

**Title of Proposed Rule: Employment First Modernization**

**CDHS Tracking #: 17-05-09-01**

Office, Division, & Program:  
OES, FEAD

Rule Author:  
Glenn Robinson

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**STATEMENT OF BASIS AND PURPOSE**

**Summary of the basis and purpose for new rule or rule change.**

The Supplemental Nutrition Assistance Program (SNAP) provides food assistance benefits to eligible individuals and families who are experiencing food insecurity. A component of the SNAP program is the SNAP Employment and Training (E&T) program known as Employment First in Colorado, designed to help SNAP recipients gain and/or advance their employment, and reduce SNAP dependency. All states are required to operate an E&T program, however, states are given flexibility in how they structure and operate these programs.

Colorado currently operates the Employment First program under what is called mandatory program guidelines from a federal perspective. Colorado pledges to serve Able Bodied Adults without Dependents (ABAWDs) and mandates that both ABAWDs and other work registrants (individuals between the ages of 18-49) participate in Employment First.

Operationally, this binds counties to operate a mandatory Employment First program, limiting flexibility and adding increased fiscal and administrative burdens to counties.

Additionally, current rules do not align with Federal regulations which create discrepancies with how rules are applied. To align with federal regulations, an exemption for work requirements has been added under the category persons physically or mentally unfit for employment exemption. Colorado rule must align with federal rule utilizing exact federal language to eliminate any compliance issues. Changes have also been made to update the term of "WIA" (Workforce Investment Act) to "WIOA" (Workforce Innovation and Opportunity Act).

Implementation for the proposed changes will begin October 1, 2017 to align with the Federal Fiscal year.

**State Board Authority for Rule:**

Code	Description
26-1-107, C.R.S. (2016)	State Board to promulgate rules
26-1-109, C.R.S. (2016)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2016)	State department to promulgate rules for public assistance and welfare activities.

**Program Authority for Rule: Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.**

Code	Description
7 CFR § 273.7	Work provisions outlines work requirements SNAP E&T programs along with who shall participate, who is exempt, and what are considered allowable program exemptions.
26-1-111(2)(d)(l), C.R.S. (2016)	Authority identifies the State Department as the governing body for county public assistance functions around scope and content.

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

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**REGULATORY ANALYSIS**

**1. List of groups impacted by this rule.**

- a) Work-registrants receiving food assistance in the state of Colorado
- b) The dependents of those individuals, and all members of the food assistance unit impacted by the sanctioning of food assistance for non-compliance with mandated work components;
- c) Able-bodied adults without dependents (ABAWDs) receiving food assistance in the state of Colorado who are mentally or physically unfit for work, including those experiencing chronic homelessness;
- d) All other program work-registrants receiving food assistance in the state of Colorado who are not subject to proposed rule changes, but who will benefit from increases to county service capacity and resources as a result of these rule changes;
- e) County departments of human services responsible for administration of the Employment First program;
- f) Sub-contractors to County Departments of Human Services responsible for administration of the Employment First program;
- g) The state agency responsible for supervisory oversight of the Employment First program, and for all federal reporting, system support, and allocations and program budgets;
- h) Community-based organization and advocacy groups that serve populations affected by these rule changes, to include food pantries, homeless shelters, and similar entities;
- i) Local area grocers and economies which are otherwise impacted by a reduction in food assistances benefits within a community.

**2. Describe the qualitative and quantitative impact.**

***Qualitative Impact:***

The change will result in increased food security for individuals, reduced administrative efforts and a reduction in worker time spent on sanctioning and disqualifying SNAP recipients. A decrease in overall program caseloads is also anticipated, which will in turn reduce the demand on limited program budgets. County departments and their sub-contractors will be able to focus strategically on a more targeted population, and increase employability services for that population which will, in turn, result in improved employment entry and reduced dependency. Further, county and state agencies will experience positive improvement in error rates associated with noticing and the application of sanctions and disqualifications.

***Quantitative Impact:*** Without formal data collection in place, quantitative impact analysis can only be provided through the utilization of reasonable estimates, and comparable data. Actual data is provided wherever feasible.

Colorado has roughly 37,000 work registrants receiving SNAP in a year. However, this number is decreased when work requirements and time limits are in effect. Meaning, individuals who do not meet requirements become disqualified and lose their SNAP benefits.

**3. Fiscal Impact**

**County, State, and Federal Fiscal impact-**

The chart below displays the seven funding sources for Employment First. These sources are allocated at different times during the FFY.

Chart 1:

<b>Funding</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Beginning 100% Funds	\$1,063,196	\$1,101,230
80/20 Participant Funds	\$259,216	\$259,216
50/50 administrative cap	\$3,719,318	\$8,538,538
50/50 participant cap	\$907,674	\$1,249,476

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Beginning ABAWD Pledge	\$2,302,158 (11.51%*)	\$849,598 (4.25%*)
Reallocated Funds	\$1,500,000	\$0
Enhanced Funding	\$1,848,031	\$1,903,979
<b>Total Program</b>	<b>\$11,599,593</b>	<b>\$13,052,439</b>

**4. Data Description**

Data was derived from the Colorado Benefits Management System (CBMS) to the degree available.

**5. Alternatives to this Rule-making**

Many alternatives were explored by a workgroup consisting of State and County representatives related to program design. Data was gathered from previous years, multiple states, and counties to ensure the workgroup had enough information to determine the best way of administering the program. Federally, Employment First allows states to operate a mandatory or voluntary program. In Colorado, counties concluded that they want to continue to serve ABAWDS and have "flexibility" in determining if they will provide services to all work registrants with limited federal funds. This is allowable via federal rule and will be utilized in Colorado as it provides a way to help reduce administrative burdens in a federally underfunded program. The changes made are as follows:

1. Federal alignment changes include;
  - A. Changing "WIA" or Workforce Investment Act to "WIOA" or Workforce Innovation and Opportunity Act.
  - B. Clarifying persons physically or mentally unfit for employment and who can provide acceptable verification are exempt from participating in the program.
2. County program operation changes include:
  - A. Rule changes require counties include county plans that identify how they will operate the program.
  - B. Mandatory guidelines will only apply to mandated work participants and are as follows:
    - SNAP clients who have not met any Federal exemption
    - SNAP clients work registered in Colorado
    - SNAP clients referred to and Employment and Training program (E&T)

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**OVERVIEW OF PROPOSED RULE**

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.100	Definition of work registrant is too broad	“Work Registrant” means an individual age sixteen (16) to fifty (50) who is required to participate in a monthly work activity, unless considered otherwise exempt.	<p><u>“MANDATORY Work Registrant” means an individual age sixteen (16) to fifty (50) who <b>HAS NOT MET ANY FEDERAL EXEMPTIONS FROM SNAP WORK REQUIREMENTS AND IS THEREFORE REQUIRED TO REGISTER FOR WORK OR BE REGISTERED BY THE STATE AGENCY.</b></u></p> <p><u>“VOLUNTARY WORK REGISTRANT” MEANS AN INDIVIDUAL WHO CHOOSES TO PARTICIPATE IN THE PROGRAM AND IS NOT MANDATED TO PARTICIPATE BY THE STATE OR FEDERAL REGULATIONS.</u></p>	CLEAR SEPARATION TO DIFFERENTIATE BETWEEN MANDATORY AND VOLUNTARY PARTICIPANTS	
4.306.1 (F)	New legislation changed WIA to WIOA	The student is assigned to or placed in an institution of higher education through a program under the Workforce Investment Act (WIA), Employment First Program, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the Food Assistance Employment First Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.	The student is assigned to or placed in an institution of higher education through a program under the Workforce <u>INNOVATION AND OPPORTUNITY Investment</u> Act (WIOA), Employment First Program, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the Food Assistance Employment First Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.	FEDERAL LEGISLATION ALIGNMENT	

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.310.1	Unnecessary language	“Work registration” means completion of the Food Assistance application and in an Employment First County, referral to an Employment First Unit. The local office shall complete an appointment form for all household members not exempt from work registration under Section 4.310.3.	“Work registration” means <u>NOTIFICATION AND REFERRAL OF A WORK REGISTRANT AFTER</u> completion of the Food Assistance application. <del>and in an Employment First County, referral to an Employment First Unit.</del> The local office shall complete an appointment form for all household members not exempt from work registration under Section 4.310.3.	MORE CLARITY TO HELP DEFINE WHAT WORK REGISTRATION IS.	
4.310.2(B)(2)	New legislation changed WIA to WIOA	A program under the Workforce Investment Act (WIA);	A program under the Workforce <u>INNOVATION AND OPPORTUNITY</u> <del>Investment</del> Act (WIOA);	FEDERAL LEGISLATION ALIGNMENT	
4.310.2(C)(2)	Does not align with Federal Regulations	The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are: 1. Under eighteen (18) or fifty (50) years of age or older; 2. Medically certified as physically or mentally unfit for employment;	The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are: 1. Under eighteen (18) or fifty (50) years of age or older; 2. <u>PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT AS DESCRIBED IN SECTION 4.310.3 (C) certified as physically or mentally unfit for employment;</u>	TO ALIGN WITH FEDERAL REGULATIONS	
4.310.2 (C)(3)	Wording is more restrictive than Federal regulations	A parent or other member of a household with responsibility of a dependent child under the age of eighteen (18).	<u>IS RESIDING IN A HOUSEHOLD WHERE A HOUSEHOLD MEMBER IS UNDER AGE 18, EVEN IF THE HOUSEHOLD MEMBER WHO IS UNDER 18 IS NOT HIM OR HERSELF ELIGIBLE FOR FOOD STAMPS;</u>	FEDERAL REGULATION ALIGNMENT	

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4.310.3(C)	Does not align with Federal Regulations	Persons physically or mentally unfit for employment are exempt from work registration. If physical or mental unfitness is claimed and is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed psychologist. Individuals who are eighteen (18) years of age through forty-nine (49) years of age, who are subject to work requirements as set out in Section 4.310.2 shall provide a medical certification of disability.	<p><u>1. PERSONS PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT ARE EXEMPT FROM WORK REGISTRATION. IF THE DETERMINATION OF UNFIT FOR WORK IS NOT OBVIOUS, VERIFICATION MAY BE REQUIRED. APPROPRIATE VERIFICATION MAY CONSIST OF:</u></p> <p><u>a. RECEIPT OF TEMPORARY OR PERMANENT DISABILITY BENEFITS ISSUED BY GOVERNMENT OR PRIVATE SOURCES; OR</u></p> <p><u>b. PERSONS MAY PROVIDE A STATEMENT FROM A PHYSICIAN, PHYSICIAN’S ASSISTANT, NURSE, NURSE PRACTITIONER, DESIGNATED REPRESENTATIVE OF THE PHYSICIAN’S OFFICE OR A LICENSED OR CERTIFIED PSYCHOLOGIST. A COUNTY AGENCY MAY DETERMINE OTHER LICENSED MEDICAL PERSONNEL APPROPRIATE TO PROVIDE VERIFICATION THAT A WORK REGISTRANT IS PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT; OR</u></p> <p><u>c. A STATEMENT FROM A LICENSED SOCIAL WORKER OR A SOCIAL WORKER EMPLOYED BY OR ACTING ON BEHALF OF A 501(C)(3) NON-PROFIT ORGANIZATION OR GOVERNMENT ENTITY.</u></p> <p><u>2. THOSE THAT ARE CHRONICALLY HOMELESS MAY BE DEEMED PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT AND MAY BE EXEMPT FROM WORK REGISTRATION. CHRONIC HOMELESSNESS IS DEFINED AS LACKING NIGHTTIME RESIDENCE.</u></p>	FEDERAL REGULATION ALIGNMENT	YES, CCLP AND HUNGER FREE IDENTIFIED THIS SENTENCE AS BEING LEFT OUT. IT NEEDS TO BE ADDED BACK IN TO MIRROR FEDERAL LANGUAGE.

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4.310.5 (A)	Not clear	Participate in Employment First including reporting for all appointments and classes and meeting all other program requirements as detailed in the participation contract.	Participate in Employment First <u>IF DESIGNATED AS A MANDATORY WORK REGISTRANT</u> , including reporting for all appointments and classes and meeting all other program requirements as detailed in the participation contract.	CLEAR SEPARATION TO DIFFERENTIATE BETWEEN MANDATORY AND VOLUNTARY PARTICIPANTS	
4.310.6	Too broad	Disqualification Period for Employment First	Disqualification Period for <u>Employment First MANDATORY WORK-REGISTRANTS</u>	CLEAR SEPARATION TO DIFFERENTIATE BETWEEN MANDATORY AND VOLUNTARY PARTICIPANTS	

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.310.9	Unnecessary, unclear, and incorrect language	<p>In Colorado, the employment and training program under the Food and Nutrition Act of 2008, as amended, is called Employment First. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment. All counties shall operate an Employment First program unless they can demonstrate their county has a ten percent (10%) unemployment rate or there is an insufficient number of jobs available.</p> <p>A county department wishing to or required to administer an Employment First program shall submit a start-up plan in a format prescribed by the State Department to the Colorado Department of Human Services, Food and Energy Division, Employment First Program, for approval. Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection.</p>	<p>In Colorado, the employment and training program under the Food and Nutrition Act of 2008, as amended, is called Employment First. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain <del>regular</del> employment. All counties shall operate an Employment First program unless they can demonstrate their county has a ten percent (10%) unemployment rate or there <del>ARE is</del> an insufficient number of jobs available.</p> <p>A county department <del>CHOOSING wishing</del> to or required to administer an Employment First program shall submit a <del>COUNTY start-up</del> plan in a format prescribed by the State Department to the Colorado Department of Human Services, <del>EMPLOYMENT AND BENEFITS DIVISION Food and Energy Division, Employment First Program,</del> for approval. <del>EACH COUNTY SHALL INCLUDE A DESCRIPTION OF THEIR PROGRAM OPERATION. COUNTIES OPERATING AN EMPLOYMENT FIRST PROGRAM ARE REQUIRED TO SERVE ABAWDS.</del></p> <p>Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection.</p>	CLARITY NEEDED TO ALLOW COUNTIES TO DIFFERENTIATE BETWEEN MANDATORY AND VOLUNTARY PARTICIPANTS	

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4.310.9 (A)(4)	New legislation changed WIA to WIOA	A program under the Workforce Investment Act (WIA).	A program under the Workforce <u>INNOVATION AND OPPORTUNITY Investment Act</u> (WIOA).	FEDERAL LEGISLATION ALIGNMENT	
4.310.21	Unnecessary language	The local office shall provide Food Assistance Workfare Counselor with the case name, case number, names of workfare eligible household members, address, certification period, and the amount of the allotment the household is receiving. Any part-time work by a member shall also be indicated.  The Food Assistance Workfare Counselor shall notify any workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.	<del>The local office shall provide the Food Assistance Workfare Counselor with the case name, case number, names of workfare eligible household members, address, certification period, and the amount of the allotment the household is receiving. Any part-time work by a member shall also be indicated.</del>  The Food Assistance Workfare Counselor shall notify any workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.	LANGUAGE NOT NEEDED	
4.310.24	Not clear	The Workfare Counselor shall notify the local office of noncompliance with workfare by providing a description of the particular act of noncompliance committed. The determination of failure to comply with the workfare program is handled in the same manner as with the Employment First determination. The sanction process for Title IV-A/IV-F employment program participants shall be governed by Title IV-A/IV-F rules and IS the responsibility of the Title IV-A/IV-F case manager.	<u>FOR MANDATORY WORK REGISTRANTS,</u> The Workfare Counselor shall notify the local office of noncompliance with workfare by providing a description of the particular act of noncompliance committed. The determination of failure to comply with the workfare program is handled in the same manner as with the Employment First determination. The sanction process for Title IV-A/IV-F employment program participants shall be governed by Title IV-A/IV-F rules and IS the responsibility of the Title IV-A/IV-F case manager.	CLEAR SEPARATION TO DIFFERENTIATE BETWEEN MANDATORY AND VOLUNTARY PARTICIPANTS	

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
4.403 (B)(1)	New legislation changed WIA to WIOA	Payments from vocational and rehabilitation programs recognized by federal, state, or local governments, such as the Job Opportunities and Basic Skills (JOBS) Program, to the extent they are not a reimbursement except for allowances paid under the Workforce Investment Act (WIA).	Payments from vocational and rehabilitation programs recognized by federal, state, or local governments, such as the Job Opportunities and Basic Skills (JOBS) Program, to the extent they are not a reimbursement except for allowances paid under the Workforce <u>INNOVATION AND OPPORTUNITY Investment</u> Act (WIOA).	FEDERAL LEGISLATION ALIGNMENT	
First Reference 4.403 (B)(2)	New legislation changed WIA to WIOA	Earned income will include earnings to individuals who are participating in the on-the-job training under Section 204(5), Title II, of the Workforce Investment Act (WIA).	Earned income will include earnings to individuals who are participating in the on-the-job training under Section 204(5), Title II, of the Workforce <u>INNOVATION AND OPPORTUNITY Investment</u> Act (WIOA).	FEDERAL LEGISLATION ALIGNMENT	
Second Reference 4.403 (B)(2)	New legislation changed WIA to WIOA	This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member. Earnings include monies paid by the Workforce Investment Act (WIA) and monies paid by an employer.	This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member. Earnings include monies paid by the Workforce <u>INNOVATION AND OPPORTUNITY Investment</u> Act (WIOA) and monies paid by an employer.	FEDERAL LEGISLATION ALIGNMENT	
4.405.2 (A)(6)	New legislation changed WIA to WIOA	Payments, allowances and earnings under the Workforce Investment Act (WIA) are excluded as income. Earnings paid for on-the-job training are still counted for the Food Assistance Program.	Payments, allowances and earnings under the Workforce <u>INNOVATION AND OPPORTUNITY Investment</u> Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for the Food Assistance Program.	FEDERAL LEGISLATION ALIGNMENT	

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**STAKEHOLDER COMMENT SUMMARY**

**Development**

**Employment First Task Group Counties included:**

Adams, Arapahoe, Bent, Denver, Douglas, Eagle, El Paso, Fremont, Jefferson, Larimer, Mesa, Park, Prowers, Rio Grande, Summit, Weld, and Yuma.

**Other entities/groups include:**

United States Department of Agriculture, Food and Nutrition Service  
Office of Economic Security and Finance Sub-Pac  
PAC  
Colorado Center on Law and Policy  
All Families Deserve a Chance Coalition  
Hunger Free Colorado  
CDHS - Employment and Benefits, Food and Energy Assistance, Accounting, and Performance Management Divisions.

**This Rule-Making Package**

*The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:*

Empty rectangular box for listing individuals and/or entities.

**Other State Agencies**

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes  No

**Sub-PAC**

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes  No

Name of Sub-PAC	Economic Security and Financial		
Date presented	05/04/2017 and 6/18/17		
What issues were raised?	Southwest region is supportive of the rules around exemptions and county flexibility; however, they believe that counties are choosing a more expensive model. Due to this feedback the Office of Economic Security Sub-Pac and Finance Sub-Pac have formed a workgroup to continue to develop the best allocation structure. Note: the allocation structure for the Employment First program is not specified in rule.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
		1 Southwest Region	2 HCPF and OIT

**PAC**

Have these rules been approved by PAC?

Yes  No

Date presented	6/18/17		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
		1 Southwest Region	2 HCPF and OIT
If not presented, explain why.	See comments above in Sub-PAC section.		

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**Other Comments**

Comments were received from stakeholders on the proposed rules:

Yes     No

Jack Regenbogen from the Colorado Center on Law and Policy

“Our only suggestion with respect to this proposed rule change is to retain the clause in 10 CCR 4.310.3(C) that provides: “Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources.” We do not believe it is the intention of this proposed rule to change the policy on applying an exemption to those who receive disability benefits. However, in the interest of administrative clarity, we urge the State to retain this provision that mirrors federal language.”

Response -

CDHS incorporated this feedback and it can be found on page 7.

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#### 4.100 FOOD ASSISTANCE PROGRAM DEFINITIONS

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"MANDATORY Work Registrant" means an individual age sixteen (16) to fifty (50) who HAS NOT MET ANY FEDERAL EXEMPTIONS FROM SNAP WORK REQUIREMENTS AND IS THEREFORE REQUIRED TO REGISTER FOR WORK OR BE REGISTERED BY THE STATE AGENCY. ~~is required to participate in a monthly work activity, unless considered otherwise exempt.~~

"VOLUNTARY WORK REGISTRANT" MEANS AN INDIVIDUAL WHO CHOOSES TO PARTICIPATE IN THE PROGRAM AND IS NOT MANDATED TO PARTICIPATE BY THE STATE OR FEDERAL REGULATIONS.

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##### 4.306.1 Student Eligibility Criteria

To be eligible to participate in the Food Assistance Program, a student shall meet at least one (1) of the following criteria:

- A. The student is employed for an average of twenty (20) hours per week and is paid for such employment. The student shall be employed an average of twenty (20) hours each week, regardless of wages received.

If the student is self-employed, the student shall work an average of twenty (20) hours a week and have earnings after allowable business expenses are deducted equal to at least the federal minimum wage multiplied by twenty (20) hours.

The weekly employment of twenty (20) hours may be based on an average number of hours worked per month, so long as the student is employed for eighty (80) hours per month.

- B. The student is participating in a state or federally financed work-study program. The student shall be approved for a work-study program at the time of application for Food Assistance. The work-study shall be approved for the school term and student shall anticipate actually working during that time. The student qualifies for this exemption the month the school term in which the work-study will occur begins or the month work-study is approved, whichever is later. The exemption will continue until the end of the school term or until it becomes known that the student has refused an assignment. The exemption shall not continue between terms when there is a break of one (1) full month or longer unless the student is participating in work-study during the break.
- C. The student is responsible for the more than half of the physical care of a dependent household member under the age of six (6), or a full-time student who is a single parent with responsibility for the care of a dependent child under age twelve (12).

The single parent provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same Food Assistance household as the child. A full-time student in the same Food Assistance household with

a child who is under his/her parental control may qualify if he/she does not reside with his/her spouse.

- D. The student is responsible for more than half of the physical care of a dependent household member who has reached the age of six (6) but is under the age of twelve (12) where the local office has determined that adequate child care is not available to enable the individual to attend class and satisfy the requirement of item A or item B, above.
- E. The student is receiving a Title IV-A TANF cash grant. The student's needs shall be included in the grant to be eligible under this provision. Family Preservation is not considered a TANF cash grant.
- F. The student is assigned to or placed in an institution of higher education through a program under the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA), Employment First Program, a program under Section 236 of the Trade Act of 1974 (19 USC 2296), another program for the purpose of employment and training operated by the state or local government (program shall have at least one (1) component equivalent to the Food Assistance Employment First Program), or as a result of participating in the JOBS program under Title IV of the Social Security Act.

Self-initiated placement 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. This placement is considered in compliance 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.

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#### 4.310.1 Work Registration and Referral to Employment First in Employment First Counties

“Work registration” means NOTIFICATION AND REFERRAL OF A WORK REGISTRANT AFTER completion of the Food Assistance application. ~~and, in an Employment First county, referral to an Employment First Unit.~~ The local office shall complete an appointment form for all household members not exempt from work registration under Section 4.310.3.

In Employment First counties, the Food Assistance eligibility technician shall provide the written notice of referral to each work-registered household member, send a copy to the Employment First Unit, and retain a copy of the referral in the case record.

Upon determination that the person should be referred to an Employment First Unit, the local office shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failing to comply. The local office shall provide a written statement of these requirements to each work registrant in the household and to each previously exempt or new household member when that person becomes subject to work registration and at recertification.

Individuals who are not determined exempt from work registration shall be referred to Employment First at the application interview. Food Assistance applicants may volunteer for Employment First services prior to the application interview. Exempt recipients may volunteer at any time.

Employment First may exempt individuals for whom they determine participation in an Employment First component is impractical. Reasons for such exemption include lack of job readiness, remoteness from work opportunities (remoteness shall mean a one-way commute of more than one hour), or lack of transportation, medical or family problems, such as a lack of child care, migrant or seasonal farm work status, or other reasons as Employment First determines limit practicability.

Job-attached persons (e.g., those on temporary layoff or those expecting to return to work within sixty (60) days shall be exempt from referral to Employment First for sixty (60) calendar days at which time the local office shall review the job-attached status.

Reasons for exemption should be reviewed at recertification or more frequently if a change affecting the exempt status occurs, and shall be documented in the case record.

Any resident or non-resident participant in a drug or alcohol center's treatment and rehabilitation program is exempt from the work registration requirement. This exemption is not meant to discourage participants in such a program from seeking and accepting employment on their own.

#### 4.310.11 Work Registration in Non-Employment First Counties

Fulfillment of the work registration requirement in non-employment first counties shall occur when an applicant household completes and signs a Food Assistance application.

#### 4.310.2 Work Requirements for Ages Eighteen (18) through Forty-Nine (49) Years

- A. No individual shall be eligible to participate in the Food Assistance Program as a member of any household if, during the preceding thirty-six (36) month period, the individual received Food Assistance benefits for not less than three (3) months (consecutively or not) during which time the individual:
1. Was not employed twenty (20) hours or more each week, averaged monthly; or,
  2. Did not participate in and comply with the requirements of a work program for twenty (20) hours or more each week; or,
  3. Did not participate in and comply with Section 20 Workfare program of the Food and Nutrition Act of 2008 (codified at 7 USC sec. 2011 et seq.).
- B. A work program is defined as:
1. A program of employment and training operated or supervised by the Employment First program other than a job search program or a job search training program;
  2. A program under the Workforce INNOVATION AND OPPORTUNITY Investment Act

(WIOA);

3. A program under Section 236 of the Trade Act of 1974 (19 USC 2296, "Trade Adjustment Assistance");
  4. Workfare under Section 20 of the Food Stamp Act, as amended.
- C. The limit of three (3) months in a thirty-six (36) month period shall not apply to individuals who are:
1. Under eighteen (18) or fifty (50) years of age or older;
  2. PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT AS DESCRIBED IN SECTION 4.310.3 (C); ~~certified as physically or mentally unfit for employment;~~
  3. IS RESIDING IN A HOUSEHOLD WHERE A HOUSEHOLD MEMBER IS UNDER AGE 18, EVEN IF THE HOUSEHOLD MEMBER WHO IS UNDER 18 IS NOT HIM OR HERSELF ELIGIBLE FOR FOOD STAMPS; ~~parent or other member of a household with responsibility for a dependent child under the age of eighteen (18);~~
  4. Pregnant;
  5. Exempt from work registration under the exemptions listed in Section 4.310.3;
  6. Exempt under a waiver approved by the USDA, FNS. Counties may request such a waiver through the Food Assistance Programs Division (FAPD). FAPD will also consult with Employment First and submit requests for counties or areas that the State Department considers as meeting this requirement. All affected counties will be notified by written correspondence.

The waiver from these requirements can be requested when the area has an unemployment rate of ten percent (10%) or the area does not have a sufficient number of jobs to provide employment for the individuals.

D. Regaining Eligibility

1. An individual who is denied eligibility under this provision can regain eligibility if in a thirty (30) calendar day period, the individual is employed eighty (80) or more hours, participates in and complies with the requirements of a work program for eighty (80) or more hours as determined by Employment First, or participates and complies with Section 20 Workfare.
2. The individual will be reinstated the month following the month of compliance if otherwise eligible and will continue to be eligible as long as compliance with these requirements continues or the individual becomes exempt.
3. If an individual regains eligibility but then fails to continue meeting these requirements, the individual shall remain eligible for a consecutive three-month period after the individual notifies the county department. The individual can only have this provision apply for a single three-month period in any thirty-six (36) month period.

#### 4.310.3 Exemptions from Work Registration

##### A. Persons Under Age Eighteen (18)

A person age sixteen (16) or seventeen (17) who is not the head of a household is exempt. A sixteen (16) or seventeen (17) year-old head of household who is attending school, or enrolled in an employment training program on at least a half-time basis is exempt from work registration.

##### B. Persons Caring for Children and Incapacitated Household Members

The able-bodied parent or other household member who is responsible for the care of a dependent child under the age of six (6) or an incapacitated person is exempt from work registration.

If the child reaches his or her sixth (6<sup>th</sup>) birthday within a certification period, the individual responsible for care of the child shall register for work at the next scheduled certification, unless the individual qualifies for another exemption.

##### C. Physically or Mentally Unfit for Employment

1. PERSONS PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT ARE EXEMPT FROM WORK REGISTRATION. IF THE DETERMINATION OF UNFIT FOR WORK IS NOT OBVIOUS, VERIFICATION MAY BE REQUIRED. APPROPRIATE VERIFICATION MAY CONSIST OF:

- a. RECEIPT OF TEMPORARY OR PERMANENT DISABILITY BENEFITS ISSUED BY GOVERNMENT OR PRIVATE SOURCES; OR
- b. PERSONS MAY PROVIDE A STATEMENT FROM A PHYSICIAN, PHYSICIAN'S ASSISTANT, NURSE, NURSE PRACTITIONER, DESIGNATED REPRESENTATIVE OF THE PHYSICIAN'S OFFICE OR A LICENSED OR CERTIFIED PSYCHOLOGIST. A COUNTY AGENCY MAY DETERMINE OTHER LICENSED MEDICAL PERSONNEL APPROPRIATE TO PROVIDE VERIFICATION THAT A WORK REGISTRANT IS PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT; OR
- c. A STATEMENT FROM A LICENSED SOCIAL WORKER OR A SOCIAL WORKER EMPLOYED BY OR ACTING ON BEHALF OF A 501(C)(3) NON-PROFIT ORGANIZATION OR GOVERNMENT ENTITY.

2. THOSE THAT ARE CHRONICALLY HOMELESS MAY BE DEEMED PHYSICALLY OR MENTALLY UNFIT FOR EMPLOYMENT AND MAY BE EXEMPT FROM WORK REGISTRATION. CHRONIC HOMELESSNESS IS DEFINED AS LACKING NIGHTTIME RESIDENCE.

~~Persons physically or mentally unfit for employment are exempt from work registration. If physical or mental unfitness is claimed and is not evident to the local office, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed psychologist. Individuals who are eighteen (18) years of age through forty nine (49) years of age, who are subject to work~~

~~requirements as set out in Section 4.310.2 shall provide a medical certification of disability.~~

D. Eligible Students

Eligible students are those enrolled at least half-time, as defined by the educational facility, in any recognized school or training program, and those in an institution of higher education who have met the eligibility conditions in Section 4.306 are exempt from work registration. Eligible students shall remain exempt from work registration during normal periods of class attendance, vacation, and recess.

Persons who are not enrolled at least half-time or who experience a break in their enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to register for the next normal school term (other than summer), shall not be considered students for the purpose of qualifying for this exemption.

E. Employed and Self-Employed

Employed or self-employed individuals who are working a minimum of thirty (30) hours per week or receiving weekly earnings at least equal to the federal minimum wage multiplied by thirty (30) hours are exempt from work registration. This shall include migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days.

Persons working in Action programs (including VISTA) are exempt from work registration if they work at least thirty (30) hours per week even if compensation is not consistent with prevailing community wage, since an employer-employee relationship can be documented. Those engaged in volunteer work or hobby activity cannot be considered gainfully employed unless the income is consistent with thirty (30) hours employment as herein defined, regardless of the time spent in such endeavor.

F. Unemployment Compensation Benefits

A person applying for or receiving Unemployment Insurance Benefits (UIB) shall be exempt from work registration requirements. The local office shall verify application for or receipt of UIB, if questionable. A person who has been denied UIB and who is appealing the decision is exempt.

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#### 4.310.5 Requirements of Work Registrants

Persons work-registered by the local office shall:

- A. Participate in Employment First IF DESIGNATED AS A MANDATORY WORK REGISTRANT, including reporting for all appointments and classes and meeting all other program requirements as detailed in the participation contract.
- B. Provide Employment First with sufficient information to allow Employment First to determine the employment status or job availability of the individual.

- C. Report to an employer in an appropriate manner and be prepared to accept an offer of suitable employment.

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#### 4.310.6 Disqualification Period for ~~Employment First~~ MANDATORY -WORK REGISTRANTS

- A. If the local office determines that an individual has refused to register for work or failed without good cause to comply with Employment First requirements, that individual shall be ineligible to participate in the Food Assistance Program and shall be treated as a disqualified member. If the disqualified member joins another household, the disqualification period for that individual shall continue until the disqualification period is completed.

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#### 4.310.9 Requirements for County Participation in the Food Assistance Employment and Training Program

In Colorado, the employment and training program under the Food and Nutrition Act of 2008, as amended, is called Employment First. The purpose of the program is to assist members of households participating in the Food Assistance Program in gaining skills, training, work, or experience that will increase their ability to obtain ~~regular~~ employment. All counties shall operate an Employment First program unless they can demonstrate their county has a ten percent (10%) unemployment rate or there ARE ~~is~~ an insufficient number of jobs available.

A county department ~~CHOOSING~~wishing to or required to administer an Employment First program shall submit a ~~COUNTY-start-up~~ plan in a format prescribed by the State Department to the Colorado Department of Human Services, EMPLOYMENT AND BENEFITS DIVISION~~Food and Energy Division, Employment First Program~~, for approval. EACH COUNTY SHALL INCLUDE A DESCRIPTION OF THEIR PROGRAM OPERATION. COUNTIES OPERATING AN EMPLOYMENT FIRST PROGRAM ARE REQUIRED TO SERVE ABAWDS. Upon approval of the plan, the state department shall notify the county department of such approval, plus any conditions or limitations required for the approval. The State Department shall keep on file official copies of Food Assistance Employment First plans for public inspection.

An annual Employment First Plan of Operation is required for a county to maintain Employment and Training status. The annual plan will be submitted in a format prescribed by the state. Operation of an Employment First program is contingent on approval of the county plan of operation.

A county department may enter into a contractual agreement for all or any part of the Employment First program service delivery. These contractual agreements shall be reviewed by the State Department for adherence to program requirements before implementation. The only exception is that the Section 20 workfare, Colorado Workfare, may only be operated by a public or private non-profit agency. Employment First funds shall not be used to supplant funds used for existing services and activities that promote the purpose of any component.

Every Employment First program shall monitor participants who work at least twenty (20) hours a week, averaged monthly, but who do not yet work thirty (30) hours a week or earn

wages equal to at least thirty  
(30) hours a week multiplied by the prevailing federal minimum wage.

- A. A county shall also provide each non-exempt eighteen (18) to fifty (50) year old work registrant who is not working at least twenty (20) hours a week, a Section 20 workfare program, or other component or combination of components that equal a minimum of twenty (20) hours of participation weekly. Allowable components include the following:
1. Educational programs or activities to improve basic skills and literacy or otherwise improve employability, including, but not limited to, General Equivalency Degree (GED), adult basic education, English as a Second Language, vocational training, and employability training.
  2. Community service program participation.
  3. A program designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment.
  4. A program under the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA).
  5. A program under Section 236 of the Trade Act of 1974.
  6. A county may also provide those individuals who are exempt from the eighteen (18) to fifty (50) year old work requirements in Section 4.310.2 with a job seeking skills component approved by the state office.
- B. The local Employment First provider shall:
1. Schedule the first appointment with Employment First within fourteen (14) calendar days from the date referred from the local office;
  2. Enter required information from the work registration form into the Employment First automated system for each person referred from the local office to the Employment First;
  3. Create a case file for each individual referred by the local office to Employment First;
  4. Complete an assessment as prescribed by the state office and provide appropriate service for each referred, non-exempt participant who reports to Employment First;
  5. Complete a participant contract for each individual enrolled in an Employment First activity;
  6. Notify the local office of the determination of non-compliance without good cause;
  7. Compile data and submit required reports within prescribed timeframes;

8. Coordinate program operations with the state Employment First staff;
9. Ensure that participants receive the appropriate reimbursement for participation;
10. Utilize required forms as prescribed or approved by the state;
11. Attend scheduled Employment First program meetings and training as required;
12. Ensure that all funds expended are allowable program costs;
13. Ensure program services are not suspended for longer than fourteen (14) consecutive days for any reason;
14. At a minimum, maintain monthly contact with each Employment First participant; and,
15. Verify all reported employment.

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#### 4.310.21 Referral to Employment First/Workfare

~~The local office shall provide the Food Assistance Workfare Counselor with the case name, case number, names of workfare eligible household members, address, certification period, and the amount of the allotment the household is receiving. Any part-time work by a member shall also be indicated.~~

The Food Assistance Workfare Counselor shall notify any workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.

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#### 4.310.24 Disqualification for Failure to Comply with a Workfare Assignment

~~FOR MANDATORY WORK REGISTRANTS, T~~The Workfare Counselor shall notify the local office of noncompliance with workfare by providing a description of the particular act of noncompliance committed. The determination of failure to comply with the workfare program is handled in the same manner as with the Employment First determination. The sanction process for Title IV-A/IV-F employment program participants shall be governed by Title IV-A/IV-F rules and IS the responsibility of the Title IV-A/IV-F case manager.

The local office and the Workfare Counselor shall consider the facts and circumstances, including information submitted by the household member involved and the employer, to determine whether good cause for the noncompliance exists. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of that member, a household emergency, the unavailability of transportation, conflict due to compliance with Unemployment Insurance or Title IV-A/IV-F requirements.

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#### 4.403 COUNTABLE EARNED INCOME

The following shall be considered as earned income.

##### A. Wages and Salaries

1. All payments for services as an employee, including garnishments, or money payments legally obligated to the employee and diverted to a third party for the employee's household expenses.

Countable income from employment received by students in institutions of higher education while participating in state work-study programs or a fellowship with a work requirement shall not be considered as earned income.

2. Earned income includes government payments from Agricultural Stabilization and Conservation Service and wages of AmeriCorps Volunteers in Service to America (VISTA) workers. VISTA payments are excluded if the client was receiving Food Assistance when he or she joined VISTA. If the client was not receiving Food Assistance when he or she joined VISTA, the VISTA payments shall count as earned income. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made (see Section 4.405.2, A, 3). Temporary interruptions shall be defined as a period of time where a household or individual missed a full month of benefits, excluding instances where the lapse in benefits is due to the local office not taking timely action in accordance with the processing standards outlined in Sections 4.604, 4.205, or 4.209.1.
3. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received, if reasonably anticipated. However, wages held by the employer as a general practice shall not be counted as income unless the household anticipates that it will receive income from such wages previously withheld by the employer.

When an advance on wages is subsequently repaid from current wages, only the amount of wages received is considered as income. The amount of repayment is disregarded, even if the wage earner was not a Food Assistance participant at the time of the advance.

4. Payment for sick leave, vacation pay, and bonus pay shall be considered as earned income, if the person was still employed while receiving the pay.

##### B. Training Allowances

1. Payments from vocational and rehabilitation programs recognized by federal, state, or local governments, such as the Job Opportunities and Basic Skills (JOBS) Program, to the extent they are not a reimbursement except for allowances paid under the Workforce ~~Investment~~ INNOVATION AND OPPORTUNITY Act (WIOA).

2. Earned income will include earnings to individuals who are participating in the on-the-job training under Section 204(5), Title II, of the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA). This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member. Earnings include monies paid by the Workforce INNOVATION AND OPPORTUNITY Investment Act (WIOA) and monies paid by an employer.

C. Title I Monies

Payments received under Title I (VISTA-University Year of Action) of the Domestic Volunteer Service Act of 1973 shall be considered earned income and subject to the earned income deduction, excluding payments made to those households specified in Section 4.405.2.

D. Income of Strikers

Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike was not occurring. Eligibility at the time of application shall be determined by comparing the striking member's income as of the day before the strike to the striking member's current income and adding the higher of the two to the current income of the non-striking household members during the month of application.

E. Self-Employment

The method of ascertaining the self-employment income to be considered for Food Assistance purposes is often difficult and the guidelines set forth in Sections 4.403.1-4.403.12 are meant to clarify and aid the process.

In determining gross self-employment income, all income received by the self-employment household must be considered. Self-employment income includes:

1. Monies received from rental or lease of self-employment property. Rental property shall be considered a self-employment enterprise. However, the income will be considered as earned income only if the household member (or disqualified person) actively manages the property at least an average of twenty (20) hours per week.
2. Monies received from the sale of capital goods, services, and property connected to the self-employment enterprise. Proceeds of sales from capital goods or equipment are to be treated as income rather than as capital gains.

The term "capital gains", as used by the Internal Revenue Service (IRS), describes the handling of the profit from the sale of capital assets such as, but not limited to, computers and other electronic devices, office furniture, vehicles, and equipment used in a self-employment enterprise; or securities, real estate, or other real property held as an investment for a set period of time. For Food Assistance purposes, the total amount received from the sale of capital goods shall be counted as income to the household.

3. Income from roomers/boarders (see paragraph G below).

F. Owners of Limited Liability Corporations (LLC) and S-Corporations

For Food Assistance Program purposes, owners of LLCs or S-Corporations are considered employees of the corporation and, therefore, cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be treated as regular earned income, not self-employment income.

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**4.405.2 Income Excluded by Other Federal Statutes**

The following government payments are received for a specific purpose and are excluded as income by federal law. Federal regulations and laws have been incorporated below. The rules contained in this manual do not include any later amendments to or editions of the incorporated material. Copies of the federal laws are available for inspection during normal working hours or by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203.

A. General

1. P.L. No. 89-642, Section 11(b) of the Child Nutrition Act of 1966, as amended, excludes the value of assistance to children under this Act.
2. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended, (P.L. No. 91-646, Section 216).
3. Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1972, as amended, (P.L. No. 93-113).

Payments under Title I (AmeriCorps Volunteers in the Service of America/VISTA - including University Year for Action and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving Food Assistances or public assistance at the time they joined the Title I Program, except that households which are receiving an income exclusion for a VISTA or other Title I Subsistence Allowance at the time of conversion to the Food Assistance Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Assistance participation shall not alter the exclusion once an initial determination has been made. New applicants who are not receiving public assistance or Food Assistance at the time they joined VISTA shall have these volunteer payments included as earned income.

4. P.L. No. 101-610, Section 17(d), 11/16/90, National and Community Service Act (NCSA) of 1990, as amended, provides that Section 142(b) of the JTPA applies to projects conducted under Title I of the NCSA as if such projects were conducted under the JTPA. Title I includes three Acts:
  - a. Serve-America: the Community Service, Schools and Service-Learning Act of 1990, as amended.
  - b. American Conservation and Youth Service Corps Act of 1990, as amended.
  - c. National and Community Service Act, as amended.

There are approximately forty-seven (47) different NCSA programs and they vary by state. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning program and the AmeriCorps umbrella program come under this title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program. The Summer for Safety program is an AmeriCorps program under which participants earn a stipend and a one thousand dollar (\$1,000) post-service educational award. The National and Community Service Trust Act of 1993 (P.L. No. 103-82, 9/23/93) amended the National and Community Services Act of 1990, but did not change the exclusion.

5. P.L. No. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. No. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. Payments precipitated by an emergency or major disaster as defined in this Act, as amended, are not counted as income for Food Assistance purposes. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

A major disaster is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

Payments made to homeless people with funds from Federal Emergency Management Assistance (FEMA) to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision.

6. Payments, allowances and earnings under the Workforce ~~Investment~~ **INNOVATION AND OPPORTUNITY** Act (WIOA) are excluded as income. Earnings paid for on-the-job training are still counted for the Food Assistance Program. On-the-job training payments for

members under nineteen (19) years of age who are participating in WIOA Programs and are under the parental control of an adult member of the household shall be excluded as income. The exclusion shall apply regardless of school attendance and/or enrollment as outlined in Section 4.405, C. On-the-job training payments under the Summer Youth Employment and Training Program are excluded from income.

7. P.L. No. 99-425, Section(e), the Low-Income Home Energy Assistance Act, 1986. Payments or allowances made under any federal laws for the purpose of energy assistance.

P.L. No. 104-193 states that any payment or allowances made for the purpose of providing energy assistance under a federal law other than Part A of Title IV of the Social Security Act (42 U.S.C. 601, et seq.), or a one-time payment, or allowance made under federal or state law for the cost of weatherization, or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device is excluded from income.

8. Payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and under the Title IV of the Comprehensive Employment and Training Act Amendments of 1978 (P.L. No. 95-524).