on their citizenship or alien status:

A. U.S. Citizens

1. Persons born in the 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, and the Northern Mariana Islands.

2. Children born outside the U.S. are citizens if they meet one of the following conditions:

a. Both parents are citizens of the U.S. and one parent has had a residence in the U.S., or one of its outlying possessions, prior to the birth of the child; or

b. One parent is a citizen of the U.S. who has been physically present in the U. S., or one of its outlying possessions, for a continuous period of one year prior to the birth of the child, and the other parent is a national, but not a citizen of the U.S.; or

c. One parent is a citizen of the U.S. who has been physically present in the U. S., or one of its outlying possessions, for a continuous period of one year at any time prior to the birth of the child.

3. Naturalized citizens or a U.S. non-citizen national (person born in an outlying possession of the U. S., American Samoa or Swains Island, or whose parents are U.S. non-citizen nationals);

4. Individuals who are:

a. An American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act (INA) apply; or

b. A member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians;

c. Lawfully residing in the U.S. and was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975;

d. The spouse or surviving spouse of such Hmong or Highland Laotian who is deceased, or

e. An unmarried dependent child of such Hmong or Highland Laotian who is:

under the age of 22;

an unmarried child under the age of 18, or if a full-time student under the age of 22, of a deceased Hmong or Highland Laotian provided that the child was dependent upon him or her at the time of his or her death; or

an unmarried disabled child age 18 or older if the child was disabled and dependent prior to the child's 18<sup>th</sup> birthday.

B. An individual who is **BOTH** a **qualified** alien and an **eligible** alien as follows:

1. A **qualified** alien is:

a. An alien lawfully admitted for permanent residence (Immigration and Nationality Act [INA]);

b. An alien who is granted asylum to the U.S. (section 208 of INA);

c. A refugee who is admitted to the U.S. (section 207 of the INA);

d. An alien who is paroled into the U.S. for a period of at least one year (section 212[d][5] of the INA);

e. An alien whose deportation/removal is being withheld (sections 207[a][7] and 241[b][3] of the INA);

f. An alien who is granted conditional entry (section 203[a][7])

g. An alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of the abuse; or

h. An alien who is a Cuban or Haitian entrant (section 501[e] of the Refugee Education Assistance Act of 1980).

2. An **eligible** alien is:

a. An alien lawfully admitted for permanent residence who has 40 quarters of work as determined under Title II of the Social Security Act, including qualifying quarters of work not covered by Title II of the Social Security Act, based on the sum of:

quarters the alien worked;

quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and

quarters credited from the work of a spouse of an alien during their marriage if they are still married or the spouse is deceased.

(i) A spouse cannot get credit for quarters of coverage of a spouse when the couple divorces before a determination of eligibility is made.

If a determination of eligibility has been made based on the quarters of coverage of a spouse, and the couple later divorces, the alien eligibility continues until the next recertification.

At that time, eligibility is determined without crediting the alien with the former spouse quarters of coverage.

(ii) Beginning January 1, 1997, any quarter in which the alien received any Federal means-tested benefits does not count as a qualifying quarter. A parent or spouse quarter is not creditable if the parent or spouse received any Federal means-tested benefits or actually received food stamps in that quarter. If an alien earns the 40<sup>th</sup> quarter of coverage before applying for food stamps or any other Federal means-tested benefit in that same quarter, all that quarter counts toward the 40 qualifying quarters total.

b. Lawfully living in the U.S. for five (5) years as a qualified alien beginning on the date of entry.

c. A refugee who is admitted to the U.S. (section 207 of the INA);

d. An alien who is granted asylum to the U.S. (section 208 of INA);

e. An alien whose deportation/removal is being withheld (sections 207[a][7] and 241[b][3] of the INA);

f. An alien who is a Cuban or Haitian entrant (section 501[e] of the Refugee Education Assistance Act of 1980);

g. An Amerasian who is admitted to the U.S. (section 584 of P.L. 100-202, amended by P.L. 100-461);

h. An alien with one of the following military connections:

(i) A veteran who was honorably discharged for reasons other than alien status, who fulfills the minimum active-duty service requirements of 38 U.S.C. 5303A(d), including an individual who died in active military, naval or air service.

A veteran includes an individual who served before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the U.S. or in the Philippine Scouts, as described in 38 U.S.C. 107;

(ii) An individual on active duty in the Armed Forces of the U.S. other than for training; or

(iii) The spouse and unmarried dependent children (legally adopted or biological) of a person described above in (i) through (ii), including the spouse of a deceased veteran, provided the marriage fulfilled the requirements of 38 U.S.C. 1304, and the spouse has not remarried. An unmarried child for the purposes of this section is: a child who is under the age of 18 or, if a full-time student, under the age of 22; such unmarried dependent child of a deceased veteran was dependent upon the veteran at the time of the veteran's death; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the veteran prior to the child's 18<sup>th</sup> birthday.

i. Lawfully in U.S. and is receiving disability or blind payments (as listed under DSSM 9013.1);

j. Lawfully in U.S. and 65 or older on 8/22/96 (born on or before 8/22/31)

k. Lawfully in U.S. and is now under 18 years of age (when child turns 18, the child must meet another eligibility criteria like 40 quarters or the five-year residency rule to continue to get food stamps);

l. Lawfully in U.S. in a qualified status for five years;

m. Immigrants who are victims of severe trafficking in persons per Public Law 106-386 Trafficking Victims Protection Act of 2000. Severe forms of trafficking in persons is defined as sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Victims of trafficking are issued T visas by U.S. Immigration and Citizenship Services.

The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 expanded eligibility to include the minor children, spouses, and in some cases the parents and siblings of victims of severe trafficking. Under TVPRA, eligible relatives of trafficking victims are entitled to visas designated as T-2, T-3, T-4 or T-5 (known as Derivative T Visas) and are eligible for food stamps like the direct victims of severe trafficking.

If an alien is awarded a T visa and was under the age of 21 years on the date the T visa application was filed, the Derivative T Visas are available to the alien's spouse, children, unmarried siblings under 18 years of age, and parents.

If an alien is awarded a T visa and was age of 21 years or older on the date the T Visa application was filed, the Derivative T Visas are available to the alien's spouse and children.

Adult victims of severe trafficking will be certified by the U.S. Department of Health and Human Services (HHS) and will receive a certification letter. Children, those under 18 years of age, who are victims of severe trafficking do not need to be certified but will receive a letter stating that the child is a victim of a severe form of trafficking. These victims of trafficking, and eligible relatives awarded a Derivative T Visa, are treated like refugees for food stamp purposes. Victims of trafficking do not have to hold a certain immigration status, but they need to be certified by HHS in order to receive food stamps.

When a direct victim of a severe form of trafficking applies for benefits, DSS will follow normal procedures for refugees except DSS will:

Accept the original certification letter or letter for children in place of INS documentation. Victims of severe forms of trafficking are not required to provide any documentation regarding immigrant status. (DO NOT CALL SAVE.)

Call the trafficking verification line at (202) 401-5510 to confirm the validity of the certification letter or similar letter for children and to notify the Office of Refugee Resettlement (ORR) of the benefits for which the individual has applied.

Note the "entry date" for refugee benefit purposes. The individual "entry date" for refugee benefits purposes is the certification date, which appears in the body of the certification letter or letter for children.

Issue benefits to the same extent as a refugee, provided the victim of a severe form of trafficking meets other program eligibility criteria like income limits.

Re-certification letters will used to confirm that the individual continues to meet the certification requirements. These letters will have the same "entry date" as the original certification letters. The regular recertification periods will apply to these individuals in the same manner that they apply to refugees.

When an eligible relative of a direct victim of severe trafficking applies for benefits:

Accept the nonimmigrant T-2, T-3, T-4 or T-5 Derivative Visa and follow the normal procedures for providing services and benefits to refugees.

Call the toll-free trafficking verification line at 1 (866) 402-5510 to notify ORR of the benefits for which the individual has applied. (NOTE: the DHS Systematic Alien Verification for Entitlements (SAVE) system does not contain information about victims of a severe form of trafficking or nonimmigrant alien family members. DO NOT CONTACT SAVE concerning victims of trafficking or their nonimmigrant alien family members.)

Issue benefits to the same extent as a refugee provided the Derivative T Visa holder meets other program eligibility criteria like income.

For an individual who is already present in the United States on the date the Derivative T Visa is issued, the date of entry for food stamp purposes is the Notice Date on the I-797, Notice of Action of Approval of that individual Derivative T Visa.

For an individual who enters the United States on the basis of a Derivative T Visa, the date of entry for food stamp purposes is the date of entry stamped on that individual passport or I-94 Arrival Record.

**8 DE Reg. 1712 (6/1/05)**

**10 DE Reg. 1702 (05/01/07)**

**12 DE Reg. 455 (10/01/08)**

### **9007.2 Income and Resources**

The income and resources of an ineligible alien will be handled as outlined in DSSM 9076.

### **9007.3 Reporting Illegal Aliens**

DSS Policy and Program Development (PPDU) Unit will inform the local INS office whenever eligibility personnel knows for sure that any member of a household is ineligible to receive food stamps because the member is present in the United States in violation of the Immigration and Nationality Act.

Caution must be exercised to ensure that the determination is not made merely on the alien's inability or unwillingness to provide documentation of alien status. When a person indicates inability or unwillingness to provide documentation of alien status, staff shall not continue efforts to obtain the documentation. That person shall be classified as an ineligible alien. Staff will obtain only the documents necessary to provide information on the income and resources of the ineligible alien to be made available to the remaining members of the household.

This regulation does not permit the reporting of aliens to INS on mere suspicion of prejudice. Firm evidence that a household is illegally in the U.S. would be required. Two examples of circumstances when an alien would be reported to INS are:

INS documents presented by the household during the application process are determined to be forged.

A former order of deportation is presented by the household during the application or recertification process.

If a determination is made that a household, or household member, is in fact an illegal alien present in the United States in violation of the immigration laws, staff will report the determination to the supervisor. The supervisor will send a written report to the Food Stamp Policy Administrator who will decide whether the evidence is enough to make a report to INS.

**10 DE Reg. 1702 (05/01/07)**

### **9008 Residency**

[7 CFR 273.3]

Individuals must live in Delaware to get food benefits from this state.

### **Filing Applications in Local Offices**

Individuals will file applications for benefits at local offices based on zip codes. However, any office will accept an application and consider it filed the same day.

### **No Duplication of Benefits**

An individual cannot participate as a member of more than one household in any month. There is an exception for individuals who are residents of shelters for battered women and children. Refer to DSSM 9080 for the rules for residents of shelters for battered women and children.

### **No Durational Requirements**

There is no requirement for an individual to live in Delaware for any specific length of time. A fixed residence is not required. Residency rules do not require intent to reside permanently in Delaware. Migrant campsites meet the residency requirements.

### **Non-Residents**

Individuals vacationing in Delaware are not considered as residents of this state.

### **Moving Within the State**

When a household moves within the state, DSS will transfer the household's case file to the new office. The household's certification period continues without having to reapply. The current office will act on changes in household circumstances resulting from the move before transferring the case file to the new office.

### **Temporary Absences Out of State**

Households that temporarily leave the state, maintain their Delaware residency and intend to return can continue to receive benefits. This includes, but is not limited to, households on vacation or taking care of a sick family member in another state. This does not include households that leave for military deployment or hospitalizations that will exceed 30 days.

**Homeless Households**

Homeless individual means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

- A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);
- A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized (applied to individuals released from institutions who still need supervision, not prisoners considered to be detained under a Federal or State law while in a halfway house);
- A temporary accommodation in the residence of another individual if the accommodation is for no more than 90 days.
- The 90-day period starts at application or when the household reports a change.
- The 90-day period starts over when a household moves from one residence to another.
- If a homeless household leaves, for whatever reason, and returns to the same residence, the 90-day period will start over again.
- If a household has a break in receiving food benefits, the 90-day period will not start over if the household remains in the same residence. The 90-day period will start over if the household moved to another residence.

**12 DE Reg. 1326 (04/01/09)**

**9009 Disqualification for Intentional Program Violation**

[273.16]

(See 2023 Disqualification for Intentional Program Violation for Food Stamps and TANF)

**9010 Students**

[273.5]

Any Student who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in the Food Stamp Program unless the individual qualified for one of the exemptions listed in DSSM 9010.1.

A student is considered to be enrolled in an institution of higher education if the student is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

**9010.1 Student Exemptions**

To be eligible for food stamps, a student defined in DSSM 9010 must meet at least one of the following criteria.

- 1) Be age 17 or younger or age 50 or older;
- 2) Be physically or mentally unfit;
- 3) Receive TANF;
- 4) Be enrolled as a result of participation in Employment and Training;
- 5) Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;

6) Be participating in a State or federally funded work study program during the regular school year, with the following conditions:

a) The student must be approved for work study at the time of application for food stamps, the work study must be approved for the school term, and the student must anticipate actually working during that time.

The exemption begins with the month in which the school term begins or the month the work study is approved, whichever is later.

The exemption continues until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.

b) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break.



7) Be participating on an on-the-job training program which is only during the period of time the person is being trained by the employer;

8) Be responsible for the care of a dependent household member under the age of 6;

9) Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when it is determined that adequate child care is not available to enable the student to attend class and comply with the work requirements listed in #5 and #6.

10) Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.

This applies only where only one natural, adoptive or stepparent (regardless of marital status) is in the same food stamp household as the child.

If no natural, adoptive or stepparent is in the food stamp household as the child, another full-time student in the same food stamp household may qualify for eligible student status if he or she has parent control over the child and is not living with his or her spouse.

11) Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the following programs:

a) A program under the Workforce Investment Act (WIA);

b) The Food Stamp Employment and Training program;

c) A program under Section 236 of the Trade Act of 1974;

d) A State or local government employment and training program for low-income households where one or more components of the program are equivalent to the food stamp employment and training program, determined by DSS.

Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement.

Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption.

Ineligible students (i.e., those not meeting the requirements for student participation in this section) are non-household members per DSSM 9013.2 and cannot participate regardless of with whom they live.

The enrollment status of a student begins on the first day of the school term of the institution of higher education. The enrollment shall be considered to continue through normal periods of class attendance, vacation and recesses, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term, excluding summer school.

The income and resources of an ineligible student shall be handled according to DSSM 9077.1.

## **9011 Restoration of Lost Benefits**

### **9011.1 Entitlement**

Restore to households benefits which were lost whenever the loss was caused by an error by the Division or by an administrative disqualification for intentional Program violation which was subsequently reversed as specified in DSSM 9011.5, or if there is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits. Benefits will be restored for not more than twelve months prior to whichever of the following occurred first:

1. The date DSS receives a request for restoration from a household; or

2. The date DSS is notified or otherwise discovers that a loss to a household has occurred.

Restore to households benefits which were found by any judicial action to have been wrongfully withheld. If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits will be restored for a period of not more than twelve months from the date the court action was initiated.

When the judicial action is a review of an action taken by the Division, the benefits will be restored for a period of not more than twelve months from the first of the following dates:

1. The date DSS receives a request for restoration;

2. If no request for restoration is received, the date the fair hearing action was initiated, but

3. Never more than one year from when DSS is notified of, or discovers, the loss.

**9011.2 Errors Discovered by the Division**

If the Division determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits will not be restored if they were lost more than 12 months before the loss was discovered by the Division or were lost more than 12 months before the Division was notified in writing or orally of a possible loss to a specific household. Notify the household of its entitlement, the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

**9011.3 Disputed Benefits**

If the Division determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the Division or any other action taken by the Division to restore lost benefits, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household will receive the lost benefits as determined by the agency pending the results of the fair hearing. If the fair hearing decision is favorable to the household, restore the lost benefits in accordance with that decision.

If a household believes it is entitled to restoration of lost benefits but the Division after reviewing the case file does not agree, the household has 90 days from the date of the Division determination to request a fair hearing. Restore benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than 12 months prior to the date the Division was initially informed of the household's possible entitlement to lost benefits will not be restored.

**9011.4 Computing the Amount to be Restored**

After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the twelve month time limit, calculate the amount to be restored as follows:

1. If the household was eligible but received an incorrect allotment, the loss of benefits will be calculated only for those months the household participated. If the loss was caused by an incorrect delay, denial, or termination of benefits, calculate the months affected by the loss as follows:

a. If an eligible household's application was erroneously denied, calculate the loss beginning with the month of application. For an eligible household filing a timely re-application, calculate the loss beginning with the month following the expiration of its certification period.

b. If an eligible household's application is delayed, calculate the months for which benefits may have been lost in accordance with the procedures in DSSM 9040.

c. If a household's benefits were erroneously terminated, the month the loss initially occurred will be the first month in which benefits were not received as a result of the erroneous action.

d. After computing the date the loss initially occurred, calculate the loss for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

2. For each month affected by the loss, determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible, advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household will be considered ineligible.

3. For the months the household was eligible, calculate the allotment it should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

4. If a claim against a household is unpaid or held in suspense as provided in DSSM 7005, the amount to be restored will be offset against the amount due on the claim before the balance, if any, is restored to the household. At the point in time when the household is certified and receives an initial allotment, the initial allotment will not be reduced to offset claims, even if the initial allotment is paid retroactively.

Audit and Recovery Management Services processes all claim determinations. Consequently, benefits will not be restored to any household until ARMS advises the DSS via Form 106, of any off-setting that is required due to outstanding claims. The procedure for effecting benefit restorations is found in DSSM 7002.1.

**9011.5 Lost Benefits to Individuals Disqualified for Intentional Program Violation**

Individuals disqualified for intentional Program violation are entitled to restoration of any benefits lost during the months that they were disqualified, not to exceed twelve (12) months prior to the date of DSS notification, only if the decision which resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the period of disqualification based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the disqualification period imposed by an administrative disqualification in a separate court action.

For each month the individual was disqualified, not to exceed twelve months prior to DSS notification, the amount to be restored, if any, will be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Participation in an administrative disqualification hearing in which the household contests DSS' assertion of intentional Program violation will be considered notification that the household is requesting restored benefits.

#### **9011.6 Method of Restoration**

Regardless of whether a household is currently eligible or ineligible, the agency will restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost.

The amount restored will be issued in addition to the allotment currently eligible households are entitled to receive. Reasonable requests by households to restore lost benefits in monthly installments will be honored. As an example of a reasonable request, the household may fear that the excess food stamp benefits will be stolen or that the amount to be restored is more than it can use in a reasonable period of time.

Instructions for the issuance of restored benefits are contained in DSSM 7002.1.

#### **9011.7 Changes in Household Composition**

Whenever lost benefits are due a household and the household's membership has changed, restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If DSS cannot locate or determine the household which contains a majority of household members, restore the lost benefits to the household containing the head of the household at the time the loss occurred.

#### **9011.8 Accounting Procedures**

If applicable, each case file will contain Form 106 documenting a household's entitlement to restoration of lost benefits. In addition, DMS will maintain a central alphabetic listing of cases where lost benefits have been or will be restored and will cross-reference this listing to cases in which a claim against the household can be used to offset the amount to be restored.

#### **9012 Social Security Numbers**

[273.6]

##### **9012.1 Requirements for Participation**

Require that a household participating or applying for participation in the Food Stamp Program provide the SSN of each household member or apply for one before certification. Explain to applicants and participants that refusal or failure without good cause to provide a SSN will result in disqualification of the individual for whom a SSN is not obtained.

If individuals have more than one number, all numbers will be required.

##### **9012.2 Obtaining SSNs for Food Stamp Household Members**

For those individuals who provide SSN's prior to certification, recertification or at any office contact, record the SSN and verify it in accordance with DSSM 9032.5.

For those individuals who do not have a SSN, issue an Form 122 including the system-generated unique identifier (Client ID#) for each individual listed on the form. (Inclusion of the unique identifier will enable automatic transmittal of the SSN to the DCIS database.) Inform the household where to apply and what information will be needed. Advise the household member that proof of application from SSA will be required prior to certification (SSA normally uses the Receipt of Application for a Social Security Number, Form SSA- 5028, as evidence that an individual has applied for a SSN). Follow this same procedure for individuals who do not know if they have a SSN, or are unable to find their SSN.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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If the household is unable to provide proof of application for a SSN for a newborn, the household must provide the SSN or proof of application at its next recertification or within 6 months following the month the baby is born, whichever is later. If the household is unable to provide a SSN or proof of application at its next recertification within 6 months following the baby's birth, DSS shall determine if the good cause provisions of DSSM 9012.4 apply.

**9012.3 Failure to Comply**

If DSS determines that a household member has refused or failed without good cause to apply for a SSN, that individual is ineligible to participate in the Food Stamp Program. The disqualification applies to the individual for whom the SSN is not provided and not to the entire household. The earned or unearned income and resources of an individual disqualified from the household for failure to comply with this requirement will be counted as household income and resources to the extent specified in DSSM 9076.2.

**9012.4 Determining Good Cause**

In determining if good cause exists for failure to comply with the requirement to apply for or provide DSS with a SSN, consider information from the household member, SSA and DSS. Documentary evidence or collateral information that the household member has applied for a SSN or made every effort to supply SSA with the necessary information to complete an application for a SSN will be considered good cause for not complying timely with this requirement. Good cause does not include delays due to illness, lack of transportation or temporary absences, because SSA makes provisions for mailing applications in lieu of applying in person. If the household member can show good cause why an application for a SSN has not been completed in a timely manner, allow the person to participate for one month in addition to the month of application. If the household member applying for a SSN has been unable to obtain the documents required by SSA, make every effort to assist the individual in obtaining these documents. Good cause for failure to apply must be shown monthly in order for such a household member to continue to participate. Once an application has been filed, permit the member to continue to participate pending notification to DSS of the household member SSN.

Workers should establish short-term controls to check the status of the SSN application monthly. If DSS has requested the necessary documents for the clients (birth certificates, etc.), check monthly to see if the documents have been received. Refer the client back to SSA when documents arrive.

If the client was responsible for obtaining the necessary documents, check with the client by phone or by mail to determine what progress has been made. Inform the client that continued eligibility is dependent upon their continued efforts to obtain documents needed to apply for a SSN.

**9012.5 Ending Disqualification**

The household member(s) disqualified may become eligible upon providing the Division with a Social Security Number.

**9012.6 Use of Social Security Numbers**

The Division is authorized to use Social Security Numbers in the administration of the Food Stamp Program. To the extent determined necessary by the Secretary of Health and Human Services, State agencies are given access to information regarding individual Food Stamp Program applicants and participants who receive benefits under Title XVI of the Social Security Act (SSI) to determine such a household's eligibility to receive assistance and the amount of assistance, or to verify information related to the benefit of the households. Use the State Data Exchange (SDX) to the maximum extent possible. Use SSN's to prevent duplicate participation, to facilitate mass changes in Federal benefits and to determine the accuracy and/or reliability of information given by households. In particular, DSS will use SSN's to request and exchange information on individuals through IEVS (see DSSM 2013.1).

**9012.7 Entry of SSNs into Automated Databases**

Enter all Social Security Numbers obtained in accordance with this section into the automated food stamp data base (DCIS).

**9013 Household Concept**

[273.1]

A household may be composed of any of the following individual or groups of individuals:

1. an individual living alone;

2. an individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;
3. a group of individuals who live together and customarily purchase food and prepare meals together for home consumption;
4. an individual who is 60 years of age or older, living with others (and the spouse of such individual), 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 non-disease related, severe, permanent disability. However, the income (all income included under DSSM 9055) of the others with whom the individual resides (excluding the income of such individual's spouse) cannot exceed 165% of the poverty line. (Refer to the current October Cost-of-Living Adjustment Administrative Notice.)

### **9013.1 Household Definition**

#### **7 CFR 273.1**

A) 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 DSSM 9015), or are not boarders (as specified in DSSM 9013.3).

1. An individual living alone
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;

This includes severely disabled individuals who have someone purchase and prepare their meals for them (regardless of whether or not they are paid for the service). The disabled individuals are considered separate food stamp households, even if they live in the same home as the individual purchasing and preparing the meals for them. This household does not have to meet the 165 percent rule.

3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption;

B) Special Definition - the following individuals living with others or groups of individuals living together must be considered as customarily purchasing food and preparing meals together, even if they do not do so\*.

1. Spouses who live together. Spouse refers to either of two individuals:
  - a. Who would be defined as married to each other under applicable State law; or
  - b. Who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

2. Children 21 years of age and younger living with their parents. [Parents are defined as natural parent(s), adoptive parent(s), or step-parent(s)]

Children (other than foster care children) who are under 18 and live under the parental control of a non-parent, adult household member cannot be separate households.

Adult children (22 years of age and older) who live with their parents can be separate households if they purchase and prepare food separately.

3. Child(ren) living with a non-parent who has legal custody of the child(ren) will continue to be a member of the household for food stamp purposes even if a natural parent moves into the home. The non-parent must provide proof of legal custody. If the adult who has legal custody of the child chooses to let the child and natural parent purchase and prepare meals together, the child can become a member of the natural parent's food stamp household.

4. Joint custody – Children who live with parents in a joint custody situation can get food stamps with the parent who is the first to apply for food stamps. This also covers shared custody situations. If both parents are applying for the same child(ren), the parent who provides the majority of the meals (21 meals a week) will include the child as part of his/her food stamp household.

When the parent who provides the majority of the meals applies for food stamps after the other parent is already getting food stamps for children, he/she can include the children in their food stamp after they are removed from the other parent's case. The children are removed from the first parent's case and opened in the second parent's case no later than the second month after the month the second parent requests food stamps for the children.

5. When an individual resides a portion of the month with a food stamp household, the household can choose to include or exclude the individual from the food stamp household. If included, the income of the individual must be included and the individual cannot get benefits in another household or state.

#### **Examples:**

A son works out of state but comes home every weekend. His mom can include or exclude him.

**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

A child lives in PA with her father. She comes to DE to live with her mom on weekends. Her mother can include her in her food stamp household as long as the child is not getting food stamps in PA.

A child goes to a residential school and comes home every other weekend and holidays. The parents can include the child in their food stamp household.

6. Although a group of individuals living together and purchasing and preparing meals together constitutes a single household under the provisions of the above general definition, 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 (s)he suffers from a disability considered permanent under the Social Security Act, or suffers from a non-disease-related, severe, permanent disability, may be a separate household from the others based on the provisions of this section provided that the income (all income under DSSM 9055) 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. Only the spouse of the elderly and disabled individual is required to be included in the same household with the individual.

**"Elderly or disabled member"** means a member of a household who:

- a. is 60 years of age or older;
- b. receives Supplemental Security Income (SSI) benefits under Title XVI of Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
- c. receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;
- d. receives federally or State-administered supplemental benefits under section 212(a) of Public Law 93-66;
- e. receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act;
- f. is a veteran with a service-connected or non-service connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;
- g. is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;
- h. is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code; or
- i. is a surviving spouse or surviving child of a veteran and is considered by the VA to be entitled to compensation for service-connected death or pension benefits for a non- service connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act;
- j. received an annuity payment under Section 2(a)(l)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board, or Section 2(a)(i)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act.
- k. is a recipient of interim assistance benefits pending the receipt of Supplemental Security Income, disability related medical assistance under Title XIX of the Social Security Act, or disability-based State general assistance benefits provided that the eligibility to receive those benefits is based upon disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act.

**"Entitled"** as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them.

Note: Some disabled persons optionally receive Federal Employee Compensation Act (FECA) payments in lieu of Civil Service Disability payments. Such persons are considered to meet the disability definition under this section. Some persons, however, receive FECA payments on a temporary basis while recovering from an on-the-job injury. Receipt of these temporary payments does not satisfy the disability definition. Therefore, verify which type of FECA payment a client receives.

**VERIFICATION OF DISABILITY**

**DISABILITY BASIS**

b, c, d

**VERIFICATION METHOD**

Household must provide proof of benefit receipt.

- f Household must present a statement from the Veterans Administration which clearly indicates (1) that the disabled individual is receiving VA disability benefits for a service-connected disability, and (2) that the disability is rated as total or paid at the total rate.
- g, h Household must prove that the disabled individual is receiving VA disability benefits.
- e, i Use SSA's most current list of disabilities considered permanent. If it is obvious that one individual has one of the listed disabilities, the item is considered verified. If disability is not obvious, the household must provide a statement from a physician or licensed or certified psychologist certifying that the individual has one of the non-obvious disabilities listed.
- j Household must provide proof that individual receives a Railroad Retirement disability annuity from the Railroad Retirement Board and has been determined to qualify for Medicare.
- k Household must provide proof of receipt of interim benefits pending receipt of SSI; or disability-related medical assistance under Title XIX of the SSA. Verify that the eligibility to receive these benefits is based upon disability or blindness criteria that are at least as stringent as those used under title XVI of the Social Security Act.

**9 DE Reg. 1077 (01/01/06)**

**10 DE Reg. 1003 (12/01/06)**

**11 DE Reg. 332 (09/01/07)**

**18 DE Reg. 147 (08/01/14)**

### **9013.2 Non-Household Members**

[273.1(b)]

For the purposes of defining a household under the provisions of this section, the following individuals will not be included as a member of the household unless specifically included as a household member under the special definition at DSSM 9013.1. If not included as a member of the household under the special definition, such individuals will 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 will be handled in accordance with DSSM 9077. The following individuals (if otherwise eligible) may participate as separate households:

- 1) Roomers to whom a household furnishes lodging, but not meals, for compensation.
- 2) Live-in attendants who reside with a household to provide medical, housekeeping, child care or similar personal services.
- 3) 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.

Some household members are ineligible to receive Program benefits under the provisions of the Food Stamp Act (such as 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 must be included as a member of the household for the purpose of defining a household under the definition in DSSM 9013.1. However, such individuals must 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 individuals will be handled in accordance with DSSM 9076. These individuals are not eligible to participate as separate households.

Ineligible individuals include the following:

- 1) Ineligible students who do not meet the eligible student requirement of DSSM 9010.
- 2) Ineligible aliens who do not meet the citizenship or eligible alien status requirements of DSSM 9032 or the eligible sponsored alien requirements of DSSM 9081.
- 3) Individuals disqualified for intentional Program violation per DSSM 2023.
- 4) Individuals disqualified for failure to provide a SSN per DSSM 9032.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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- form.
- 5) Individuals who do not attest to their citizenship or alien status as required on the Form 100 application form.
  - 6) Individuals found guilty of having made a fraudulent statement or misrepresentation to the identity and/or place of residence in order to receive the multiple benefits at the same time per DSSM 2024.
  - 7) Individuals who are fleeing prosecution or custody for a felony or probation/parole violators per DSSM 2025.
  - 8) Individuals convicted of trafficking food stamps of \$500 or more per DSSM 2026.
  - 9) Individuals ineligible due to work requirements per DSSM 9018.
  - 10) Individuals who are ineligible because of a drug-related felony conviction per DSSM 2027.
  - 11) Individuals ineligible due to the time limit for Able-bodied Adults without Dependents per DSSM 9018.

**9013.3 Boarders and Foster Care**

[273.1(c)]

Boarders

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 will boarder status be granted to those individuals or groups of individuals described in DSSM 9013.1 (B) which includes children living with parents.

The household with 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.

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 will be used, provided that the amount paid for meals is distinguishable from the amount paid for lodging. A reasonable monthly payment will be either of the following:

- 1) Boarders whose board arrangement is for more than two meals a day will pay an amount which equals or exceeds the maximum food stamp allotment for the appropriate size of the boarder household; or
- 2) Boarders whose board arrangement is for two meals or less per day will pay an amount which equals or exceeds two-thirds of the maximum food stamp allotment for the appropriate size of the household.

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 will be considered a member of the household providing the services.

This means that a person paying reasonable compensation for meals is considered a boarder and can be included in the household's food stamp household if the household providing the boarder services wants them to be included. A person paying less than a reasonable amount to the household for meals must be included in the food stamp household of the household providing the service. Either way, the person paying for the meals cannot receive food stamps on their own separate from the household providing the service.

None of the income or resources of individuals determined to be boarders and who are not members of the household providing the boarder services will be considered available to such household. However, the amount of the payment that a boarder gives to a household will 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 DSSM 9074. The procedures for handling income from boarders by a household that owns and operates a commercial boarding house are also covered in DSSM 9074.6.

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 with licensing requirements, a commercial boarding house will 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 will not be used to determine if a boarding house is a commercial enterprise.

Foster Care



Foster care individuals (children and adults) placed in the homes of relatives or other individuals or families by a Federal, State, or local governmental foster care program, shall be considered boarders. The foster care payments received by the household for such foster care boarders shall not be considered as available income to the household. The foster care payments are exempt from the computation of net self-employment income from boarders under DSSM 9074.

Foster care children/adult boarders may participate in the Food Stamp Program as members of the household providing the boarder services to them, at such household's request. If the household chooses the option to include the foster care individuals in their food stamp household, 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.

#### **9014 Head of Household**

[273.1(d)]

It is not a requirement that the head of household appear at the office for certification to the program. Another responsible member of the household or the authorized representative may appear to make application for benefits.

When designating the head of household, the household may 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. All adult household members must agree to the selection.

Households can select their heads of households at each certification action or whenever there is a change in household composition. The Application (Form 100) contains the written notification about designating the head of household.

Failure to designate or agree on a head of household will not delay certification or cause benefits to be denied. DSS will designate a head of household if the household does not designate one or the adults do not agree on a designation. If DSS has to designate a head of household, the designee will be the principal wage earner.

For purposes of failure to comply with DSSM 9018, the head of household shall be the principal wage earner unless the household has selected an adult parent of children. The principal wage earner is 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 the Food Stamp Employment and Training (FS E&T) Program, or is in receipt of unemployment compensation (or has registered for work as part of the UC application process), or is employed or self-employed and working a minimum of 30 hours weekly or receiving a weekly earnings equal to the Federal minimum wage multiplied by 30 hours can be considered the head of household. If there is no principal source of earned income in the household, the household member documented in the casefile as head of the household at the time of the violation will be considered the head of household.

#### **9015 Residents of Institutions**

Individuals will be considered residents of an institution where 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:

1. Residents of federally subsidized housing for the elderly. "Federally subsidized housing for the elderly" includes housing built under either Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act.

2. Narcotics addicts or alcoholics, and their children, who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center. Resident addicts or alcoholics, and their children, will be treated as one household for purposes of eligibility determination.

3. Blind or disabled individuals who are covered under the Food Stamp Act's definition of a disabled person in DSSM 9013, b through k, and who reside in properly certified public or private non-profit group living arrangements serving no more than 16 residents. Processing standards, verification requirements, lost benefit entitlement, and rights to fair hearings, and advance notice will apply to the households in (2) and (3) as they do to all other households. See DSSM 9078.

4. Women or women with their children temporarily residing in a shelter for battered women and children. Persons temporarily residing in shelters for battered women and children will be considered individual household units for

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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the purposes of applying for and participating in the program. A shelter for battered women and children is a public or private non-profit residential facility that serves battered women and their children. If such a facility services other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

5. Residents of public or private nonprofit shelters for homeless persons.

Residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Pre-release Program for the Institutionalized [42 U.S.C. 1383(j)] can apply for food stamps at the same time they apply for SSI. Process these pre-release applicants in accordance with the provisions in DSSM 9028, 9039, 9042, 9043, 9061, and 9081, as appropriate.

**9016 Authorized Representatives**

[273.2(n)]

Representatives may be authorized to act on behalf of a household in the application process, in obtaining food stamp benefits, and in using food stamp benefits.

**5 DE Reg. 894 (10/01/01)**

**9016.1 Application Processing and Reporting**

Inform applicants that a nonhousehold member may be designated as the authorized representative for application processing purposes. The authorized representative may carry out household responsibilities during the certification period such as reporting changes in the household's income or other circumstances. Inform the household that the household will be held liable for any overissuances that results from erroneous information given by the authorized representative.

A nonhousehold member may be designated as an authorized representative for the application process provided that the person is an adult who is sufficiently aware of relevant household circumstances. The authorized representative designation must be made in writing by the head of the household, the spouse, or another responsible member of the household. DSSM 9016.4 contains more restrictions on who can be designated an authorized representative.

Residents of drug or alcohol treatment centers must apply and be certified through the use of authorized representatives in accordance with DSSM 9078.1.

Residents of group living arrangements have the option to apply and be certified through the use of authorized representatives in accordance with DSSM 9078.2.

**9016.2 Obtaining Food Stamps Benefits**

An authorized representative may be designated to obtain benefits. Encourage households to name an authorized representative for obtaining benefits in case of illness or other circumstances which might prevent the household from obtaining their benefits. The name of the authorized representative must be recorded in the household's case record and in DCIS.

The authorized representative for obtaining benefits may or may not be the same individual designated as an authorized representative for the application process or for meeting reporting requirements during the certification period.

When a household needs someone to obtain their food stamp benefits for a particular month, the household may designate an emergency authorized representative. The emergency authorized representative is designated to obtain the household's allotment when none of the persons specified on the ID card are available.

Form 105, Emergency Authorized Representative Designation Form, is used by the household to designate an emergency authorized representative. DSS will fill out and send the Emergency Authorized Representative Designation Form to the client when requested. Do not require households to come into the office to get the Emergency Authorized Representative Designation Form.

The designated emergency authorized representative must present the form that contains the signature of the household member on the ID card and the signature of the emergency authorized representative and the food stamp ID card to the food stamp issuance site. The form must be signed by both the household member and the designated emergency authorized representative before going to the issuance site. A separate written designation is required each time an emergency representative is authorized.

**9 DE Reg. 799 (11/01/05)**

**9016.3 Using Benefits**

A household may allow any household member or nonmember to use its ID card and benefits to purchase food or meals, if authorized, for the household. Drug or alcohol treatment centers and group living arrangements which act as authorized representatives for residents of the facilities must use food stamp benefits for food prepared and served to those residents participating in the Food Stamp Program, except when residents leave the facilities as provided in DSSM 9078.1.

#### **9016.4 Restrictions on Designations of Authorized Representatives**

DSS must restrict the use of authorized representatives for purposes of application processing and obtaining food stamp benefits as follows:

1. DSS employees who are involved in the certification and/or issuance processes and retailers that are authorized to accept food stamp benefits may not act as authorized representatives without the specific written approval of the Operations Administrator and only if the Operations Administrator determines that no one else is available to serve as an authorized representative.

2. Individuals disqualified for an intentional Program violation cannot 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 agency has determined that no one else is available to serve as authorized representative. In this case it will be determined whether the authorized representative is needed to apply on behalf of the household, or to obtain benefits on behalf of the household.

3. Homeless meal providers may not act as authorized representatives for homeless food stamp recipients. A "homeless meal provider" is a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter) approved by DHSS, that feeds homeless persons.

4. If DSS determines that an authorized representative has knowingly provided false information about household circumstances or has made improper use of food stamp benefits, it may disqualify that person from being an authorized representative for up to one year. DSS will send written notification to the affected household(s) and the authorized representative 30 days prior to the date of disqualification. The notification must specify the reason for the proposed action and the household's right to request a fair hearing. This provision is not applicable in the case of drug and alcohol treatment centers and those group homes that act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and which intentionally misrepresent households circumstances, may be prosecuted under applicable Federal and State statutes for their acts.

There is no limit on the number of households an authorized representative may represent.

In the event that employers, such as those that employ migrant or seasonal farmworkers, are designated as authorized representatives or if any one authorized representative has access to a large number of food stamp benefits, caution should be exercised 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. DSS should make sure that the authorized representative is properly using the food stamp benefits.

Any suspected improper use should be reported to the Chief Social Service Administrator, Program Implementation Unit, who will in turn report the circumstances to FNS for investigation.

#### **9017 Strikers**

[273.1(g)]

Households with striking members will 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. Such a household will not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.

For food stamp purposes, a striker will 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 lockout, however, will 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:

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

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

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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3. Employees who are not part of the bargaining unit on strike who did not want to cross a picket due to fear of personal injury or death.

Further, an individual who goes on strike who is exempt from work registration, in accordance with DSSM 9018, the day prior to the strike, other than those exempt solely on the grounds that they are employed, will not be deemed a striker.

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

Eligibility at time of application will be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of non-striking members during the month of application.

To determine benefits (and eligibility for households subject to the net income eligibility standard) deductions will 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 will be allowed if appropriate.

Strikers whose households are eligible to participate under the criteria in this section will be subject to the work registration requirements under DSSM 9018 unless exempt under DSSM 9018.2.

### **9018 Work Requirements**

#### **9018.1 Work Registration Requirements**

No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food supplement program if the individual:

- refuses, at the time of application and every 12 months thereafter, to register for employment;
- refuses without good cause to accept an offer of employment at a site not subject to a strike or lockout at the time of refusal, at a wage not less than the higher of
  1. the applicable Federal or State minimum wage; or
  2. 80% of the wage that would have governed had the minimum hourly rate been applicable to the offer of employment.
- refuses without good cause to provide DSS with sufficient information to allow DSS to determine the employment status or the job availability of the individual;
- voluntarily and without good cause quits a job or reduces the hours of work so the individual is working less than 30 hours per week; or
- fails to comply with a work supplementation program.

**13 DE Reg. 1335 (04/01/10)**

#### **9018.2 Maintaining and Regaining ABAWD Eligibility**

7 CFR 273.24

This policy applies to applicants for and recipients of the Food Supplement Program who are able-bodied adults who do not have dependent children living with them.

##### **Definitions**

ABAWD (able-bodied adults without dependent children) means individuals without children in their FSP household who must work 20 hours a week and/or comply with certain work requirements in order to get food benefits.

Work is defined as:

- A. Work in exchange for money;
- B. Work in exchange for goods or services (in-kind work);
- C. Unpaid work which is verified; or
- D. Any combination of the above definitions.

Qualifying work programs include programs under:

- A. Workforce Investment Act;
- B. Trade Adjustment Assistance Act; or
- C. Employment and Training (except for job search or job search training programs).

Countable months are months during which an individual receives food benefits for the full month while not:

- A. Exempt
- B. Meeting the work requirements
- C. Receiving prorated benefits

**1. Benefits for ABAWDs Are Time-Limited**

Able-bodied adults without dependent children (ABAWDs) can only receive 3 months of food benefits in a 36 month period if they do not meet the work requirements. When the individual meets a work requirement, he or she may get benefits longer than 3 months.

**2. ABAWDs Must Meet Work Requirements**

An ABAWD meets the work requirement when he or she:

- A. Works at least 20 hours per week (averaged monthly which means 80 hours a month); or
- B. Participates in a work program at least 20 hours per week; or
- C. Works and participates in a work program for any combination of hours that totaled 20 hours per week; or
- D. Participates and complies with a workfare program.

**3. ABAWDs May Be Exempted from Time Limits**

The following individuals are exempt from the 3 month limitation even if they do not meet the work requirements.

- A. An individual who is under age 18.  
The month after the individual turns 18 is the first month he or she must start meeting the ABAWD work requirements.
- B. An individual who is 50 years of age or older.  
An individual is no longer considered an ABAWD the month he or she turns 50 years old.
- C. An individual who is obviously mentally or physically unfit for employment.
- D. An individual who is medically certified as physically or mentally unfit for employment.  
This must be verified by a written statement from medical personnel.
- E. An individual who is receiving temporary or permanent disability benefits issued by governmental or private sources.
- F. An individual who is a parent (natural, adoptive, or step) of a household member under 18 years of age.
- G. An individual who is living in a FSP household with a person who is under age 18, even if the person under 18 is not eligible for or receiving food benefits.
- H. An individual who is pregnant.
- I. An individual who is exempt from work requirements according to DSSM 9018.3.

**4. ABAWDs May Be Exempted for Good Cause**

If the individual would have worked an average of 20 hours per week but missed some work for good cause, consider the individual to have met the work requirements if:

- A. The absence from work is temporary; and
- B. The individual retains his or her job.

Good cause includes circumstances beyond the individual's control, such as, but not limited to:

- A. Illness;
- B. Illness of household member requiring the presence of the ABAWD;
- C. A household emergency; or
- D. The unavailability of transportation.

**5. ABAWDs May Regain Eligibility**

Regaining eligibility applies to individuals who have received three ABAWD months then were closed or denied for failure to comply with ABAWD work requirements.

After closing, an individual can regain eligibility if during a 30-day period the individual:

- A. Works (paid or non-paid) for 80 hours or more; or
- B. Participates in and complies with a work program for 80 hours or more; or
- C. Participates in and complies with a work supplementation program; or
- D. Participates in any combination of work and participation in a work program for a total of 80 hours; or
- E. Participates in a DSS workfare program; or

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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F. Becomes exempt for any reason.

**6. Resources and Income of ABAWDs Must be Counted**

The income and resources of individuals excluded from FSP eligibility because they have exhausted their ABAWD months are handled according to DSSM 9076.2.

**7. ABAWDs Must Verify Certain Information**

Verification is handled according to DSSM 9032 and DSSM 9038.

**8. ABAWDs Must Report Certain Work Changes**

Individuals subject to the time limit must report when their work hours fall below 20 hours per week, averaged monthly.

Any work performed in a job that was not reported will be counted as work when determining countable months.

**9. Benefits Received Erroneously Count as ABAWD Months**

If an individual subject to the time limit receives food benefits erroneously, consider the benefits to have been received.

Exception: If an individual pays back erroneously issued food benefits in full, that month is not counted as an ABAWD month.

**17 DE Reg. 66 (07/01/13)****9018.3 Exemptions From Work Registration**

The following persons are exempt from the work registration requirement:

- 1) A person younger than 16 years of age or a person 60 years of age or older.

If a child has its 16th birthday with a certification period, the child will fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.

A person age 16 or 17 who is not a head of a household or who is attending school, or enrolled in an employment and training program on at least a half-time basis is exempt.

- 2) A person physically or mentally unfit for employment.

If a mental or physical unfitness is claimed and the unfitness is not evident, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed certified psychologist.

- 3) A household member subject to and participating in the TANF Employment and Training program under Title IV of the Social Security Act. If the exemption claimed is questionable, verify the exemption.

- 4) A parent or other household member who is responsible for the care of a dependent child under age six (6) or an incapacitated person.

If the child has its 6th birthday within a certification period, the individual responsible for the care of the child will fulfill the work registration requirement as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

- 5) A person is in receipt of unemployment compensation. A person who has applied for, but has not yet begun to receive, unemployment compensation will also be exempt if that person was required to register for work with DOL as part of the unemployment compensation application process.

If the exemption claimed is questionable, verify the exemption with the appropriate DOL office.

- 6) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

The person does not have to be a resident of such a treatment center. However, the treatment center must be certified as a rehabilitation program by the State agency that is responsible for the States programs for alcoholics and drug addicts. Alcoholics Anonymous (AA) does not meet this criteria. Regular participants in AA are not exempted from work registrations.

- 7) A person who is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours.

This will include migrant and seasonal farmworkers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days (although this will not prevent individuals from seeking additional services from DOL).

8) A student enrolled at least half time in any recognized school, training program, or institution of higher education, provided that students enrolled at least half time in an institution of higher education have met the eligibility conditions in DSSM 9010. Persons who are not enrolled at least half time or who experience a break in enrollment status due to graduation, expulsion, or suspension, or who drop out or otherwise do not intend to return to school will not be considered students for the purpose of qualifying for this exemption.

A student enrolled in a school, training program or institution of higher education will remain exempt during normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

#### **9018.4 Work Registration Waiver for Certain Households**

Household members who are applying for SSI and for food stamps under DSSM 9043 will have the requirement for work registration waived until:

- 1) They are determined eligible for SSI and thereby become exempt from work registration; or
- 2) They are determined ineligible for SSI and where applicable, a determination of their work registration status is then made through recertification procedures in accordance with DSSM 9043, or through other means.

#### **9018.5 Loss of Exemption Status**

Persons losing exemption status due to any change in circumstances that is subject to the reporting requirements of DSSM 9085 will register for employment when the change is reported.

Examples of such changes include loss of employment that also results in loss of income or more than \$25 a month, or departure from household of the sole dependent child for whom an otherwise non- exempt household member was caring. Those persons who lose their exemption due to a change in circumstances that is not subject to the reporting requirements of DSSM 9085 will register for employment at their household's next recertification.

### **9019 DSS/Employment/Training Agency Responsibilities**

#### **9019.1 DSS Procedures**

Upon reaching a determination that an applicant or a member of the applicant's household is required to register, explain to the applicant the work registration requirements, their rights and responsibilities, and the consequences of failure to comply. Enter the appropriate mandatory code on the DCIS documents for each mandatory household member.

#### **9019.2 Time Spent in an Employment and Training Program**

Monitor the following aspects of Employment and Training participation:

The number of months a participant spends in an Employment and Training component.

The number of successive components in which a participant may be placed.

The time spent by the members of a household collectively each month in an Employment and Training work program. Time cannot exceed the number of hours equal to the household's allotment for that month divided by the higher of the applicable State or Federal minimum wage. The total hours of participation in an Employment and Training non-work component for any household member individually in any month cannot exceed 120.

#### **9019.3 Voluntary Participation**

Permit persons exempt from the work registration and training requirements or those not exempt who have complied or are complying with the requirements, to participate in any employment and training program offered.

Do not sanction voluntary participants in an employment and training component for failure to comply with the employment and training requirements.

Hours of participation or work of a volunteer may not exceed the hours required of employment and training mandatory participants.

### **9020 Additional Work Requirements**

[273.7(e)]

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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After registration, work registrants must also:

1. Report for an interview upon the reasonable request of the case worker or the Division's designated employment/training provider and participate in an Employment and Training program if assigned.
2. Respond to a request from the case worker for supplemental information regarding employment status or availability for work.
3. Report to an employer to whom referred by the case worker if the potential employment meets the suitability requirements described in DSSM 9022.
4. Accept a bona fide offer of suitable employment to which he or she is referred by an employment/training agency; at a wage not less than the higher of either the applicable State or Federal minimum wage.

**9021 RESERVED**

13 DE Reg. 1335 (04/01/10)

**9022 Suitable Employment**

[273.7(i)]

Any employment will be considered unsuitable if:

1. The wage offered is less than the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80% of the federal minimum wage if neither the federal nor state minimum wage is applicable, or
2. The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wage specified in #1, above, or
3. The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization, or
4. The work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under the Taft-Hartley Act, or the Railway Labor Act, or
5. The degree of risk to health and safety is unreasonable, or
6. The member is physically or mentally unfit to perform the employment as documented by medical evidence or by reliable information from other sources, or
7. The employment is offered within the first 30 days of registration and is not in the member's major field of experience, or
8. The distance from the member's house to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment will not be considered suitable if daily commuting time exceeds two hours daily, not including the transporting of a child to and from a child care facility. Employment is not considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site, or
9. The working hours or nature of the employment interferes with the member's religious observations, convictions, or beliefs. For example, a Sabbatarian could refuse to work on the Sabbath and not affect the household's eligibility.

**9023 Participation of Strikers**

[273.7(j)]

Strikers whose households are eligible under the criteria in DSSM 9017 will be subject to the work registration requirements unless exempt under DSSM 9018.3 at time of application.

**9024 TANF Employment and Training Households**

[273.7(k)]

Registrants for the TANF Employment and Training program are exempt from food stamp work registrations.

Household members who are required to register for work under TANF Employment and Training or Unemployment Compensation and who fail to comply with the work registration requirements of those programs will be handled in accordance with DSSM 9021.

**9025 Determining Good Cause**



[273.7(m)]

DSS will be responsible for determining good cause in those instances where the work registrant has failed to comply with the work registration, voluntary quit, or employment and training requirements, of this section.

Determining good cause in cases of voluntary quit. In determining whether or not good cause exists, the employment and training agency and DSS will consider the facts and circumstances, including information submitted by the household member involved and the employer. Good cause will include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation or the lack of adequate child care for children who have reached age six but are under age 12.

### **9026 Voluntary Quit**

[7 CFR 273.7]

No individual who voluntarily quits his/her most recent job or reduces work hours to less than 30 hours per week, without good cause will be eligible to participate in the Food Supplement Program (FSP) as specified below.

At the time of application, explain to the applicant the consequences of the individual quitting his or her job without good cause.

**13 DE Reg. 1335 (04/01/10)**

#### **9026.1 Application Processing**

1) When a household files an application for participation or when a participating household reports the loss of a source of income, determine whether any household member voluntarily quit a job. Benefits will not be delayed beyond the normal processing times specified in DSSM 9028 pending the outcome of this determination. This provision applies only if the employment involved 30 hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by 30 hours; the quit occurred within 30 days prior to the date of application or anytime thereafter; and the quit was without good cause. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for the purpose of this subsection.

An employee of the Federal Government or of a state or local government, who participates in a strike against such government and is dismissed from his or her job because of participation in the strike, will be considered to have voluntarily quit a job without good cause.

2) In the case of an applicant household, determine whether any currently unemployed (i.e., employed less than 30 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 30 hours) household member who is required to register for work has voluntarily quit his or her most recent job within the last 30 days. If DSS learns that a household has lost a source of income after the date of application but before the household is certified, determine whether a voluntary quit occurred.

3) In the case of a participating household, determine whether any household member voluntarily quit his or her job or reduced work his or her hours, while participating in the FSP.

4) Upon a determination that the individual voluntarily quit employment, determine if the voluntary quit was with good cause as defined in DSSM 9026.3. In the case of an applicant household, if the voluntary quit was without good cause, the individual's application for participation will be denied and the appropriate period of ineligibility imposed per DSSM 9026.2. If DSS determines that an individual voluntarily quit his/her job or reduced his/her work hours while participating in the program or discovers a quit or reduction of work hours which occurred within thirty (30) days prior to application or between application and certification, provide a notice of adverse action within ten (10) days after the determination of a voluntary quit is made. The notification must contain the proposed period of ineligibility and must specify that the individual may reapply at the end of the sanction. The periods of ineligibility are imposed according to DSSM 9026.2, and are effective upon the issuance of the notice of denial.

If a voluntary quit or reduction in work effort occurs in the last month of a certification period, or it is determined in the last 30 days of the certification period, the individual must be denied recertification for a period equal to the appropriate period of ineligibility. The beginning of the sanction starts with the first day after the last certification period ends and continues for the length of the sanction period, regardless of whether the individual reapplies for food benefits.

5) If an application for participation is filed in the last month of the sanction period, use the same application for the denial of benefits in the remaining month of the sanction and certification for any subsequent month(s) if all other eligibility criteria are met.

**13 DE Reg. 1335 (04/01/10)****9026.2 Periods of Ineligibility (Sanction Periods)**

When an individual voluntarily quits a job or voluntarily reduces work hours to less than 30 hours per week and becomes ineligible to participate in the Food Supplement Program, the periods of ineligibility are as follows:

- First violation, the individual will remain ineligible for a one month period after the date of ineligibility.
- Second violation, the individual will remain ineligible for a three month period after the date of ineligibility.
- Third violation, the individual will remain ineligible for a six month period after the date of ineligibility.

Determine whether good cause for the job quit exists, per DSSM 9025 and 9026.4. Within ten (10) days of the DSS determination that the non-compliance was without good cause, provide the individual with a notice of adverse action. The notice must contain the particular act of non-compliance committed, the proposed sanction period, and a statement that the individual may reapply at the end of the sanction period. Include information describing the action that can be taken to end or avoid the sanction.

The sanction period begins with the first month following the expiration of the adverse notice period, unless a fair hearing is requested. Individuals may appeal DSS actions such as DSS refusal to make a finding of good cause.

If the individual with the job quit sanction moves to another food benefit household, the sanction would follow the person.

**13 DE Reg. 1335 (04/01/10)****9026.3 Exemptions From Voluntary Quit Provisions**

Persons exempt from the full-time work registration provisions are also exempt from voluntary quit provisions (See DSSM 9018.3).

**13 DE Reg. 1335 (04/01/10)****9026.4 Good Cause**

Good cause for leaving employment includes the good cause provisions found in DSSM 9025 and resigning from a job that does not meet the suitability criteria specified at DSSM 9022. Good cause for leaving employment also includes:

- 1) Discrimination by an employer based on age, race, sex, color, disability, religious beliefs, national origin, or political beliefs;
- 2) Work demands or conditions that under continued employment would be unreasonable, such as working without being paid on schedule;
- 3) Acceptance by the head of household of employment, or enrollment at least half-time in any recognized school, training program or institution of higher education, that requires the head of household to leave employment;
- 4) Acceptance by another household member of employment or enrollment at least half-time in any recognized school, training program, or institution of higher education in another county which requires the household to move and thereby requires the head of household to leave employment;
- 5) Resignations by persons under the age of 60 which are recognized by the employer as retirement;
- 6) Employment which becomes unsuitable by not meeting the criteria specified in DSSM 9022 after the acceptances of such employment;
- 7) Acceptance of a bona fide offer of employment of more than 30 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 30 hours which, because of circumstances beyond the control of the head of household, subsequently either does not materialize or results in employment of less than 30 hours a week or weekly earnings of less than the federal minimum wage multiplied by 30 hours; and
- 8) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food benefits between jobs, particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of previous employment will be considered as with good cause if it is part of the pattern of that type of employment.

**13 DE Reg. 1335 (04/01/10)****9026.5 Voluntary Quit Verification**

If the information given by the household is questionable as defined in DSSM 9033, request verification of the household's statements. The primary responsibility for providing verification as provided in DSSM 9035.1 rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, offer assistance to the household to obtain the needed verification. Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives, and grievance committees or organizations. Whenever DSS cannot obtain documentary evidence, substitute a collateral contact.

The Division is responsible for obtaining verification from acceptable collateral contacts provided by the household. If the household and the Division are unable to obtain requested verification from these or other sources because the cause for the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Food Supplement Program.

**13 DE Reg. 1335 (04/01/10)**

#### **9026.6 Ending a Voluntary Quit Or A Reduction In Work Hours Sanction**

Following the end of the sanction period as defined in DSSM 9026.2, an individual may begin participation in the program if he or she applies again and is determined eligible.

During the sanction period, if an individual is found exempt from work registration under DSSM 9018.3, the sanction would no longer apply.

**13 DE Reg. 1335 (04/01/10)**

#### **9027 Application Processing**

[273.2(a)]

DSS will provide timely, accurate, and fair service to applicants and recipients of the Food Stamp Program. DSS will not impose additional application or application processing requirements as a condition of eligibility.

The application process includes filing and completing an application form, being interviewed, and having certain information verified. Prompt action will be taken on all applications and food stamp benefits retroactive to the period of application will be provided to those households that have completed the application process and have been determined eligible. Expedited service will be available to households in immediate need.

#### **9028 Filing an Application**

[273.2(c)]

Households must file a food stamp application by submitting the form to a certification office either in person, through an authorized representative, by fax or other electronic transmission, by mail or by completing an on-line electronic application. Applications signed through the use of electronic signature techniques or applications containing handwritten signatures and then transmitted by fax or other electronic transmission are acceptable. DSS must document the date the application was filed by recording the date of receipt at the local office.

The length of time DSS has to deliver benefits is calculated from the date the application is filed in the food stamp claim office designated to accept the household's application, except when a resident of a public institution is jointly applying for SSI and food stamps prior to his/her release from an institution in accordance with DSSM 9015. Certify residents of public institutions who apply for food stamps prior to their release from the institution in accordance with DSSM 9039 or DSSM 9041, as appropriate. The date received will be documented on the application.

Each household has the right to file, and should be encouraged to file an application form on the same day it contacts any food stamp office during office hours and expresses interest in obtaining food stamps or expresses concerns which indicate food insecurity.

DSS shall make clear to applicants that the disadvantages and requirements of applying for cash assistance do not apply to food stamps. Applicants shall be encouraged to continue an application with food stamps. DSS shall inform households that receiving food stamps will have no bearing on any other program's time limits that may apply to the household.

Mail an application form the same day households request food stamp assistance either by telephone or written notice. Advise the household that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address, and the signature of a responsible household member or the household's authorized representative. Any office must accept applications when filed, but must

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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subsequently refer the household to the proper office for the eligibility determination. Mail applications received in the wrong office to the correct office the same day.

Applications filed at incorrect office locations are considered filed and the receiving office will forward the application to the correct office. If the household is eligible for expedited services, the receiving office will fax the application and proof of identity to the correct office and alert the office by phone about the fax. The correct office will issue the expedited benefits and, if necessary, schedule an appointment for an interview.

When a resident of an institution is jointly applying for SSI and food stamps prior to leaving the institution, the filing date of the application to be recorded by DSS on the application is the date of release of the applicant from the institution.

Have application forms readily accessible to potentially eligible households in each regional office and provide them to those groups and organizations involved in outreach efforts. DSS will provide a means for applicants to immediately begin the application process with name, address, and signature by having applicants complete and sign a copy of the on-line Referral for Assistance or the first page of the hard-copy application. Households that complete an on-line electronic application in person have the opportunity to review the information that has been recorded electronically and to receive a copy for their records.

When a household contacts the wrong certification office in person or by telephone, the household will be given the address and phone number of the correct office. The office contacted in person will provide the household an opportunity to file an application that same day. The office will forward the application to the correct office the same day. If the household has mailed its application to the wrong certification office, forward it to the proper office on the same day.

Provide each household at the time of application for certification or recertification with a notice (Form 105) that informs the household of the verification requirements the household must meet as part of the application process. The notice must also inform the household of the Division's responsibility to assist the household in obtaining required verification provided the household is cooperating as specified in DSSM 9029.

**9028.1 Joint Application Processing**

Notify households applying for TANF/GA/RCA of their right to apply for food stamp benefits at the same time and permit them to do so. DSS will notify such households that time limits or other requirements that apply to the receipt of TANF/GA/RCA benefits do not apply to the receipt of food stamp benefits. DSS will also notify such households, which cease receiving TANF/GA/RCA because they have reached a time limit, have begun working, or were closed for other reasons, that they may still be eligible for food stamp benefits. DSS will encourage applicants to continue to apply for food stamp benefits even if household determines not to apply for TANF/GA/RCA due to the requirements or disadvantages of that program. DSS will inform households that receiving food stamps will have no bearing on any other program's time limits that may apply to the household. These households' food stamp eligibility and benefit levels are to be based solely on food stamp eligibility criteria. However, any household in which all members are recipients of TANF/GA/RCA and/or SSI benefits are to be considered eligible for food stamps because of the TANF/ GA/RCA/SSI status in accordance with DSSM 9042.2.

Recipients include individuals authorized to receive TANF/GA/RCA and or SSI benefits but who have not yet received payment. In addition, persons are considered recipients if the TANF/GA/RCA or SSI benefits are suspended or recouped. Persons entitled to TANF/GA/RCA benefits because the grant is less than \$10 are also considered TANF/GA/RCA recipients.

Households, whether jointly processed and/or eligible because of their TANF/GA/RCA/SSI status, will be certified in accordance with the notice, procedural and timeliness requirements of the food stamp regulations.

**8 DE Reg. 1485 (4/1/05)****9029 Household Cooperation**

[7 CFR 273.2(d)]

A. Households are required to cooperate in the application process in order to receive food benefits.

The household or its authorized representative must complete the application, have an interview, and verify certain information on the application before DSS can determine eligibility.

If the household refuses to cooperate in completing this process, DSS will deny the application at the time the household refuses to cooperate.

B. DSS will not deny a case because a household merely failed to cooperate or was unable to cooperate. DSS must determine that the household refused to cooperate. Before DSS can make a determination of refused to cooperate, the household must:

- "be able to cooperate,

- "clearly demonstrate that it will not take actions that it can take, and
- "fail to take required actions to complete the application process.

If there is any question as to whether the household merely failed to cooperate, as opposed to refused to cooperate, the DSS worker will not deny the household.

The worker must provide assistance.

C. DSS will determine the household ineligible if it refuses to cooperate in any subsequent review of its eligibility. A subsequent review of eligibility includes, but is not limited to:

- "reviews generated by reported changes,
- "applications for recertification, and
- "reviews of cases certified under disaster FSP procedures.

After a DSS denial or termination for refusal to cooperate, the household may reapply and must cooperate before determined eligible. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the DSS worker will not deny the household. The worker must provide assistance.

The household may voluntarily withdraw its application at any time before the determination of eligibility.

D. If a household withdraws its application, the worker will:

- document the case record to include the reason for withdrawal.
- contact the household to confirm the withdrawal and document the case record.
- advise the household of its right to reapply at any time.

E. DSS will not determine the household to be eligible when a person, organization or agency outside of the household fails to cooperate with a request for verification.

The worker will document the case record.

Non-household members, like roomers, live-in attendants or others sharing the residence, are not considered as living outside the household for the purposes of this policy. This means the failure of a non-household member to cooperate could cause the household to be ineligible.

**12 DE Reg. 1225 (03/01/09)**

### **9029.1 Cooperation With Quality Control**

A household is ineligible if it refuses to cooperate in any subsequent review of its eligibility as a part of a Quality Control (QC) review. If a household is terminated for refusal to cooperate with a QC reviewer, the household may reapply but will not be determined eligible until it cooperates with the QC reviewer. If a household terminated for refusal to cooperate with a State QC reviewer reapplies after 95 days from the end of September, (the end of the annual review period which runs October through September each fiscal year), do not determine the household ineligible for its refusal to cooperate with a State QC reviewer during the completed review period. However, the household must provide verification in accordance with DSSM 9032.13.

If a household terminated for refusal to cooperate with a Federal QC reviewer reapplies after seven months from the end of September, (the end of the annual review period which runs October through September each fiscal year), do not determine the household ineligible for its refusal to cooperate with a Federal QC reviewer during the completed review period. However, the household must provide verification in accordance with DSSM 9032.13.

If the household who refuses to cooperate with a QC reviewer joins another food stamp household, those individuals would be treated as ineligible household members until they cooperate with the QC reviewer.

**9 DE Reg. 1077 (01/01/06)**

### **9030 Interviews**

[273.2(e)]

Households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter, unless the face-to-face interview has been waived.

DSS may not require a household to report for an in-office interview during their certification period although they may request a household to do so.

Interview may be conducted at the food stamp office or other mutually acceptable location, including a household residence. Interviews conducted at the household's residence must be scheduled in advance.

The head of household, spouse, any other responsible member of the household, or an authorized representative may be interviewed. Advise the households of their rights and responsibilities during the interview, including the appropriate processing standard and the responsibility to report changes. The interview will be conducted as an official and confidential

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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discussion of household circumstances and will be limited strictly to facts that relate directly to food stamp eligibility criteria. The applicant's right to privacy will be protected during the interview.

The eligibility worker must explore and resolve with the household any unclear and incomplete information. Households applying for cash assistance must be informed that time limits and other requirements that apply to the cash assistance program do not apply to the receipt of food stamps. Inform households that stop receiving cash assistance due to reaching a time limit, getting a job, or other reasons, that they may still be eligible for food stamp benefits.

Inform applicants that DSS will waive the office interview and conduct a telephone interview on a case-by-case basis because of household hardship situations. Hardship situations include, but are not limited to, age, disability, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours which prevent the household from participating in an in-office interview. Document the casefile to show when a waiver was granted due to hardship.

Waiver of the face-to-face interview does not exempt the household from the verification requirements. A waiver of the face-to-face interview cannot not affect the length of the household's certification period. Assign households waived the face-to-face interview normal certification periods

However, special verification procedures may be used such as substituting a collateral contact in cases where documentary evidence would normally be required.

Households for whom the office interview is waived will be offered either a telephone interview or a home visit. Home visits will be scheduled in advance with the household.

DSS will schedule an interview for all applicant households who are not interviewed on the day they submit their applications. All interviews will be scheduled as promptly as possible to ensure eligible households receive an opportunity to participate within 30 days after the application is filed.

If the household misses its interview appointment, DSS will notify the household that it missed the interview and that the household is responsible for making another appointment. DSS will not deny the application prior to the 30<sup>th</sup> day after the application was filed if the household fails to appear for the interview. If the household requests a second interview during the 30-day application processing period and is determined eligible, DSS will prorate benefits from the date of application.

Applicant and participant households which are unable to obtain certification services without missing time from work must be given appointments for such services.

The applicant may bring any person he or she chooses to the interview.

**9031 Definition of Verification**

[273.2(f)]

Verification is the use of third party information or documentation to establish the accuracy of statements on the application.

DSS must give households at least ten (10) days to provide required verifications.

**9032 Requiring Verification**

7 CFR 273.2(f)(1)

This policy applies to applicants of the FSP.

Verification is the use of third party information or documentation to establish the accuracy of statements on the application.

**1. DSS Requires Mandatory Verification of Eligibility Factors Before Certifying Applicants**

The following verifications are mandatory:

**A. Gross income (unless excluded)**

If the client is unable to provide verification use other resources available to you including third party verification. If you are still unable to verify the income, determine an amount based on the best available information. Sometimes the best available information will be from a collateral contact or from the client him/herself.

**B. Alien Eligibility Status**

DSS must verify the eligible status of applicant aliens.

1. If an alien does not wish DSS to contact INS to verify his or her immigration status, give the household the option of withdrawing its application or participating without that member.

2. DSS must verify the following factors if applicable to the alien's eligibility:

- i. date of admission
- ii. date status was granted
- iii. military connection
- iv. battered status
- v. if the alien was lawfully residing in the United States on August 22, 1996
- vi. membership in certain Indian tribes
- vii. if the person was age 65 or older on August 22, 1996
- viii. 40 qualifying quarters of covered work (if the alien is a lawful permanent resident)
- ix. if any Federal means-tested public benefits were received in any quarter after December 31, 1996
- x. if the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time (or is the spouse or unmarried dependent of such a person)

**Exceptions:**

1. If DSS has submitted a copy of a document provided by the household to INS for verification, DSS cannot delay, deny, reduce, or terminate the individual's eligibility for benefits on the basis of the individual's immigration status while pending.
2. If SSA has responded that the individual has fewer than 40 quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited, DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original determination of insufficient quarters.
3. If the applicant or DSS has submitted a request to a Federal agency for verification of information which bears on the individual's eligible status, DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original request for verification.

3. DSS must provide alien applicants at least 10 days from the date of the request to submit acceptable documentation of their eligible alien status as of the 30<sup>th</sup> day following the date of application.

4. DSS must provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible, if DSS fails to give applicants at least 10 days to submit acceptable documentation.

5. DSS must verify a household member's citizenship or status as a non-citizen national.

i. DSS will accept participation in another program as acceptable verification if verification of citizenship or non-citizen national was obtained for that program.

ii. If the household cannot obtain acceptable verification, DSS must accept a signed third-party statement, under penalty of perjury, which indicates a reasonable basis for personal knowledge that the member in question is a U. S. citizen or a non-citizen national.

**C. Utility Expenses for Unoccupied Homes**

DSS will verify actual utilities for unoccupied homes per DSSM 9060.

1. Verify the actual expenses for the unoccupied home.

2. If the household has utility expenses at both homes, give the appropriate SUA.

3. If the household has utility expenses only at the unoccupied home, the SUA is not permitted.

Combine the actual utility expenses with the shelter costs.

**D. Medical Expenses**

DSS will verify the medical expenses deductible under DSSM 9060.

Verification of other factors, such as whether a service provided is allowed, may be required if questionable.

**E. Social Security Numbers**

DSS will verify Social Security Numbers (SSNs) reported by the household by submitting them to the Social Security Administration (SSA) for verification through the DCIS system.

1. Contact the household to determine if the information the household provided is correct if the SSN returns from SSA as unverified. Obtain the correct information so that the SSN can be resubmitted to SSA.

**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

2. Pursue all unmatched SSNs with the client. If the household refuses to provide the correct information, take action against the household for refusal to cooperate per DSSM 9029.

3. When a household claims it cannot cooperate for reasons beyond its control, verify and document the household's inability to cooperate.

4. If an individual must appear at the SSA Office to provide correct information and refuses to, the refusal is grounds for termination per DSSM 9029.

5. When an individual household member refuses or fails without good cause to provide or apply for an SSN, that individual shall be ineligible to participate.

6. Disqualifications apply only to individual members, not the entire household. Treat the income and resources for the disqualified individual according to DSSM 9076.2.

7. Do not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the SSN of a household member.

8. Once an SSN has been verified, enter the number as verified to prevent the unnecessary re-verification of the SSN in the future.

9. Accept as verified a SSN which has been verified by another program participating in the Income and Eligibility Verification System (IEVS).

10. If an individual is unable to provide an SSN or does not have an SSN, require the individual to apply for one with SSA and provide proof of the application.

**F. Residency (Including Homelessness Definition)**

DSS will verify residency (DSSM 9008).

**EXCEPTION:** Do not require proof of residency in cases where verification of residency is not easily accomplished such as homeless households (as defined in DSSM 9094), migrant farm worker households, or households newly arrived in the state

1. Verify residency with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity.

2. If verification cannot be accomplished with the verification of other information, use a collateral contact or other readily available documentary evidence.

3. Documents used to verify other factors of eligibility can sometimes verify residency.

4. Any documents or collateral contacts which reasonably establish the applicant's residency must be accepted.

5. Do not impose requirements for a specific type of verification.

6. Do not impose a durational residency requirement.

7. Household do not have to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

**NOTE:** According to DSSM 9094, a homeless individual is defined as someone who resides in a temporary accommodation for not more than 90 days in the residence of another individual.

"The 90-day period starts at application or when a change is reported.

"The 90-day period starts over when a household moves from one residence to another.

"If a homeless household leaves, for whatever reason, and returns to the same residence, the 90-day period will start over again.

If a household has a break in receiving food stamps, the 90-day period will not start over if the household remains in the same residence. The 90-day period will start over if the household moved to another residence.

**G. Identity**

DSS will verify the identity of the person making application.

1. Where an authorized representative applies on behalf of a household, verify the identity of both the authorized representative and the head of household.



2. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact.

3. Accept any documents which reasonably establish the applicant's identity. (Examples include a driver's license, a work or school ID, an ID for health benefits, or for other assistance or social services program, a voter registration card, wage stubs, or a birth certificate.)

4. Do not impose requirements for a specific type of document.

**H. Disability**

DSS will verify disability as defined under DSSM 9094 for individuals applying for food benefits as a separate household under DSSM 9013.

1. The disability must be one considered permanent under the Social Security Act.

2. Only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of such disability will be considered disabled for the purpose of this provision.

i. If it is obvious that the individual is unable to purchase and prepare meals because s/he suffers from a severe physical or mental disability, consider the individual disabled for the purpose of the provision even if the disability is not specifically mentioned on the SSA list.

ii. If the disability is not obvious, verify the disability by requiring a statement from a physician or licensed or certified psychologist certifying that the individual (in the physician's/psychologist's opinion) is unable to purchase and prepare meals because s/he suffers from one of the non-obvious disabilities mentioned in the SSA list or is unable to purchase meals because s/he suffers from some other severe, permanent physical or mental disease or non-disease related disability.

3. The elderly and disabled individual (or his/her authorized representative) is responsible for obtaining the cooperation of the individuals with whom s/he resides in providing the necessary income information about the others to DSS.

**I. Quality Control (QC)**

DSS will verify all factors of eligibility for households who refuse to cooperate with a QC review.

1. Verify all factors of eligibility for households who have been terminated for refusal to cooperate with a State QC reviewer and reapply after 95 days from the end of the annual review period.

2. Verify all factors of eligibility for households who have been terminated for refusal to cooperate with a Federal QC reviewer and reapply after seven months from the end of the annual review period.

3. The annual review period is the Federal Fiscal Year, October to September.

**J. Students**

DSS may verify a disability or medical unfitness for student exemptions (DSSM 9010.1) if the disability or medical condition is not obvious.

1. Appropriate verifications include receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

**K. Legal Obligation and Actual Child Support Payments**

DSS will verify the household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays.

Documents that verify the legal obligation to pay child support cannot be used to verify the actual amount of child support payments made.

**L. Additional Verification For Able-bodied Adults Without Dependents (ABAWD)**

DSS will verify work hours and countable months for ABAWD individuals.

1. Hours worked – verify the hours worked for individuals who are satisfying the ABAWD work requirements by working, by combining work and participation in a work program, or by participating in a work or workfare program that is not operated or supervised by the State.

2. Countable months in another state – verify the number of countable months for individuals subject to the ABAWD provisions if an individual has lived in another state and there is an indication that the individual participated in that state.

2. DSS Gives Households at Least 10 Days to Provide Requested Verifications.

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

**9033 Verification of Questionable Information**

[273.2(f)(2)]

Eligibility factors other than those listed in DSSM 9032 will be verified only if questionable and if they affect a household's eligibility or benefit level.

Questionable information is information inconsistent with statements made by the applicant, with other information on the application or previous applications, or with information received by the agency. Procedures described below will apply when one of the following eligibility factors is questionable:

When expenses claimed by the household for purposes of determining allowable program deductions (per DSSM 9060) or those otherwise reported during the certification interview (e.g., car payments, credit card bills) exceed declared income, ask the household to verify how such expenses were paid. New applicants must satisfactorily explain past management. Possible methods to verify payments are as follows:

Income Source	Type of Verification
Loans and gifts	Statement from lender
Sale of personal property	Receipt from sale
Exchange of services/ in-kind benefits	Statement from landlord, etc.
Gambling proceeds	Lottery tickets
Odd jobs	Note from employer

Benefits may be authorized if the following conditions are met:

a) A new household provides a satisfactory explanation of past management including any verification that is reasonably available to the household.

b) A participating household satisfactorily verifies factors of past management. Verification must be from the month(s) immediately preceding certification/recertification.

Additionally, households where management has been questionable will be notified that they will be responsible for verifications of all cash outflow at times of recertification if management continues to appear questionable.

A. Household Composition. Verify factors affecting the composition of a household, if questionable. Individuals who wish to be a separate household from those with whom they reside will be responsible for proving a claim that they are a separate household to the satisfaction of the Division.

Individuals who claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness will be responsible for proving a claim of separateness in accordance with DSSM 9032.11.

B. Citizenship. The household must provide acceptable verification for any member whose U.S. citizenship is questionable.

A claim to citizenship may be considered questionable if:

1) The claim of citizenship is inconsistent with statements made by the applicant or with other information on the application or on previous applications.

2) The claim of citizenship is inconsistent with information received from another source.

3) The individual does not have a Social Security Number.

When a household's statement that one or more of its members are U.S. citizens or has the status as a non-citizen national is questionable, ask the household to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, certificates of citizenship or naturalization provided by INS, such as identification cards for use of resident citizens in the United States (INS form I- 179 or INS form I- 197), or U.S. passports. Participation in the TANF Program will also be considered acceptable verification if verification of citizenship or non-citizen national status was obtained for that program. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, accept a signed statement from a third party indicating a reasonable basis for personal knowledge that the member in question is a U.S. citizen. The signed statement must contain a warning of the penalties for helping someone commit fraud, such as: "If you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both."

The member whose citizenship or non-citizen national status is in question will be ineligible to participate until proof of U.S. citizenship or non-citizen national status is obtained. Until proof of U.S. citizenship or non-citizen national status is obtained, the member whose citizenship or non-citizen national status is in question will have his or her income, less a prorata share, and all of his or her resources considered available to any remaining household members as set forth in DSSM 9076.2.

C. Deductible expenses. If obtaining verification for a deductible expense may delay certification, advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. This provision also applies to the allowance of medical expenses per DSSM 9032. Shelter costs would be computed without including the unverified components. The standard utility allowance will be used if the household is entitled to claim it.

If the expense cannot be verified within 30 days of the date of application, determine the household's eligibility and benefit level without providing a deduction of the unverified expense. If the household subsequently provides the missing verification, redetermine the household's benefits, and provide increased benefits, if any, in accordance with the timeliness standards in DSSM 9085. If the expense could not be verified within the 30-day processing standard because the Division failed to allow the household sufficient time per DSSM 9040 to verify the expense, the household will be entitled to the restoration of benefits retroactive to the month of application, provided that the missing verification is supplied in accordance with DSSM 9040. If the household would be ineligible unless the expense is allowed, the household's application will be handled as provided in DSSM 9040.

**11 DE Reg. 216 (08/01/07)**

## **9034 Sources of Verification**

### **9034.1 Documentary Evidence**

Use documentary evidence as the primary source of verification for all items except residency and household size. Documentary evidence consists of a written confirmation of a household's circumstances. Although documentary evidence will be the primary source of verification, acceptable verification will not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, require collateral contacts or home visits.

Examples of documentary evidence include wage stubs, rent receipts, and utility bills.

For example, documentary evidence is considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income. Each wage stub submitted must contain a complete data (month, day, year) affixed by the employer. When wage stubs presented are not acceptable, any of the alternate procedures following may be invoked:

- 1) Make a collateral contact by telephone to verify the information reflected on the client's wage stubs. If discrepant, use the amounts furnished by the employer.
- 2) The client may optionally present another source of documentation. Additional documentary evidence will also be evaluated for sufficiency.
- 3) Mail Form 170 to the employer.

Documents that appear to be falsified are never to be considered as documentary evidence.

### **9034.2 Collateral Contacts**

A collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. Select a collateral contact if the household fails to designate one or designates one which is unacceptable to the Division.

Examples of acceptable collateral contacts are employers, landlords, social service agencies, migrant service agencies, and neighbors of the household who can be expected to provide accurate third party verification.

When talking with collateral contacts, DSS will disclose only the information that is absolutely necessary to get the information being sought. DSS will avoid disclosing that the household has applied for food stamps, nor should they disclose any information supplied by the household, especially information that is protected by DSSM 1003, or suggest that the household is suspected of doing any wrong doing.

If the Division designates a collateral contact, no contact will be made without providing prior written or oral notice to the household. At the time of this notice, inform the household that it has the following options:

1. Consent to the contact;

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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2. Provide acceptable verification in another form; or
3. Withdraw the application.

If the household refuses to choose one of these options, its application will be denied in accordance with the normal procedures for failure to verify information.

Systems of records to which DSS has routine access are not considered collateral contacts and, therefore need not be designated by the household.

Examples are the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) and records of another agency where a routine access agreement exists (such as records from DOL Unemployment Compensation section).

**9034.3 Home Visits**

Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, and the home visit is scheduled in advance with the household.

Home visits are to be used on a case-by-case basis where the supplied documentation is insufficient. Even though a household fits a profile of an error-prone household, it does not constitute lack of verification, therefore a home visit in this case would not be appropriate. DSS will assist a household in obtaining sufficient verification in accordance with DSSM 9305.1 prior to a referral for a home visit by ARMS.

**9034.4 Discrepancies**

Where unverified information from a source other than the household contradicts statements made by the household, afford the household a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. Verify the information directly with the primary source and contact the household only if direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in DSSM 2013.1, obtain verification from a third party as specified in DSSM 9037.

**9035 Verification and Documentation****9035.1 Responsibility for Obtaining Verification**

The household has the primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information. DSS will assist the household in obtaining this verification provided the household is cooperating as defined in DSSM 9029. Households may supply documentary evidence in person, through the mail, by fax or other electronic device, or through an authorized representative. Do not require the household to present verification in person at the food stamp office. Accept any reasonable documentary evidence provided by the household. Be primarily concerned with how adequately the verification proves the statements on the application.

Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level or cannot be obtained, require a collateral contact or a home visit in accordance with DSSM 9034.3. Rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. DSS is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, either designate another collateral contact, ask the household to designate another collateral contact, or provide an alternative form of verification or substitute a home visit. DSS is responsible for obtaining verification from acceptable collateral contacts.

**9035.2 Documentation**

Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation must be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. For all negative actions (denials, withdrawals) a substantive reason should be provided in the disposition section.

**9036 Systematic Alien Verification for Entitlements (SAVE) Program**

[273.11(a)]

DSS participates in the SAVE Program established by the Immigration and Naturalization Service (INS) in order to verify the validity of documents provided by aliens applying for food stamp benefits. The central data files utilized are maintained by INS.

### **9036.1 Use of Data**

Use information obtained through the SAVE Program only for the purposes of:

- 1) Verifying the validity of documentation of alien status presented by an applicant;
- 2) Verifying an individual's eligibility for benefits;
- 3) Investigating whether participating households received benefits to which they were not entitled, if an individual was previously certified to receive benefits on the basis of eligible alien status; and
- 4) Assisting in or conducting administrative disqualification hearings or criminal or civil prosecutions based on receipt of food stamp benefits to which participating households were not entitled.

### **9036.2 Method of Verification**

Before benefits can be approved, a signature from a household member must be obtained on the application (Form 100) certifying all household members are U.S. citizens or aliens in lawful immigration status. For each member designating "alien" (i.e., non-citizen) status, access the Alien Status Verification Index (ASVI) database to verify the alien's documented status through the SAVE Point-of-Contact (POC) person located in the Deputy Director's Office for Service Delivery in the Lewis Building. Requests for verification can be mailed (using form SAVE-1) to the SAVE POC.

When either of the following conditions exist, secondary (manual) verification procedures must instead be utilized:

- 1) The documentation presented is questionable.
- 2) DSS accepts documents that are not issued by INS, but are determined to be reasonable evidence of the alien's immigration status.

Secondary verification is accomplished through use of Form (INS) G- 845, submitted along with photocopies of documentation presented to DSS by the alien. This secondary verification procedure is also to be used whenever the client's documented alien status has not been verified successfully through ASVI or significant discrepancies exist between data on the ASVI file and the information provided by the alien applicant.

### **9036.3 Use of SAVE**

Provide an applicant alien with a reasonable opportunity to submit acceptable documentation of eligible alien status prior to the 30th day following the date of application. A reasonable opportunity is at least ten (10) days from the date DSS requests an acceptable document. An alien who has been given a reasonable opportunity to submit acceptable documentation and has not done so as of the 30th day following the date of application cannot be certified for benefits until documentation has been submitted. However, if the ten-day reasonable opportunity period does not lapse before the 30th day following the date of application, provide the household with benefits no later than 30 days following the date of application if the household is otherwise eligible.

The written consent of the alien applicant is not required as a condition for DSS to contact INS to verify the validity of documentation.

Submit INS Form G- 845, with an attached photocopy of the alien's document to the Division's SAVE Point-of-Contact person whenever the initial automated access does not confirm the validity of the alien's documentation or a significant discrepancy exists between the data provided by ASVI and the information provided by the applicant. Pending such responses from either the ASVI or INS Form G- 845, do not delay, deny, reduce, or terminate the alien's eligibility for benefits on the basis of the individual's alien status.

If it is determined that the alien is not in an eligible alien status, take action, including proper notices to the household, to terminate, deny, or reduce benefits. Provide households the opportunity to request a fair hearing under DSSM 5000 prior to any adverse action.

Document the use of SAVE in the casefile. While awaiting a response from SAVE, notate the date of the verification request or retain a copy of the INS Form G- 845 sent to INS. Once the SAVE response is received, enter the ASVI Query Verification Number or file a copy of the INS- annotated Form G- 845. Whenever the response from automated access to the ASVI directs the eligibility worker to initiate secondary verification, show documentation of the ASVI Query Verification Number in the record and file a copy of the INS Form G- 845.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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Once signed, the Affidavit of Citizenship or Lawful Immigration Status does not need to be signed at each recertification unless the individual is in a temporary INS status.

**9037 Use of Income and Eligibility Verification System (IEVS)**

7 CFR 273.2(f)(9)

Use information obtained through the IEVS to verify the eligibility and benefit level of applicant and participating households, in accordance with procedures specified in DSSM 2013.1. Disclosure safeguards must be satisfied, per DSSM 9003.

Take action, including proper notices to households, to terminate, deny, or reduce benefits based on information obtained through the IEVS which is considered verified upon receipt. This information is social security and SSI benefit information obtained from SSA and UIB information obtained from DOL. If DSS has information that the IEVS obtained information about a particular household is questionable, consider this information unverified. Unverified information is:

- Wage information from SSA and DOL;
- Any questionable IEVS information.

Prior to taking action to terminate, deny, or reduce benefits based on unverified information obtained through IEVS, independently verify the information. Independent verification includes verification of the amount of the asset or income involved, whether the household actually has or had access to such asset or income that it would be considered countable for food benefit purposes, and the period during which such access occurred. When DSS has information indicating that independent verification is unnecessary, such verification is not required.

Obtain independent verification of unverified information from IEVS by contacting the household and/or the appropriate income, resource or benefit source. When contacting the household, do so in writing, informing the household of the information DSS has received, and requesting that the household respond within ten (10) days. If the household fails to respond in a timely manner, send a notice of adverse action.

Contact the appropriate source by the means best suited to the situation. When the household or appropriate source provides the independent verification, properly notify the household of the action DSS intends to take and provide the household with an opportunity to request a fair hearing prior to any adverse action.

**18 DE Reg. 142 (08/01/14)**

**9038 Verification for Recertifications and Interim Changes**

[7 CFR 273.2(f)(8)]

A. At recertification, verify:

- All income.
- Shelter costs when the household moves or reports a change of more than \$25.
- Utility expenses if the household moves or reports a change.
- Unreported or new medical expenses.
- Monthly allowable medical expenses that have changed by more than \$25.
- Changes in the legal obligation to pay child support, the obligated amount, and the amount of actual payments made to non-household members.
- Newly obtained Social Security Numbers.
- Work hours for individuals who are satisfying the ABAWD work requirements.
- Other information that has changed if questionable.

Do not verify:

- Monthly allowable medical expenses that are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.
- Unchanged child support payments, unless questionable.
- Unchanged information, except for income, unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.

B. For changes reported during the certification period, verify:

- The same information as verified at initial certification.
- All income.
- Shelter and utility expenses if the household reports a change.

Do not verify:

- Total recurring medical expenses unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.

**11 DE Reg. 216 (08/01/07)**

**13 DE Reg. 267 (08/01/09)**

### **9039 Normal Processing Standard**

#### **9039.1 Thirty-Day Processing**

Provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but no later than 30 calendar days following the date the application was filed. The following exception applies for residents of public institutions who apply jointly for SSI and food stamp benefits prior to release from the institution per DSSM 9015. For residents of public institutions who apply for food stamps prior to their release from the institution, provide an opportunity to participate as soon as possible, but not later than 30 calendar days from the date of release of the applicant from the institution.

The 30 day period begins on the day following the date of the application (do not include the date of application in the thirty (30) days).

Action (computer input) must take place on or before the 26<sup>th</sup> day for mailed EBT cards. Do not delay due to weekends or holidays. If work cannot be completed by the 26<sup>th</sup> day, the worker issues a pending notice (Form 340) on the 26<sup>th</sup> day. If the 26<sup>th</sup> day falls on a weekend or holiday, action must take place on the last preceding day. Action must take place on the 27<sup>th</sup>, 28<sup>th</sup>, or 29<sup>th</sup> day for those clients picking up their EBT cards at a card issuance site. This ensures the client can have access to their benefits by the 30<sup>th</sup> day.

Instances of computer error, such as computer down time, will still be considered errors by FNS, but worker will document the reason in the case record.

**9 DE Reg. 799 (11/01/05)**

#### **9039.2 Opportunity to Participate**

An opportunity to participate consists of providing households with Food Stamp benefits they can access by the 30<sup>th</sup> day.

#### **9039.3 Denying the Application**

Households that are found to be ineligible must be sent a notice of denial as soon as possible but not later than 30 days following the date the application was filed. If the household has failed to appear for a scheduled interview and has made no subsequent contact with DSS to express interest in pursuing the application, send the household a notice of denial on the 30th day following the date of application. The household must file a new application if it wishes to participate in the program. If the 30th day falls on a weekend or holiday, action must take place on the next working day.

In cases where DSS was able to conduct an interview and request all of the necessary verification on the same day the application was filed, and no subsequent requests for verification have been made, DSS may also deny the application on the 30th day if the Division provided assistance to the household in obtaining verification per DSSM 9035.1, but the household failed to provide the requested verification.

### **9040 Delays in Processing**

[273.2(h)]

If the agency does not determine a household's eligibility and provide an opportunity to participate within 30 days following the date the application was filed, the agency will take the following action:

A. Determining Cause - The agency must have taken the following actions before a delay is considered the fault of the household:

1. For households that failed to complete the application form: offered or attempted to offer assistance in its completion.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

---

2. For households with members who failed to register for work: informed the household of the need to register for work, determined if the household members are exempt from work registration, and given at least ten (10) days to do so.

3. In cases where verification is incomplete, DSS must have provided the household with a statement of required verification (Form 105) and offered to assist the household in obtaining required verification and allowed the household sufficient time to provide the missing verification.

A delay is considered the fault of the household if the household has failed to complete the application process even though DSS has taken all action required to assist the household. DSS must have taken the following actions before a delay can be considered the fault of the household:

For households that have failed to complete the application form, offer, or attempt to offer, assistance in its completion.

Where verification is incomplete, provide assistance as required in DSSM 9035. Allow the household sufficient time to provide the missing verification. Sufficient time is at least ten (10) days from the date of the initial request for the particular verification that was missing.

4. For households that have failed to appear for an interview, DSS must notify the household that it missed the scheduled interview and that the household is responsible for rescheduling the missed interview. If the household contacts DSS within the 30-day processing period, DSS must schedule a second interview. If the household fails to schedule a second interview, or the subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the 20th day but before the 30th day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the 30th day; otherwise, the delay will be the fault of the household. If the household has failed to appear for the first interview, fails to schedule a second interview, and/or a subsequent interview is postponed at the household's request until after the 30th day following the date the application was filed, the delay will be the fault of the household. If the household has missed both scheduled interviews and requests another interview, any delay will be the fault of the household.

**B. Determine Fault of the Household**

1. If by the 30th day the agency cannot take any further action on the application due to the fault of the household, send a notice of denial. If the household takes the required action within 60 days of the date the application was filed, reopen the case without requiring a new application.

2. The household is not entitled to benefits for the month of application when the delay was the fault of the household.

**C. Determine Fault of DSS**

1. Whenever a delay during the initial 30-day period is agency fault, take immediate corrective action. Notify the household of any action it must take to complete the application. If verification is lacking, hold the application pending for only 30 days following the date of the initial request.

2. Do not deny the application if DSS caused the delay. Instead, notify the household by the 30th day following the date the application was filed that its application is being held pending.

3. If the household is found to be eligible during the second 30-day period, the household will be entitled to benefits retroactive to the month of application. If, however, the household is found to be ineligible, deny the application.

**D. Delays beyond 60 Days**

1. If DSS is at fault for not completing the application process by the end of the second 30-day period, and the case file is otherwise complete, continue to process the original application until an eligibility determination is reached. If the household is determined eligible, and DSS was at fault for the delay in the initial 30 days, give the household benefits retroactive to the month of application. However, if the initial delay was the household's fault, give the household benefits retroactive only to the month following the month of application. Use the original application to determine the household's eligibility in the months following the 60-day period.

2. If DSS is at fault for not completing the application process by the end of the second 30-day period, but the case file is not complete enough to reach an eligibility determination, deny the case and notify the household to file a new application. If the case is denied, advise the household of its possible entitlement to benefits lost as a result of DSS caused delays in accordance with DSSM 9011. If DSS was also at fault for the delay in the initial 30 days, the amount of benefits lost would be calculated from the month of application. If, however, the household was at fault for the initial delay, the amount of benefits lost would be calculated from the month following the month of application.

3. If the household is at fault for not completing the application process by the end of the second 30-day period, deny the application and require the household to file a new application. As DSS has chosen to hold an application pending only until 30 days following the date of the initial request for the particular verification that was missing, if the



verification is not received by that 30th day, immediately deny the application. A notice of denial need not be sent if the notice of pending status informed the household that it would have to file a new application if verification was not received within 30 days of the initial request. The household will not be entitled to any lost benefits, even if the delay in the initial 30 days was the fault of DSS.

**9041 Expedited Service**

[273.2(i)]

The following households are entitled to expedited service:

1. Households with less than \$150 in monthly gross income, provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates and lump sum payments) as specified in DSSM 9059(H) do not exceed \$100;
2. Migrant or seasonal farmworker households who are destitute as defined in DSSM 9067 provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, and lump sum payments) as specified in DSSM 9059 (H) do not exceed \$100;
3. Households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage, and utilities, (including entitlement to a SUA, as appropriate, under DSSM 9060).

**9041.1 Processing Standards**

For households entitled to expedited service, benefits must be available to the recipient not later than the seventh calendar day following the date an application was filed. For a resident of a public institution who applies for benefits prior to his/her release from the institution in accordance with DSSM 9015 and who is entitled to expedited service, the filing date is the date of release of the applicant from the institution. There are no exceptions to these requirements for weekends or holidays.

The table below shows filing days, the respective days by which the data must be system- entered and the day the benefits are made available to the household.

Day of Application	Last Day to Confirm in DCIS	Day Benefits Made Available
Monday	Thursday	Friday
Tuesday	Friday	Monday
Wednesday	Monday	Tuesday
Thursday	Tuesday	Wednesday
Friday	Wednesday	Thursday

When an applicant comes in and is found eligible for expedited services, but they do not want the benefits because of anticipated changes (a move or new household members), we are required to issue the household expedited benefits. The only way we cannot expedite is when identity has not been verified or the household fails to file a completed application.

**9 DE Reg. 799 (11/01/05)**

**9041.2 Drug Addicts and Alcoholics, Group Living Arrangement Facilities**

For residents of drug addiction or alcoholic treatment and rehabilitation centers and residents of group living arrangements who are entitled to expedited service, benefits must be made available not later than the seventh calendar day following the date an application was filed.

**9041.3 Out-of-Office Interviews**

For a household entitled to expedited service and a waiver of the office interview, conduct the interview (unless the household cannot be reached) and complete the application process within the expedited service standards. The first day of this count is the calendar day following application filing. If DSS conducts a telephone interview and must mail the application to the household for signature, the mailing time involved will not be calculated in the expedited service standards. Mailing time will only include the days the application is in the mail to and from the household and the days the application is in the household's possession pending signature and mailing.

**9041.4 Late Determinations**

If DSS in prescreening individuals or applications, fails to identify a household as being entitled to expedited service and later discovers that the household was entitled, provide expedited service within the processing standards in this section. The processing standard, seven day timeframe, is calculated from the date that DSS discovers the household is entitled to expedited service.

**9041.5 Residents of Shelters for Battered Women and Children**

Residents of shelters for battered women and children who are otherwise entitled to expedited service will be handled in accordance with the time limits in DSSM 9041.1.

**9041.6 Special Procedures for Expedited Service**

- 1) Verification - To expedite the certification process, use the following procedures:

In all cases, the applicant's identity (i.e., the identity of the person making the application) will be verified through a collateral contact or readily available documentary evidence as specified in DSSM 9032.

Once an acceptable collateral contact has been designated, promptly contact the collateral contact in accordance with DSSM 9034.2. Although the household has the primary responsibility for providing other types of verification, assist the household in promptly obtaining the necessary verification.

All reasonable efforts will be made to verify within the expedited processing standards the household's residency, in accordance with DSSM 9032.6, income statement (including a statement that the household has no income), liquid resources and all other factors required by DSSM 9032, through collateral contacts or readily available documentary evidence. However, benefits will not be delayed beyond the delivery standards prescribed in DSSM 9041.1 solely because these eligibility factors have not been verified.

Households that have recently moved from another state or territory where they were food stamp recipients and claim that they did not receive benefits for the current month should be handled as follows:

If eligible for expedited benefits:

Contact the former agency to determine if benefits were mailed and not returned, or if the benefit was received.

If the former agency cannot confirm, have the client write and sign a statement that the household did not receive their benefits at the former location.

Issue the expedited benefits.

Follow up with the former agency to determine if the household did receive the benefits there and, if so, process a claim for duplicate issuance.

- 2) Social Security Numbers - Those household members unable to provide the required SSN's or who do not have one prior to the second full month of participation will be allowed to continue to participate only if they satisfy the good cause requirements with respect to SSN's specified in DSSM 9012, except that households with a newborn may have up to six months following the month the baby was born to provide an SSN or proof of application for the newborn.

- 3) Work registration - require the applicant to register (unless exempt or unless the household has designated an authorized representative to apply on its behalf in accordance with DSSM 9016). Attempt to register other household members but postpone the registration of other household members if it cannot be accomplished within the expedited service time frame.

Attempt to verify questionable work registration exemptions, but such verification will be postponed if the expedited service time frame cannot be met.

- 4) Certification period - Households certified on an expedited basis who have provided all necessary verification prior to certification will be assigned a normal certification period. If verification was postponed, certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or, assign a normal certification period to those households whose circumstances would otherwise warrant a longer certification period.

For households applying on or before the 15th of the month, assign a one-month or normal certification period. Verification requirements may be postponed until the second month of participation. If a one-month certification period is assigned, a notice must be given to the household that explains what postponed verifications must be returned. For subsequent months, the household must reapply and provide all verification requirements that were postponed or be

certified under normal processing standards. If the household does not provide the postponed verifications and does not appear for an interview, no further action is taken.

For households applying after the 15th of the month, assign a two-month certification or normal certification period of no more than 12 months. Verification may be postponed until the third month of participation to meet the expedited timeframe. If a two-month certification period is assigned, a notice must be given to the household that explains what postponed verifications must be returned. For subsequent months, the household must reapply and provide all verification requirements that were postponed or be certified under normal processing standards. If the household does not provide the postponed verifications and does not appear for an interview, no further action is taken. When a certification period of longer than two months is assigned and verification is postponed, households must be sent a notice advising that no benefits for the third month will be issued until the postponed verifications are provided. The notice must also advise the household that if the verification process results in changes in the household's eligibility or level of benefits, DSS will act on those changes without advance notice of adverse action.

Households which apply for initial benefits after the 15th of the month, are entitled to expedited service, and have been determined eligible to receive benefits for the initial month and the next subsequent month, shall receive a combined allotment. The combined allotments, which are the prorated benefits for the initial month and the first full month's benefit, are both issued within the expedited service timeframe. Verification shall be postponed to meet the expedited timeframe.

Expedited benefits shall not be issued to households which have been determined ineligible to receive benefits for the month of application or the following month, or to households which have not satisfied the postponed verifications requirements.

There is no limit to the number of times a household can be certified under expedited procedures, as long as prior to each expedited certification, the household either completes the verification requirements that were postponed at the last expedited certification or was certified under normal processing standards since the last expedited certification.

Households requesting, but not entitled to, expedited service will have their applications processed according to the normal processing standards.

### **9042 Categorically Eligible Households**

[273.2(j)]

Households applying for food stamps whose gross income is at or below 200 percent of the Federal poverty level are categorically eligible unless specifically excluded in DSSM 9042.2 or 9042.3. The household is categorically eligible because Delaware uses TANF funds to provide pregnancy prevention information. Reduction of out-of-wedlock pregnancies is the 3<sup>rd</sup> purpose of the TANF program.

The authorization to receive information and/or services for pregnancy prevention is included on all applications for food stamps as follows:

#### **AUTHORIZATION FOR RECEIPT OF PREGNANCY PREVENTION INFORMATION**

You are authorized to receive pregnancy prevention information. If you wish to receive this information you can call Planned Parenthood at 1-800-230-PLAN (7526). If you wish to get teen pregnancy prevention information, you may also call the Alliance for Adolescent Pregnancy Prevention at 1-800-499-WAIT (9248). You can also call the Delaware Helpline at 1-800-464-4357 for the Public Health Family Planning clinic in your area.

### **9042.1 Applicant TANF/GA/RCA Households**

Conduct a single interview at initial certification for TANF/GA/RCA and food stamp purposes. A household's eligibility for food stamp out- of- office interview provisions in DSSM 9030 does not relieve the household of any responsibility for a face-to-face interview to be certified for TANF/GA/RCA.

For households applying for both TANF/GA/RCA and food stamps, follow the verification procedures described in DSSM 9032 for those factors of eligibility needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility needed to determine both TANF/GA/RCA and food stamp eligibility, use TANF/GA/RCA verification rules. Do not delay the household's food stamp benefits if, at the end of 30 days following the date the application was filed, DSS has sufficient verification to meet the requirements in DSSM 9032, but does not have sufficient verification to meet the TANF/GA/RCA verification rules.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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To determine if a household will be eligible due to its status as a recipient TANF/GA/RCA/SSI household, temporarily postpone, within the 30- day processing standard, the food stamp eligibility determination if the household is not entitled to expedited service and appears to be categorically eligible. Postpone denying a potentially categorically eligible household until the 30th day in case the household is determined eligible to receive TANF/GA/RCA benefits.

Once the TANF/GA/RCA application is approved, consider the household categorically eligible if it meets all the criteria concerning categorical eligibility in DSSM 9042. If DSS can anticipate the amount and date of receipt of the initial TANF/GA/RCA payment, but the payment will not be received until a subsequent month, vary the household's food stamp benefit level according to the anticipated receipt of the payment and notify the household. Disregard portions of initial TANF/GA/RCA payments intended to retroactively cover a previous month as lump sum payments.

If the amount or date of receipt of the initial TANF/GA/RCA payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, handle the TANF/GA/RCA payments as a change in circumstances and issue a notice through DCIS to explain the adverse action.

Ensure that the denied application of a potentially categorically eligible household is easily retrievable. For a household filing a joint application for food stamps and TANF/GA/RCA benefits or a household that has a TANF/GA/RCA application pending and is denied food stamps, but is later determined eligible to receive TANF/GA/RCA benefits and is otherwise categorically eligible, provide benefits using the original application and any other pertinent information occurring subsequent to that application. Except for residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from a public institution in accordance with DSSM 9015, pay benefits from the beginning of the period for which TANF/GA/RCA or SSI benefits are paid, the original food stamp application date, or December 23, 1985, whichever is later. Residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution are to be paid benefits from the date of their release from the institution. Use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. If any information obtained from the household differs from that which DSS obtained from available information or the household provided additional changes in information, arrange for the household or its authorized representative to initial all changes, re-sign, and date the updated application and provide necessary verification.

Any household determined TANF/GA/RCA eligible within the 30- day food stamp processing time will be provided benefits back to the date of the food stamp application. Do not pay food stamp benefits for a month in which such household is ineligible for receipt of any TANF/GA/ RCA benefits for the month, unless the household is eligible for food stamp benefits as an NPA case. Pro- rate benefits accordingly.

Households filing joint applications that are found categorically eligible after being denied NPA food stamps, should have their benefits pro- rated from the date TANF/GA/RCA benefits are payable, or the date of the original food stamp application, whichever is later. Re-evaluate the original application either at the household's request or when it becomes otherwise aware of the household's TANF/GA/RCA/SSI eligibility. (Notices of denial for NPA food stamps should inform the household to notify DSS of subsequent approval for SSI benefits.)

Households who file joint applications for food stamps and TANF/GA/RCA and whose TANF/GA/RCA applications are subsequently denied may have their food stamp eligibility determined or continued on the basis of the original application and any other documented information obtained subsequent to the application which is relevant to food stamp eligibility or level of benefits. If more than 30 days lapses between filing of the original joint application and the household's indication that they want to reapply, a new application will be required.

Do not require households whose TANF/GA/RCA applications are denied to file new food stamp applications. Their food stamp eligibility should be continued or determined on the basis of the original applications filed jointly for TANF/GA/RCA and food stamp purposes and any other documented information obtained subsequent to the application which may have been used in the TANF/GA/RCA determination and which is relevant to food stamp eligibility or level of benefits.

### **9042.2 Categorically Eligible Households**

Any household in which all members receive or are authorized to receive TANF/GA/RCA and/or SSI benefits are considered eligible for food stamps because of their status as TANF/GA/ RCA and/or SSI recipients unless the entire household is institutionalized as defined in DSSM 9015 or disqualified for any reason from receiving food stamps. Residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution in accordance with DSSM 9015 are not categorically eligible upon a finding by SSA of potential SSI eligibility prior to such release. Consider the individuals categorically eligible. At such time as a final SSI eligibility determination has been made and the individual has been released from the institution. The eligibility factors which are deemed for food stamp eligibility without the verification required in DSSM 9032 because of PA/SSI status are the resource, gross and net income limits,

Social Security Number information, sponsored alien information and residency. If any of the following factors are questionable, verify that the household which is considered categorically eligible:

Contains only members that are TANF/GA/RCA or SSI recipients (as defined in DSSM 9042);

Meets the household definition in DSSM 9013.1;

Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for TANF/GA/RCA or SSI purposes; and

Includes no persons who have been disqualified.

Assume categorical eligibility at recertification in the absence of a timely redetermination. If a recertified household is subsequently terminated from TANF/GA/RCA benefits, follow the procedures in DSSM 9089 as appropriate.

Under no circumstances will any household be considered categorically eligible if any member of that household is disqualified for an intentional Program violation in accordance with DSSM 2023, 2024, 2026, and 2027.

These households are subject to all food stamp eligibility and benefit provisions and cannot be reinstated in the Program on the basis of categorical eligibility provisions.

Do not include any person as a member in any household which is otherwise categorically eligible if that person is:

An ineligible alien as defined in DSSM 9007;

Ineligible under the student provisions in DSSM 9010;

Ineligible under the fleeing felon or probation violator provisions in DSSM 2025;

Institutionalized in a non-exempt facility as defined in DSSM 9015; or

Ineligible because of failure to comply with a work requirement of DSSM 9018.

For the purposes of work registration, apply the exemptions in DSSM 9018.3 to individuals in categorically eligible households. Any such individual who is not exempt from work registration is subject to the other work requirements in DSSM 9018.1.

### **9043 SSI Households**

[273.2(k)]

To facilitate their participation in the Program, households in which all members are applying for or receiving SSI may apply for food stamp benefits in Social Security Administration (SSA) offices if:

1. They are not presently participating in the Food Stamp Program;
2. They have not applied for food stamps in the thirty (30) preceding days;
3. They do not have pending food stamp applications.

Households applying simultaneously for SSI and food stamps are subject to food stamp eligibility criteria. Base benefit levels solely on food stamp eligibility criteria until the household is considered categorically eligible. However, households in which all members are either TANF/GA/RCA or SSI recipients or authorized to receive TANF/GA/RCA or SSI benefits as defined in DSSM 9042 are food stamp eligible based on their TANF/GA/RCA/SSI status as provided for in that section. Households denied NPA food stamps that have an SSI application pending will be informed on the DCIS notice of denial of the possibility of categorical eligibility if they become SSI recipients.

#### **9043.1 Initial Application and Eligibility Determination**

1) Whenever a member of a household consisting only of SSI applicants or recipients transacts business at an SSA office, the SSA will inform the household of:

- a) Its right to apply for food stamps at the SSA office without going to the food stamp office; and
- b) Its right to apply at a food stamp office if it chooses to do so.

2) The SSA will accept and complete food stamp applications received at the office from SSI households and forward them, within one working day after receipt of a signed application, to the designated DSS office, along with a transmittal form.

3) SSA will complete joint SSI and food stamp applications for residents of public institutions in accordance with DSSM 9015.

4) Except for applications taken in accordance with item (3), make an eligibility determination and issue food stamp benefits to eligible SSI households within 30 days following the date the application was received by SSA. Make an eligibility determination and issue food stamp benefits to a resident of a public institution who applies jointly for SSI and food stamps within 30 days following the date of the applicant's release from the institution. Expedited processing time

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

---

standards for an applicant who has applied for food stamps and SSI prior to release also begin on the date of the applicant's release from the institution. SSA will notify DSS of the release date. If, for any reason, DSS is not notified on a timely basis of the applicant's release date, restore benefits in accordance with DSSM 9011 to such applicant back to the date of release.

Applications will be considered filed for normal processing purposes when the signed application is received by SSA. Expedited processing time standards will begin on the date DSS receives a food stamp application.

Food Stamp applications and supporting documentation sent to an incorrect DSS office will be sent by DSS within one working day of receipt of the application, to the correct office.

Applications and accompanying information must be forwarded to the agreed upon address in accordance with the time standards contained in (2) above.

5) Households in which all members are applying for or participating in SSI will not be required to see a DSS worker, or otherwise be subjected to an additional State interview. The food stamp application will be processed by DSS. Do not contact the household further in order to obtain information for certification for food stamp benefits unless:

- a) The application is improperly completed;
- b) Mandatory verification required by DSSM 9032 is missing; or
- c) DSS determines that certain information on the application is questionable.

In no event would the applicant be required to appear at the food stamp office to finalize the eligibility determination. Further contact made in accordance with this section will not constitute a second food stamp verification interview.

6) SSA will refer non-SSI households to the correct food stamp office.

Process these applications in accordance with the procedures noted in DSSM 9027 and DSSM 9028 . Applications from such households will be considered filed on the date the signed application is taken at the correct DSS office, and the normal and expedited processing time standards will begin on that date.

7) SSA will prescreen all applications for entitlement to expedited services on the day the application is received at the SSA office and will mark "Expedited Processing" on the first page of all households' applications that appear to be entitled to such processing. SSA will inform households which appear to meet the criteria for expedited service that benefits may be issued a few days sooner if the household applies directly at the food stamp office.

8) Prescreen all applications received from SSA for entitlement to expedited service on the day the application is received at the correct food stamp office.

All SSI households entitled to expedited service will be certified in accordance with DSSM 9041 except that the expedited processing time standard will begin on the date the application is received at the correct DSS office.

9) Develop and implement a method to determine if members of SSI households whose applications are forwarded by SSA are already participating in the Food Stamp Program directly through DSS.

10) If SSA takes an SSI application or redetermination on the telephone from a member of a pure SSI household, a food stamp application will also be completed during the telephone interview. In these cases, the food stamp application will be mailed to the claimant for signature for return to the SSA office or DSS office. SSA will then forward any food stamp applications it receives to DSS.

Do not require the household to be interviewed again in the food stamp office. Do not contact the household further in order to obtain information for certification for food stamp benefits except in accordance with (5) above.

11) To SSI recipients redetermined for SSI by mail, SSA will send a stuffer informing them of their right to file a food stamp application at the SSA office (if they are members of a pure SSI household) or at their local food stamp office, and their right to an out-of-office food stamp interview to be performed by DSS if the household is unable to appoint an authorized representative.

12) DSS will provide and SSA will distribute information to all jointly processed households.

This material will inform the household of the following:

Address and telephone number of the household's correct food stamp office, the remaining actions to be taken in the application process, and a statement that a household should be notified of the food stamp determination within thirty (30) days and can contact DSS if it receives no notification within thirty days, or has other questions or problems. It will also include the client's rights and responsibilities (including fair hearings, authorized representatives, out-of-office interviews, reporting changes and timely reapplication), information on how to obtain food stamp benefits, and how to use food stamp benefits.

**9043.2 Verification**

1) Ensure that information required by DSSM 9032 is verified prior to certification for households initially applying. Households entitled to expedited services will be processed in accordance with DSSM 9041.

2) Verify SSI benefit payments through the State Data Exchange (SDX), the Beneficiary Data Exchange (BENDEX) and/or through verification provided by the household.

Information verified through SDX or BENDEX will not be reverified unless it is questionable. Households will be given the opportunity to provide verification from another source if all necessary information is not available on the SDX or the BENDEX, or if the SDX/BENDEX information is contradictory to other household information.

### **9043.3 Certification Period**

1) Certify jointly processed households for up to twelve months, according to the standards in DSSM 9068.

2) In cases jointly processed in which the SSI determination results in denial, and DSS believes that food stamp eligibility or benefit levels may be affected, send the household a notice of expiration advising that the certification period will expire the end of the month following the month in which the notice is sent and that it must reapply if it wishes to continue to participate.

The notice will also explain that its certification period is expiring because of changes in circumstances which may affect food stamp eligibility or benefit levels and that the households may be entitled to an out-of-office interview, in accordance with DSSM 9030.

### **9043.4 Changes in Circumstances**

1) Households will report changes in accordance with the requirements in DSSM 9085 . Process changes in accordance with the same section.

2) Within ten (10) days of learning of the determination of the application for SSI through SDX, the household, or from any other source, take required action in accordance with DSSM 9085.

3) Process adjustments to SSI cases resulting from mass changes, in accordance with provisions of DSSM 9086.

### **9043.5 SSI Households Applying at the Food Stamp Office**

Allow SSI households to submit food stamp applications to DSS offices rather than through SSA if the household chooses.

In such cases, all verification, including that pertaining to SSI program benefits, will be provided by the household, by SDX or BENDEX, or obtained by the State agency rather than being provided by SSA.

### **9043.6 Restoration of Lost Benefits**

Restore to the household benefits which were lost whenever the loss was caused by an error by DSS or by SSA through joint processing.

Such an error will include, but not be limited to, the loss of an applicant's food stamp application after it had been filed with SSA. Lost benefits will be restored in accordance with DSSM 9011.

### **9043.7 Recertification**

Complete application process and approve or deny timely applications for recertification in accordance with DSSM 9091.

Jointly processed households which have received a food stamp notice of expiration and go to an SSA office for an SSI redetermination will be entitled to make a timely application for recertification at the SSA office. SSA will forward the completed application, transmittal form, and any available verification to the designated food stamp office.

A face-to-face interview will be waived if requested by a household consisting entirely of SSI participants unable to appoint an authorized representative. Provide SSI households with a notice of expiration in accordance with DSSM 9006, except that such notification will inform households consisting entirely of SSI recipients that they are entitled to a waiver of a face-to-face interview if the household is unable to appoint an authorized representative.

Such households will not be required to appear at a second office interview, although DSS may conduct an out-of-office interview, if necessary.

## **9044 Providing Benefits to Participants**

[274.2]

DSS is responsible for the timely and accurate issuance of benefits to certified eligible households. Assist those households comprised of elderly or disabled members which have difficulty reaching issuance offices, and households which do not reside in a permanent dwelling or a fixed mailing address by finding authorized representatives to act on their behalf or by other appropriate means.

#### **9044.1 Newly-Certified Households**

All newly certified households, except those that are given expedited service, must be given an opportunity to participate no later than thirty (30) calendar days following the date the application was filed. An opportunity to participate consists of providing households with access to their benefits. A household has not been provided an opportunity to participate within the 30-day standard if the benefits are not posted to their EBT account by the 30<sup>th</sup> day.

**12 DE Reg. 344 (09/01/08)**

#### **9044.2 Households Certified Under the Expedited Service Processing Timeframes**

Households applying for initial benefits after the fifteenth day of the month under the expedited service procedures must receive their prorated allotment for the initial month of application and their first full month's allotment at the same time if:

They have completed the application; and

They have been determined eligible to receive benefits for the initial month of application and the next subsequent month.

#### **9044.3 Households Not Entitled to Combined Allotments**

The provision of DSSM 9044.2 does not apply to households determined ineligible to receive benefits for the initial month of application or the next subsequent month. Households eligible for expedited service may receive benefits for the initial month under verification standards set forth in DSSM 9041.6 Special Procedures for Expedited Service. Additionally, do not issue initial benefits of less than \$10 under the provision of 9044.2. [See DSSM 9066 Eligibilities and Benefits].

#### **9045 Maximum Allowable Resources**

[273.8]

Resource standards of eligibility apply to all applicant households, including Public Assistance, General Assistance, and SSI households. The maximum allowed resources, including both liquid and non-liquid assets of all members of all applicant households may not exceed \$2,000, except that, for households including a member(s) age 60 or over or disabled per DSSM 9013.1, such resources will not exceed \$3,000. Households that are categorically eligible as defined in DSSM 9042 do not have to meet the resource limits or definitions in this section.

#### **9046 Countable Resources**

[7 CFR 273.8(c)]

Count the following resources when determining eligibility for food benefit purposes for non-categorical eligible households:

- A. Liquid Resources
  1. Cash on hand
  2. Money in checking or savings accounts
  3. Savings certificates
  4. Stocks
  5. Bonds
  6. Lump sum payments
  7. Non-deferred business or personal loans in month of receipt
  8. The portion of the equity value of a funeral agreement that exceeds \$1,500 per household member
- B. Non-Liquid Resources, not specifically excluded under 9049.
  1. Personal property



2. Licensed and unlicensed vehicles
3. Buildings, land, recreational properties and any other property

The value of non-exempt resources is the equity value, except for licensed vehicles per DSSM 9051. The equity value is the fair market value minus encumbrances.

C. Deemed Resources of the sponsor (and sponsor's spouse) for sponsored aliens per DSSM 9081.2.

**12 DE Reg. 1090 (02/01/09)**

### **9047 Jointly Owned Resources**

[273.8(d)]

Resources held jointly by separate households will be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. (See DSSM 4002.3).

If a household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource will be counted toward the household's resource level. In arriving at a determination of ownership, the following items should be considered:

A statement by the claimant naming the actual owner of the funds.

An explanation as to why a joint account was established.

Information regarding who makes deposits and withdrawals.

How the funds are spent, (i.e., access capability of each party).

If appropriate, a change in the account designation verified by the financial institution.

The resource will be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, ineligible aliens or disqualified individuals residing with the household will be considered household members.

Resources will be considered inaccessible to persons residing in shelters for battered women and children if:

1. The resources are jointly owned by such persons and by members of their former household; and
2. The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

When one of the owners of a jointly owned resource is categorically resource eligible in a mixed household, the total resource is excluded.

For example, a household may consist of two members, one receiving SSI and/or TANF and the other receives no assistance. They jointly own resources that are totally accessible to either party. Since one member receives SSI and/or TANF, the jointly owned resource is totally excluded in determining the household's resources for food stamp purposes.

### **9048 Inaccessible Resources**

[273.8]

Resources that cannot be sold or disposed of for a significant return shall be identified as inaccessible. Any resource can be considered inaccessible if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. This means the household is unlikely to be able to sell the resource for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be greater than the value of the resource.

The determination of whether any part of the value of a vehicle is included as a resource must be made in accordance to DSSM 9051.

An example of an inaccessible resource is heir property where the heirs inherit individual fractional interests in a decedent's property. The value of the fractional interest in the property may be less than the cost of selling the property. Therefore, it can be considered inaccessible to the household.

A significant return shall be any return, after estimated costs of sale or disposition, and taking into account the ownership interest of the household, that DSS determines are more than \$1,500.

Any significant amount of funds shall be funds amounting to more than \$1,500.

Verify the value of a resource to be excluded only if the information provided by the household is questionable.

This inaccessible resource provision does not apply to negotiable financial instruments such as stocks and bonds.

**9049 Excluded Resources**

[7 CFR 273.8(e)]

Exclude the following resources when determining eligibility for food benefit purposes for non-categorical eligible households:

- A. Property
  1. Home the household resides in.
  2. Property surrounding the home not separated by intervening property owned by others, except for public rights of way such as roads.
  3. The home and surrounding property temporarily unoccupied for reasons of employment, training for future employment, illness, vacation, or uninhabitability caused by casualty or natural disaster, if the household intends to return.
  4. The value of a lot on which a household intends to build (or is building) a permanent home as long as the household currently does not own a home.
  5. Property that annually produces income consistent with its fair market value, even if used only on a seasonal basis, such as rental and vacation homes.
  6. Property or work-related equipment essential to the employment or self-employment of a household member such as farmland, tools, or machinery.
  7. Property essential to the self-employment of a household member engaged in farming is excluded for one year from the date the household member terminates his/her self-employment from farming.
  8. Installment contracts for the sale of land or other buildings are exempt if the contract or agreement is producing income consistent with its fair market value. The value of the property sold under such contract or held as security in exchange for a purchase price consistent with the fair market value of that property is also excluded.
  9. Security deposits on rental property or utilities.
  10. Property in probate and property which the household is making a good faith effort to sell at a reasonable price.
  11. Property (or portions of) that it is directly related to the maintenance or use of a vehicle excluded under DSSM 9051 (1, 2, and 6). For example, property used to park a produce truck on for sales, overnight parking and/or maintenance.
- B. Household goods and personal effects.
- C. Cash value of life insurance policies.
- D. One burial plot per household member.
- E. Value of one bona fide funeral agreement (not exceeding \$1,500) per household member.
- F. Licensed vehicles per DSSM 9051.
- G. Governmental payments for the restoration of a home damaged in a disaster. Examples are payments from the Individual and Family Grant program or the Small Business Administration. The household must be subject to a legal sanction if the household does not use the funds as intended.
- H. Irrevocable trust funds
  1. Any funds in trust or funds transferred to a trust, and the income produced by that trust that is not available to the household is inaccessible to the household if:
    - (i) The trust arrangement is not likely to end during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;
    - (ii) The trustee administering the fund is either:
      - (a) A court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or
      - (b) An individual appointed by the court who has court imposed limitations placed on his/ her use of the funds which meet the requirements of this paragraph.
    - (iii) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member; and
    - (iv) The funds held in irrevocable trust are either:
      - (a) Established from the households' own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or
      - (b) Established from non-household funds by a non-household member.

- I. Resources prorated as income, such as those of students or self-employed persons. See DSSM 9063.3 or DSSM 9074.
  - J. Indian lands held jointly with the Tribe or land that can be sold only with the approval of the Bureau of Indian Affairs.
  - K. Resources excluded by provisions of Federal law, such as:
    - 1. Benefits received from the Special Supplemental Food Program for Women, Infants, and Children, (WIC).
    - 2. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.
    - 3. Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Programs under Title IV of the Comprehensive Employment and Training Act Amendment of 1978.
    - 4. Monthly allowances of \$200, \$700, or \$1,200 paid to children of Vietnam veterans who are born with spina bifida based on the degree of disability suffered by the child.
    - 5. Earned income tax credits as follows:
      - (i) A Federal earned income tax credit received either as a lump sum or as payments under Section 3507 of the Internal Revenue Code are excluded for the month of receipt and the following month for the individual and that individual's spouse.
      - (ii) Exclude any Federal, State or local earned income tax credit received by any household member for 12 months if the household was participating in the Food Supplement Program at the time of receipt of the earned income tax credit and provided the household participates continuously during that 12-month period.
      - (iii) Do not consider breaks in participation of one month or less due to administrative reasons as nonparticipation in determining the 12-month exclusion.
  - L. Excluded resources used by or for an ineligible alien or disqualified person when counted as part of a household's resources. For example, work-related equipment needed for the employment of an ineligible alien or disqualified person.
  - M. Energy assistance payments or allowances excluded as income under DSSM 9059.
  - N. Non-liquid assets that have a lien on them due to a business loan that the household cannot sell.
  - O. All of the resources of TANF/GA/RCA and SSI recipients\* and households deemed categorically eligible due to DSSM 9042. This exclusion includes:
    - 1. Education and Business Accounts (EBIA) (including interest) up to the \$5000 maximum limit per DSSM 4002.5.
    - 2. Saving for Education, Entrepreneurship and Down Payment (SEED) accounts (considered EBIA accounts) up to the \$5000.00 limit per DSSM 4002.5.
- \* A household member is a 'recipient' of these benefits even if the benefits have been authorized but not received, if the benefits are suspended or recouped, or if the benefits are not paid because they are less than a minimum amount.
- P. All retirement accounts with federal tax-preferred status in chart below.

**Retirement Accounts with Federal Tax-Preferred Status Excluded for FSP**

Section 401 IRS Code	Traditional Defined-Benefit Plan
Section 401(a) IRS Code	Cash Balance Plan
Section 401(a) IRS Code	Employee Stock Ownership Plan
Section 401(a) IRS Code	Keogh Plan
Section 401(a) IRS Code	Money Purchase Pension Plan
Section 401(a) IRS Code	Profit-Sharing Plan
Section 401(a) IRS Code	Simple 401(k)
Section 401(a) IRS Code	401(k)
Section 403(a) IRS Code	403(a)
Section 403(b) IRS Code	403(b)
Section 408 IRS Code	IRA
Section 408(p) IRS Code	Simple Retirement Account IRA
Section 408(k) IRS Code	Simplified Employee Pension Plan (SEP)
Section 408A IRS Code	Roth IRA

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

Section 457(b) IRS Code	Eligible 457(b) Plan
Section 501(c) (18)	501(c)18 Plan
Section 8439 of Title 5 USC	Federal Thrift Savings Plan

Q. Tax-preferred education savings accounts.

Section 529            Qualified Tuition Programs

Coverdell            IRA

**12 DE Reg. 1090 (02/01/09)**

**9050 Handling of Excluded Funds**

[273.8(f)]

Excluded funds that are kept in a separate account, and that are not accumulated in an account with non-excluded funds retain their resource exclusion for an unlimited period of time. The resources of students and self-employment households which are excluded as provided in DSSM 9049(9) and are commingled in an account with non-excluded funds retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies which are commingled in an account with non-excluded funds retain their exemption for six months from the date they are commingled. After six months from the date of commingling, all funds in the commingled account are counted as a resource.

**9051 Licensed Vehicles**

[273.8(g)]

Include as financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce income) to the extent that the fair market value of any such vehicle exceeds the fair market value limit. (Refer to current October Cost-Of-Living Adjustment Administrative Notice for the fair market value limit.)

Determine the fair market value of licensed automobiles, trucks, and vans by the value of those vehicles as listed in the NADA "blue" books published within the last six months.

Assign the average trade-in value. Do not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. However, vehicles with excessive high mileage can have the value of the vehicle decreased by using the High Mileage Tables in the front of the NADA books. A household may indicate that for some reason, such as body damage or inoperability, a vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle must be given the opportunity to acquire verification of the true value from a reliable source. Also, households are to be asked to acquire verification of the value of licensed antique, custom made, or classic vehicles, if the Division is unable to make an accurate appraisal. Do not increase the value of any vehicle if it is equipped with apparatus for the handicapped. Instead, assign a blue book value as if the vehicle were not so equipped. If a vehicle is no longer listed in a blue book, the household's estimate of the value of the vehicle will be accepted unless the Division has reason to believe that the estimate is incorrect. In that case and if it appears that the vehicle's value will affect eligibility, the household must obtain a appraisal or produce other evidence of its value such as a newspaper advertisement which indicated the amount for which like vehicles are being sold.

If a new vehicle is not yet listed in the blue book, determine the wholesale value through some other means (e.g., contacting a car dealer which sells that make of car).

The entire value of any licensed vehicle will be excluded if the vehicle is:

1. Used primarily (over 50 percent of the time the vehicle is used) for income producing purposes such as, but not limited to a taxi, truck, or fishing boat. Licensed vehicles which have been previously used by a self-employed household member engaged in farming, but are no longer used over 50 percent of the time in farming because the household member has terminated their self-employment from farming continue to be excluded as a resource for one year from the date the household member terminated their self-employment from farming;

2. Annually producing income consistent with its fair market value, even if used only on a seasonal basis;

3. Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household);

Examples would be a vehicle of a traveling salesperson or of a migrant farmworker following the workstream;

4. Used as the household's home and therefore excluded under DSSM 9049;

5. Necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). The vehicle does not need to have special equipment or be used primarily by or for the transportation of the physically disabled household member to be excluded.

6. Used to carry fuel for heating or water for home use when such transported fuel or water is anticipated to be the primary source of fuel or water for the household. Do not require any further tests concerning the nature, capabilities, or other uses of the vehicle.

7. The value of the vehicle is inaccessible because its sale would produce an estimated return of \$1,500 or less according to DSSM 9048.

The exclusions #1 through #3 will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

Additionally, the value of property, real or personal, is excludable to the extent that it is directly related to the maintenance or use of a vehicle excluded under items (1), (2), or (6) above. Only that portion of real property determined necessary for maintenance or use is excludable under this provision. For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park and/or service the truck. Only the value of the quarter-acre would be excludable under this provision, not the entire 100- acre field.

Determining the value of non-excluded vehicles:

Evaluate the fair market value to each licensed vehicle not excluded under 1-7 above;

Count in full, regardless of any amounts owed on the vehicle, the portion of the fair market value that exceeds \$4,650.

Evaluate such licensed, and all unlicensed vehicles, for their equity value which is the fair market value minus any amount owed; and

Count as a resource only the greater of the two amounts if the vehicle has a countable fair market value of more than \$4,650 and also has a countable equity value.

Only the following vehicles are exempt from the equity value test above:

1. Vehicles excluded under items 1-7 above;
2. One licensed vehicle per household, regardless of the use of the vehicle; and
3. Any other vehicle a household member under age 18 (or ineligible alien or disqualified household member under age 18 whose resources are being considered available to the household) drives to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This equity exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives to commute to and from employment.

If an individual is denied benefits because of the motor vehicle license requirement, he or she must be notified that they may produce verification that their motor vehicle is not licensed from the Division of Motor Vehicles in order to determine the equity value of the unlicensed vehicle.

## **9052 Transfer of Resources**

[273.8(i)]

At the time of application, households will be asked to provide information regarding any resources which any household member (or ineligible alien or disqualified person whose resources are being considered available to the household) had transferred within the three- month period immediately preceding the date of application. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits will be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer. This disqualification period will be applied if the resources are transferred knowingly in the three-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets which the household acquires after being certified and which are then transferred to prevent the household from exceeding the maximum resource limit.

Eligibility for the program will not be affected by the following transfers:

1. Resources which would not otherwise affect eligibility.

For example, resources consisting of excluded personal property such as furniture, or of money that, when added to other non-exempt household resources, totaled less at the time of the transfer than the allowable resource limits.

2. Resources which are sold, or traded at, or near, fair market value.

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

3. Resources which are transferred between members of the same household (including ineligible aliens or disqualified persons whose resources are being considered available to the household).
4. Resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits.

For example, a parent placing funds into an educational trust fund described in DSSM 9049 (8).

In the event that DSS establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits, the household will be sent a notice of denial explaining the reason for, and length of, the disqualification. The period of disqualification will begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for, and length of, the disqualification will be sent. The period of disqualification will be made effective with first allotment to be issued after the notice of adverse action period has expired, unless the household has requested a fair hearing and continued benefits.

The length of the disqualification period will be based on the amount by which non-exempt transferred resources, when added to other countable resources, exceeds the allowable resource limits. For example, if a one-person household with \$1,750 in a bank transferred ownership of a car worth \$5,000, \$100 of that transfer would be considered because the first \$4,650 of the car's value was exempt and an additional \$250 of the transferred asset would have been applied toward the \$2,000 resource limit. The following chart will be used to determine the period of disqualification:

AMOUNT IN EXCESS OF RESOURCE LIMIT	PERIOD OF DISQUALIFICATION
0 to \$ 249.99	1 month
\$ 250 to \$ 999.99	3 months
\$1,000 to \$2,999.99	6 months
\$3,000 to \$4,999.99	9 months
\$5,000 and over	12 months

### **9053 Resources of Non-Household and Excluded Household Members**

[273.8(i)]

Handle the resources of non-household members (defined in DSSM 9013.2) as outlined in DSSM 9076 and DSSM 9077.

### **9054 Income Eligibility Standards**

[273.9]

[273.9(a)]

Participation in the Program will be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member must meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member must meet BOTH the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in DSSM 9042 do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards will be based on the Federal income poverty levels established in Section 673(2) of the Community Services Block Grant Act [42 USC 9902(2)].

The income eligibility standard will be 130 percent of the Federal income poverty level.

The net income eligibility will be 100 percent of the Federal income poverty level.

The income eligibility limits are revised each October 1, to reflect the Office of Management and Budget's (OMB) annual adjustment to the non-farm poverty guidelines. (Refer to the current October Cost-of-Living Adjustment Administrative Notice for the income eligibility limits.)

### **9055 Definition of Income**

[273.9(b)]

Household income means all income from whatever source, excluding only the exceptions listed at DSSM 9058 and DSSM 9059.

**9056 Earned Income**

[273.9(b)(1)]

Earned income includes:

1. All wages and salaries for services performed as an employee, including money withheld from an employee's earnings to pay certain expenses such as child care or medical expenses as a vendor payment to a third party, and
2. The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the costs of doing business as provided in DSSM 9074. Consider ownership of rental property a self-employment enterprise; however, income derived from the rental property will be considered earned income only if a member of the household is actively engaged in the management of the property at least an average of 20 hours a week. Payments from a roomer/boarder, except foster care boarders, or roomer only will also be considered self-employment income and need not meet the 20-hour rule.
3. Training allowances from vocational and rehabilitative programs recognized by Federal, State, or local governments, to the extent that they are not reimbursements. Training allowances under WIA, other than earnings as specified in #5 of this Section are excluded from consideration as income.
4. Payments under Title I (VISTA, etc.) of the Domestic Volunteer Service Act of 1973 (P.L. 93- 113).
5. Earnings to individuals who are participating in on-the-job training programs under Section 204(b)(1)(C) or section 264(c)(1)(A) of the Workforce Investment Act (WIA). This provision does not apply to household members under 19 years of age who are under the parental control of another adult member, regardless of school attendance and/or enrollment. Earnings include monies paid under WIA and monies paid by the employer.

**9057 Unearned Income**

[273.9(b)(2)]

Unearned income includes, but is not limited to:

1. Assistance payments from Federal or federally aided public assistance programs, such as Supplemental Security Income (SSI) or Temporary Assistance for Needy Families (TANF), General Assistance (GA) programs, Refugee Cash Assistance (RCA) or other assistance programs based on need.
2. Annuities, pensions, retirement, veteran's benefits, disability benefits, workman's compensation, unemployment compensation, social security, strike benefits, foster care payments for children or for adults who are considered members of the household, gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.
3. Support or alimony payment made directly to the household from non-household members.
4. Payments from Government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

A lottery winner that receives a set amount each year will have those winnings counted as unearned income. The income shall be averaged over a 12-month period of time.

For example, a household receives \$24,000 each November from a lottery win. The \$24,000 is averaged over a 12-month period and \$2,000 counted on a monthly basis.

Earned Income Tax Credit (EITC) payments are not to be treated as income. [See DSSM 9059(H) ].

5. Monies which are withdrawn or dividends which are or could be received by a household from trust funds considered to be excludable resources under DSSM 9049(8). Such trust withdrawals will be considered income in the month received, unless otherwise exempt under the provisions of DSSM 9059. Dividends which the household has the option of either receiving as income or reinvesting in the trust are to be considered as income in the month they become available to the household unless otherwise exempt under the provisions of DSSM 9059.

6. For a household containing a sponsored alien, the income of the sponsor and the sponsor's spouse must be deemed in accordance with DSSM 9081.2.

7. The earned or unearned income of an individual disqualified from the household for intentional Program violation, in accordance with DSSM 2023 will continue to be attributed in their entirety, to the remaining household members. However, the earned or unearned income of individuals disqualified from households for failing to comply with the requirement to provide an SSN in accordance with DSSM 9012, or for being an ineligible alien in accordance with DSSM 9007, will continue to be counted as income, less a prorata share for the individual.

Procedures for calculating a prorata share are described in DSSM 9076.

8. State and local energy assistance is counted as income. Delaware does not have state or local energy assistance programs.

### **9058 Types of Income Not Used for Food Stamp Purposes**

[273.9(b)(5)]

The term "income" does not include the following:

1. Monies withheld from earned income, or other income source, or monies received from any income source, which are voluntarily or involuntarily returned to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under DSSM 9059. However, monies withheld from assistance from another program as specified in DSSM 9082, for purposes of recouping from a household an overpayment which resulted from the household's failure to comply with the other program's requirements will be included as income.

Overpayment amounts being recouped from Unemployment Compensation or Social Security checks to pay back DOL or SSA are not counted as income for food stamp purposes, even if the overpayment was the client's fault.

Child support payments received by TANF recipients which must be transferred to the Division of Child Support Enforcement to maintain TANF eligibility. When an TANF recipient fails to turn over support payments to the Division of Child Support Enforcement, DSS does not process a claim. DCSE is responsible for processing the claim for the support payments their agency did not receive.

### **9059 Income Exclusions**

This section lists the types of income excluded for the Food Supplement Program.

1. **Exclude the following income when determining eligibility for food benefits.**

A. **In-kind Benefits** – A gain or benefit not payable to the household do not count as income as follows:

1. Meals
2. Clothing
3. Housing
4. Produce from a garden
5. Working in exchange for free services or rent

B. **Vendor Payments** - Payments made by a person or organization on behalf of the household to a creditor, person or organization providing a service to the household do not count as income, as follows:

1. Rent or mortgage payments made to landlords or mortgagees by HUD. Housing assistance payments made through a State or local housing authority.

2. Reimbursements made in the form of vendor payments are excluded on the same basis as reimbursements paid directly to the household as described in DSSM 9059 E.

3. Payments made to a third party, on behalf of a household, using money that the payer does not owe the household.

(i) A friend or relative uses his or her own money to pay the household's rent directly to the landlord.

(ii) Employer pays a household's rent directly to the landlord in addition to paying the household its regular wages.

(iii) The value of the housing an employer provides for an employee in addition to wages.

(iv) Payments specified by a court order or other legally binding agreement, to go directly to a third party rather than the household.

(a) A court awards support payments for \$400 a month and, in addition, orders \$200 to be paid directly to a bank for repayment of a loan. The \$400 payment counts as income and the \$200 payment does not count.

(b) Payments in excess of amounts specified in a court order or written agreement that someone pays to a third party on the household's behalf does not count as income.

(v) Support payments not required by a court order or other legally binding agreement does not count as income.

4. Child care payments made to child care providers for day care for a household member.

5. Emergency Assistance payments made directly to a third party for a household expense, even if the household has the option of receiving a direct cash payment.

C. **Employer Benefits** – Incentive or Flex benefits not legally obligated or otherwise payable to households.



1. Credits available to employees to use to buy health insurance, annual leave, sick leave or life insurance. The employee cannot elect to receive a cash payment and loses the credits if not used. The amount shows up on the pay stub when used.

2. Points given as incentive to arrive to work on time or work so many weeks without taking leave. These points have a monetary value that appears on the pay stub and the points are subject to taxes. The employee can only redeem the points for commodities or goods from a catalog provided by the employer. The employee cannot convert the points to cash.

**D. Irregular Income** - Any income received in the certification period that does not exceed \$30 a quarter that is infrequent and not reasonably anticipated as follows:

- Gifts
- Lottery winnings
- Garage Sales
- Flea markets

**E. Educational Income** - All education income (Title IV, BIA educational income, scholarships, educational grants, fellowships, deferred payment loans, veteran's educational benefits, work-study) regardless of earmarking or use.

**Exceptions:**

The portion of Veterans Educational Assistance designated as a living allowance for family members of the student is counted as unearned income.

Income received by a student as part of an assistantship program is counted as earned income.

Payments that are designated as a living stipend or for basic living expenses are counted as unearned income. If the customer works or performs a service for the living stipend, it is considered earned income.

**F. Loans** - All loans that are expected to be repaid.

**G. Reimbursements** – Reimbursements for past or future expenses that are not a gain or benefit to the household and do not exceed the costs of the actual expenses. Excluded reimbursements include:

1. Payments provided for an identified expense, other than normal living expenses, and used for the purpose intended.

(i) Normal living expenses include:

- (a) Rent or mortgage
- (b) Utilities
- (c) Personal clothing
- (d) Food eaten at home

(ii) Do not consider education assistance provided for normal living expenses like room and board as a reimbursement.

2. Flat allowances covering multiple expenses as long as none of the reimbursement covers normal living expenses

3. Do not consider reimbursements as exceeding actual expenses, unless the provider or the household verifies it is excessive.

4. Reimbursements for job or training related expenses:

- (i) Travel
- (ii) Uniforms
- (iii) Per diem
- (iv) Transportation to and from job or training site
- (v) Travel expenses incurred by migrant workers
- (vi) Maintenance funds for Vocational Rehabilitation clients for uniforms, supplies, etc.
- (vii) Out-of-pocket expenses of volunteers in the course of their work.
- (viii) Reimbursements provided over and above the basic wages for these expenses

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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5. Medical or dependent care reimbursements.
6. Reimbursements received by households to pay for a service provided under Title XX of the Social Security Act.
7. Reimbursements made to households for expenses necessary for participation in an education component under the Employment and Training program.

H. **Monies for third-party beneficiaries** - Monies received and used for the care and maintenance of a third-party beneficiary who is not a household member.

1. When beneficiaries of a single payment are both household and non-household members, exclude any identifiable portion of the payment intended and used for the care and maintenance of the non-household member.

2. When you cannot identify the non-household member's portion, prorate the payment evenly among the intended beneficiaries. Apply the exclusion to the non-household member's pro-rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

I. **Student income** - The earned income of a student under age 18 who:

1. Attends elementary or secondary school or classes to obtain a GED at least half-time; and
2. Lives with a natural, adoptive or stepparent or is under the control of a household member other than a parent; or
3. Receives food benefits as a separate household, but lives with a natural, adoptive or stepparent.

Continue this exclusion during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break.

When the worker cannot identify the child's earnings, or amount of work performed from that of other household members, prorate the total earnings equally among the working members and exclude the child's share.

J. **Non-recurring Lump Sum Payments** - Money received in the form of a non-recurring lump sum payment, which is not limited to:

1. Income tax refunds
2. Rebates
3. Credits
4. Retroactive lump sum Social Security, SSI, public assistance, railroad retirement benefits
5. Payments of large retroactive SSI benefit amounts made in installments for SSI recipients.
6. Lump sum insurance settlements
7. Refunds of security deposits on rental property or utilities
8. TANF diversion payments

Count these payments as resources in the month received unless specifically excluded from consideration as a resource by other federal laws.

K. **Self-Employment Business Costs** - The cost of producing self-employment income via Delaware's flat rate deduction.

L. **Energy assistance:**

1. Any payments or allowances made for the purpose of providing energy assistance under any Federal law other than part A of Title IV of the Social Security Act, including utility reimbursements made by the Department of Housing and Urban Development and the rural Housing Service, or

2. A one-time payment or allowance applied on an as-needed basis and made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device. Consider a down payment followed by a final payment upon completion of the work a one-time payment.

M. **Cash donations** – Cash donations received from one or more private nonprofit charitable organization, based on need and not exceeding \$300 in a Federal fiscal year quarter.

N. **EITC** - Earned income tax credit payments received either as a lump sum or payments.

O. **E & T Payments** – Payments made to an E & T participant for costs that are reasonably necessary and directly related to participation in the E & T program. These costs include, but are not limited to:

1. Dependent care costs,
2. Transportation,
3. Other expenses related to work, training or education, such as:
  - (i) uniforms,
  - (ii) personal safety items or

(iii) other necessary equipment, and

4. Books or training manuals.

These costs shall not include the cost of meals away from home.

**P. Foster Care Payments** - Governmental foster care payments received by households with foster care individuals who are boarders in accordance with DSSM 9013.3.

**Q. PASS Accounts** - Income of an SSI recipient necessary for the fulfillment of a Plan for Achieving Self-Support (PASS). Exclude the income set aside for this special PASS account.

**R. Basic Allowance for Quarters** - Marines living on base in adequate quarters are not entitled to receive a Basic Allowance for Quarters (BAQ) even though the Leave and Earnings Statement (LES) lists the amount under entitlements and lists a deduction for the same amount under deductions on the statement. For these cases, disregard the BAQ under the entitlement and deduction sections when verified. Staff must advise applicants to get a letter from their commanding officer stating that the applicant is not entitled to the BAQ and does not receive it.

**S. HUD's Family Self-Sufficiency (FSS) Program** - Participants in the FSS program sign a contract to achieve economic independence within five years. The program deposits a portion of rent increases into an escrow account to save for the participant at the end of the program with the following conditions:

1. As the participant's employment income rises, HUD waives a portion of the normal rent increases.
2. HUD credits the waived amount to an escrow account and gives the amount to the family at the end of the program.
3. The participating household must fulfill its employment obligation under the contract or HUD may terminate the FSS supportive services.
4. If HUD terminates the FSS supportive services, the family will then forfeit any escrow account funds.
5. While the funds are in the FSS Escrow Account, the total funds are unavailable to the household and excluded as a resource.
6. When the household achieves economic independence and is given the escrow account, exclude the income as a non-recurring lump-sum payment.

**T. Temporary Census Employment** - The earnings of temporary census workers from the Bureau of Census is excluded for the Census 2010 Demonstration Project. The disregard expires September 30, 2010, unless extended by Food and Nutrition Service.

**U. Payments or reimbursements from the following federal laws:**

1. **National School Lunch Act** (P. L. 79-396 and P. L. 94-105)
  - (i) School Lunch Program
  - (ii) Summer Food Service Program for Children
  - (iii) Commodity Distribution Program
  - (iv) Child and Adult Care Food Program (The exclusion applies to assistance provided to children, not assistance paid to providers.)
2. **Child Nutrition Act of 1966** (P. L. 89-642)
  - (i) Special Milk Program
  - (ii) School Breakfast Program
  - (iii) Special Supplemental Food Program for women, infants, and children (WIC)
3. **Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970** (P. L. 91-646)
4. **Domestic Volunteer Services Act of 1973** (P. L. 93-113)
  - (i) **Title I** - for those individuals receiving food benefits or public assistance at the time they joined the Title I program.
    - (a) VISTA
    - (b) University Year for Action
    - (c) Urban Crime Prevention Program

Temporary interruptions in food benefit participation shall not alter the exclusion once the worker makes an initial determination.

- (ii) **Title II**
  - (a) Retired Senior Volunteer Program (RSVP)
  - (b) Foster Grandparents Program

**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

(c) Senior Companion Program

5. Disaster Relief Act of 1974 (P. L. 93-288)

Disaster Relief and Emergency Assistance Amendments of 1988 (P. L. 100-707)

(i) Federal assistance provided to persons directly affected by a disaster.

(ii) Disaster assistance provided by States, local governments, and disaster assistance organizations

6. **Workforce Investment Act (WIA) of 2008** (P. L. 105-220)

WIA income is countable if paid for:

- On-the-job training programs paid under Title I of WIA paid to individuals age 19 and older.

Job Services can identify Title I WIA on-the-job training programs if the program funding is in question.

WIA income is excluded if paid for:

- Summer Youth Payments. (The income is excluded regardless of the age of the child, the child's school enrollment, or whether or not the child is a dependent.)
- On-the-Job training programs paid to individuals under 19 years of age who are dependents, living with parents or under parental control of an adult household member. If paid to dependents under age 19, it is not counted as income regardless of the child's student status.
- On-the-job WIA payments made to migrant and seasonal farm workers, Native Americans, dislocated workers, Job Corps, affirmative action programs, labor market information programs, and veterans' employment programs.
- Work experience WIA payments.
- Training experience WIA payments.
- AmeriCorp and Youthbuild Programs.

7. **Low-Income Home Energy Assistance Act** (P. L. 99-425)

(i) Home energy assistance payments or allowances

(ii) Excess shelter expense deduction is allowed by eligible households getting payments for heating or cooling expenses.

8. **Veterans' Benefits Improvement and Healthcare Authorization Act of 1986** (GI Bill)(P. L. 99-576)

(i) Any amount of basic pay reduced and reverted back to the Treasury.

(ii) Basic educational assistance entitlements for service on active duty.

(iii) Authorized stipends for participation in study of Vietnam-era veterans' psychological problems

9. **Older Americans Act** (P. L. 100-175)

(i) Senior Community Service Employment Program (**Title V**) monies for individuals age 55 and older.

(ii) Monies from the organizations listed below that receive some Title V funds:

- (a) Green Thumb
- (b) National Council on Aging
- (c) National Council of Senior Citizens
- (d) American Association of Retired Persons
- (e) U.S. Forest Service
- (f) National Association for Spanish Speaking Elderly
- (g) National Urban League
- (h) National Council on Black Aging

10. **The Housing and Community Development Act of 1987** (P. L. 100-242)

(i) Excludes most increases in the earned income of a family residing in certain housing while participating in HUD demonstration projects.

11. **Wartime Relocation of Civilians** (P. L. 100-383) (Civil Liberties Act of 1988) excludes payments made to:

(i) U.S. citizens of Japanese ancestry

(ii) Permanent resident Japanese aliens or their survivors

(iii) Aleut residents of the Pribilof Islands and the Aleutian Islands West of Unimak Island

12. **Agent Orange Compensation Exclusion Act** (P. L. 101-201)

Omnibus Budget Reconciliation Act of 1989 (P. L. 101-239)

Agent Orange Act of 1991 (P. L. 102-4)

- (i) Agent Orange Settlement funds

- (a) The disabled veteran will receive yearly payments.
- (b) Survivors of deceased disabled veterans will receive a lump-sum payment.

(ii) Other funds established after the settlement in the Agent Orange product liability litigation

(iii) Lump sum Veterans' benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange

13. Radiation Exposure Compensation Act (P L. 101-426)

14. Omnibus Budget Reconciliation Act of 1990 (P. L. 101-508) - Any Federal earned income tax credit shall not be treated as income and shall not be taken into account in determining resources for the month of its receipt and the following month

September 1988 amendments to the Food Stamp Act - Any advance payment of earned income credit

August 1993 amendments to the Food Stamp Act - Exclusion from resources of any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in such program continuously during the 12-month period

15. **National and Community Service Act** (NCSA) of 1990(P. L. 101-610)

(i) Title I includes three Acts:

(a) Serve-America: The Community Service, Schools and Service-Learning Act of 1990,

(b) American Conservation and Youth Service Corps Act of 1990, and

(c) National and Community Service Act.

(ii) The JTPA income exclusions with item 6 above apply to projects conducted under Title I of the NSCA as if such projects were conducted under the JTPA.

There are about 47 different NCSA programs. The programs make payments as a weekly stipend or for educational assistance.

The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this Title.

(iii) The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program.

(iv) The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a \$1000 post-service educational award.

(v) The National and Community Service Trust Act of 1993, P.L. 103-82, amended the National and Community Services Act of 1990 but it did not change the exclusion.

16. **Cranston-Gonzales National Affordable Housing Act**, P.L. 101-625, provides that services provided to public housing residents under this section (Family Investment Centers) are not counted as income for purposes of any other program or provision of State or Federal law.

The exclusion applies to services such as child care, employment training and counseling, literacy training, computer skills training, assistance in the attainment of certificates of high school equivalency and other services.

The exclusions do not apply to wages or stipends.

This law excludes most increases in the earned income of a family residing in certain housing while participating in HUD demonstration projects authorized by this public law. The affected regional offices are contacted individually regarding these projects.

17. **Housing and Community Development Act** of 1992, P. L. 102-550, treats payments made under the Youth Build Program like JTPA payments, as item 6 above.

18. **Child Care and Development Block Grant Act Amendments of 1992**, P.L. 102-586, (under Family Support Act of the Social Security Act) excludes the value of any child care provided or arranged, any amount received as payment for such care, or reimbursement for costs incurred for such care from income for purposes of any other Federal or Federally-assisted program that bases eligibility for, or the amount of benefits, on need.

19. **Victims of Nazi Persecution**, P. L. 103-286, disregards payments made to individuals because of their status as victims of Nazi persecution in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program that provides benefits or services based on need.

20. **Crime Act of 1984**, P. L. 103-322, exclude payments to a victim from a crime victim compensation program from income and resources.

21. **Individual Business Accounts** - Part A of Title IV of the Social Security Act, P. L. 104-193, disregards funds in an Individual Business Account (IDA), including accruing interest, under the TANF block grant program for the

**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

purpose of determining eligibility to receive, or the amount of, any benefit authorized by the Food Stamp Act, during any period that an individual maintains or makes contributions into such an account.

22. **Children of Vietnam Veterans** - P. L. 104-204, disregard monthly allowances (from \$200 - \$1200) paid to a child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child as income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

23. **Robert T. Stafford Disaster Relief and Emergency Assistance Act**, P. L. 100-707, disregard Disaster Unemployment Assistance payments to any individual unemployed because of a major disaster as income or a resource when determining Food Supplemental Program benefits.

Individuals cannot be eligible for any other unemployment compensation and receive disaster unemployment benefits.

Benefits are limited to 26 weeks.

Staff need to verify the source of the unemployment income only if the client suffered a job loss or was unemployed due to a recent disaster.

24. **Combat Pay**, Section 4101, section 5(d) of the Food and Nutrition Act, excludes from income special military pay for military personnel deployed to a designated combat zone.

25. **Filipino Veterans Equity Compensation Fund**, American Recovery and Reinvestment Act (ARRA) of 2009, excludes from income payments made to certain veterans and the spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during World War II.

26. **Child Support Payments**, Food and Nutrition Act of 2008, Sec. 5. (d) (18), excludes legally obligated child support payments made to or for children who live outside of the household which includes current support, arrears, and other payments ordered like for educational costs or health care.

Legally-obligated means the household has a legal obligation to pay the support by court order, administratively ordered, legally enforceable separation agreement, etc.

Exception: Legally obligated child support payments made to an individual or agency outside of the household may be allowed as an exclusion even if the child for whom the support was paid is a household member. This allows an exclusion if the child moves in or out of the payer's house, or if arrearages are being paid to an outside agency, like DCSE.

#### V. **American Indian or Alaska Native Payments**

A law will usually authorize payments to members of a tribe or band and apply to the members enrolled in the tribe or band wherever they live.

Items 2, 3, and 4 are general laws and apply to all tribes. The individuals should have documentation showing the type of payment and its origin.

Payments made to individuals from the following sources are excluded:

1. **Alaska Native Claims Settlement Act**, P. L. 92-203
2. **Judgment Funds** (P. L. 93-143 and P. L. 97-458)
3. **Secretary of Interior Trust Funds for an Indian Tribe**, P. L. 98-64
4. **Interest Income from Trusts**, P. L. 93-134, P. L. 97-458, and P. L. 103-66, (except funds in excess of \$2,000 per year of interest income)
5. **Navajo or Hopi Indian Relocation Assistance**, P.L. 93-531
6. **Submarginal land trusts**, P. L. 94-114 for certain Indian tribes, which include:
  - Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin
  - Blackfeet Tribe
  - Cherokee Nation of Oklahoma
  - Cheyenne River Sioux Tribe
  - Crow Creek Sioux Tribe
  - Lower Brule Sioux Tribe
  - Devils Lake Sioux Tribe
  - Fort Belknap Indian Community

Assiniboine and Sioux Tribes  
Lac Courte Oreilles Band of Lake Superior Chippewa Indians  
Keweenaw Bay Indian Community  
Minnesota Chippewa Tribe  
Navajo Tribe  
Oglala Sioux Tribe  
Rosebud Sioux Tribe  
Shoshone-Bannock Tribes  
Standing Rock Sioux Tribe

7. **Indian Claims Commission for Sac and Fox Indians**, P. L. 94-189
8. **Grand River Band of Ottawa Indians**, P. L. 94-540
9. **Indian Claims Commission payments to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation**, P. L. 95-433
10. **Indian Child Welfare**, P. L. 95-608, excludes assistance or services provided for child and family service grant programs on or near reservations from affecting any federally assisted programs
11. **Maine Indian Claims Settlement Act of 1980**, P. L. 96-420
12. **Turtle Mountain Band of Chippewas Arizona**, P. L. 97-403
13. **Blackfeet, Grosventre, and Assiniboine tribes, Montana, and the Papago, Arizona**, P. L. 97-408
14. **Red Lake Band of Chippewa Indians**, P. L. 98-123
15. **Assiniboine Tribes**, P. L. 98-124
16. **Old Age Assistance Claims Settlement Act**, P. L. 98-500 (except for funds per capita shares in excess of \$2,000)
17. **Chippewas of Lake Superior**, P. L. 99-146
  - Wisconsin:**
    - Bad River Reservation
    - Lac du Flambeau Reservation
    - Lac Courte Oreilles Reservation
    - Sokaogon Chippewa Community
    - Red Cliff Reservation
    - St. Croix Reservation
  - Michigan:**
    - Keweenaw Bay Indian Community (L'Anse, Lac Vieux Desert, and Ontonagon Bands)
  - Minnesota:**
    - Fond du Lac Reservation
    - Grand Portage Reservation
    - Nett Lake Reservation (including Vermillion Lake and Deer Creek)
    - White Earth Reservation
18. **White Earth Reservation Land Settlement Act of 1985**, P. L. 99-264,
19. **Saginaw Chippewa Indian Tribe of Michigan**, P. L. 99-346
20. **Chippewas of the Mississippi**, P. L. 99-37
  - Minnesota:**
    - Mille Lac Reservation
    - White Earth Reservation
    - Leech Lake Reservation
21. **Puyallup Tribe of Indians Settlement Act of 1989**, P. L. 101-41, for the Puyallup Tribe in the State of Washington.)
22. **Indian Claims Commission**, P. L. 101-277, 4/30/90 for the Seminole Nation of Oklahoma, Seminole Tribe of Florida, and the Miccosukee Tribe of Indians of Florida
23. **Seneca Nation Settlement Act of 1990**, P. L. 101-503

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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24. **Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, P.L. 103-436**  
**13 DE Reg. 937 (01/01/10)**  
**13 DE Reg. 1550 (06/01/10)**

**9060 Determining Income Deductions**

7 CFR 273.9(d)

This policy applies to all households applying for food benefits.

DSS will deduct the following from the household's income:

- Standard deduction
- Earned income deduction
- Excess Medical
- Dependent Care
- Child Support Payments
- Shelter Costs
- Standard utility allowances
- Costs of Unoccupied Homes and Disaster Repairs.

**A. GIVING THE STANDARD DEDUCTION**

This policy applies to all Food Supplement Program (FSP) households with income.

1. Give each household a standard deduction that is deducted from any income the household has.
2. Food and Nutrition Service (FNS) determines the amount of the standard deduction published each October in the Cost-of-Living Adjustment Administrative Notice.

**B. CALCULATING THE EARNED INCOME DEDUCTION**

This policy applies to FSP households with earned income.

1. Allow all households with earned income a twenty percent (20%) earned income deduction.
2. Give the earned income deduction to self-employed individuals after the standard business deduction.

Exception: Do not give the earned income deduction to individuals with rental income when they do not manage the property at least twenty (20) hours a week. The rental income is considered unearned income.

**C. DETERMINING EXCESS MEDICAL DEDUCTION**

This policy applies to individuals who are elderly or disabled and eligible for food benefits.

1. Give a medical deduction for unreimbursed medical expenses in excess of thirty-five dollars (\$35.00) per month.
2. Give the medical deduction only to individuals who are age sixty (60) or older or receiving a disability payment.
3. Do not give the medical deduction to spouses or other persons receiving benefits as a dependent of the disabled recipient.
4. Give the medical deduction to persons receiving emergency SSI benefits based on presumptive eligibility.
5. Allow the following medical expenses as a deduction:
  - Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner or other qualified health professional.
  - Hospitalization, outpatient treatment, nursing home care (including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State).
  - Prescription drugs and over-the-counter medication when approved by a licensed practitioner or other qualified health professional.
  - Cost of medical supplies and sick room equipment (including rental costs) are deductible (when approved by a licensed practitioner or other health professional).
  - Health and hospitalization insurance are deductible, but health and accident insurance policies such as income maintenance or death or dismemberment policies are not deductible.
  - Medicare premiums, cost-sharing or spend down expenses incurred by Medicaid recipients,



- Dentures, hearing aids and prosthetics.
- Costs of securing and maintaining a seeing-eye or hearing dog, including dog food and veterinary bills.
- Eye glasses prescribed by a physician skilled in eye disease or by an optometrist.
- Reasonable costs of transportation and lodging in order to obtain medical treatment or services, which includes: trips to doctors or dentists, trips to fill prescriptions for medicine, dentures, hearing aids or eye glasses, and mileage using the standard state allowance privately-owned vehicles.
- Maintaining an attendant, homemaker, home health aide, housekeeper, or child care services necessary due to age, infirmity, or illness.
- An amount equal to the one-person food benefit allotment if the household furnishes the majority of the attendant's meals, update at recertification.

NOTE: If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, treat the costs as a medical expense.

**D. DETERMINING DEPENDENT CARE DEDUCTION**

This policy applies for households with dependent care expenses.

1. Allow the dependent care costs only when necessary for employment, training or educational purposes.  
Allow the dependent care costs when needed to:
  - Seek employment,
  - Accept employment,
  - Continue employment,
  - Comply with the employment and training requirements, or
  - Attend training or pursue education which is preparatory to employment.
2. Give the actual costs the household pays for the dependent care deduction.

**E. HOMELESS SHELTER DEDUCTION**

This policy applies to households in which all members are homeless and have limited shelter expenses.

1. Allow homeless households with limited shelter expenses a homeless shelter deduction of one hundred forty-three dollars (\$143.00).
2. Give homeless households the one hundred forty-three dollars (\$143.00) homeless shelter deduction when their anticipated monthly shelter expenses are at or less than one hundred forty-three dollars (\$143.00).
3. Allow homeless households that incur monthly expenses greater than one hundred forty-three dollars (\$143.00) the regular shelter expense deduction.
4. Do not give the homeless shelter deduction to households that are provided free housing and utilities or households that work for their shelter.

**F. DETERMINING SHELTER DEDUCTION**

This applies to households who have shelter costs.

1. Give a shelter deduction for costs that exceed fifty percent (50%) of the household's countable income up to the maximum excess shelter limit.
2. Give households with a member who is age sixty or older or disabled (Per DSSM 9013) the excess shelter deduction for costs that exceed fifty percent (50%) of the household's countable income with no limit.
3. Allow continuing charges for the shelter occupied by the household that lead to the ownership of the shelter.  
Continuing charges will include:
  - Rent,
  - Mortgages,
  - Condo and association fees,
  - Loan repayments for the purchase of a mobile home,
  - Second mortgages,
  - Home equity loans. and
  - Interest on such payments.A mortgage is defined as any loan which uses the house as collateral.
4. Do not allow security deposits as a shelter deduction.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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5. Allow property taxes, state and local assessments, and insurance on the structure of the dwelling as shelter deductions.
  - If separate insurance costs for furniture or personal belongings are not identified, use the total.
  - Local assessments include, but are not limited to, regular school taxes and an annual school capitation tax.

**G. DETERMINING THE MANDATORY UTILITY AND PHONE ALLOWANCE**

This policy applies to households with utility or phone expenses.

1. Give the heating and cooling standard utility allowance (HCSUA) to the following households:
  - Households that have heating or cooling costs separate and apart from their rent or mortgage payments.
  - Residents of private rental housing billed on a monthly basis by their landlords for actual usage or who are charged a flat rate;
  - Households receiving energy payments under the Low Income Home Energy Assistance Program (LIHEAP) in the current month or in the immediately preceding twelve (12) months of an amount greater than twenty dollars (\$20.00).
  - Households receiving energy direct or indirect energy assistance payments of an amount greater than twenty dollars (\$20.00), other than LIHEAP, that is excluded as income and who continue to incur any out-of-pocket heating or cooling expenses in the current month or in the immediately preceding twelve (12) months; and
  - Households living in public housing or other rental housing units that has central utility meters and charges the household only for excess heating or cooling costs.

Accept the household's statement that they pay for cooling.

2. Give the limited utility allowance (LUA) to households that have costs for two non-heat or non-cooling utilities.
3. Give the one-utility standard to households that have only one non-heat, non-cooling, or non-telephone utility.
4. Give the telephone allowance to households with only telephone costs.
5. Do not prorate the utility or phone allowances when more than one household shares living quarters, including prorated deemers.

NOTE: Refer to the current October Cost-of-Living Adjustment Administrative Notice for the standard utility and phone allowance amounts.

**H. ALLOWING DEDUCTIONS FOR UNOCCUPIED HOMES AND DISASTER REPAIRS**

This policy applies to households claiming expenses for unoccupied homes.

1. Allow shelter costs of the home if not occupied by the household for the following reasons:
  - Employment or training away from home,
  - Illness, or
  - Abandonment caused by a natural disaster or casualty loss.
2. Allow the shelter costs for the unoccupied home with the following conditions:
  - The household must intend to return to the home;
  - The current occupants of the home, if any, must not be claiming the shelter costs for food benefit purposes; and
  - The home must not be leased or rented during the absence of the household.
3. Give only one standard utility allowance to households that have both an occupied home and an unoccupied home.
4. Allow deductions for charges for the repair of the home substantially damaged or destroyed by a natural disaster such as a flood or fire with the following conditions:
  - A. Shelter costs will not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.
  - B. Repairs, other than those due to natural disasters, do not count as a deduction, even when tenants must pay for them or be evicted.

**12 DE Reg. 462 (10/01/08)**

**13 DE Reg. 1464 (05/01/10)**

**18 DE Reg. 231 (09/01/14)**

## **9061 Determining Household Eligibility and Benefit Levels**

### **9061.1 Determination of Eligibility and Benefits Levels**

A household's eligibility will be determined for the month of application by considering the household's circumstances for the entire month of application.

Base a household's benefit level for the initial month of certification on the day of the month it applies for benefits. Applicant households consisting of residents of a public institution who apply jointly for SSI and food stamps prior to release from the public institution in accordance with DSSM 9015 will have their eligibility determined for the month in which the applicant household was released from the institution.

Base a household's benefit level for the initial months of certification on the day of the month it applies for benefits. Provide benefits from the date of application to the end of the month unless the applicant household consists of residents of a public institution. For households which apply for SSI prior to their release from a public institution, base the benefit level for the initial month of certification on the date of the month the household is released from the institution and provide the household benefits from the date of the household's release from the institution to the end of the month. Using a 30- day calendar month, households will receive benefits prorated from the day of application to the end of the month. A household applying on the 31st of a month will be treated as though it applied on the 30th of the month. Migrant and seasonal farmworkers will receive a full allotment for the month of application when the household has participated in the Food Stamp Program within 30 days prior to the date of application. When certifying such a household, use the first day of the month as the start date.

To determine the amount of the prorated allotment, use the Food Stamp Allotment Proration Table provided by FNS. Allotments of less than \$10 will not be issued for the initial month.

The term "initial month" means the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation, except for migrant and seasonal farmworker households. In case of migrant and seasonal farmworker households, the term "initial month" means the first month for which the household is certified for participation in the Food Stamp Program following any period of more than one (1) month during which the household was not certified for participation.

Those households which are certified using the expedited service procedures in DSSM 9041, and which apply for benefits after the 15th of the month, will be certified for benefits prorated from the day of application to the end of the application month and also for the following month. Benefits for the second full month following the month of application shall not be issued until all postponed verification is provided to DSS.

Do not prorate benefits for migrant/seasonal farmworker households that have participated in the Food Stamp Program within 30 days prior to the date of application.

If an application is held pending beyond 30 days and if the delay is the fault of the household, the first month for which an allotment will be issued to the household will be the month following the month of application. This allotment will be prorated from the date eligibility is established by the household.

### **9061.2 Application for Recertification**

Determine eligibility for recertification based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period.

Base the level of benefits on the same anticipated circumstances. If a household, other than a migrant farmworker household, submits an application after the household's certification period has expired, that application shall be considered an initial application and benefits shall be prorated. If a household's failure to timely apply for recertification was due to agency error causing a break in participation, follow the procedures in DSSM 9091.8. In addition, if the household submits an application for recertification prior to the end of its certification period but is found ineligible for one first month following the end of the certification period, then the first month of a subsequent participation will be considered an initial month. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month will not be an initial month.

### **9061.3 Anticipated Changes**

Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household is entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the

month of application but eligible in a subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. Use the same application for the denial for the month of application and the determination of eligibility for subsequent months, with the timeliness standards in DSSM 9028 and DSSM 9039.

#### **9061.4 Changes in Allotment Levels**

As a result of anticipating changes, the household's allotment for the month of application may differ from its allotment in subsequent months. Establish a certification period for the longest possible period over which changes in the household's circumstances can be reasonably anticipated. Vary the household's allotment from month to month to reflect changes anticipated at the time of certification unless the household elects the averaging techniques.

#### **9062 Determining Resources**

[273.10(b)]

Available resources at the time the household is interviewed will be used to determine the household's eligibility.

#### **9063 Determining Income**

##### **9063.1 Anticipating Income**

Take into account the income already received by the household during the certification period and any anticipated income which the household and the Division are reasonably certain will be received during the remainder of the certification period. Income is not to be counted at all if it is uncertain what amount is to be received or when it is to be received.

As an example of uncertain income, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits may be uncertain as to the timing and amount of the initial payment. Do not anticipate this income unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty will be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the income may be averaged. Households are to be advised to report all changes in gross monthly income as required in DSSM 9085. Impending receipt of a TANF, RCA or GA grant will be considered reasonably certain only when all technical and financial eligibility factors have been satisfied and a decision of eligibility has been reached.

Use income received during the past 30 days as an indicator of the income that is and will be available to the household during the certification period. Do not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, use a longer period past time if it provides a more accurate indication of anticipated fluctuations in future income. Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. Exercise particular caution in using income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. Do not automatically attribute to the household amounts of any past income. Do not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

**9 DE Reg. 799 (11/01/05)**

##### **9063.2 Count Income Only in the Month Received**

[273.10(c)(2)]

Count income anticipated during the certification period only in the month it is expected to be received unless the income is averaged.

Whenever a full month's income is anticipated but is received on a weekly, bi-weekly, or semi-monthly basis, convert the income to the monthly amount by multiplying by the appropriate income conversion factor as follows:

Weekly -	4.33
Bi-Weekly -	2.16
Semi-monthly -	2

Income conversion procedures also apply to expenses billed on a weekly, bi-weekly, or semi-monthly basis.

Count non-recurring lump sum payments as a resource starting with the month received; do not count as income.

Wages held at the request of the employee will be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of the law, will not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance or that it will receive income from wages that were previously held by the employer as a general practice and that were, therefore, not previously counted as income by the Division. Count advances on wages as income in the month received only if reasonably anticipated.

Households receiving income on a recurring monthly or semi-monthly basis shall not have their monthly income varied merely because of changes in mailing cycles or pay dates or because weekends or holidays cause additional payments to be received in a month.

### **9063.3 Income Averaging**

[273.10(c)(3)]

Income may be averaged when the household has fluctuating income. When averaging income, use the household's anticipation of monthly income fluctuations over the certification period. Averages are recalculated at recertification and when changes in income are reported.

Conversion of income received weekly or biweekly according to DSSM 9063.2 is not averaging income.

Households which, by contract or by self-employment, derive their annual income in a period of time shorter than one (1) year will have that income averaged over a 12- month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, share croppers, farmers and other self-employed households. However, these provisions do not apply to migrant or seasonal farmworkers. The procedures for averaging self-employed income are described in DSSM 9075. Contract income which is not the household's annual income and is not paid on an hourly or piecework basis shall be prorated over the period the income is intended to cover.

For food stamp purposes, a contract employee is one that has an agreement with an employer to work a certain length of time or perform a specific job. It may be either a written contract or an implied contract. Acceptable verification would be a statement from the employer or a written document, such as a copy of the contract or agreement, that shows the terms of employment.

The following shows an example of contract and hourly work:

A teacher's aid works 10 months of the year for \$9.16 per hour and 6 hours per day. She does not sign a "contract" but it is implied that she will be "rehired" for the following school year. She will be considered a contract employee whose income must be annualized.

An employee who is paid hourly is one that is paid based on the number of hours he works when there is no established work schedule such as a handyman who does odd jobs around the school.

### **9064 Determining Deductions**

[273.10(d)]

Deductible expenses include only certain costs of dependent care, child support payments, shelter, and medical costs as described in DSSM 9060.

#### **9064.1 Disallowed Expenses**

Any expense, in whole or part, covered by educational income which has been excluded under DSSM 9059 C shall not be deductible. An expense covered by an excluded reimbursement or vendor payment, except an energy assistance vendor payment made under the Low Income Home Energy Assistance Act (LIHEAA), is not deductible. For example, the portion of rent covered by excluded vendor payments should not be calculated as part of the household's shelter cost.

However, that portion of an allowable medical expense which is not reimbursable, should be included as part of the household's medical expenses. Households entitled to the medical deduction should have the non-reimbursable portion considered at the time the amount of reimbursement is received or can otherwise be verified. In addition, an expense which is covered by an excluded vendor payment that has been converted to a direct cash payment under the approval of a federally authorized demonstration project is not deductible (See DSSM 9059). A utility expense which is reimbursed or paid by an excluded payment, including HUD or FmHA utility reimbursements, shall not be deductible.

Expenses are deductible only if the service is provided by someone outside the household and the household makes a money payment for the service. For example, a dependent care deduction will not be allowed if another household member provides the care or compensation for the care is provided in the form of an in-kind benefit, such as food.

**9064.2 Billed Expenses**

Except as provided in DSSM 9064.3, allow a deduction for a billed expense only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. Bills are considered due upon receipt. The date received for Program purposes, is the date mailed plus two days for delivery. Disregard any other due dates appearing on the bill.

For example, include rent which becomes due each month in the household's shelter costs, even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. A particular expense may be deducted only once.

**9064.3 Averaging Expenses**

[273.10(d)(3)]

Households may elect to have fluctuating expenses averaged. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin the month the change would become effective.

For example, if a household receives a single bill in February which covers a three-month supply of fuel oil, the bill may be averaged over February, March and April. The household may elect to have one-time only expenses averaged over the entire certification period in which they are billed.

**9064.4 Anticipating Expenses**

[7 CFR 273.10(d)(4)]

Calculate household expenses based on the expenses a household expects to be billed for during the certification period.

Anticipation of the household expenses will be based on the most recent month's bills, unless the household is reasonably certain a change will occur. When the household is not claiming the utility standard, anticipate changes during the certification period based on last year's bills from the same period updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household. Do not average past expenses, such as utility bills for the last several months as a method of anticipating utility costs for the certification period.

At certification and recertification, the household shall report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on the information reported and verified by the household, and any anticipated changes in the household's medical expenses that can be reasonably expected to occur during the certification period. Reasonably anticipated changes are based on available information about the recipient's medical condition, public or private insurance coverage, and current verified medical expenses. The household shall not be required to file reports about its medical expenses during the certification period. If the household voluntarily reports a change in its medical expenses, DSS shall verify the change in accordance with DSSM 9038 and act on the change in accordance with DSSM 9085.

**12 DE Reg. 1329 (04/01/09)**

**9064.5 Conversion of Deductions**

Use the income conversion procedures in DSSM 2014.3 for expenses billed on a weekly, bi-weekly, or semi-monthly basis.

**9064.6 Energy Assistance Payments**

[273.10(d)(6)]

Except for payments made under the Low Energy Assistance Act, prorate energy assistance payments as provided for in DSSM 9057 over the entire heating season the payment is intended to cover.

**9064.7 Households Entitled to the Excess Medical Deduction and the Uncapped Excess Shelter Deduction in DSSM 9060**

[273.10(d)(7)]

Households containing a member who is a disabled SSI recipient per DSSM 9013.1(b), (c), (d), or (e).

Households containing a member who is a recipient of SSI benefits and the household is determined within the 30-day processing standard to be categorically eligible per DSSM 9042 or determined to be eligible as an NPA household and later becomes a categorically eligible household.

The entitlement is for the period for which the SSI recipient is authorized to receive SSI benefits or the date of the food stamp application, whichever is later, if the household incurs such expenses.

Households containing an SSI recipient as discussed above which are determined ineligible as an NPA household and later become categorically eligible and entitled to restored benefits per DSSM 9042, should receive restored benefits using the medical and excess shelter expense deductions from the beginning of the period for which SSI benefits are paid, the original food stamp application date, or December 23, 1985, whichever is later, if the household incurs such expenses.

**9064.8 Child Support Deduction**

Child support payments are budgeted prospectively using the averaging or conversion procedures in this section to determine the amount of the deduction. Fluctuating child support payments can be averaged according to DSSM 9064.3. Regular child support payments made on a weekly, bi-weekly, or semi-monthly basis should be converted according to DSSM 9064.5.

**9065 Calculating Net Income and Benefit Levels**

[7 CFR 273.10(e)]

To determine a household's net monthly income:

A. Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer will be offset in accordance with DSSM 9074.

B. Multiply the total gross monthly earned income by 20 percent and subtract the amount (or multiply the total gross monthly earned income by 80 percent) and add that to the total monthly unearned income, minus income exclusions.

C. Subtract the standard deduction, as specified in DSSM 9060A.

D. If the household is entitled to a medical deduction as provided in DSSM 9060 (C), subtract that portion of the allowable medical costs that exceeds \$35.

E. Subtract monthly dependent care expenses paid, if any, as specified in DSSM 9060(D).

F. Subtract monthly legally obligated child support payments made to children living outside of the household.

If the household is entitled to an excess shelter deduction, compute the household's excess shelter deduction in accordance with the next paragraph (G).

G. Total the allowable shelter expenses to determine shelter costs. Subtract from total shelter costs 50 percent of the adjusted income (the household's monthly income after all the above deductions have been subtracted). The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction in sub-paragraph (H) of this section.

Subtract from the adjusted income in sub-paragraph (F) of this section the excess shelter cost up to the maximum amount allowed unless the household is entitled to the full amount of its excess shelter expenses. Households not subject to the excess shelter deduction limitation will have the full amount exceeding 50 percent of their income after other applicable deductions subtracted. The household's net monthly income has been determined.

Individual shelter and, where applicable, medical costs will be totaled and then rounded to the nearest dollar (i.e., \$.01- \$.49, round down and \$.50- \$.99 round up) before continuing on with the benefit calculation. The income conversion procedures in DSSM 9064 will also apply to medical and shelter expenses billed on a weekly or bi-weekly basis.

In calculating net monthly income, round down each calculation that ends in 1 through 49 cents and round up for calculations that end in 50 through 99 cents. For example, gross weekly wages would be converted to the monthly amount and then rounded to the nearest dollar prior to the computation of the earned income deduction. Cents will be rounded from this calculation before being subtracted from the earned income.

**9066 Eligibility and Benefits**

[273.10(e)(2)]

A. Households which contain an elderly or disabled member as defined in DSSM 9013.1 will have their net income, as calculated in DSSM 9065 compared to the monthly income eligibility standards defined in DSSM 9054 for the appropriate household size to determine eligibility for the month.

B. In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member will have their gross income, as calculated in DSSM 9065, compared to the gross monthly income standards defined in DSSM 9054 for the appropriate household size to determine eligibility for the month.

C. For households considered destitute in accordance with DSSM 9067, determine a household's eligibility by computing its gross and net income according to DSSM 9067 and comparing, as appropriate, the gross and/or net income to the corresponding income eligibility standard in accordance with DSSM 9054.

D. If a household contains a member who is fifty-nine years old on the date of application, but who will become sixty before the end of the month of application, determine the household's eligibility in accordance with paragraph (A) of this section.

E. If a household contains a student whose income is excluded (DSSM 9059 G) and the student becomes 18 during the month of application, exclude the student's earnings in the month of application and count the student's earnings in the following month. If the student becomes 18 during the certification period, the student's income shall be excluded until the month following the month in which the student turns 18.

F. Except as provided in DSSM 9061 and 9066(H), the household's monthly allotment will be equal to the maximum food stamp allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in DSSM 9065 .

After multiplying the net income by 30 percent, round up all products before deducting from appropriate maximum food stamp allotment amount.

G. If the calculation of benefits in accordance with paragraph (F) of this section, for an initial month would yield an allotment of less than \$10 for the household, no benefits will be issued to the household for the initial month.

H. Except during an initial month, all eligible one and two-person households will receive monthly allotments equal to the minimum benefit.

I. For those eligible households with three or more members, which are entitled to no benefits on an ongoing basis, deny the household's participation, on the grounds that its net income exceeds the level below which benefits are issued.

J. For those eligible households which are entitled to no benefits in their initial month of application in accordance with DSSM 9061, but are entitled to benefits in subsequent months, certify the household beginning with the month of application.

When a household's circumstances change and it becomes entitled to a different income eligibility standard, apply the different standard at the next recertification or whenever the Division changes the household's eligibility, benefit level, or certification period, whichever occurs first.

**9067 Destitute Households**

[273.10(e)(3)]

Migrant or seasonal farmworker households may have little or no income at the time of application and may be in need of immediate food assistance, even though they receive income at some other time during the month of application. The following procedures will be used to determine when migrant or seasonal farmworker households in these circumstances may be considered destitute, and therefore entitled to expedited service, and special income calculation procedures. Households other than migrant or seasonal farmworker households will not be classified as destitute.

1. Households whose only income for the month of application was received prior to the date of application, and was from a terminated source, will be considered destitute households and shall be provided expedited service.

A. If income is received on a monthly or more frequent basis, it will be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month.

B. If income is normally received less often than monthly, the non-receipt of income from the same source in the balance of the month of application or in the following month is inappropriate to determine whether or not the income is terminated. For example, if income is received on a quarterly basis (e.g., on January 1, April 1, July 1, and October 1), and the household applies in mid- January, the income should not be considered as coming from a terminated source merely because no further payments will be received in the balance of January or in February. The test for whether or not this



household's income is terminated is whether the income is anticipated to be received in April. Therefore, for households that normally received income less often than monthly, the income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

2. Households whose only income for the month of application is from a new source will be considered destitute and will be provided expedited service if income of more than \$25 from the new source will not be received by the tenth calendar day after the date of application.

A. Income which is normally received on a monthly or more frequent basis shall be considered to be from a new source if income of more than \$25 has not been received from that source within 30 days prior to the date the application was filed.

B. If income is normally received less often than monthly, it will be considered to be from a new source if income of more than \$25 was not received within the last normal interval between payments. For example, if a household applies in early January and is expecting to get paid every three months, starting in late January, the income will be considered to be from a new source if no income of more than \$25 was received from the source during October or since that time.

Households may receive both income from a terminated source prior to the date of application, and income from a new source after the date of application, and still be considered destitute if they receive no other income in the month of application and income of more than \$25 from the new source will not be received by the tenth day after the date of application.

3. Destitute households will have their eligibility and level of benefits calculated for the month of application by considering only income which is received between the first of the month and the date of application. Any income from a new source that is anticipated after the day of application will be disregarded.

4. Some employers provide travel advance to cover the travel costs of new employees who must journey to the location of their new employment. To the extent that these payments are excluded as reimbursements, receipt of travel advances will not affect the determination of when a household is destitute.

However, if the travel advance is by written contract an advance of wages later earned by the employee, rather than a reimbursement, the wage advance will count as income. In addition, the receipt of a wage advance for travel costs of a new employee will not affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household will be considered destitute. For example, if a household applies on May 10, has received a \$40 advance for travel from its new employer on May 1 which by written contract is an advance on wages but will not receive any other wages from the employer until May 30, the household will be considered destitute. The May 30 payment will be disregarded, but the wage advance received prior to the date of application will be counted as income.

5. A household member who changes jobs but continues to work for the same employer will be considered as still receiving income from the same source. A migrant farmworker's source of income will be considered to be the grower for whom the migrant is working at a particular point in time, and not the crew chief. A migrant who travels with the same crew chief but moves from one grower to another will be considered to have moved from a terminated income source to a new source.

6. The above procedures will apply at initial application and at recertification, but only for the first month of each certification period. At recertification, income from a new source shall be disregarded in the first month of the new certification period if income of more than \$25 will not be received from this new source by the 10th calendar day after the date of the household's normal issuance cycle.

## **9068 Certification Periods**

[7 CFR 273.10(f)]

DSS approves eligible households for a defined number of months called a certification period. The certification period is the period of time that DSS determines a household is eligible to receive benefits.

At the end of the certification period, entitlement to food benefits expires. DSS will not issue any further food benefits until the household completes a new application, is interviewed and provides all necessary verifications.

The first month for which the household is eligible to participate starts the first month of the certification period. DSS will assign certification periods according to each household's circumstances.

The certification periods for all households shall not exceed 12 months, except households listed in DSSM 9068.2.

**13 DE Reg. 1086 (02/01/10)**

### **9068.1 12-Month Certification Periods**

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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Assign households subject to simplified reporting, except the elderly or disabled households per DSSM 9068.2, a 12-month certification period.

Households assigned a 12-month certification period are required to complete and return an interim report in the 6<sup>th</sup> month of the certification period.

**2 DE Reg. 2271 (6/1/1999)**

**8 DE Reg. 114 (7/1/2004)**

**12 DE Reg. 462 (10/01/08)**

**13 DE Reg. 1086 (02/01/10)**

**9068.2 24-Month Certification Periods for Elderly or Disabled Households**

Assign a 24-month certification period to households where all members are elderly or disabled and have no earned income.

Households assigned a 24-month certification period are required to complete and return an interim report in the 12<sup>th</sup> month of the certification period.

**13 DE Reg. 1086 (02/01/10)**

**9068.3 Length of Certification Periods**

Assign each household the longest certification period possible based on its circumstances.

Households with unstable circumstances can be assigned a certification period consistent with their circumstances, but no less than 4 months.

**13 DE Reg. 1086 (02/01/10)**

**9068.4 Shortening Certification Periods**

Households certification periods will not be terminated before the assigned certification periods end except for the following reasons:

- DSS receives information that the household has become ineligible, or
- The household fails to respond to a Request for Contact to resolve unclear information.

Households certification periods will not be shortened due to loss of cash assistance or change in employment status.

Close or adjust households benefits in response to reported changes according to DSSM 9085.

Do not use the Notice of Expiration to shorten a certification period.

**13 DE Reg. 1086 (02/01/10)**

**9068.5 Lengthening Certification Periods**

When needed, lengthen a household's certification period after it has been assigned as long as the total months of certification do not exceed 12 months.

Inform households whose certification is lengthened of the new certification ending date with a notice containing the same information as the notice of eligibility.

**13 DE Reg. 1086 (02/01/10)**

**9069 Certification Notices to Households**

[273.10(g)]

Provide applicants with one of the written notices listed under DSSM 9070 as soon as a determination is made, no later than thirty (30) days from the date of the initial application.

**9070 Notice of Eligibility, Denial and Pending Status**

[273.10(g)(1)]

If an application is approved, the client is sent a system generated notice.

Notice of Denial

If an application is denied, the applicant is sent a system generated notice. If NPA food stamps were denied and the household is potentially categorically eligible, ask the household to inform DSS if it is approved to receive PA and/or SSI benefits.

#### Notice of Pending Status

If the application is to be held because of action needed by the State or by the household, send the applicant written notice via Form 340.

In cases where a household's application is approved on an expedited basis without verification, notice of eligibility will explain that the household must provide the verification that was waived.

#### **9071 Recertification Notices**

[273.10(g)(2)]

Households that have filed an application by the fifteenth (15th) day of the last month of their certification period must be provided with either a notice of eligibility or a notice of denial by the end of the current certification period.

A system generated notice is issued even if the household's benefit level increases or does not change.

Households that have received a notice of expiration at the time of certification and have timely reapplied are to be sent a notice of eligibility or a notice of denial not later than 30 days after the date of the household's initial opportunity to obtain its last allotment. (See also DSSM 9091.)

#### **9072 RESERVED**

**16 DE Reg. 874 (02/01/13)**

#### **9073 Special Income Circumstances**

[273.11]

The procedures for handling income received from boarders by a household that does not own and operate a commercial boarding house are described in DSSM 9074. For all other households receiving self-employment income, including those that own and operate a commercial boarding house, the self-employment income will be calculated according to DSSM 9074.

#### **9074 Self-Employment Income**

DSS must calculate a household's self-employment income according to DSSM 9074.1 and 9074.2.

##### **9074.1 Calculate a Household's Self-employment Income as Follows**

(1) Averaging self-employment income.

(i) Average the income over the period the income is intended to cover, even if the household receives income from other sources. If the averaged amount does not accurately reflect the household's current circumstances, calculate the self-employment income on the basis of anticipated earnings, not prior earnings

(ii) For self-employment that has been in existence for less than a year, average the income over the period of time the business has been in operation. Project that monthly amount for the coming year.

(2) Determining monthly income from self-employment

(i) For the period of time over which the self-employment income is determined, add all gross self-employment income (actual or anticipated) and capital gains, exclude the costs of producing the self-employment income, and divide the remaining amount of self-employment income by the number of months over which the income will be averaged. This amount is the monthly net self-employment income. Add the monthly self-employment income to any other earned income received by the household to determine the total monthly earned income.

(ii) If the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses must be prorated according to (a)(1) of this section, and then offset against countable income to the household as follows:

(A) Offset farm self-employment losses first against other self-employment income.

(B) Offset any remaining farm self-employment losses against the total amount of earned and unearned income after the earned income deduction has been applied.

**(3) Capital Gains**

Calculate the proceeds from the sale of capital goods or equipment in the same manner as a capital gain for Federal income tax purposes.

If the self-employment income is calculated on an anticipated basis, count the amount of capital gains the household anticipates receiving during the months over which the income is being averaged.

**9074.2 Self-Employment Standard Deduction for Producing Income**

The cost for producing income is a standard deduction of the gross income. This standard deduction is a percentage of the gross income determined annually and is listed in the Cost-of-Living Adjustment (COLA) notice each October.

The standard deduction is considered the cost to produce income. The gross income test is applied after the standard deduction. The 20% earned income deduction is then applied to the net self-employment income and any other earned income in the household.

The standard deduction applies to all self-employed households with costs to produce income. To receive the standard deduction, self-employed households must provide and verify they have business costs to produce income. The verifications can include, but are not limited to, tax records, ledgers, business records, receipts, check receipts, and business statements. The self-employed household does not have to verify all its business costs to receive the standard deduction.

Self-employed households not claiming or verifying any costs to produce income will not receive the standard deduction.

The self-employment standard deduction will be reviewed annually to determine if an adjustment in the percentage amount is needed.

**9 DE Reg. 564 (10/01/05)**

**9074.3 Food Stamp Self-Employment Charts**

Types of Self-Employment	Potential Deductions	Verifications	Special Considerations	Computation Considerations
<p>Business Sale of Goods</p> <p>Storefront business Examples: Gift/craft shop, restaurant, gas station, florist</p>	<p>Cost of maintaining storefront – i.e., rent, insurance, utilities, property taxes.</p> <p>Payments on purchase of income producing equipment/property.</p> <p>Employees' labor costs.</p> <p>Cost of supplies and goods sold.</p> <p>Advertising costs.</p> <p>Accounting/legal fees.</p> <p>Licensing fees.</p> <p>professional/union dues.</p> <p>mileage/transportation necessary to produce/continue income.</p>	<p>Gross non-exempt income shall be verified.</p>	<p>When business is transacted in cash, a paper trace (written verification) should be secured and presented by self-employed client. Verification that is not in writing must be fully documented.</p> <p>Income and costs of doing business, that have been mingled with regular household funds, must be verified to be separate and related to business.</p>	<p>Gross Receipts' Cost of doing business.</p> <p>If income represents annual income, annualize over 12 month period.</p> <p>If income received monthly and is annual support, annualize over 12 months if accurate reflection of earnings – otherwise use anticipated earnings.</p> <p>If business less than 1 year old, average income for months and project over certification period.</p>
<p>In-Home Business. Examples: tupperware sales, Avon sales, manufacturer's rep., farmer, craft, sales</p>	<p>Prorated share of utilities, taxes, insurance and maintenance if space used exclusively for business,</p> <p>Payments on purchase of income producing equipment/property.</p> <p>Employees' labor costs.</p> <p>Cost of supplies and goods sold.</p> <p>Advertising costs.</p> <p>Accounting/legal fees.</p> <p>Licensing fees.</p> <p>Professional/union dues.</p> <p>Mileage/transportation necessary to produce/continue income.</p>	<p>When obtaining amount of non-exempt self-employment income, all business costs must be verified in order to be allowable deductions.</p>	<p>Depreciation on property and equipment is not an allowable deduction.</p>	
		<p>Verified by: gross receipts, invoices, daily/monthly ledgers, canceled checks, bank statements, tax receipts, Schedule C of tax return, Schedule K or 1065 (for partnership).</p>		

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

Sale of Services

<p>Store-front business. Examples: Beauty shop, cleaning company, real estate/insurance.</p>	<p>(Same as deductions for store-front business for sale of goods).</p>	<p>Cost of doing business must be verified as separate from household costs.</p>
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In-Home Business.

Examples:

<p>Truckers, odd jobbers, seamstress, musicians, beauticians, daycare.</p>	<p>(Same as deductions for store-front business for sale of goods).</p>
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For partnerships, see partnership agreement or contract to determine proportionate share.

For partnerships:

Gross receipts/cost of doing business divided by proportionated share partnership liability.

Types of Self-Employment

Potential Deductions

Verifications

Special Considerations

Room and Board

1. Roomer

Same as in-home business

Signed statement of each roomer. Cost of doing business must be verified.

Cannot be siblings or parents/children living together unless elderly or disabled.

Computation Considerations

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

Boarder  (3 or more meals per day.)	If payment is equal to or greater than the appropriate maximum food stamp allotment for the boarder group.  subtract maximum food stamp for boarder group allotment or actual documented cost of providing meals, if actual costs exceed food stamp allotment.	Signed statement of each boarder stipulating amount paid and number of meals provided per day.  Gross non-exemption income shall be verified.  When obtaining amount of non-exempt self-employment income, all business costs must be verified in order to be allowable deductions.	Cannot be siblings or parents/children living together.  If payment is less than the appropriate maximum food stamp allotment for the board group – payment is not income. Boarder is not a boarder. He is considered a member of FS household and his whole income must be considered.
B. (2 or less meals per day.)	If payment is equal to or greater than the appropriate 2/3 food stamp allotment for boarder group:  subtract 2/3 maximum food stamp allotment or actual documented cost of providing meals, if actual costs exceed 2/3 of food stamp allotment.	Verified by:  Gross receipts, invoices, canceled checks, daily/monthly/ledgers, bank statements tax receipts, Schedule C of tax return, Schedule K or 1065 (if partnership).  Cost of doing business must be verified as separate from household costs.	If payment is less than 2/3 of the appropriate food stamp allotment for the boarder group, payment is not considered to be income; boarder is considered to be member of FS household and his whole income must be considered.

**Commercial Boarding Home**

A commercial establishment which offers meals and lodging for compensation with intent of making a profit. Identified costs necessary to produce and continue income.

Notes 1, 2, & 3 under "computation considerations" for businesses also could apply to commercial boarding home.

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

Rental Property	Prorated share of taxes, utility bills, maintenance, insurance costs. (Proration is based on total square foot of rented area).	Utility bills, receipts which verify separate identifiable costs.	Member of household must average 20 hours per week actively engaged in management of rental property. Otherwise consider as unearned income.	If unearned income – not eligible for earned income deduction.
Resident Management owners reside in portion of rental property.				
Non-resident Management – Owner resides separate and apart from rental property.	All expenses other than depreciation and mileage.	Tax receipts, bank statement of mortgage interest, utility bills, receipts/ canceled checks.		

### 9074.3.1 Food Stamp Self-employment Manual Guide

#### SELF-EMPLOYMENT INCOME

Income derived from the provision of services or selling of goods when a person is not an employee of another. Common element – Tax and Social Security payments are the responsibility of the individual.

#### GUIDELINES

The following guidelines should be used during the process of documenting and verifying gross receipts, determining allowable expense deductions, and determining the type of bookkeeping used by the client.



Questions to Ask:

Are business and personal funds co-mingled?

What to look for:

Business and income costs must be identifiable as separate from personal expenses to be allowed as deductions. If canceled checks are available, they should be examined with accompanying receipt and or invoices showing identifiable itemized costs. For income verification, check bank statements and sequentially numbered receipt/invoice records.

Are daily/monthly ledgers maintained documenting income and disbursements?

Same as above.

What tax returns have or will be filed? What tax year is being used?

Obtain specific tax schedules, i.e., Schedule C, K or 1065 showing business deductions. Quarterly returns.

For partnerships: Is there a Contract Structure?

NOTE: The 1040 line entry re: business loss/profit cannot be used as it incorporates deductible business expenses not permitted by FS regulations.

Obtain copy of agreement which delineates proportionate shares of partners.

If business named other than owners, is business incorporated?

Document parties involved. Obtain Corporation documents.

Is there a Federal or State number?

Confirmation of parties involved who have access to tax funds.

Is a separate checking account maintained for business?

Canceled checks with accompanying receipts and/or invoices showing identifiable itemized costs.

**SUMMARY OF COSTS NOT PERMITTED AS DEDUCTIONS:**

Personal mileage to and from place of business.

State, Federal or Social Security Taxes.

Depreciation.

Deposits into Retirement Accounts, Personal Life & Health Insurance.

**9075 Procedure for Calculating Income Which Can Be Annualized to Reflect Monthly Calculation**

- 1) Add all gross self-employment (including capital gains) for the period of time over which the self-employment income is determined.
- 2) Subtract the self-employment standard deduction.
- 3) Divide the income by the number of months over which the income will be averaged.
- 4) For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, add any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months, except that a new average monthly amount shall be calculated over this 12-month period if the anticipated amount of capital gains changes. Add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtract self-employment standard deduction.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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- (a) Anticipated capital gains for 12-month period beginning with date of application.
- (b) + Anticipated gross self-employment income.
- (c) = Gross self-employment income.

Calculation II - Net Self-employment Income

- (a) Gross self-employment income.
- (b) - self-employment standard deduction.
- (c) Divided by 12
- (d) = Net monthly self-employment income.

**9 DE Reg. 564 (10/01/05)**

**9076 Treatment of Income and Resources of Certain Non-Household Members**

7 CFR 273.11(c)

During the period of time that a household member cannot participate for the reasons below, determine the eligibility and benefit level of any remaining household members in accordance with sections 9076.1 through 9076.4.

The household member cannot participate because he or she is:

1. An ineligible alien.
2. Disqualified for an intentional Program violation
3. Disqualified for or refusal to obtain or provide an SSN.
4. Ineligible for failing to sign the application attesting to his/her citizenship or alien status.
5. Ineligible because of having made a fraudulent statement or misrepresentation of his or her identity in order to receive multiple benefits at the same time per DSSM 2024.
6. Ineligible because of having made a fraudulent statement or misrepresentation about his or her place of residence in order to receive multiple benefits at the same time per DSSM 2024.
7. Ineligible for being a fleeing felon or probation/parole violator per DSSM 2025.
8. Ineligible for being convicted of trafficking food benefits of \$500 or more per DSSM 2026.
9. Ineligible due to work requirements per DSSM 9018.
10. Ineligible due to the time limit for Able-bodied Adults without Dependents per DSSM 9018.2.

**15 DE Reg. 1027 (01/01/12)**

**9076.1 Intentional Program Violation Fleeing Felon Disqualifications and Work Requirement Sanctions**

7 CFR 273.11(c)

For households containing individuals determined ineligible because of the disqualifications or sanctions listed below, determine the eligibility and benefit level of any remaining household members as follows:

**Disqualifications or Sanctions**

1. Disqualified for an intentional Program violation.
2. Ineligible because of having made a fraudulent statement or misrepresentation of his or her identity in order to receive multiple benefits at the same time.
3. Ineligible because of having made a fraudulent statement or misrepresentation about his or her place of residence in order to receive multiple benefits at the same time.
4. Ineligible for being a fleeing felon or probation/ parole violator.
5. Ineligible for being convicted of trafficking food benefits of \$500 or more.

**Eligibility and Benefit Determination**

1. Income, resources and deductible expenses

2. Count all the income and resources of the ineligible household member(s) in the eligibility and benefit determination.
3. Apply all allowable earned income and deductions to the entire household. Include all deductions the ineligible household member would receive if he or she was included in the household size. Count the following deductions:
  4. Standard
  5. Medical
  6. Dependent care
  7. Child support payment
  8. Excess shelter
  9. Eligibility and benefit level

Do not include the ineligible member when determining the household's size when:

- A. Assigning a benefit level to the household.
- B. Comparing the household's monthly income with the income eligibility standards.
- C. Comparing the household's resources with the resource eligibility limits. Ensure that no household's food

benefit is increased as a result of the exclusion of one or more household members.

**15 DE Reg. 1027 (01/01/12)**

#### **9076.2 SSN Disqualification, Child Support Sanctions and Ineligible ABAWDs**

Determine the eligibility and benefit level of remaining household members of a household containing individuals determined ineligible due to:

- disqualification for refusal to obtain or provide an SSN;
- non-cooperation with the Division of Child Support Enforcement; or
- meeting the time limit for able-bodied adults without dependents.

1) Resources - The resources of such ineligible members continue to count in full to the remaining household members.

2) Income - Count a prorata share of the income of such ineligible members as income to the remaining members. To get the prorated share, subtract the allowable income exclusions from the ineligible member's income, divide the amount by the household size, and use all the income except for the prorated share of the ineligible household member.

3) Deductible expenses – Allow the earned income deduction for the prorated share of income used by the remaining household members. Divide the household's allowable child support payment, shelter (except any utility allowances), and dependent care expenses, which are either paid by or billed to the excluded members evenly among the household's members including the ineligible members. Allow all but the ineligible member's share as a deductible child support payment, shelter (except any utility allowances), or minor care expense for the remaining household members.

- 4) Eligibility and benefit level - Ineligible members will not be included in determining their household's size when:
- a) Assigning a benefit level to the household;
  - b) Comparing the household's monthly income with the income eligibility standards; or
  - c) Comparing the household's resources with the resource eligibility limits.

**11 DE Reg. 1243 (03/01/08)**

#### **9076.3 Ineligible Alien**

Determine as follows the eligibility and benefit level of remaining household members of a household containing individuals determined ineligible.

For being an ineligible alien.

1) Resources - The resources of such ineligible members continue to count in their entirety to the remaining household members.

2) Income - Count a prorata share of the income of such members as income to the remaining members. This prorata share is calculated by first subtracting the allowable exclusions from the ineligible member's income and dividing

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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the income evenly among the household members, including the ineligible members. All but the ineligible member's share is counted as income for the remaining household members.

3) Deductible expenses - The earned income deduction applies to the prorated income earned by such ineligible members, which is attributed to their households. That portion of the household's allowable child support payment, shelter (excluding any utility allowances), and dependent care expenses which are either paid by or billed to the excluded members, will be divided evenly among the household's members including the ineligible members. All but the ineligible member's share is counted as a deductible child support payment, shelter (excluding any utility allowances), or dependent care expense for the remaining household members.

4) Eligibility and benefit level - Such ineligible members will not be included when determining their household's size for the purposes of:

- a) Assigning a benefit level to the household;
- b) Comparing the household's monthly income with the income eligibility standards; or
- c) Comparing the household's resources with the resource eligibility limits.

**9076.4 Reduction or Termination of Benefits Within the Certification Period**

Whenever an individual is determined ineligible within the household's certification period, determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file:

a) Excluded for Intentional Program Violation Disqualification - If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional Program violation, notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a notice of adverse action, but may request a fair hearing to contest the reduction or termination of benefits, unless the household has already had a fair hearing on the amount of the claim as a result of a consolidation of the administrative disqualification hearing with the fair hearing.

b) Disqualified or determined ineligible for reasons other than intentional Program violation - If a household's benefits are reduced or terminated within one certification period for reasons other than an intentional Program violation disqualification, issue a notice of adverse action in accordance with DSSM 9006, informing the household of the ineligibility, the reason for the ineligibility, the eligibility and benefit level of the remaining members and the action the household must take to end the ineligibility.

**9077 Treatment of Income and Resources of Other Non-Household Members****9077.1 Handling Income and Resources**

For all other non-household members, defined in DSSM 9013.2 and DSSM 9013.3, who are not specifically mentioned in DSSM 9076, the income and resources of such individuals are not to be considered available to the household with whom the individual resides. Cash payments from the non-household member to the household are considered under the normal income standards per DSSM 9055. Vendor payments are excluded as income.

When the earned income of one or more household members and the earned income of a non-household member are combined into one wage, determine the income of the household members as follows:

- 1) If the household's share can be identified, count that portion due to the household as earned income.
- 2) If the household's share cannot be identified, prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.

Child support received by an ineligible student for a child is budgeted when determining benefits. If the child support includes monies for the whole family, such as alimony, the income must be prorated. Only the income of the ineligible student is disregarded.

If the household shares deductible expenses with the non-household member, deduct only the amount actually paid or contributed by the household as a household expense. If the payments or contributions cannot be differentiated, prorate the expenses evenly among persons actually paying or contributing to the expense and deduct only the household's prorata share. Do not include such non-household members when determining the size of the household for the purposes of:

- Assigning a benefit level to the household;
- Comparing the household's monthly income with the income eligibility standards; or
- Comparing the household's resources with the resource eligibility limits.

**9077.2 Deductible Expenses**

If the household shares deductible expenses with the non-household member, deduct only the amount actually paid or contributed by the household as a household expense.

**9078 Residents of Drug/Alcoholic Treatment and Rehabilitation Programs and Group Living Arrangements**

**9078.1 Residents of Drug/Alcoholic Treatment and Rehabilitation Programs**

Narcotics addicts or alcoholics who regularly participate in publicly operated or private non-profit drug or alcoholic treatment and rehabilitation programs on a resident basis may voluntarily apply for the Food Stamp Program.

Resident addicts and alcoholics and their children, will have their eligibility determined as one household. Certify residents of addict/alcoholic treatment centers by using the same provisions that apply to all other applicant households except that certification must be accomplished through an authorized representative who is employed by the program.

Prior to certifying any residents, verify that the treatment center is authorized by FNS as a retailer if the center wishes to use food stamp benefits through a wholesaler, or, if it is not authorized by FNS as a retailer that it is under Part B of Title XIX of the Public Health Service Act (42 USC 300X et seq.)

Each treatment and rehabilitation center must provide DSS with a list of current participating residents on a periodic basis. This list will include a statement signed by a responsible center official attesting to the validity of the list. The agency will conduct periodic random on-site visits to the center to assure the accuracy of the listings and that the agency's records are consistent and current.

Prior to certifying any residents for food stamps, verify that the treatment center is authorized by FNS as a retailer or is funded under part B of Title XIX of the Public Health Service Act.

The following provisions apply to residents of treatment centers:

1) When expedited processing standards are necessary per DSSM 9041, eligibility for the initial application will be processed on an expedited basis, and DSS will complete verification and documentation requirements prior to issuance of a second food stamp allotment. When normal processing standards apply, complete the verification and documentation requirements prior to making an eligibility determination for the initial application.

2) Changes and recertifications will be processed by using the same standards that apply to all other food stamp households.

3) Resident households will be afforded the same rights to notices of adverse action to fair hearings and to entitlement to lost benefits as are all other food stamp households.

4) The organization or institution may be penalized or disqualified if it is determined administratively or judicially that food stamp benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. Promptly notify FNS when DSS has reason to believe that an organization or institution is misusing food stamp benefits in its possession. Take no action prior to FNS action against the organization or institution. Establish a claim for overissuances of food stamp benefits held on behalf of resident clients as stipulated in DSSM 7000 of this section if any overissuances are discovered during an investigation or hearing procedure for redemption violations. If FNS disqualifies an organization or institution as an authorized retail food store, suspend its authorized representative status for the same period.

**9 DE Reg. 799 (11/01/05)**

**9078.2 Residents of Group Living Arrangements (GLA) Who Receive Benefits Under Title II or Title XVI of the Social Security Act**

Disabled or blind residents of a group living arrangement who are covered under the Food Stamp Act's definition of a disabled person in DSSM 9013.1, (b through k) may voluntarily apply for the Food Stamp Program. The GLA must determine if a resident may apply on his or her own behalf based on the resident's physical and mental ability to handle his or her own affairs. Residents may apply through the use of the facility's authorized representative per DSSM 9016.1. Their eligibility will be determined as one-person households. Residents can apply on their own behalf or through an authorized representative of their choice. Certify these residents using the same provisions that apply to all other households.

Prior to certifying any residents for food stamps, verify that the group living arrangement is authorized by FNS or is certified by DHSS and that the center is a nonprofit organization.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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**Shelter and Medical Expenses for Group Home Residents**

Room and medical costs which can be separately identified are allowable shelter and medical expenses. Normally the group home will identify the part of the payment that is being charged for separate costs.

If the amount the resident pays for room and meals is combined into one amount, the amount which exceeds the food stamp maximum allotment for a one-person household can be allowed as an identified shelter expense.

For example, a resident is charged \$350 a month for room and meals. If the maximum food stamp allotment is \$120 for a one-person household, then \$120 is subtracted from the \$350 monthly charge. The remainder \$230 is allowed as the shelter cost.

If more than one resident applies as part of the same food stamp household, the food stamp maximum allotment amount for a one-person household would be deducted from the room and board payment for each person.

For example, two residents apply as one food stamp household. They each pay \$350 a month for room and meals. If the maximum food stamp allotment for one-person household is \$120, each resident has the \$120 amount subtracted from the \$350 payment. The remainder \$230 for each person is used for the shelter costs, a \$460 monthly room charge.

Some group homes charge a basic rate for room and board and they have higher rates depending on the amount of medical care that may be needed. In such instances, if a person is charged a higher rate, the basic rate minus the food stamp maximum allotment amount for a one-person household may be used to determine the shelter costs for that person, and the difference between the basic rate and the higher rate may be determined to be medical costs.

For example, a resident is charged a higher rate of \$500 a month for room, meals and medical care. If the maximum food stamp allotment for one-person households is \$120, the \$120 is subtracted from the basic rate of \$350 which leaves \$230 for the shelter cost. The \$350 basic rate is subtracted from the \$500 higher rate to determine the medical costs of \$150.

If the amount paid for medical and shelter costs cannot be separately identified, no deduction is allowed for the costs.

These procedures apply to residents making their own payments and to those instances where a protective payee is handling the payments but is using the resident's own funds.

Each group living arrangement shall provide DSS with a list of currently participating residents on a periodic basis. This list will include a statement signed by a responsible center official attesting to the validity of the list. DSS will conduct periodic random on-site visits to assure the accuracy of the list and that the Division's records are consistent and current.

Processing standards, processing of changes and recertifications and household rights are the same as in DSSM 9078.1 when the facility acts as the resident's authorized representative.

If the resident has made application on his/her own behalf, the household is responsible for reporting changes per DSSM 9085. If the group living arrangement is acting as authorized representative, the group living arrangement must notify DSS of all changes and must return any household's benefit which is received after the household has left the group living arrangement.

When the household leaves the facility, the group living arrangement either acting as an authorized representative or retaining use of the food stamp benefits on behalf of the residents will provide residents with their EBT card. The departing household will receive its full allotment if issued and if no food stamp benefits have been spent on behalf of that individual household. These procedures are applicable at any time during the month. If the food stamp benefits have already been issued and any portion spent on behalf of the individual, and the household leaves the facility prior to the 16th day of the month, the facility will provide the household with its EBT card and one-half of its monthly allotment. If the household leaves on or after the 16th of the month and the food stamp benefits have already been issued and used, the household does not receive any food stamp benefits. If a group of residents have been certified as one household and have returned the food stamp benefits to the facility to use, the departing residents will be given a prorata share of one-half of the household's allotment if leaving prior to the 16th of the month, and will be instructed to obtain EBT cards. Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative.

The group living arrangement will, if possible, provide the household with a change report form and will advise the household to return the form to the appropriate DSS office within ten (10) days.

If a resident or a group of residents apply on their own behalf and if they retain use of their own food stamp benefits, they are entitled to keep the food stamp benefits when they leave. If a group of residents have applied as one household, a prorata share of the remaining food stamp benefits will be provided to any departing household members. The group living arrangement will, if possible, provide the household with a change report form and will advise the household to return the form to the appropriate DSS office within ten (10) days. The group living arrangement will return to DSS any food stamp benefits not provided to departing residents at the end of each month. These returned food stamp benefits will include those not provided to departing residents because they left on or after the 16th of the month or they left prior to the 16th and the facility was unable to provide them with food stamp benefits.

The same provisions applicable to drug and alcoholic treatment centers in DSSM 9078.1 regarding misrepresentation or fraud and overissuances and institutional disqualification also apply to group living arrangements when acting as an authorized representative. A resident applying on his/her own behalf will be responsible for overissuances as would any other household.

The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at or from a central location. If residents purchase and/or prepare food for home consumption, the group living arrangement will ensure that each resident's food stamps are used for meals intended for that resident. If the resident retains use of his/her own coupon allotment, coupons may be used either to purchase meals prepared by the facility or to purchase food to prepare meals for their own consumption.

### **9079 Replacement of Electronic Benefit Transfer (EBT) Food Benefits**

#### **9079.1 Replacing Food Benefits Issued by Electronic Benefit Transfer (EBT)**

Food stamp benefits issued by EBT can only be replaced under two conditions:

- Unauthorized use of the account based on the conditions listed under DSSM 9079.2; and
- Food purchased with food stamp benefits that was destroyed in a household misfortune or disaster.

The primary payee (cardholder) is responsible for the security and safeguarding of the EBT card and Personal Identification Number (PIN), including the careful selection of authorized representatives.

#### **9 DE Reg. 799 (11/01/05)**

#### **9079.2 Unauthorized Use of the Account**

The reason DSS issues food stamp benefits by EBT is to minimize the loss and theft of client benefits.

DSS will replace benefits issued by EBT due to the unauthorized use of the account only if the loss occurred:

- after a report of a lost or stolen EBT card is made to the e-Funds Customer Support number at 1-800-526-9099;
- because of DSS local office card/PIN issuance error; or
- because of an unlawful or other erroneous action on the part of DSS or the EBT contractor.

DSS will not replace food stamp benefits withdrawn from an EBT account before a report of a lost or stolen EBT card is made to the e-Funds Customer Support Unit.

DSS will replace food stamp benefits withdrawn from an EBT account after a report of a lost or stolen EBT card is made to the e-Funds Customer Support Unit. Before a replacement is issued, DSS will verify the time/date of the report to e-Funds and the time/date of the loss of benefits.

DSS will not replace EBT issued benefits that were misused by an authorized representative.

Affidavit for Replacement of EBT Food Benefits. The affidavit will attest to the loss and must be made within ten days of the report of the loss. If the household does not sign and return the affidavit within ten days of the report of the loss DSS will deny the request for replacement of benefits.

#### **9079.3 Food Destroyed After It Was Purchased with Food Stamp Benefits**

DSS will replace food benefits used for food that was destroyed in a household misfortune or disaster.

The household may be entitled to a replacement of the actual value of the loss not to exceed the amount of the household's monthly allotment at the time of the loss.

The household must report the household misfortune or disaster to DSS within ten days of the loss.

DSS will verify the fact of the household's misfortune or disaster. Disasters can include fire, floods, or hurricanes. Household misfortunes can include a breakdown in the refrigerator or freezer or the loss of electricity causing food to spoil.

In verifying a household's misfortune or disaster DSS will accept statements from community agencies, the Red Cross, fire departments, home visits, or other acceptable collateral contact.

There is no limit on the number of times a household may receive replacement of food destroyed in a household misfortune or disaster.

If a household is eligible for emergency benefits under a disaster program, the household cannot receive both the emergency benefits and replacement benefits for the same time period.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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Replacements of destroyed food cannot be used to offset food stamp overpayment claims.

A household member, or authorized representative, must sign and return to the food stamp office an Affidavit for Replacement of EBT Food Benefits. The affidavit will attest to the loss and must be made within ten days of the report of the loss. If the household does not sign and return the affidavit within ten days of the report of the loss DSS will deny the request for replacement of benefits.

**9079.4 Affidavit for Replacement of EBT Food Benefits**

A household member, or authorized representative, must sign an Affidavit for Replacement of EBT Food Benefits attesting to the loss and submit the affidavit to DSS within ten days of the report of the loss.

The household will not receive a replacement if the affidavit is not received by DSS within ten days of the report of the loss.

If the tenth day falls on a weekend or holiday, DSS will consider the affidavit as received timely if it is received on the next business day.

DSS will provide replacement benefits within ten days of the reported loss or within two working days of receiving the affidavit, whichever is later.

**9080 Shelters for Battered Women and Children**

[273.11(g)]

Prior to certifying its residents under this paragraph, determine that the shelter for battered women and children meets the definition in DSSM 9015 (4) and document the basis of this determination. Shelters having FNS authorization to redeem as wholesalers will be considered as meeting the definition and the Division is not required to make any further determination.

Many shelter residents have recently left a household containing the person who has abused them. Their former household may be certified for participation in the Program, and its certification may be based on a household size that includes the women and children who have just left. Shelter residents who are included in such certified households may nevertheless apply for and (if otherwise eligible) participate in the Program as separate households if such certified household which includes them is the household containing the person who subjected them to abuse. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

A full new application is required since the shelter resident would constitute a new household. However, information previously verified need not be re-verified if the worker is satisfied that it remains valid.

Eligibility is determined solely on the resources and income actually available to the applicant. The rationale for allowing a resident of a shelter for battered women to participate as a new household is the assumption that she is in fact cut off from her old household. Benefits for the shelter resident household shall be from the date of application to the end of the month.

Shelter residents who apply as separate households will be certified solely on the basis of their income and resources and the expenses for which they are responsible. They will be certified without regard to the income, resources, and expenses of their former household. Jointly held resources will be considered inaccessible in accordance with DSSM 9047. Room payments to the shelter will be considered as shelter expenses.

Any shelter residents eligible for expedited service will be handled in accordance with DSSM 9041.

Take prompt action to ensure that the former household's eligibility or allotment reflects the change in the household's composition.

Such action will include acting on the reported changes in accordance with DSSM 9085 by issuing a notice of adverse action in accordance with DSSM 9006.

The battered spouse has to be in a shelter to get additional Food Stamps under this section. The spouse cannot stay at the home, even if the abuser has left the dwelling, and get additional Food Stamps.

**9081 Households Containing Sponsored Alien Members****9081.1 Definition**



**"Date of entry"** or **"Date of admission"** means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

**"Sponsor"** means a person who executed an affidavit(s) of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.

**"Sponsored alien"** means an alien for whom a person has executed an affidavit of support [INS Form I-864 or I-864A] on behalf of the alien according to section 213A of the INA.

### **9081.2 Deeming of Sponsor's Income and Resources**

DSS will consider the income and resources of the sponsor and the sponsor's spouse towards the sponsored alien only if the sponsored alien is an eligible alien according to DSSM 9007.1. DSS will deem the income and resources of sponsor and sponsor's spouse, if he or she has executed INS Form I-864 or I-864A, as the unearned income and resources of the sponsored alien.

The deeming of the sponsor's income and resources shall continue to apply to an alien until:

The alien has become a United States citizen through naturalization;

The alien is credited with 40 qualifying quarters of coverage during which time the alien did not receive any Federal means-tested public welfare benefit, or

The sponsor dies.

The income and resources of sponsors and sponsor's spouses are deemed as follows:

1. The monthly income of the sponsor and sponsor's spouse deemed to be that of the alien will be the total monthly earned and unearned income (including income exclusions provided for in DSSM 9059) of the sponsor and the sponsor's spouse (if living with the sponsor) at the time the household containing the sponsored alien member applies or is recertified, reduced by:

(A) A 20% earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse.

(B) An amount equal to the monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for Federal income tax purposes.

2. If the alien has already reported gross income information on his/her sponsor due to TANF's sponsored alien rules, that income amount may be used for FSP deeming purposes. However, limit the allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the alien to amounts listed above in #1 in this section.

3. Actual money paid to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount attributed to the alien under paragraph 1 above. Only the amount paid that actually exceeds the amount deemed would be considered income to the alien.

4. Resources of the sponsor and the sponsor's spouse to be deemed to be that of the alien will be the total amount of their resources as determined in accordance with DSSM 9045 reduced by \$1,500.

5. If a sponsored alien can demonstrate to the Division's satisfaction that his/her sponsor sponsors other aliens, then the income and resources deemed under the provisions of paragraph 1 and 4 of this Section will be divided by the number of such aliens that apply for or are participating in the program.

### **9081.3 Exempt Aliens**

The provisions of this Section do not apply to:

- 1) Children under 18 years of age regardless of when they entered the United States;
- 2) Immigrants whose deeming period had ended;
- 3) Sponsored aliens who are ineligible for food stamps because of immigration status will not have the sponsor's income deemed to other eligible members of the alien's household.
- 4) An alien who is participating in the Food Stamp Program as a member of his or her sponsor's household or an alien whose sponsor is participating in the Food Stamp Program separate and apart from the alien;
- 5) An alien who is sponsored by an organization or group as opposed to an individual;
- 6) An alien who is not required to have a sponsor under the Immigration and Naturalization Act, such as, but not limited to, a refugee, a parolee, one granted asylum, and a Cuban or Haitian entrant.
- 7) An alien whose sponsor has not signed a legally binding affidavit of support, the INS Form I-864-A;

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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8) A battered alien spouse, alien parent of a battered child, or child of a battered alien, for 12 months after a determination is made that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer. After 12 months, do not deem the batterer's income and resources if the battery is recognized by a court or the INS and had a substantial connection to the need for benefits, and the alien does not live with the batterer;

9) An indigent alien that has been determined unable to obtain food or shelter taking into account the alien's own income plus any cash, food, or housing, or other assistance provided by other individuals, including the sponsor(s).

Indigent alien determination:

(A) Inquire about sponsored alien status if an alien is a Lawful Permanent Resident (LPR).

(B) If the LPR is an *eligible* sponsored alien, make an indigence determination.

An *eligible* sponsored alien is an alien eligible to receive food stamps according to DSSM 9007.1.

(C) Determine if the eligible sponsored alien's total household income by adding the eligible alien's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance the sponsor or others provide.

Accept whatever dollar value, if any, is given for any in-kind assistance provided by the person(s) providing the assistance. In-kind assistance includes, but is not limited to, food, housing, clothing, or transportation.

Compare the total household income as determined above the 130 percent of the poverty income guidelines for the household size.

(D) If the total income does not exceed the 130 percent of the poverty income guidelines for the household size, the alien is indigent.

If the alien is indigent, then process the case as normal and deem only the actual amount of the cash support received from the sponsor. The cash support does not include the value of the in-kind assistance.

(E) If the alien is not indigent, then the eligible sponsored alien must provide information on the total amount of the sponsor's income and resources and follow the regular sponsor deeming procedures.

(F) If the alien is indigent, only deem the income actually provided to the alien for the period beginning on the date the determination was made and ending 12 months after such date.

(G) Each indigence determination is renewable for additional 12 month periods.

(H) The names of each *eligible* sponsored alien determined to be indigent and the sponsor(s) names are to be sent to the Food Stamp Policy Administrator after a determination is made.

#### **9081.4 Sponsored Alien's Responsibility**

The alien is responsible for obtaining the cooperation of his/her sponsor for providing DSS at time of application or recertification with the information and/or documentation necessary to calculate deemed income and resources until the alien becomes a citizen or works 40 qualifying quarters. The alien is also responsible for providing information about other aliens for whom the alien's sponsor has also signed an agreement to support to enable DSS to apply the proration provisions in DSSM 9081.2(E). If such information about other aliens for whom the sponsor is responsible is not provided to DSS, attribute the deemed income and resource amounts to the applicant in their entirety until such time as the information is provided. The alien is also responsible for reporting the required information about the sponsor and sponsor's spouse should the alien obtain a different sponsor during the certification period and for reporting a change in income should the sponsor or the sponsor's spouse change or lose employment or become deceased during the certification period. Handle such change in accordance with the timeliness standards and procedures in DSSM 9085.

#### **9081.5 Awaiting Verification**

Until the alien provides information or verification needed to calculate deemed income and resources, the sponsored alien is ineligible for benefits. DSS will determine the eligibility of any remaining household members.

The income and resources (excluding the deemed income and resources of the alien's sponsor and the sponsor's spouse) of the ineligible alien will be counted according to DSSM 9076.2.

If the sponsored alien refuses to cooperate in providing information or verification, other adult members are responsible for providing the information or verification required.

Once the information or verification is received, DSS will act on the information as a reported change in household size according to DSSM 9085.

If the same sponsor is responsible for the entire household, the entire household is ineligible until the household provides the needed sponsor information or verification.

DSS will assist aliens in obtaining verification.

#### **9081.6 Demands for Restitution**

Exclude any sponsor who is participating in the Food Stamp Program from a demand made under 8 CFR 213a.4(1)[Affidavit of Support on Behalf of Immigrants] for the value of food stamp benefits issued to an eligible sponsored alien he or she sponsors.

#### **9082 Reduction of Public Assistance Benefits**

[273.11(j)]

Do not increase food stamp benefits when a household's benefits received under another means-tested Federal, State or local welfare or public assistance program (such as but not limited to TANF, RCA or GA) have been decreased (reduced, suspended or terminated) due to failure to perform an action required under the assistance program or for fraud. Under no circumstances can the food stamp benefits be allowed to increase.

Actions not considered a failure to perform for this rule include:

- Reaching a time limit for time-limited benefits;
- Having a child that is not eligible because of family cap;
- Failing to reapply or complete the application process for continued assistance under another program;
- Failing to perform an action that the individual is unable to perform; or
- Failing to comply with a purely procedural requirement.

A procedural requirement which would not cause a sanction is a step that an individual must take to continue to receive benefits in the assistance program such as providing verification of circumstances.

A substantive requirement, which would cause a sanction, is a behavioral requirement in the assistance program designed to improve the well-being of the recipient family, such as participating in job search activities.

The following conditions apply:

1. The rule applies to individuals who fail to perform a required action while receiving assistance.
2. The rule does not apply to individuals who fail to perform a required action at the time the individual initially applies for assistance.
3. The rule applies to individuals who fail to perform a required action during an application for continued benefits as long as there is no break in participation.
4. The individual must be certified for food stamps at the time of the failure to perform a required action for this rule to apply.
5. Assistance benefits shall be considered reduced if they are decreased, suspended, or terminated.
6. If the means-tested assistance program fails to verify an individual's failure to perform a required action, this rule will not apply and DSS will not be held responsible as long as DSS made a good faith effort to get the information.
7. DSS, not the individual, is responsible for obtaining information about sanctions from other programs and changes in those sanctions.
8. The rule applies for the duration of the reduction in the assistance and cannot continue beyond the sanction of the assistance program.
9. When a TANF case closes, the food stamp sanction will remain in place for one year or until the individual no longer is considered a mandatory Employment and Training participant.
10. DSS must restore lost benefits if it is later discovered that the reduction in the public assistance was not appropriate.

**10 DE Reg. 1704 (05/01/07)**

#### **9083 Homeless Food Stamp Households**

[273.11(h)]

Permit homeless food stamp households to use their food stamp benefits to purchase prepared meals from homeless meal providers authorized by FNS.

**9084 Pre-Release Applicants**

Permit a household which consists of a resident or residents of a public institution which applies for SSI under SSA's Pre-release Program for the Institutionalized to apply for food stamp benefits jointly with their application for SSI prior to their release from the institution. Certify such households in accordance with DSSM 9015, DSSM 9039, DSSM 9041, and DSSM 9028.

**9085 Reporting Changes**

[7 CFR 273.12]

Certified food stamp households are required to report the following changes in circumstances:

**Simplified Reporting Requirements**

The following reporting requirements are for all households:

- Households are required to report income changes only when the monthly income exceeds 130 percent of the poverty income guideline for the household size that existed at the time of certification or recertification.
- When a household's monthly income exceeds 130 percent of the poverty income guideline, the household is required to report that change within ten days after the end of the month that the household determines the income is over the 130 percent amount.
- Households will not have to report any changes in the household composition, residence and resulting changes in shelter costs, acquisition of non-excluded licensed vehicles, when liquid resources exceed \$2000.00 or changes in the legal child support obligation.

Additional reporting requirement for ABAWD individuals:

- Adults living in a home without any minor children, who are getting food benefits because they are working more than 20 hours a week, must report when they start working less than 20 hours a week.

An applicant household must report all changes related to its food benefit eligibility and benefits at the certification interview.

Households assigned a 12-month certification period are required to complete and return an interim report in the 6th month of the certification period. DSS will close the food benefit case when a household fails to complete and return the interim report.

Households assigned a 24-month certification period are required to complete and return an interim report in the 12th month of the certification period. DSS will close the food benefit case when a household fails to complete and return the interim report.

Only the reporting requirements in this Section can be imposed by the Division.

**10 DE Reg. 560 (09/01/06)**

**12 DE Reg. 462 (10/01/08)**

**13 DE Reg. 1086 (02/01/10)**

**9085.1 Report Form**

[273.12(b)]

Provide each household applying for benefits or being recertified for benefits with Form 130 with which to report changes listed above within 10 days. Provide a postpaid return envelope.

Send a new form to the household whenever a change is reported via a form.

**9085.2 DSS Responsibilities: Action on Changes**

[273.12(c)]

Take prompt action on all changes to determine if the changes affect the household's eligibility or allotment. Even if there is no change in the allotment, document reported changes in the case file, provide another change report form to the household, and notify the household of the effect of the change, if any, on its benefits. Document the date of receipt of the report form or the date a change is reported by phone or in person. If a household reports a change in income which is expected to continue for at least one month beyond the month in which the change is reported, act on the change

according to DSSM 9085.3 and 9085.4. If DSS fails to take action on a change within the time limits specified in DSSM 9085.3, restore the lost benefits.

PA households have the same reporting requirements as any other food stamp household and shall use the change report form. PA households who report changes to their workers for PA purposes will be considered to have reported the change for food stamp purposes as well.

### **9085.3 Processing Changes Which Increase Benefits**

[273.12(c)(1)]

For changes which result in an increase in a household's benefits, make the change effective no later than the first allotment issued ten (10) days after the date the change is reported to the Division.

For changes which produce an increase in benefits as the result of the addition of a new household member who is not a member of another certified household or as the result of a decrease of \$50 or more in the household's gross monthly income, make the change effective not later than the first allotment issued ten (10) days after the date the change is reported. These changes must take effect no later than the month following in which the change is reported.

For example, a \$30 decrease in income reported on the 15th day of May would increase the household's June allotment. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's allotment would have to be increased by July.

If the change is reported after the 20th of a month and it is too late for the Division to adjust the following monthly allotment, issue a supplement by the 10th day of the following month or, if possible, in the household's normal issuance cycle in that month. For example, a household reporting a \$100 decrease in income at any time during the month of May would have its June allotment increased. If the household reported the change after the 20th of May and it is too late to adjust the benefit normally issued on June 1, issue a supplement for the amount of the increase by June 10.

Verify changes which result in an increase in a household's benefit in accordance with the verification requirements in DSSM 9038, prior to taking action on these changes except in the case of newborn infants. When a household reports the birth of a newborn, add the newborn to the household when the baby comes home according to DSSM 2006. Allow the household ten (10) days from the date the change is reported to provide verification required by DSSM 9038. If the household provides verification within this period, take action on the changes within the timeframes specified above. The timeframes will run from the date the change was reported, not from the date of verification. If, however, the household fails to provide the required verification within ten (10) days after the change is reported but does provide the verification at a later date, then the timeframes specified in the first and second paragraphs of this section for taking action on changes will run from the date the verification is provided rather than from the date the change is reported.

In cases where DSS has determined that a household has refused to cooperate as defined in DSSM 9029, the household's eligibility will be terminated following the notice of adverse action.

### **9085.4 Decreases in Benefits**

[273.12(c)(2)]

If the household's benefit level decreases or the household becomes ineligible as a result of the change, issue a notice of adverse action (see DSSM 9006) within ten (10) days of the date the change was reported unless one of the exemptions to the notice of adverse action in DSSM 9006.3 applies. When a notice of adverse action is used, make the decrease in the benefit level effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

When a notice of adverse action is not used due to one of the exemptions in DSSM 9006.3, make the decrease effective no later than the month following the change. Verification which is required by DSSM 9032 must be obtained prior to recertification.

### **9085.5 Unclear Information**

When information about changes in a household's circumstances are unclear and DSS cannot determine the effect on the household's benefit, DSS must clarify and verify the changes as follows:

DSS must issue a written request for contact (RFC) which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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Allow the household at least ten (10) days to respond and to clarify its circumstances either by telephone or by correspondence, as directed by DSS.

If the household fails to respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, DSS will terminate the case and issue a notice of adverse action explaining the reason for the action. Inform the household that a new application must be filed if the household wishes to continue to receive benefits.

When the household responds to the RFC and provides sufficient information, process the changes according to DSSM 9085.3 and DSSM 9085.4.

**9085.6 Failure to Report**

[273.12(d)]

If a household fails to report a change as required under DSSM 9085 and, as a result, receives benefits to which it is not entitled, file a claim against the household in accordance with DSSM 7000. If the discovery is made within the certification period, the household is entitled to a notice of adverse action in advance if the household's benefits are reduced. A household is not to be held liable for a claim because of a change in household circumstances which it is not required to report. Do not terminate individuals for failure to report a change unless the individual is disqualified in accordance with the disqualification procedures specified in DSSM 2023.

**9086 Mass Changes**

[7 CFR 273.12(e)]

Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include adjustments to income eligibility standards and the shelter care deduction; adjustments to the maximum food stamp allotment and standard deduction; annual and seasonal adjustments to utility standards, periodic cost-of-living adjustments to RSDI, SSI, and other Federal benefits; periodic adjustments to TANF, RCA or GA payments; and other changes in the eligibility and benefit criteria based on legislative or regulatory changes.

See Administrative Notice:

A-15-99 October 1999 Cost of Living Adjustments

**12 DE Reg. 1329 (04/01/09)**

**9086.1 Federal Adjustments to Eligibility Standards, Allotments, Deductions and State Adjustments to Utility Standards**

DSS will implement these changes for all households at a specific point in time. Adjustments to Federal standards shall be implemented prospectively regardless of the household's budgeting system. Annual and seasonal adjustments in State utility standards shall also be implemented prospectively for all households.

Although notices of adverse action are not required for such changes [see DSSM 9006.3(1)], individual notices may be sent and the various changes will be publicized through the news media, at issuance offices and at other sites.

Households whose certification periods overlap a seasonal variation in the utility standard will be advised at the time of initial certification of when the adjustment will occur and what the variation in the benefit level will be, if known.

**9086.2 Mass Changes in Public Assistance**

If the Division makes mass changes to public assistance grants and has at least 30 days advance knowledge of the amount of the public assistance adjustment, food stamp benefits will be recomputed to be effective in the same month as the public assistance (TANF, RCA or GA) change, or, if the Division does not have at least 30 days advance knowledge, the food stamp change will be effective not later than the month following the month in which the public assistance change was made.

**9086.3 Mass Changes in Federal Benefits**

Monthly reporting households must report the change on the appropriate monthly report, but are not required to report these types of changes outside the monthly report. Handle the information provided on the report in accordance with normal procedures. Households not subject to monthly reporting are not responsible for reporting these changes.

### **9087 Notices for Mass Changes**

[273.12(e)(4)]

When DSS effects a mass change, all households whose benefits are reduced or terminated (unless the action is the result of an adjustment to a Federal benefit) must be notified.

The household must be notified by the date it is scheduled to receive the changed allotment. However, the notice should be given as much before the household's scheduled issuance date as reasonably possible, but not earlier than the time required for advance notice of adverse action.

At a minimum, DSS must inform the household of:

The general nature of the change;

Examples of the changes effect on the household's allotment;

The month in which the change will take effect;

The household's right to a fair hearing;

The household's right to continue benefits and under what circumstances benefits will continue pending a fair hearing;

The liability the household will incur for any overissued benefits if the fair hearing decision is adverse.

### **9088 Continuation of Benefits**

[273.12(e)(6)]

A household requesting a fair hearing due to a mass change is entitled to continued benefits at its previous level only if it meets three criteria:

1) The household does not specifically waive its right to a continuation of benefits;

2) The household requests a fair hearing in accordance with DSSM 9006; and

3) The household's fair hearing is based upon improper computation of food stamp eligibility or benefits or upon misapplication or misinterpretation of Federal law or regulation.

### **9089 TANF, RCA and/or GA Food Stamp Households**

[273.12(f)]

TANF, RCA and/or GA households have the same reporting requirements as any other food stamp households. Whenever an TANF, RCA and/or GA household reports a change, adjustments must be made in the household's eligibility status or allotment for the months determined appropriate given the household's budgeting cycle.

Notify households whenever their benefits are altered as a result of changes in the TANF, RCA and/or GA benefits. If the TANF, RCA and/or GA benefits are terminated but the household is still eligible for food stamp benefits, advise household members of food stamp work registration requirements, if applicable, as their Food Stamp Employment and Training registration exemption no longer applies.

Whenever a change results in the reduction or termination of a household's TANF, RCA and/or GA benefits within its food stamp certification period, and DSS has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, take the following actions:

If a change in household circumstances requires both reduction or termination in the TANF, RCA and/or GA payment and a reduction or termination in food stamp benefits, issue a single notice of adverse action for both the TANF, RCA and/or GA and food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, continue the household's food stamp benefit on the basis authorized immediately prior to sending the notice. If the fair hearing is requested for both programs' benefits, conduct the hearing according to TANF, RCA and/or GA procedures and timeliness standards. The household must reapply for food stamp benefits if the food stamp certification period expires

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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before the fair hearing process is completed. If the household does not appeal, make the change effective in accordance with the procedures in DSSM 9085.2.

If the household's food stamp benefits will be increased as a result of a reduction or termination of TANF, RCA and/or GA benefits, the household's food stamp benefits must continue at the previous basis. If the household does not appeal, make the change effective in accordance with the procedures specified in DSSM 9085.2, except calculate the time limits for action from the date the TANF, RCA and/or GA notice of adverse action period expires.

Whenever a change results in the termination of a household's TANF, RCA and/or GA benefits within its food stamp certification period, and DSS does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for TANF, RCA and/or GA, and DSS has no information on the income of the new household member), take the following action:

1) Where a TANF, RCA and/or GA notice of adverse action has been sent, wait until the household's notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its TANF, RCA and/or GA benefits are continued pending the appeal, the household's food stamp benefits will be continued at the same basis.

2) If an TANF, RCA and/or GA notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its TANF, RCA and/or GA benefits, send the household Form 105 requesting the verification needed to determine the household's continued food stamp eligibility. Give the household at least ten (10) days to provide the necessary verifications. Take the necessary action to adjust or terminate the food stamps based on the rules regarding processing reported changes per DSSM 9085.

**9090 Procedures for Reducing, Suspending or Canceling Food Stamp Benefits**

[271.7]; [273.10(e)(2)(vi)]

Under the Food Stamp Act of 1977, the Secretary of Agriculture may not spend more money for food stamp allotments than is appropriated by Congress. If the Secretary of Agriculture determines that there is not enough money available to provide full benefits to all certified households, USDA is required to reduce the value of the benefits issued to those households. This section establishes the procedures to be used if such an action is necessary. Such action may be a suspension or cancellation of allotments for one or more months, a reduction in allotment levels for one or more months, or a combination of these three actions. At such time as a decision is made to implement reduction, suspension, or cancellation procedures, FNS will notify DSS of the date of action and all relevant details.

**9090.1 Notification of Eligible Households**

Reductions, suspensions, and cancellations of allotments will be regarded as Federal adjustments to allotments. As such, DSS will notify households of reductions, suspensions, and cancellations of allotments in accordance with the notice provisions of DSSM 9086, except that DSS will not provide notices of adverse action to households affected by reductions, suspensions, or cancellations of allotments.

**9090.2 Restoration of Benefits**

Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a future date. However, if there is a surplus of funds as a result of the reduction or cancellation, FNS will direct DSS to provide affected households with restored benefits unless it is determined that the amount of surplus funds is too small to make this practicable.

**9090.3 Effect of Reductions, Suspensions and Cancellations on the Certification of Eligible Households**

Except as provided in DSSM 9090.4, determinations of the eligibility of applicant households will not be affected by reductions, suspensions, or cancellations of allotments. DSS will accept and process applications and determine eligibility during a month(s) in which a reduction, suspension, or cancellation is in effect. If an applicant is found to be eligible for benefits and a reduction is in effect, the amount of benefits will be calculated by reducing the maximum food stamp allotment amount by the appropriate percentage for the applicant's household size and then deducting 30 percent of the household's net food stamp income from the reduced maximum food stamp allotment amount. If the applicant is found to



be eligible for benefits while a suspension or cancellation is in effect, no benefits will be issued to the applicant until issuance is again authorized by FNS.

#### **9090.4 Expedited Service**

Households eligible to receive expedited processing who apply for program benefits during months in which reductions or suspensions are in effect, will have their cases processed in accordance with the expedited processing provisions of DSSM 9041. However, if a suspension is still in effect at the time the issuance is to be made, the issuance will be suspended until the suspension is ended. In the case of a cancellation, the deadline for completing the processing for expedited service will be five days or the end of the month of application, whichever date is later. All other rules pertaining to expedited service contained in DSSM 9041 will be applicable to these cases.

The reduction, suspension, or cancellation of allotments in a given month will have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which allotments have been reduced, suspended, or cancelled will be recertified according to the provisions of DSSM 9091. Households found eligible to participate during a month in which allotments have been reduced, suspended, or cancelled will have certification periods assigned in accordance with the provisions of DSSM 9061.

#### **9090.5 Fair Hearings**

Any household that has its allotment reduced, suspended, or cancelled as a result of an order issued by FNS in accordance with these rules may request a fair hearing if it disagrees with the action, subject to the following conditions:

- 1) DSS will not be required to hold fair hearings unless the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied or misinterpreted.
- 2) DSS will be allowed to deny fair hearings to those households who are merely disputing the fact that a reduction, suspension, or cancellation was ordered.

Since the reduction, suspension, or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to continuation of benefits pending the fair hearing. A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which DSS was directed to reduce benefits.

#### **9091 Recertification**

[273.14]

No household may participate beyond the expiration of the assigned certification period without a determination of eligibility for a new period. Households must apply for recertification and comply with the interview and verification requirements per DSSM 9030 and DSSM 9038.

The joint processing requirements in DSSM 9042 for TANF, RCA and / or General Assistance households continue to apply to applications for recertifications.

#### **9091.1 Notice of Expiration**

All households must be provided with a notice of expiration at the end of its certification prior to the start of the last month of its certification period.

When a household is certified for one month or when the certification action is not completed until the second month of a two-month certification, provide a notice of expiration at the time of certification. All other households must be provided a notice of expiration at least one day before the last month, but no earlier than the next to the last month of the certification period.

The form for notifying a household of the expiration of its certification must contain the following information:

- A) The date the current certification period ends.
- B) The date by which the household must file an application for certification to receive uninterrupted benefits.

Households certified for one month or certified in the second month of a two-month certification period shall be provided a notice of expiration at the time of certification. All other households must be provided a notice of expiration before the first day of the last month of the certification period.

The notice of expiration (Form 310) contains the following information:

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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- A. The date the current certification period ends.
- B. The date by which the household must file an application for recertification to receive uninterrupted benefits.
- C. The consequences of failure to comply with the notice of expiration,
- D. The household's right to request an application and have DSS accept an application as long as it is signed and contains a legible name and address.
- E. The household's right to file the application by mail or through an authorized representative.
- F. The address of the office where the application must be filed.
- G. The household's right to request a fair hearing.
- H. The fact that any household consisting only of SSI applicants or recipients is entitled to apply for food stamp recertification at an office of the Social Security Administration.
- I. Notice that the household must appear for any interview scheduled on or after the date the application is timely filed in order to receive uninterrupted benefits.
- J. Notice that the household is responsible for rescheduling any missed interview and for providing required verification information.

**9091.2 Application Form**

All households must complete an application form in order for DSS to obtain all information needed to determine eligibility and benefits for a new certification period. A household's signature and date is required at all recertifications regardless of the type of application used. The type of application used can be updating the online version, completing a long version hardcopy, completing the short review form, or updating an initial long version hardcopy application. The recertification process can only be used for households which apply before the end of their current certification period except for the provisions under DSSM 9091.8.

**9091.3 Interview**

A face-to-face recertification interview will be held with a member of each applying household or its authorized representative at least once every 12 months for households certified for 12 months or less. Face-to-face interviews can be waived per DSSM 9030. DSS will conduct a telephone interview or a home visit for households for whom the office interview is waived.

Schedule the Interview on or after the date the application was filed if the interview has not been previously scheduled, or the household has failed to appear for any interviews scheduled prior to this time and has requested another interview. Schedule the interview so that the household has at least ten (10) days after the interview in which to provide verification before the certification period expires. If a household misses a scheduled interview, send the household a notice of missed interview. If the household misses its scheduled interview and requests another interview, schedule a second interview.

**9091.4 Verification**

Information provided by the household shall be verified according to DSSM 9038. Inform households of what required verification must be provided and of the date by which the verifications must be returned. The household must be allowed at least ten (10) calendar days to provide required verification. Households whose eligibility is not determined by the end of the current certification period due to the time period allowed for returning verifications shall receive their benefits for the full month, if eligible, within five (5) working days after the household submits the missing verification and benefits cannot be prorated.

**9091.5 Timely Application for Recertification**

A household submitting a timely application for recertification and meeting all other processing steps in a timely manner has a right to receive uninterrupted benefits.

Households reporting required changes in circumstances that are certified for one month or certified in the second month of a two-month certification period shall have 15 days from the date the notice of expiration is received to file a timely application for recertification.

Other households reporting required changes in circumstances that submit applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification.

For households consisting only of SSI applicants or recipients who apply for food stamp recertification at SSA offices according to DSSM 9043, an application shall be considered filed for normal processing purposes when the signed application is received by the SSA office.

Households which timely reapply do not lose their right to uninterrupted benefits for failure to submit any requested verification prior to the date the household submits a timely application for recertification.

#### **9091.6 Timely Processing**

Provide uninterrupted benefits to any household determined eligible after the household has:

1. Timely filed an application,
2. Attended an interview, unless waived per DSSM 9030, and
3. Submitted all necessary verification within the ten (10) day timeframe.

Notify households that were certified for one month or certified for two months in the second month of the certification period and have met all required application procedures of their eligibility or ineligibility. Provide eligible households an opportunity to receive benefits no later than 30 calendar days after the date the household received its last allotment.

Other households that have met all application requirements shall be notified of their eligibility or ineligibility by the end of their current certification period. Provide households determined eligible an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period.

Any household not determined eligible in sufficient time to provide for issuance in that timeframe due to the time period allowed for submitting any missing verification must receive an opportunity to participate, if eligible, within five (5) working days after the household supplies the missing verification.

#### **9091.7 Delayed Processing Caused by DSS**

If an eligible household files an application before the end of the certification period but DSS does not complete the recertification process within the 30 days after the date of the application, continue to process that case and provide a full month's allotment for the first month of the new certification period.

#### **9091.8 Delayed Processing Caused by the Household**

If the household files an application by the end of the certification period, but fails to take a required action, deny the application at the end of 30 days. The household has 30 days after the end of the certification period to complete the process and have its application treated as an application for recertification.

If the household takes the required action before the end of the certification period, reopen the case and provide a full month's benefits for the initial month of the new certification period.

If the household takes the required action after the end of the certification period but within 30 days after the end of the certification period, reopen the case and provide benefits retroactive to the date the household takes the required action.

If the household files an application within 30 days after the end of the certification period, the application shall be considered an application for recertification. Prorate benefits from the date of the application. If a household's application for recertification is delayed beyond the first of the month of a new certification period due to agency error, prorate the benefits from the date of the new application and then restore benefits back to the date the household's certification period should have started if not for the agency error.

#### **9091.9 Expedited Service for Recertification**

Do not apply expedited service provisions of DSSM 9041 to households which apply for recertification before the end of its current certification period.

#### **9092 Simplified Food Stamp Program – Work For Your Welfare**

DSS was approved by Food and Nutrition Service, under the United States Department of Agriculture, to operate a Simplified Food Stamp Program (SFSP). The SFSP permits a state to substitute certain TANF and RCA rules and procedures for food stamp rules. Delaware's SFSP component is the Work For Your Welfare program rules.

## TITLE 16 HEALTH AND SAFETY DELAWARE ADMINISTRATIVE CODE

Households in which all members, or one or more members, receive TANF or RCA may participate in the SFSP. Non-Public Assistance (NPA) households will not participate in the SFSP.

The SFSP will follow all the regular food stamp rules for determining eligibility and certifying households. Under the SFSP, the changes in the food stamps rules that will affect Work For Your Welfare TANF or RCA households who receive food stamps are:

- replacing food stamp Work For Your Welfare penalties with the TANF or RCA Workfare program requirements and penalties, and
- replacing food stamp work exemptions with TANF or RCA exemptions.

The three TANF or RCA work exemptions are:

- a) A single, custodial parent caring for a child under 12 months of age; or
- b) An individual determined unemployable by a health care professional; or
- c) A parent caring for a disabled family member in the home who does not attend school full time.

The SFSP allows Delaware to require single, custodial parents who are receiving TANF or RCA and caring for children age 12 months and older to participate in Work For Your Welfare. The SFSP also allows Delaware to use the food stamp allotment along with the TANF or RCA grant to determine the number of hours of Work For Your Welfare participation.

### DELAWARE'S WORK FOR YOUR WELFARE PROGRAM

Work for Your Welfare is defined as a work experience program in which participants work to earn their benefits. Those in Workfare must participate for a predetermined number of hours each week.

Required Hours of Participation:

One-parent households will be required to work the maximum participation hours of 30 hours per week.

Two-parent households will be required to work the maximum participation hours of 35 hours per week. If the household receives subsidized childcare assistance, the maximum participation hours increase to 55 hours per week.

Determine the required hours of work experience participation:

1. The pre-sanctioned TANF grant is divided by the current state minimum wage, and the result is rounded down.
2. The food stamp allotment is divided by the current state minimum wage, and the result is rounded down.
3. The two results (#1 and #2), added together, are the maximum monthly number of hours for which the family/household is required to participate in work experience. The family/household may have to participate in other activities to the maximum hours of participation.
4. The monthly number of hours (#3) is divided by 4.33 to get a weekly number of hours, rounded down.
5. Compare the weekly number of hours (#4) to the maximum required for a one or two-parent household. Use the lesser number for the weekly number of hours.
6. The weekly number of hours (#5) is divided by 5 to get the daily participation requirement, rounded down. (This step is needed to give the Contractor and Client an idea of how to schedule the work on a daily basis to assure that the Client is able to meet the required work experience hours of participation.)

Work For Your Welfare

If the participant does not meet the required number of work experience hours, the penalty will be the closure of the entire TANF case for a minimum of one month and a mandatory four consecutive weeks of participation.

### SUMMARY OF THE SIMPLIFIED FOOD STAMP PROGRAM:

The simplified food stamp program increases the age at which a child exempts a single, custodial parent from work requirements in Work for Your Welfare to under 12 months.

- If the participant does not meet the required number of work experience hours, the penalty will be the closure of the entire TANF case for a minimum of one month and a mandatory four consecutive weeks of participation.
- When a TANF case closes, the food stamp sanction will remain in place for one year or until the individual no longer is considered a mandatory Employment and Training participant.

**10 DE Reg. 1704 (05/01/07)**

**9093 Electronic Benefit Transfer (EBT)**

Electronic Benefit Transfer (EBT) is the method by which Delaware Department of Health and Social Services (DHSS) issues food benefits to participants. The EBT card is a plastic card called the Delaware Food First Card. The card is used with a Personal Identification Number (PIN) at grocery retailers to purchase food.

Delaware uses an EBT contractor to manage the EBT cards. Client/case file and benefit information are transmitted through an interface between the EBT contractor and the Division's data processing systems.

EBT did not change the way that eligibility determinations are made for food benefits. EBT affected the way that food benefits are delivered to participants. EBT provides greater privacy and security for those receiving food benefits.

**15 DE Reg. 1030 (01/01/12)**

**9093.1RESERVED**

**12 DE Reg. 1092 (02/01/09)**

**15 DE Reg. 1030 (01/01/12)**

**9093.2Using EBT for Food Benefits**

7 CFR 274.4

The household may use its EBT card in any grocery store, convenience store, farmers' market, etc., anywhere in the United States, authorized by FNS to accept the card. The benefits may be used the same as cash to purchase any food or food product prepared for human consumption. Households cannot use benefits to purchase alcoholic beverages, tobacco, soap and paper products, and hot foods or hot foods prepared for immediate consumption. Households can use benefits to buy seeds and plants for use in gardens to produce food for personal consumption by the eligible household.

EBT benefits are available 24 hours a day, seven days per week including weekends and holidays. DHSS issues benefits on a daily and monthly basis. DHSS issues monthly benefits on the same day each month for each household based on a staggered issuance schedule. The EBT contractor posts benefits in the household's account by 6 a.m. the day after benefits are approved in DCIS II.

There is no minimum dollar amount per transaction. There is no maximum limit on the number of transactions a household can make. Stores cannot impose transaction fees on food benefit households using their EBT card.

Households can check their food benefit account balances without making a purchase or standing in a checkout line.

Households receive printed receipts at the time of transactions.

When transacting food benefits by EBT, the household cannot receive change. When a household returns food to a store, the store will credit the household's EBT account with the amount of the refund. The household cannot receive a cash refund for returned food.

**15 DE Reg. 1030 (01/01/12)**

**9093.3Food Benefit EBT Adjustments**

7 CFR 274.2

The EBT contractor makes adjustments to EBT accounts to correct system errors. A system error is an error resulting from a malfunction at any point in the redemption process, for example, errors made at the grocery store. Adjustments are initiated by the client or store and may result in a debit or credit to the household.

DHSS will emphasize to clients that they should review their transaction slips before leaving the store. If there is a mistake, the client should discuss the problem with the store clerk or manager before leaving the store. Problems discovered later must be resolved through the EBT contractor Customer Service Unit.

Client-Initiated Adjustments

An EBT credit adjustment occurs when the EBT contractor returns benefits to a household's account after the store deducted the benefits in error.

For example, a household member uses an EBT card to purchase groceries. Due to a system error, the store debited the purchase amount from the household's EBT account twice.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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The household has 90 days from the date of the problem transaction to contact the EBT contractor Customer Service at 1-800-526-9099 and inform the customer service representative that a problem has occurred. The household will need to tell the customer service representative the date, time and location of the transaction and the amount of food benefits that were debited in error.

If the request is a legitimate request, the EBT contractor will return the funds to the household's EBT account within 10 business days from the date the household filed the report with the EBT contractor Customer Service Unit. A business day is any calendar day other than a Saturday, a Sunday or a federal holiday.

If the household's request is not legitimate, the EBT contractor will deny the credit adjustment. The household may request a fair hearing. The EBT contractor will take no action to credit the household's EBT account unless the hearing decision is in the household's favor.

**Retailer-Initiated Adjustments**

A retailer-initiated adjustment occurs when the retailer does not receive a credit for an EBT purchase amount when the household made the purchase. The store needs the adjustment to get credit for the purchase made by the household.

For example, a household uses the EBT card to purchase \$200 worth of groceries. The credit to the store's account does not go through and the \$200 remains in the household's account.

DHSS must act upon all adjustments to debit a household's account no later than 10 business days from the date the error occurred, by placing a hold on the adjusted amount in the household's account. If there are insufficient benefits to cover the entire adjustment, DHSS will place a hold on any remaining balance that exists and the whole amount will be debited from the household's account when the next month's benefits become available.

DHSS will send an adequate notice as defined in DSSM 9094 to the household informing it of the account adjustment. The household has 90 days from the date of the notice to request a fair hearing.

If the household disputes the adjustment and requests a hearing within 10 days of the notice, DHSS will make a provisional credit to the household's account by releasing the hold on the adjustment balance within 48 hours of the request by the household, pending resolution of the fair hearing. If the household does not request for a hearing within 10 days of the notice, DHSS will release the hold on the adjustment balance, and credit this amount to the retailer's account.

**15 DE Reg. 1030 (01/01/12)**

**9093.4Account Balances**

An EBT food benefit account does not close when a food benefit DCIS case closes. The former recipient remains entitled to the account balance. As long as benefits remain in the EBT food benefit account, the former recipient may have cards issued or reissued and be able to select or change PINs.

**15 DE Reg. 1030 (01/01/12)**

**9093.5Manual Transactions**

7 CFR 274.8(d)

Sometimes circumstances cause the client or store clerk to enter the transaction manually instead of swiping the EBT card through the POS machine. This happens when the card's magnetic stripe becomes scratched, worn or demagnetized.

Until the client can get a new card issued, the client can still use the card at a retailer. The clerk keys the card number in manually to complete the transaction. Only the client should enter his/her PIN. The client should never reveal the PIN to a store clerk when entering a manual transaction.

**15 DE Reg. 1030 (01/01/12)**

**9093.6Manual Vouchers**

7 CFR 274.8(d)

Retailers use a manual voucher process when the EBT contractor system or the terminals are not working and cannot accept the EBT card for a food benefit purchase. Retailers do not have to use the manual process, but most will not turn away a sale.

Retailers that do not have POS terminals, for example, farmers' markets and street or route vendors also use manual vouchers.

The manual voucher is a paper form on which the retailer writes the card number, the cardholder's name, the store FNS number, and the dollar amount of the sale. The client must sign the voucher. The retailer must call in manual vouchers to the EBT contractor to get an authorization for the amount of the transaction. The retailer calls in to make sure that the money is in the client's account. If the client has enough funds in the account to cover the transaction, the retailer subtracts the whole amount of the transaction from the client's account.

Retailers use manual vouchers when the EBT contractor system is down. Since the retailer cannot confirm whether the client has an available balance, the client is limited to a \$40.00 purchase.

**15 DE Reg. 1030 (01/01/12)**

### **9093.7EBT & Timely Application Processing**

7 CFR 274.2(b)

DHSS must provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but no later than 30 calendar days following the date the household filed the application. With EBT, FNS has issued guidelines saying that the opportunity to participate is the date the money is posted to the account **plus** two days when mailing the EBT card. DHSS mails most EBT cards. Clients may pick up a card at the local office after notifying the worker not to have the card mailed. To avoid these timeliness errors, staff will need to take the action to approve a case on or before the 26<sup>th</sup> day at the latest.

When it is not possible to process the case on or before the 28<sup>th</sup> day because the client did not turn in the verifications or worker time constraints, document the case record. The error may still count but the explanation will be there.

**15 DE Reg. 1030 (01/01/12)**

### **9093.8EBT Benefits and Claim Issues**

When the EBT contractor posts the EBT benefits to the household's account, the household is considered in receipt of those benefits. If the household receives benefits it was not entitled to, DHSS/ARMS will establish a claim. DHSS/ARMS establishes a claim even if the household has not used the benefits in the EBT account. As long as the benefits are in the account, the household has access to those benefits and owes the State the amount of the claim.

ARMS must allow a household to pay its claim using benefits from its EBT benefit account according to DSSM 7004.3.

Benefits not used for 230 days are stale and ARMS can use the stale benefits to credit a household's claim with the consent of the household.

The EBT contractor will expunge benefits not used for 365 days from the household's account and credit the amount to a household's outstanding claim.

**12 DE Reg. 1092 (02/01/09)**

**15 DE Reg. 1030 (01/01/12)**

### **9093.9Aging Periods and Expungement Process**

7 CFR 274.2(h)(2)

Benefits remain available to the household for 365 days from the date of availability. The EBT contractor sends reports to DHSS that show accounts with no activity. The EBT contractor provides DHSS with a report for the following periods of time:

- Period 1: 60 days
- Period 2: 90 days
- Period 3: 230 days
- Period 4: 365 days

A household will get a notice at Periods 1, 2 and 3 if the household has not used benefits for 60, 90 or 230 days. Stale benefits are benefits not used by these time periods. The notice will tell the household the following information:

- The account has not been used in the past 60, 90 or 230 days

## TITLE 16 HEALTH AND SAFETY

### DELAWARE ADMINISTRATIVE CODE

- To call the EBT contractor customer service unit to get the balance on the account
- Stale food benefits not used for 230 days can be applied to any existing claim with the client's permission
- Food benefits that are not used by day 365 will be removed from the account forever
- Food benefits removed from the account on day 365 will be applied to any remaining food benefit claim

On day 230, DHSS will generate notices to clients with outstanding claims. The notice tells the household that ARMS will apply benefits not used for 230 days to the outstanding claim unless the household contacts ARMS within 10 days.

On day 250, households that do not contact ARMS to stop the repayment will have their stale benefits applied to the outstanding claim. On day 365, the EBT contractor system will expunge (remove from the account) any remaining stale benefits and send DHSS a report of those benefits expunged.

DCIS II and ARMS accounting systems will credit any expunged benefits to household accounts with an outstanding claim. ARMS and the Payments Unit will receive a report of benefits posted to household's claims so ARMS can update the benefit recovery screens. ARMS will send the client a credit slip indicating the credit made on his or her claim and the existing balance.

**12 DE Reg. 1092 (02/01/09)**

**15 DE Reg. 1030 (01/01/12)**

#### 9093.10 Replacement of EBT Benefits

Please refer to DSSM 9079 for Replacing Food Benefits Issued by Electronic Benefits Transfer (EBT).

**9 DE Reg. 235 (8/1/05)**

#### 9094 Definitions

7 CFR 271.2

**"Able-bodied Adults Without Dependent Children (ABAWD)"** - Individuals without children in their FSP household who must work and/or comply with certain work requirements for 20 hours a week in order to get food benefits.

**"Adequate notice"** - A written notice that includes:

- A. A statement of the action the agency has taken or intends to take.
- B. The reason for the intended action.
- C. The household's right to request a fair hearing.
- D. The name of the person to contact for additional information.
- E. The availability of continued benefits.

F. The liability of the household for any over issuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household.

**"Administrative Terminal"** - The EBT contractor system through which DHSS staff can obtain EBT card and account information.

**"Alien Status Verification Index (ASVI)"** - The automated database used by States to verify immigration statuses from the Immigration and Naturalization Service (INS).

**"Allotment"** - The total dollar value of food benefits a household receives each month.

**"Application"** - The form completed by a household member or authorized representative to apply for food benefits, cash assistance, child care or medical assistance programs.

**"ASSIST"** - Delaware's electronic application. The acronym stands for Application for Social Services and Internet Screening Tool.

**"Authorized Representative"** - An individual the household authorizes to act on behalf of the household in the application process, in obtaining food benefits, and in using the EBT card. This individual has access to the household's EBT benefit account. This individual can be a non-household member or a household member, like a spouse, who is a secondary cardholder.

**"Benefit Status"** - A code that indicates the status of the benefit in the Administrative Terminal.

**"Boarders"** - Individuals or groups of individuals residing with others and paying reasonable compensation to the others for lodging and meals.



**"Card Number"** - The card number is on the front of the EBT card. The first six digits are the same for all of Delaware's cards. This number is called the Primary Account Number (PAN).

**"Card Status"** - An EBT card may be active or inactive. The card status for a replacement card can indicate stolen, lost, payee changed, name changed, damaged, undelivered, deactivated/cancelled or bad address.

**"Categorically Eligible Household"** - Any household where all members receive or are authorized to receive TANF/GA/RCA and/or SSI benefits, or the household income is at or under 200% of the FPL for their household size. The household is considered categorically eligible for food benefits. These households meet the resource test.

**"Certification period"** - The period of time in which a household is eligible to receive benefits.

**"Claim"** - The amount owed due to an over-issuance of food benefits.

**"Date Available"** - Benefits are available at 6:00 a.m. on the date specified in the Administrative Terminal. Regular monthly food benefits are available according to a seven day staggered schedule based on the case head's last name. Benefits start staggering on the fifth calendar day of each month.

**"Date of Admission"** - The date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

**"Date of Entry"** - The date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

**"Deeming"** - Using a portion of an ineligible household member's income or resources for the remaining household members.

**"Destitute Households"** - Migrant or seasonal farm worker households that have little or no income at the time of application and are in need of immediate food assistance.

**"Disaster (for Assistance)"** - A major disaster is any natural catastrophe such as a hurricane or drought, fire, flood, or explosion, which the President declares the severity and magnitude warrants disaster assistance.

**"Drug addiction or alcoholic treatment and rehabilitation program"** means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center, licensed by DHSS.

**"EBT Contractor Customer Support"** - The Customer Support Unit receives phone calls from participants to check balances, report lost or stolen cards, report problems with a retailer, and request new PINs. The CSU number is 1-800-526-9099.

**"Elderly [member] or [disabled] member with a disability"** - A member of a household who:

- A. Is 60 years of age or older[.]
- B. Receives Supplemental Security Income (SSI) benefits under title XVI of the Social Security Act or disability or blindness payments under titles I, II, X, XIV, or XVI of the Social Security Act.
- C. Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act.
- D. Receives federally or State-administered supplemental benefits under section 212(a) of Pub. L. 93-66.
- E. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act.
- F. Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under title 38 of the United States Code.
- G. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code.
- H. Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under title 38 of the United States Code.
- I. Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38 of the United States Code *and* has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them.
- J. Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 *and* is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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Retirement Act of 1974 and is determined to be disabled based upon the criteria used under title XVI of the Social Security Act.

K. Is a recipient of interim assistance benefits pending the receipt of Supplemental Security Income, a recipient of disability related medical assistance under title XIX of the Social Security Act, or a recipient of disability-based State general assistance benefits *provided* that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under title XVI of the Social Security Act (as set forth at 20 CFR part 416, subpart I, Determining Disability and Blindness as defined in Title XVI).

**“Electronic Benefit Transfer (EBT)”** - The method used for issuing and accessing FSP benefits through the use of a card similar to a debit card.

**“Eligible foods”** mean:

A. Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption.

B. Seeds and plants to grow foods for the personal consumption of eligible households.

C. Meals prepared and delivered by an authorized meal delivery service to households eligible to use EBT benefits to purchase delivered meals; or meals served by an authorized communal dining facility for the elderly, for SSI households or both, to households eligible to use EBT benefits for communal dining.

D. Meals prepared and served by a drug addiction or alcoholic treatment and rehabilitation center to narcotic addicts or alcoholics and their children who live with them.

E. Meals prepared and served by a group living arrangement facility to residents who are blind or disabled as defined under Elderly member or member with a disability.

F. Meals prepared by and served by a shelter for battered women and children to its eligible residents.

G. Meals prepared for and served by an authorized public or private nonprofit establishment (e.g., soup kitchen, temporary shelter) that feeds homeless persons.

**“Emergency (for Federal Assistance)”** - An emergency is any occasion when the President determines that Federal assistance is needed to supplant State and local efforts to save lives, protect property, assure public health and safety, or to lessen the threat of a catastrophe.

**“Expedited Service”** - Food benefits must be available to the household no later than the seventh calendar day following the date an applicant files an application.

**“Expunged Benefits”** Benefits in client accounts not used for 365 days that are removed from the account forever.

**“Filing Date”** - The date DHSS receives the application form as long as the form contains the applicant's name and address, and the signature of a responsible household member or the household's representative, a signed Request for Assistance, or an application from ASSIST.

**“FNS”** - The Food and Nutrition Service of the U.S. Department of Agriculture.

**“FNS Number”** - A unique number assigned to retailers by FNS indicating that the retailer is eligible to accept FSP benefits.

**“Group Living Arrangement”** - A public or private nonprofit residential setting, certified by the State, which serves no more than sixteen residents. To be eligible for food benefits, a resident of such a group living arrangement must be blind or disabled as defined under Elderly member or member with a disability.

**“Head of Household”** - The individual who is an adult parent of children of any age selected by the household or the principal wage earner if selected by DHSS.

**“Hold Amount”** - When an EBT manual voucher transaction is used, the retailer obtains an authorization number from the EBT contractor. The EBT contractor puts a hold on the participant's food benefit account. Once an accept reason is assigned to the voucher, the hold amount is deducted from the participant's benefit balance and this field becomes blank.

**“Homeless”** - An individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

A. A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter).

B. A halfway house or similar institution that provides temporary residence for individuals who would otherwise reside in an institution.

C. A temporary accommodation for not more than 90 days in the residence of another individual.

D. A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

**“Homeless Meal Provider”** - A public or private nonprofit establishment (e.g., soup kitchens, temporary shelters) that feeds homeless persons.

**“Ineligible Alien”** - An undocumented alien or a documented alien who does not meet a qualified and eligible status.

**“Intentional Program Violation (IPV)”** - Occurs when an individual breaks a FSP rule and is found guilty by a court or an administrative disqualification hearing, or signs a waiver to be disqualified to avoid prosecution.

**“Low-income Household”** - A household whose annual income does not exceed 125% of the Office of Management and Budget poverty guidelines.

**“Manual Entries”** - If an EBT card or POS machine is damaged, the card number can be keyed manually to complete the transaction.

**“Manual Voucher”** - Retailers use paper vouchers when the EBT contractor system is not available. Retailers who are not eligible to have POS terminals also use these vouchers. A voucher has a unique number, which identifies the voucher. This field is completed only if the transaction displayed in the Administrative Terminal is an off-line voucher.

**“Mass Changes”** - Certain changes initiated by the State or Federal government, which may affect the entire caseload or significant portions of the caseload such as annual cost-of-living adjustments, shelter/dependent care deduction and periodic cost-of-living adjustments to RSDI and SSI benefits.

**“Meal Delivery Service”** - A service agencies contract with for the preparation and delivery of meals at low prices to elderly persons and persons with physical or mental disabilities who are unable to adequately prepare all of their meals. An example is Meals on Wheels.

**“Minimum Benefit”** - The minimum monthly amount of food benefits that eligible one- and two-person households receive.

**“Notice of Expiration”** - A notice sent to a household at the end of its certification period notifying a household of what it needs to do to continue to get benefits.

**“Over-issuance”** - The amount of benefits a household received that exceeded the amount the household was eligible to receive.

**“PAN”** - The Primary Account Number is the 16-digit number on the EBT card, also called the card number.

**“PIN (Personal Identification Number)”** - A four digit secret code that allows the user to access benefits when using the EBT card. No one can use the card but the participant as long as the participant does not give the PIN to anyone.

**“PIN Info”** - The Card Maintenance screen in the Administrative Terminal displays whether or not the household selected a PIN and the method of selection. Yes, means a household selected a PIN. Fails is the number of times the PIN entered has failed that day. Chg Count is the number of times the household changed the PIN. Method is how the household selected the PIN.

**“Point-of-Sale (POS) Terminal”** - The device a participant uses to make transactions at the stores. The POS machine reads the card and allows the participant to buy food with the food benefits.

**“Prospective Budgeting”** - The computation of a household's food benefit for an issuance month based on an estimate of income and circumstances which will exist in that month.

**“Quality Control Review”** - A review of a statistically valid sample of active and negative cases to determine the extent to which households are receiving the food benefit allotments to which they are entitled, and to determine the extent to which decisions to deny, suspend, or terminate cases are correct.

**“Recertification”** - A review conducted at the end of a person's certification period that requires an application, interview and verification of current circumstances.

**“Residents of Institution”** - An individual who resides in an institution where the institution provides him or her with the majority of his or her meals (over 50% of three meals daily) as part of the institution's normal services.

**“Riverside Rule”** - A rule that requires states to keep food benefits at the same level when a household's TANF/RCA benefits have been reduced or terminated due to the household's failure to perform an action required under the TANF/RCA program or fraud.

**“Shelter for Battered Women and Children”** - A public or private nonprofit residential facility that serves battered women and their children.

**“Simplified FSP (SFSP)”** - A program that permits a state to substitute certain FSP rules with TANF and RCA rules and procedures.

**“Simplified Reporting”** - The only reporting requirement for households is when their income exceeds the 130% FPL threshold for the household size established at the time of intake or recertification.

**“Sponsored alien”** - An alien for whom a person has executed an affidavit of support [INS Form I-864 or I-864A] on behalf of the alien according to section 213A of the INA.

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**TITLE 16 HEALTH AND SAFETY**  
**DELAWARE ADMINISTRATIVE CODE**

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**"Sponsor"** - A person who executed an affidavit(s) of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.

**"Spouse"** - Refers to either of two individuals:

1. Those defined as married to each other under applicable State law.
2. Those living together and representing themselves as married to relatives, friends, neighbors, or employers.

**"Stale Benefits"** - Benefits not used by a household within 60, 90 or 230 days.

**"State Income and Eligibility Verification System (IEVS)"** - A system of information acquisition and exchange for purposes of income and eligibility verification that meets the requirements of section 1137 of the Social Security Act, generally referred to as the IEVS.

**"Supplemental Nutrition Assistance Program (SNAP)"** - The Federal name for the former Food Stamp Program.

**"Supplemental Security Income (SSI)"** - A means-tested monthly cash payment made under the authority of the Social Security Act for individuals who are aged, blind or have a disability.

**"Systematic Alien Verification for Entitlements (SAVE)"** - The INS program whereby State agencies may verify the validity of documents provided by aliens applying for food benefits by obtaining information from a central data file.

**"Thrifty Food Plan"** - The diet required to feed a family of four persons consisting of a man and a woman 20 through 50, a child 6 through 8, and a child 9 through 11 years of age, determined in accordance with the USDA Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition. In order to develop maximum food stamp allotments, the Secretary shall make household size and other adjustments in the Thrifty Food Plan taking into account economies of scale and other adjustments as required by law.

**"Trafficking"** - The buying or selling of food benefits for cash or consideration other than eligible food or the exchange of firearms, ammunition, explosives, or controlled substances.

**"Under-issuance"** - An amount of benefit that the household was entitled to receive that was less than the benefit the household actually received.

**"Verification"** - The use of third party information or documentation to establish the accuracy of statements on the application.

**"Work for Your Welfare"** - A work experience program in which participants work to earn their benefits.

**11 DE Reg. 1243 (03/01/08)**

**13 DE Reg. 1336 (04/01/10)**

**15 DE Reg. 1030 (01/01/12)**

## **9095 Establishing Claims Against FSP Households**

[7 CFR 273.18]

**13 DE Reg. 1462 (05/01/10)**

### **9095.1 General Information**

A) A recipient claim is an amount owed due to:

1. Overpaid benefits or
2. Trafficked benefits.

Trafficking means the buying or selling of FSP EBT benefits for cash, other consideration other than eligible food, or the exchange of FSP EBT benefits for firearms, ammunition, explosives or controlled substances.

B) A claim is a Federal debt subject to this and other regulations governing Federal debts. Delaware Health and Social Services (DHSS) will establish and collect any claim by following these regulations.

C) The following individuals are responsible for paying a claim:

1. Each person who was an adult member of a household when the overpayment or trafficking occurred;
2. A sponsor of an alien household member if the sponsor is at fault; or
3. A person connected to the household, such as an authorized representative, who actually traffics or otherwise causes an overpayment or trafficking.

**13 DE Reg. 1462 (05/01/10)**

**9095.2 Types of Claims**

There are three types of claims:

- |   |  |
|---|--|
| An . . .                                      | is . . .   |
| (1) Intentional Program violation (IPV) claim | any claim for an overpayment or trafficking resulting from an individual committing an IPV, which is when an individual breaks a FSP rule and is found guilty by a court or an administrative disqualification hearing, or signs a waiver to be disqualified to avoid prosecution. |
| (2) Inadvertent household error (IHE) claim   | any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.   |
| (3) Agency error (AE) claim                   | any claim for an overpayment caused by an action or failure to take action by the Division of Social Services (DSS).   |

**13 DE Reg. 1462 (05/01/10)**

**9095.3 Calculating the Claim Amount**

A. Claims not related to trafficking:

(i) DHSS/DSS		
must calculate a claim . . . back to at least twelve months prior to when DHSS/DSS becomes aware of the overpayment	and . . . for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred	and . . . for all claims, DHSS/DSS will not include any amounts that occurred more than six years before DHSS/DSS became aware of the overpayment.
(ii) The actual steps for calculating a claim are		
DHSS/DSS will . . .	unless . . .	then . . .
(1) determine the correct amount of benefits for each month that a household received an overpayment		
(2) not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim	the claim is an AE claim	DHSS/DSS will apply the earned income deduction.
(3) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment	this answer is zero or negative	DHSS/DSS will dispose of the claim referral.
(4) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account according to DSSM 9093. The difference is the amount of the claim	there were no expunged benefits	the amount of the overpayment calculated in #3 of this section is the amount of the claim.

B) Trafficking-related claims:

Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

1. The individual's admission;

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

2. Adjudication; or
3. The documentation used for the trafficking determination.

**13 DE Reg. 1462 (05/01/10)**

**9095.4 Claim Referral Management**

DHSS/DSS	
must . . .	and . . .
establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered	ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this time frame.

**13 DE Reg. 1462 (05/01/10)**

**9095.5 Initiating Collection Action and Managing Claims**

- A. Initiate collection action on all claims unless the condition under "B" of this section applies.
- B. Do not establish and subsequently collect an overpayment that is not cost effective.

Follow the FNS threshold as follows:

DHSS/DSS will		
opt not to establish any claim if . . .	unless . . .	or . . .
DHSS/DSS determines that the claim referral is \$125 or less	the household is currently participating in the FSP	DHSS/DSS already established the claim or discovered the overpayment in a Quality Control review.

**13 DE Reg. 1462 (05/01/10)**

**9095.6 Notification of Claim**

- A. Mail written notification to begin collection action on any claim.
- B. Consider the claim established for tracking purposes as of the date of the initial demand letter or written notification.
- C. Provide the household with a one-time notice of adverse action when claims or the amounts of claims are not established at a hearing.
- D. The demand letter/claim packet includes language stating:
  1. The amount of the claim,
  2. The intent to collect from all adults in the household when the overpayment occurred,
  3. The type (IPV, IHE, AE) and reason for the claim,
  4. The time period associated with the claim,
  5. How the claim was calculated,
  6. The phone number to call for more information about the claim,
  7. Delinquent claims are sent to other collection agencies, who will use various collection methods to collect the claim,
  8. The opportunity to inspect and copy records related to the claim,

- 9. The opportunity to request a fair hearing within 90 days on the decision related to the claim unless the amount of the claim was established at a hearing,
  - 10. Refer delinquent claims to the Federal government for federal collection action,
  - 11. The household can make a written agreement to repay the amount of the claim prior to it being referred for federal collection action,
  - 12. The household may be subject to additional processing charges if the claim becomes delinquent,
  - 13. The State agency may reduce any part of the claim if the agency believes that the household is not able to repay the claim,
  - 14. A due date or time frame to either repay or make arrangements to repay the claim, unless the State agency imposes an allotment reduction, and
  - 15. The percentage used and the effective date when DHSS imposes an allotment reduction.
- E. The due date or period for repayment will be no later than 30 days after the date of the initial demand letter.
  - F. Sending subsequent demand letters or notices is optional.

**13 DE Reg. 1462 (05/01/10)**

#### **9095.7 Repayment Agreements**

- A. Repayment agreements will contain due dates or periods for the periodic submission of payments.
- B. The agreement will specify that the household is subject to involuntary collection action(s) if DHSS does not receive the payment by the due date and the claim becomes delinquent.

**13 DE Reg. 1462 (05/01/10)**

#### **9095.8 Determining Delinquency**

- A. Consider a claim delinquent if:
  - 1. The claim has not been paid by the due date and a satisfactory payment arrangement has not been made; or
  - 2. The household established a payment arrangement and fails to make a scheduled payment by the due date.
- B. The date of delinquency for a claim under #1 above is the due date on the initial written notification/ demand letter. The claim will remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is invoked.
- C. The date of delinquency for a claim under #2 above is the due date of the missed installment payment. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or DHSS determines to either resume or re-negotiate the repayment schedule.
- D. A claim is not considered delinquent if another claim for the same household is currently being paid either through an installment agreement or allotment reduction or DHSS expects to begin collection on the claim once the prior claim(s) is settled.
- E. A claim is not subject to the requirements for delinquent debts if DHSS is unable to determine delinquency status because collection is coordinated through the court system.

**13 DE Reg. 1462 (05/01/10)**

#### **9095.9 Fair Hearings and Claims**

- A. A claim awaiting a fair hearing decision is not considered delinquent.
- B. Re-notify the household of the claim if the hearing official determines that a claim does exist against the household.  
Base delinquency on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household.
- C. Dispose of the claim in accordance with DSSM 9095.11 if the hearing official determines that a claim does not exist.

**13 DE Reg. 1462 (05/01/10)**

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

**9095.10 Compromising Claims**

- A. Compromise a claim or any portion of a claim if it can be reasonably determined that a household cannot pay the claim in 36 months. DHSS will compromise the claim by reducing it to an amount that allows the household to make restitution within three years.
- B. Use the full amount of the claim (including any amount compromised) to offset benefits in accordance with DSSM 9011.
- C. Reinstate any compromised portion of a claim if the claim becomes delinquent.

**13 DE Reg. 1462 (05/01/10)**

**9095.11 Terminating and Writing-off Claims**

- A. Terminate a claim when all collection action has ceased.
- B. Write off a claim when DHSS determines that continued Federal and State agency collection and reporting requirements will not pay off the claim.
- C. Terminate claims as follows:

<b>If . . .</b>	<b>Then DHSS . . .</b>	<b>Unless . . .</b>
(1) the claim is found invalid	must discharge the claim and reflect the event as a balance adjustment rather than a termination	it is appropriate to pursue the overpayment as a different type of claim (e.g., as an IHE rather than an IPV claim).
(2) all adult household members have died	must terminate and write-off the claim	DHSS plans to pursue the claim against the estate.
(3) the claim balance is \$25 or less and the claim has been delinquent for 90 days or more	must terminate and write-off the claim	other claims exist against this household resulting in an aggregate claim total of greater than \$25.
(4) it is determined not cost effective to pursue the claim any further	must terminate and write-off the claim	FNS has not approved DHSS cost-effectiveness criteria.
(5) the claim is delinquent for three years or more	must terminate and write-off the claim	DHSS plans to continue to pursue the claim through Treasury's Offset Program.
(6) DHSS cannot locate the household	may terminate and write-off the claim	
(7) a new collection method or specific event (such as a lottery win) substantially increases the likelihood of further collections	DHSS may reinstate a terminated and written-off claim	DHSS decides not to pursue this option.

**13 DE Reg. 1462 (05/01/10)**

**9095.12 Acceptable Forms of Payment**

- A. Reducing benefits prior to issuance that includes allotment reduction and offsets to restored benefits.
- B. Reducing benefits after issuance from electronic benefit transfer (EBT) accounts.
- C. Accepting cash or any of its generally accepted equivalents, which include checks, money orders, and credit/debit cards.
- D. Conducting offsets and intercepts, which include, but are not limited to, wage garnishments and intercepts of various State payments. (Consider these collections as "cash" for FNS claim accounting and reporting purposes.)
- E. Requiring the household to perform public service that is ordered by a court and specifically in lieu of paying any claim.
- F. Participating in the Treasury collection programs.



13 DE Reg. 1462 (05/01/10)

**9095.13 Collection Methods**

A. Allotment reduction as follows:

DHSS must . . .	Unless . . .
(1) Automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives	the claim is being collected at regular intervals at a higher amount.
(2) For an IPV claim, limit the amount reduced to the greater of \$20 per month or 20 percent of the household's monthly allotment or entitlement	the household agrees to a higher amount.
(3) For an IHE or AE claim, limit the amount reduced to the greater of \$10 per month or 10 percent of the household's monthly allotment	the household agrees to a higher amount.
(4) Not reduce the initial allotment when the household is first certified	the household agrees to this reduction.
(5) Not use additional involuntary collection methods against individuals in a household that is already having its benefit reduced	the additional payment is voluntary, or the source of the payment is irregular and unexpected such as a State tax refund or lottery winnings offset.
DHSS may . . .	
(6) Collect using allotment reduction from two separate households for the same claim. However, DHSS is not required to perform this simultaneous reduction.	
(7) Continue to use any other collection method against any individual who is not a current member of the household that is undergoing allotment reduction.	

B. Benefits from EBT accounts.

Allow a household to pay its claim using benefits from its EBT benefit account.

<b>(1) For collecting from active (or reactivated) EBT benefits . . .</b>		
DHSS	or . . .	and . . .
needs written permission which may be obtained in advance and done according to the written agreement requirements below	oral permission for one time reductions with DHSS sending the household a receipt of the transaction within 10 days	the retention rules do apply to this collection.
<b>(2) For collecting from stale EBT benefits . . .</b>		
DHSS . . .	and . . .	and . . .
must mail or otherwise deliver to the household written notification that DHSS intends to apply the benefits to the outstanding claim	give the household at least 10 days to notify DHSS that it doesn't want to use these benefits to pay the claim	the retention rules apply to this collection.
<b>(3) For making an adjustment with expunged EBT benefits . . .</b>		
DHSS . . .	and . . .	and . . .

**TITLE 16 HEALTH AND SAFETY  
DELAWARE ADMINISTRATIVE CODE**

must adjust the amount of any claim by subtracting any amount expunged from the EBT benefit account	this can be done anytime	the retention rules do not apply to this adjustment.
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**WRITTEN (PERMISSION) AGREEMENT**

The written agreement with the household to collect a claim using active EBT benefits must include:

- (1) A statement that this is voluntary;
- (2) The amount of the payment;
- (3) The frequency of the payments (i.e., monthly or one time only);
- (4) The length (if any) of the agreement; and
- (5) A statement that the household may revoke the agreement at any time.

**C. Offsets to restored benefits**

Reduce any restored benefits owed to a household by the amount of any outstanding claim. This can be done at any time during the claim establishment and collection process.

**D. Lump sum payments**

Accept a full or partial payment for a claim by any of the acceptable forms of payment.

**E. Installment payments**

Accept installment payments made for a claim as part of a negotiated repayment agreement as long as the amount is not less than the amount that would be recovered through allotment reduction.

If a household fails to submit a payment in accordance with the terms of the negotiated repayment schedule, the claim becomes delinquent and is subject to additional collection actions.

**F. Public service**

The value of a claim may be paid by the household performing public service.

**G. Other collection actions**

Use any other collection actions to collect claims, such as but not limited to, referrals to collection agencies, state tax refund, lottery offsets, wage garnishments, property liens and small claims court.

**H. Unspecified joint collections**

When a household sends in a payment based on a notification of a food benefit and cash assistance claim/overpayment and does not specify what program the payment is for, each program must receive its pro rata share of the amount collected.

**13 DE Reg. 1462 (05/01/10)**

**9095.14 Refunds for Overpaid Claims**

A. Refund a household for any overpaid amounts on a claim as soon as possible after DHSS finds out about the overpayment.

B. Households are not entitled to a refund if DHSS attributes the overpaid amount to an expunged EBT benefit.

**13 DE Reg. 1462 (05/01/10)**

**9095.15 Interstate Claims Collection**

A. When a household moves out of the state of Delaware, DHSS is still responsible for initiating or continuing collection action for any overpayments, unless DHSS transfers the claim to the other state.

B. DHSS may accept a claim from another state if the household with the claim moves to Delaware. Once DHSS accepts this responsibility, the claim belongs to DHSS for future collection and reporting.

C. Report interstate transfers to FNS.

**13 DE Reg. 1462 (05/01/10)**

**9095.16 Bankruptcy**

Act on behalf of FNS in any bankruptcy proceeding against a bankrupt household with outstanding recipient FSP claims.

**13 DE Reg. 1462 (05/01/10)**

**9095.17 Retention Rates**

A. The retention rates for DHSS are as follows:

<b>If DHSS collects an . . .</b>	<b>then the retention rate is . . .</b>
(1) IPV claim	35 percent.
(2) IHE claim	20 percent.
(3) IHE claim by reducing a person's unemployment compensation benefit	35 percent.
(4) AE claim	Zero percent

B. These rates do not apply to any reduction in benefits when DHSS disqualifies someone for an IPV.

**13 DE Reg. 1462 (05/01/10)**

**9095.18 Treasury Offset Program (TOP)**

A. Add debts to TOP when they are 180 days delinquent if the debt is within the ten-year statute of limitation (unless covered by a judgment) and at least \$25.00.

Do not refer debts to TOP if:

1. under an automatic stay due to bankruptcy,
2. under litigation,
3. being collected through allotment reduction, or
4. under an approved repayment plan.

B. Non-judgment debts will remain in TOP until they reach the ten-year statute of limitations, except when DHSS can document it is not cost-effective.

Judgment debts can remain in TOP until it is no longer cost effective to retain the debt in TOP.

**13 DE Reg. 1462 (05/01/10)**