

**STATE OF RHODE ISLAND  
DEPARTMENT OF HUMAN SERVICES**

**PUBLIC NOTICE OF PROPOSED RULE-MAKING**

In accordance Rhode Island General Laws (RIGL) 42-35, notice is hereby given that the Department of Human Services proposes to amend the following DHS rule:

**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)  
SECTION 1014- SPECIAL SITUATION HOUSEHOLDS**

Proposed rule-making to SNAP Rules and Regulations incorporate the indigent immigrant exemption as codified at 8 USC 1631(e) and 421(e) of PRWORA into the SNAP program rules and regulation. Amendments revise language to allow self-declaration of indigence by an LPR immigrant whose sponsor executed an I-864 Affidavit, but the sponsored immigrant "would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the non-citizen's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor." Provisions allow for the income and resources that the sponsor and his or her spouse actually provide, if any, to the immigrant to be considered for the 12-month period beginning on the date such exemption determination is made. Suggested amendments include guidance to comply with section 421(e)(2) of PRWORA, the agency must notify the US Citizenship and Immigration Services (USCIS) of each such determination, and provide the names of the sponsor and the sponsored LPR(s) involved.

In the development of these rules, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This proposed rule is accessible on the R.I. Secretary of State website (<http://www.sec.state.ri.us/ProposedRules/>) and the DHS website ([www.dhs.gov](http://www.dhs.gov)) or available in hard copy upon request (401 462-2018 or RI Relay, dial 711). Interested persons should submit data, views or written comments by Monday, May 20, 2013 to Kimberly Merolla-Brito, Office of Policy Development, RI Department of Human Services, Louis Pasteur Building, 57 Howard Avenue Fl # 1, Cranston, RI 02920.

In Accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

The Department of Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap.

## **1014 SPECIAL SITUATION HOUSEHOLDS**

### **1014.05 TREATMENT OF SPECIAL HOUSEHOLD SITUATIONS**

REV:09/1994

This section discusses the determination of eligibility for households with special policies or procedures. The types of households and the section which outlines the policy and/or procedures are:

* Drug Addicts and Alcoholics in Treatment Programs	Section 1014.10
* Boarders as Households	Section 1014.15
* Students	Section 1014.20
* Household with Member On Strike	Section 1014.25
* Resident Farm Laborers	Section 1014.30
* Migrant Households	Section 1014.35
* School Employees	Section 1014.40
* Residents of Group Living Arrangements	Section 1014.45
* Residents of Shelters for Battered Women and Children	Section 1014.50
* Households Containing Sponsored Alien Member	Section 1014.55
* Treating Lost Income Due to Noncompliance	Section 1014.60
* Homeless <del>Food Stamp</del> SNAP Households	Section 1014.65
* Pre-release Applicants	Section 1014.70

### **1014.10 DRUG ADDICTS/ALCOHOLICS IN TREATMENT PROGRAM**

REV:09/1994

Members of eligible households, including single-person households, who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program on a non-resident basis may use coupons to purchase food prepared for them during the treatment program by a publicly operated community mental health center or private, non-profit organization or institution authorized by Food and Nutrition Service (FNS) as a retailer or

certified by the appropriate state agency, including that agency's determination that the center is a non-profit organization.

Resident members (and their children living with them) of such rehabilitation program centers may also voluntarily elect to participate in the program but must do so through an authorized representative.

Residents of treatment centers apply and are certified through the use of an authorized representative who is an employee of and designated by the publicly operated or private non-profit organization or institution that is administering the treatment and rehabilitation program. The organization or institution applies on behalf of the addict or alcoholic's household and receives and spends the coupon allotment for food prepared by and/or served to the addict or alcoholic together with her or his child(ren) who live with the individual.

## **1014.10.05            Certifying Policy**

REV:06/2001

Individuals (and their children living with them) who are residents of addict/alcoholic treatment centers must be certified using the same provisions that apply to all other applicant households except that certification is completed through use of the authorized representative as described in 1014.10.

| Prior to certifying any resident(s) for ~~food stamps~~SNAP, the agency must verify that the treatment center is authorized by FNS as a  
| retailer if the center wishes to redeem ~~food stamp~~SNAP benefits through a wholesaler or, if not authorized by FNS as a retailer, that it is under Part B of Title XIX of the Public Health Service Act (42 U.S.C., 300x et seq.) "Under Part B of Title XIX of the Public Health Service Act" is defined as meeting the criteria which would make it eligible to receive funds, even if it does not actually receive funding under Part B of Title XIX.

The room payments made to a treatment center are considered shelter costs. When a treatment center charges one fee which includes both room and board, the agency representative must obtain from the treatment center the actual room portion of the room and board fee.

### Normal Processing Standards

When normal processing standards apply, the agency representative completes the verification and documentation requirements prior to making an eligibility determination for the initial application.

### Expedited Service

For those residents of treatment centers who are entitled to expedited service, the agency representative must make benefits available through the Electronic Benefit Transfer (EBT) card no later than seven (7) calendar days following the filing date.

(See section 1016.10.15)

## Rights of Certified Residents

Resident households have the same rights to notices of adverse action, hearings, and entitlement to lost benefits as do all other ~~food stamp~~SNAP households.

## Exemption from Work Registration

As stated in 1004.25.05, regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis, are exempt from work registration requirements.

If the information is questionable, the regular participation of an addict or alcoholic in a treatment program must be verified through the organization or institution operating the program before granting the exemption. To be considered questionable, information on the application must be inconsistent with statements made by the applicant, other information on this application or previous applications or information known to or received by the agency representative prior to certification.

## **1014.10.10 Basis for Center Participation**

REV:08/1987

A drug addiction or alcoholic treatment and rehabilitation program means any drug addiction or alcoholic treatment and rehabilitation program conducted by a publicly operated community mental health center or private non-profit organization or institution under Part B of Title XIX of the Public Health Service Act (42 U.S.C., 300x et seq.) It also must be certified by the Department of Mental Health, Retardation and Hospitals (MHRH) which is responsible for the state's programs for alcoholic and drug addicts under the licensing provisions of Title XIX of the Public Health Service Act as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

If an alcoholic treatment and rehabilitation program is located in an Indian reservation and the state does not certify or license reservation-based centers, approval to participate may be granted and the program either is funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA), or was so funded and has subsequently been transferred to Indian Health Service (IHS) funding.

In addition, the certification of such programs wishing to redeem through wholesalers the ~~food stamps~~SNAP benefit received from or on behalf of their participants, may be authorized by FNS as retailers and show that the treatment program meets the standards required of treatment programs under the supervision of the Department of MHRH. Approval to participate is automatically withdrawn once a treatment and rehabilitation program no longer meets the criteria which would make it eligible for funding under Part B of Title XIX of the Public Health Service Act.

## **1014.10.15 Treatment Center Responsibilities**

REV:01/2002

Each treatment and rehabilitation center must provide the appropriate ~~Food Stamp~~SNAP Supervisor with a list of currently participating residents on a monthly basis. This list must include a statement signed by a responsible center official attesting to the validity of the list.

Once the household leaves the treatment center, the center is no longer allowed to act as the household's authorized representative.

The treatment center must provide the household, if possible, with a change report form which is used to report the household's new address and other circumstances after leaving the center.

The center must advise the household to return the form to the appropriate certification office within ten (10) days.

### **1014.10.20 Treatment Center Must Report Changes**

REV:01/2002

The treatment center must notify the agency representative, as provided in Section 1018, of changes in the household's income or other household circumstances. The treatment center must also inform the agency representative when the addict or alcoholic leaves the treatment center.

### **1014.10.30 Claims for Overissuances**

REV:01/2002

The agency establishes a claim for the overissuance of food benefits on behalf of resident clients if any overissuance is discovered during an investigation or hearing procedure for redemption violations. If FNS disqualifies an organization or institution as an authorized retail food store, the agency suspends its authorized representative status for the same period.

### **1014.10.35 Agency Review of Centers**

REV:07/1986

An agency representative should conduct periodic random on-site visits to treatment centers to assure the accuracy of the listings and that the certification agency's records are consistent and up to date.

## **1014.15 HOUSEHOLDS WITH BOARDERS**

REV:07/1986

Boarders are ineligible to participate in the ~~Food Stamp Program~~SNAP.

However, the household with whom the 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.

Boarders are not to be considered members of participant or applicant households, nor is the income and resources of boarders to be considered available to such households. However, the amount of payment which a boarder gives to a household for lodging and meals must be treated as self-employment income to the household. The procedure for handling self-employment income from boarders and income received by a household that owns and operates a commercial boarding house are set forth in Section 1016.15.50. See Section 1002.30., for the definition of a boarder, who cannot be considered a boarder and what constitutes a reasonable monthly payment.

## **1014.20           STUDENTS**

REV:07/1986

A student is defined as an individual attending any kindergarten, pre-school, grade school, high school, vocational or technical school, training program, college or university. A student must be considered by the institution as attending half-time as defined by the institution. Enrollment in a mail, self-study, or correspondence course does not qualify such person as a student.

Students under 18 years of age are granted an exemption for any income earned through employment or self-employment, except those no longer under the parental control of another household member.

### **1014.20.05           Work Registration Requirements**

REV:04/1993

Students under 18 years of age are exempt from work registration.

A student aged 18 through 49 is exempt from work registration if enrolled at least half-time in any recognized school, training program, or institution of higher education, provided that the student has met the eligibility conditions described in 1004.35.

### **1014.20.10           Sources of Student Income**

REV:07/1986

Students have unusual sources of income. Income peculiar to students includes scholarships, fellowships, educational grants, deferred payment loans, veteran's educational benefits, cash gifts or awards for educational expenses, and cash or vendor payments from parents.

Verification of the amounts received from scholarships, deferred loans or grants may be obtained directly from the agency or institution providing such monies.

### **1014.20.15           Determining Net ~~Food Stamp~~SNAP Income**

REV:07/1986

Since students as a rule have extremely uneven cash flows and have sources of income not normally available to other households, they require special procedures for the handling of income and determining eligibility. While such procedures are of primary importance in the certification of households where the student is the household head, the principles are equally applicable to households where the student is a dependent member.

Determine the monthly income for students in accordance with the procedures found in 1008.10.20.05., 1008.10.25.and 1008.10.30.

Averaging Grants, Loans & Scholarships

Households receiving scholarships, deferred educational loans or other educational grants have this income, after exclusions, averaged over the period of time for which the educational assistance is provided.

## **1014.20.20 Ineligible Students**

REV:07/1986

A student is disqualified from the ~~Food Stamp Program~~SNAP because of an intentional program violation or failure to meet the SSN requirement. A student is ineligible if s/he does not meet the criteria described in section 1002.30. In either case, the otherwise eligible household members, if any, may be certified and the income and resources of the student is treated in accordance with either Section 1016.20.05 or Section 1016.20.10.

If a household's benefits are reduced or terminated within the certification period because one of its members becomes an ineligible student, follow the procedures in Section 1016.20.15.

## **1014.25 HOUSEHOLDS WITH A MEMBER ON STRIKE**

REV:07/1986

For ~~Food Stamp Program~~SNAP purposes, a striker is any person involved in a strike or concerted work stoppage 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, must not be deemed to be a striker. Further, an individual who goes on strike and who is exempt from work registration in accordance with 1004.25.05., the day prior to the strike (other than those exempt solely on the grounds that they are employed) must 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:

- \* Employees whose work place is closed by an employer in order to resist demands of employees (e.g., a lockout);
- \* 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,

- \* Employees who are not part of the bargaining unit on strike but who do not want to cross a picket line due to fear of personal injury or death.

### **1014.25.05 Effect on Household Eligibility**

REV:07/1986

A household with a striking member is ineligible to participate in the program unless the household was eligible for benefits on the day prior to the strike and is otherwise eligible at the time of application. However, such a household must not receive an increased allotment as the result of a decrease in the income of the striking member of the household.

### **1014.25.10 Calculating the Level of Benefits**

REV:07/1986

Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike did not occur. Eligibility at the time of application must be determined by comparing the striking member's monthly income before the strike to the striking member's current monthly 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 a household subject to the net income eligibility standard), deductions must be calculated for the month of application as for any other household. Whether the striker's pre-strike earnings are used or his/her current earnings are used, the earned income deduction is allowed, if appropriate.

Vehicles normally exempt for equity value because they are used for commuting do not lose this exclusion during the strike.

### **1014.25.15 Work Registration**

REV:07/1986

A striker whose household is eligible to participate under the criteria in this section is subject to the work registration requirements in 1004.25., unless exempt under 1004.25.05., on the day of application.

### **1014.30 RESIDENT FARM LABORER HOUSEHOLDS**

REV:12/1982

Resident farm laborers are certified differently depending on their primary source of income. They are divided into laborers who work for one employer and those who work for a number of employers throughout

one year. The certification periods and eligibility determination procedures differ for each category depending on the predictability of household circumstances.

### **1014.30.05      Single Employer**

REV:03/1979

Farm laborers whose primary source of income is from regular farm employment with the same employer may be certified for periods up to one (1) year, providing that income can be readily predicted and household circumstances are not likely to change. Such households are normally employed for the entire year and receive a regular monthly salary.

The regularly employed and paid farm workers present little difficulty in assigning the predicted income over a 12-month period. Since the income is regular and should not vary from month to month, the monthly income figure may be used to determine the benefit level for the entire certification period.

### **1014.30.10      Multiple Employers and Irregular Income**

REV:03/1979

In some instances, the household is paid for work done only during the work season but resides year-round on the farm and may receive advance or deferred payments (sometimes known as furnish) during the non-work season. Where advance or deferred payments are not received, the household most likely will have income from another source and should be treated as a multiple employer household. The eligibility technician may experience some difficulty in assigning an income figure to the farm worker whose income is high during the non-work season and correspondingly low during the work season when income is only from advance or deferred payments. Since the variation in income between the two cycles may be quite substantial, averaging income over the certification period might tend to inhibit participation of such households during the non-work period of low income. Even if income is prorated unevenly over the certification period to account for such variations, the income figure assigned during the low period might not be truly representative of the actual cash available to the household. For this reason, consideration should be given to certifying the household for lesser periods to take into account the income actually available to the household.

### **1014.35            MIGRANT FARM LABORERS**

REV:03/1979

Since migrant farm laborers usually have little or no income when entering an area, they may qualify for expedited service as discussed in Section 1016.10. Also see Section 1010 for handling income and Section 1012 for certification periods.

## **1014.35.05 Resources**

REV:03/1979

Particular attention should be paid to real property in the home- base area. Each applicant household is permitted one home and lot as an exemption from resources. If the applicant has a home and lot in Texas and does not own a residence in Michigan, the Texas home will be exempted as a resource. As noted in Section 1008.20.25 shelter costs for the home when not occupied by the household because of employment may be allowed under certain circumstances. To be included in the household's shelter costs, the household must intend to return, the current occupants of the home, if any, must not be claiming the shelter costs, and the home must not be leased or rented. Verification requirements for those expenses are discussed in Section 1002.60.

Additionally, the eligibility technician should explore the possibility that out-of-State real property is being rented or is producing income in some way. If such property is producing income, such income must be added to all other household income in determining eligibility and basis of issuance.

## **1014.35.10 Work Registration**

REV:03/1979

Employable members of migrant households who are not employed at least 30 hours a week or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours must register for and accept suitable employment in the same manner as other persons.

Growers should be made aware of the fact that migrants are being registered with the employment office and that they can obtain workers there.

## **1014.35.15 Exempt Income of Child in Migrant Households**

REV:03/1979

Some problems are encountered in determining the income of migrant children under 18 years of age who are students when the household receives one payment in compensation for work performed by all household members. Since the earned income of a student under 18 years of age is exempt, the income must be differentiated from the rest of the household's income. Unless income can be identified as being earned specifically by the student, the agency representative must prorate the income equally among the number of household members working and exclude that portion allotted to the student. This provision applies to students who are currently attending school and those who plan to return to school after academic breaks. Individuals are considered children for purposes of this provision if they are under the parental control of another household member.

## **1014.40 SCHOOL EMPLOYEES**

REV:03/1979

Households that derive their annual income in a period of time shorter than one year should have that income averaged over a 12- month period, provided the income is not received on an hourly or piecework basis. This provision may include teachers and other school employees who are under a contract which is renewable on an annual basis. Such members are considered to receive compensation for an entire year even though pre-determined non- work periods are involved or actual compensation is scheduled for payment during the work periods only.

### **1014.40.05 Contract Renewal**

REV:03/1979

The renewal process may involve a signing of a new contract each year; be automatically renewable; or, as in cases of school tenure, rehire rights may be implied and thus preclude the use of a written contract altogether.

The fact that such a contract is in effect for an entire year does not necessarily mean that the contract will stipulate work every month of the year. Rather, there may be certain predictable non-work periods or vacations, such as the summer break between school years.

### **1014.40.10 Income of School Employees**

REV:03/1979

Income from such a contract is considered as compensation for a full year regardless of the frequency of compensation as stipulated in the terms of the contract, as determined at the convenience of the employer, or as determined at the wish of the employee.

The annual income household members received from contractual employment is averaged over a 12-month period to determine the member's average monthly income. To determine household eligibility, all other monthly income from other household members is added to this average monthly income, and income exclusions and deductions are applied in the normal manner. Once eligibility has been determined, the annualized income may be averaged or prorated over the 12 months before adding it to other monthly income to determine the household's basis of issuance during the certification period.

Certification periods are assigned in accordance with Section 1012.

| This paragraph does not apply to recipients of emergency ~~food stamp~~SNAP assistance; in situations where the other party to the contract cannot or will not make payments specified in the contract; or where labor disputes interrupt the flow of earnings specified in the contract.

## **1014.40.15      Work Registration**

REV:03/1979

If, during non-work periods, the person under contract receives weekly earnings at least equal to the Federal minimum wage, the individual is exempt under Section 100.25.05.

## **1014.45            RESIDENTS OF GROUP LIVING ARRANGEMENTS**

REV:04/1993

Disabled or blind (see definitions in Section 1010.30.05) residents of a group living arrangement, as defined in 1000.10.20, may voluntarily apply for the ~~Food Stamp Program~~SNAP. If these residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. If the residents apply on their own behalf, the household size is in accordance with the definition in 1002.35. The agency certifies these residents using the same provisions that apply to all other households. Prior to certifying any residents for ~~food stamps~~SNAP benefits, the agency must verify that the group living arrangement is authorized by FNS or is certified by the Department of Mental Health, Retardation and Hospitals (MHRH), including that agency's determination that the group living arrangement is a non-profit organization.

### **1014.45.05      Use of ~~Food Stamp~~SNAP Benefits**

REV:01/2002

Eligible residents of a group living arrangement, acting on their own behalf, may use benefits issued to them to purchase meals prepared especially for them at a group living arrangement if the facility is authorized by FNS for that purpose.

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 a central location as part of the group living arrangement services or if meals are prepared at a central location for delivery to the individual residents.

If residents purchase and/or prepare food for home consumption, as opposed to communal dining, the group living arrangement must ensure that each resident's ~~food stamp~~SNAP benefits are used for meals intended for that resident.

### **1014.45.10      Group Facility as Authorized Representative**

REV:07/1980

The same provisions applicable to drug and alcoholic treatment centers in Section 1014.10 also apply when a group living arrangements acts as an authorized representative. These provisions, however, are not applicable if a resident has applied on his/her own.

## **1014.45.15 Certification Policy**

REV:07/1980

The same provisions applicable in Section 1014.10.05 to residents of treatment centers also apply to blind or disabled residents of group living arrangements who receive benefits under Title II or Title XVI of the Social Security Act when the facility acts as the resident's authorized representative.

## **1014.45.20 Basis for Participation**

REV:09/1982

Any group living arrangements wishing to redeem coupons directly through wholesalers must be authorized by FNS as retail food stores. The group living arrangement must be certified by the Department of Mental Health, Retardation and Hospitals (MHRH) under regulations issued under Section 1616 (e) of the Social Security Act. Approval to participate is automatically cancelled at any time that a program loses its certification from MHRH. In such a situation, the household is not entitled to a notice of adverse action.

## **1014.45.25 Group Living Arrangement Responsibilities**

REV:01/2002

Each group living arrangement must provide the agency with a list of currently participating residents. This list must include a statement signed by a responsible official of the facility attesting to the validity of the list. The agency should require the list on a periodic basis.

### Reporting Changes

If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement must notify the agency of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.

## **1014.45.30 Resident Responsibilities**

REV:01/2002

If a resident, or a group of residents, applies on her or his own behalf, and if s/he retains use of the benefits, these individuals are entitled to the benefits when they leave.

The household is responsible for reporting the changes in household circumstances to the agency representative.

The resident applying on his/her own behalf is responsible for any overissuance in the same manner as any other household.

## **1014.45.35 Agency Review of Group Living Arrangement**

REV:09/1982

The agency will conduct periodic random on-site visits to the facility to assure the accuracy of the listings and that the agency's certification records are consistent and up-to-date.

## **1014.50 SHELTERS FOR BATTERED WOMEN AND CHILDREN**

REV:09/1982

Prior to certifying its residents, it must be determined that the shelter for battered women and children meets the definition in Section 1000.10.25. and the basis for this determination must be documented. Shelters having FNS authorization to redeem at wholesalers are considered to meet this definition and it is not required to make any further determination. Each certifying office is required to maintain a list of shelters meeting the definition to facilitate prompt certification of eligible residents.

### **1014.50.05 Special Certification Procedures**

REV:08/1985

#### \* Household Status

Many shelter residents have recently left a household containing the person who has abused them. The former household may be certified for participation in the program, and its certification may be based on a household size that includes the woman and child(ren) who have just left.

A shelter resident who is included in such a certified household may, nevertheless, apply for and (if otherwise eligible) participate in the program as a separate household if such certified household which included 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.

#### \* Income and Resources

Shelter residents who apply as separate households are certified solely on the basis of their income and resources and the expenses for which they are responsible. They are certified without regard to the income, resources and expenses of their former household.

Jointly-held resources are only considered inaccessible in accordance with Section 1006.25.

Room payments to the shelter are considered as shelter expenses.

\* Expedited Service Any shelter residents eligible for expedited service must be handled in accordance with the processing standards set forth in Section 1016.10.

### **1014.50.10 Required Action on Former Household**

REV:08/1985

The agency representative must take prompt action to ensure that the former household's eligibility or allotment reflects the change in the household's composition. Such action includes either shortening the certification period by issuing a notice of expiration to the former household of shelter residents or acting on the reported change by issuing a notice of adverse action.

### **1014.55 HOUSEHOLDS CONTAINING SPONSORED ALIEN MEMBER**

REV:04/2003

For purposes of determining the eligibility and benefit level of a household in which an eligible sponsored alien is a member, the State agency must deem the income and resources of the sponsor and the sponsor's spouse, if s/he has executed INS Form I-864 or I-864A on or after December 19, 1997, as the unearned income and resources of the legal permanent resident (LPR). The instructions for calculating the amounts of income and resources to be deemed are located in Sections 1014.55.10 and 1014.55.15.

The sponsor's income and resources shall be deemed until the LPR alien gains U. S. citizenship, has worked or can receive credit for forty (40) qualifying quarters of work covered by Title II of the Social Security Act or can be credited with such qualifying quarters under Section 435; and in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit during any such period, or s/he or the sponsor dies.

### **1014.55.10 DEEMED INCOME OF THE SPONSOR**

REV:04/2003

The monthly income of the sponsor (and sponsor's spouse) who executed INS Form I-864 or I-864A) deemed as that of the eligible sponsored alien shall be the total monthly earned and unearned income of the sponsor and sponsor's spouse at the time the household containing the sponsored alien member applies or is recertified for participation, reduced by:

- \* A twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse; and
- \* 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.

If the sponsor has signed an affidavit of support for more than one immigrant, the sponsor's income is pro-rated among the sponsored immigrants. Income is defined according to ~~Food Stamp Program~~ SNAP policy.

## **1014.55.15 DEEMED RESOURCES OF THE SPONSOR**

REV:04/2003

All but one thousand five hundred dollars (\$1,500.00) of the total resources of the sponsor (See Section 1006 for countable resources) are deemed available to the sponsored alien.

Aliens exempt from income deeming are exempt from resource deeming. (See Section 1014.55.15.05.)

### **1014.55.15.05 EXEMPTIONS FROM SPONSOR DEEMING**

REV:~~10/2003~~06/2013

The following classifications of ~~aliens non-citizens~~ are not subject to deeming rules:

- \* Sponsor in same ~~food stamp~~ SNAP household. If the sponsor lives in the same household as the ~~alien non-citizen~~, deeming does not apply because the sponsor's income and resources are already counted. There is, however, no deeming exemption if the sponsor receives ~~food stamps~~ SNAP in another household.
- \* Ineligible Member. If the sponsored ~~alien non-citizen~~ is ineligible for ~~food stamps~~ SNAP benefits because of immigration status (i.e., is not a qualified ~~alien non-citizen~~ or is an LPR without five (5) years of residency), the sponsor's income is not deemed to other eligible members of the immigrant's household.
- \* Immigrant whose sponsor has not signed a legally binding affidavit of support. This category includes all but family-based and a few employment-based LPRs who applied on or after December 19, 1997 and all immigrants who became LPRs or whose sponsors signed affidavits of support before December 19, 1997. ~~Aliens Non-citizens~~, such as refugees, who are sponsored by an organization or group also fall into this category.
- \* Immigrant without sponsors. In general, qualified ~~aliens non-citizens~~ who enter the country under provisions of immigration law other than the family-sponsored categories do not have sponsors of the type that incur a liability when the immigrant obtains means-tested benefits. Included in this group are refugees, asylees, persons granted withholding of

deportation, Amerasians, and Cuban or Haitian entrants. (While it is possible for these individuals to be "sponsored" by an organization such as a church, they are not sponsored on an I-864 Affidavit of Support and that organization does not have to sign a legally binding affidavit of support that would subject that individual to deeming requirements.)

\* Indigent Exception. If the immigrant's own income and any assistance provided by the sponsor or any other individuals is not enough for the immigrant to obtain food and shelter without the program, the amount of the income and resources attributed to the ~~alien-non-citizen~~ through deeming cannot exceed the

amount actually provided for up to a twelve (12) month period. The State agency must notify the U.S. ~~Attorney General~~ Citizenship and Immigration Services (USCIS) if such determinations are made. An immigrant is considered "indigent" if the sum of the immigrant's household's own income and any cash or in-kind assistance provided by the sponsor or others is less than one hundred thirty percent (130%) of the poverty income line. Each indigence determination is effective for twelve (12) months and may be renewed for additional twelve (12) month periods.

\* Battered Spouse or Child Exception. Deeming also does not apply during any twelve (12) month period if the ~~alien-non-citizen~~ is a

battered spouse, battered child or parent, or child of a battered person providing the battered ~~alien-non-citizen~~ lives in a

separate household from the person responsible for the battery. The exemption can be extended for additional twelve (12) month periods if the ~~alien-non-citizen~~ demonstrates that the

battery is recognized by a court, administrative order, or by the ~~INS-USCIS~~ and if the agency administering the benefits determines that the battery has a substantial connection to the need for benefits.

\* Children under eighteen (18) years old.

\* Immigrant whose deeming period has ended.

## **1014.55.20 Eligibility Determination**

REV:05/1986

The amount of income and resources deemed to be that of the sponsored alien in accordance with Sections 1014.55.10 and 1014.55.15., must be considered in determining the eligibility and benefit level of the household of which the alien is a member.

## **1014.55.35      Sponsored Alien's Responsibilities**

REV:04/2003

If an alien is subject to deeming, the eligible sponsored alien is responsible for obtaining the cooperation of the sponsor and for providing the State agency at the time of application and recertification with the information and documentation necessary to calculate deemed income and resources. The State agency must assist the household in obtaining the necessary verification. If necessary, INS through its SAVE program can provide the sponsor's name, address, and Social Security number.

Immigrants who are exempt from deeming do not need to provide information about the sponsor's income and resources.

## **1014.55.40      Verification Requirements**

REV:10/1996

The agency representative must obtain from the alien or alien's spouse the following information:

- \*      The income and resources of the alien's sponsor and the sponsor's spouse (if any) at the time of the alien's application for ~~food-stamp~~SNAP assistance.

The agency must verify all other information which is determined questionable and which affects household eligibility and benefit level in accordance with procedures established in Section 1002.60.10 for verifying questionable information and in Section 1002.60.35 for assistance in providing the required verification.

### **1014.55.40.05      Awaiting Verification**

REV:07/1999

While the agency representative is awaiting receipt and/or verification from the alien of information necessary to carry out the deeming provisions of this section, the sponsored alien is ineligible until such time as all necessary facts are obtained.

The eligibility of any remaining household members must be determined. The income and resources of the ineligible alien (excluding the deemed income and resources of the alien's sponsor and sponsor's spouse) are considered available in determining the eligibility and benefit level of the remaining household members in accordance with Section 1014.55.

If the sponsored alien refuses to cooperate in providing and/or verifying needed information, the other adult members of the alien's household must be responsible for providing and/or verifying information required in accordance with the provisions of Section 1002.60. If the information and/or verification is subsequently received, the agency representative acts on the information as a reported change in household membership in accordance with the timeliness standards in Section 1018. If the same sponsor is responsible for the entire household, the entire household is

ineligible until such time as needed sponsor information is provided and/or verified. The agency representative should assist aliens in obtaining verification in accordance with the provisions of Section 1002.60.35.

### **1014.55.50.15 Enforcing Sponsor Liability Claims**

REV:04/2003

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires sponsors of certain immigrants to meet minimum income requirements and to be financially responsible for immigrants they sponsor. Beginning on December 19, 1997, applications for immigrant visas or an adjustment of status must include a legally-enforceable affidavit of support for family-sponsored immigrants and for employment-based immigrants who are coming to the United States to work for relatives, or for a company where a relative owns at least five percent (5%) of the company.

A sponsor who has signed a legally binding affidavit of support on or after December 19, 1997 for an immigrant s/he sponsored may be liable for reimbursement of the value of ~~food-stamp~~SNAP benefits received by that sponsored immigrant. Only the sponsors who signed binding affidavits of support (INS Form I-864) may be responsible for ~~food stamps~~SNAP benefits received by immigrants they sponsor if those benefits were received during the period of time the affidavit of support was in effect.

The affidavit of support remains in effect until the sponsored immigrant becomes a naturalized citizen, can be credited with forty (40) qualifying quarters of work, is no longer an LPR and leaves the United States permanently, or until the sponsor or the sponsored immigrant dies. The sponsor is not responsible for benefits the sponsored immigrant receives after the support period has ended.

If, however, benefits were received by sponsored immigrants during the period when the agreement was in effect, the sponsor or the sponsor's estate is liable to repay the cost of these benefits for ten (10) years after benefits were last received.

Sponsors who fail to support the immigrants they sponsor can be sued by government entities providing means-tested benefits as well as by the immigrants they sponsor. However, the State agency cannot request reimbursement from the sponsor during any period of time that the sponsor receives ~~food-stamps~~SNAP benefits.

### **1014.60 TREATING LOST INCOME DUE TO NONCOMPLIANCE**

REV:05/1999

The agency must ensure that, in most cases, there is no increase in ~~food-stamp~~SNAP benefits to households on which a sanction resulting in a decrease in benefits has been imposed for failure to comply with a requirement of a Federal, State, or local welfare program (for example, FIP) which is means-tested and distributes publicly funded benefits.

The procedures for determining ~~food-stamp~~SNAP benefits when there is such a decrease in benefits are as follows:

- \* The agency will calculate the ~~food-stamp~~SNAP allotment using the other program's reduced benefit amount, then apply a 20% reduction to that allotment.
- \* If the person is also non-compliant with work requirements of the ~~food-stamp program~~SNAP, action is taken according to ~~Food-Stamp~~SNAP Manual Section 1004.25.35, and the 20% reduction is not applied.
- \* With the exception of agency error cases, if the household's other program benefit is subject to recoupment due to a prior overpayment, the full amount of that program's benefit will be used in the ~~food-stamp~~SNAP computation.

## **1014.65 HOMELESS ~~FOOD-STAMP~~SNAP HOUSEHOLDS**

REV:01/1997

Homeless households are permitted to use their ~~food-stamp~~SNAP benefits to purchase prepared meals from authorized homeless meal providers. Definitions of terms are:

A Homeless Individual is defined as 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. For example, an emergency shelter or a welfare hotel;
- \* A halfway house or similar institution which provides temporary residence for individuals intended to be institutionalized;
- \* A temporary accommodation in the residence of another individual for not more than ninety (90) days; or
- \* A place not designed for, or ordinarily used, as a regular sleeping accommodation, such as a bus station, a lobby or similar places.

Homeless Meal Provider is a public or private non-profit establishment, approved by the Department of Human Services (DHS), which feeds homeless individuals. Examples of such establishments are soup kitchens and temporary shelters.

### **1014.65.05 Authorization Procedures**

REV:01/2002

Food and Nutrition Service will authorize as retail food stores those homeless meal providers who apply and qualify for authorization to accept EBT ~~food-stamp~~SNAP benefits from homeless ~~food-stamp~~SNAP recipients.

Such meal providers must be public or private non-profit organizations; must serve meals which include food purchased by the meal provider; must be authorized by FNS as retail food stores; and must be approved by DHS as providers of meals to homeless individuals. The office of the Chief Casework Supervisor for the ~~Food Stamp Program~~SNAP is responsible for approving these establishments as providers of meals for the homeless.

A homeless meal provider is responsible for obtaining approval from DHS and must provide written documentation of such approval to FNS prior to approval of the provider's application for authorization. If such approval is subsequently withdrawn, FNS authorization is also withdrawn. Homeless meal providers serving meals which consist wholly of donated food are not eligible for authorization.

## **1014.70 PRE-RELEASE APPLICANTS**

REV:05/1989

A household consisting of a resident or residents of a public institution(s) and applying for SSI under the Social Security Administration's Pre-release Program for the Institutionalized, must be allowed to apply for ~~food stamp~~SNAP benefits at the same time prior to the release from the institution.

Such a household is certified in accordance with Sections 1010.05 and 1016.35.

## **1014.75 Mini-Simplified ~~Food Stamp~~SNAP Program**

REV:01/2008

The Department of Human Services has been granted a waiver from the Food and Nutrition Service that allows for the implementation of a mini-Simplified ~~Food Stamp Program~~SNAP. A mini-simplified ~~Food Stamp program~~SNAP allows the agency to add the ~~Food Stamp (FS)~~SNAP allotment to the ~~Family Independence Program (FIP)~~RI Works (RIW) grant to calculate the maximum number of hours a ~~FIP-RIW~~ parent can participate in the unpaid work experience or community service (see ~~FIP-RIW~~ Policy Section 0816.35). The mini-simplified ~~Food Stamp Program~~SNAP will thereby allow the agency to count the value of ~~food stamp~~SNAP benefits and then deem any hours that fall short of the parents required hours in order to meet the ~~FIP-RIW~~ work requirement.