

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

STATEMENT OF BASIS AND PURPOSE

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

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

The Food and Nutrition Act of 2008 incorporated a myriad of changes into federal Supplemental Nutrition Assistance Program regulations. These changes, however, were only recently codified into rule. As a result, Colorado State Food Assistance rules must now be updated to reflect the same clarifications and amendments to align with the federal program.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	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 273.10(a)(1)(iii)(B) &(C), 7 CFR 273.10(e)(2)	Outlines the benefit calculation standard to determine a household's prorated allotment for the initial month of application and rounding guidance for ongoing allotments
7 CFR 273.12(a)(5)(iii)(E)	Mandates that the agency issue a reminder notice prior to terminating benefits for households subject to periodic reporting requirements
7 CFR 273.11(e)	Outlines procedures for establishing eligibility and monitoring participation for individuals residing in approved drug and alcohol treatment facilities
7 CFR 273.11(f)	Outlines procedures for establishing eligibility and monitoring participation for individuals residing in approved group living arrangement facilities
7 CFR 273.9(d)(4)	Refers to allowable expense deductions pertaining to the cost of dependent care
7 CFR 273.8(e)	Refers to exempt resources
7 CFR 273.12(c)(3)	Requires the agency send a request for contact to households when unclear information is reported which may affect eligibility in an indeterminate way
7 CFR 272.13	Refers to computer match procedures pertaining to the prisoner verification system
7 CFR 272.14	Refers to computer match procedures pertaining to the deceased matching system

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

Type of Rule: *(complete a and b, below)*

a. Board Executive Director

b. Regular Emergency

DOCUMENT 2

Title of Proposed Rule: **Big Rule Updates**

CDHS Tracking #: **18-02-07-03**

Office, Division, & Program: Rule Author:
OES, FEAD, Food Assistance Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

“Big Rule” updates stemming from the Food and Nutrition Act of 2008 were written to improve procedures and provide more equitable service to SNAP applicants, recipients, and administrators of the program. There are no anticipated adverse impacts for these changes.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Short term and long term impacts of this rule change are anticipated to improve quality assurance by better clarifying existing policies and to improve the program experience for SNAP applicants and recipients.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just “no impact” answer should include “no impact because....”***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

The majority of these regulations have already been programmed into the Colorado Benefits Management System and many reflect business processes and procedures outside of the eligibility system. Outstanding CBMS enhancements will be funded through existing pool hours.

County Fiscal Impact

There is no anticipated county fiscal impact as these regulations currently exist and are merely being clarified

Federal Fiscal Impact

There is no anticipated federal fiscal impact.

Other Fiscal Impact (such as providers, local governments, etc.)

There are no additionally anticipated fiscal impacts related to these rule changes.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Data was not a factor in the revisions to these regulations.

5. Alternatives to this Rule-making

*Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just “no alternative” answer should include “no alternative because...”***

As these changes were codified into federal regulations and Colorado is responsible for administering the federal Supplemental Nutrition Assistance Program, State rules must be updated to align with federal expectations.

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: Rule Author:
OES, FEAD, Food Assistance Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

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
4.207.2	Incorrect reference to households applying on the 31 st day, removal of language that is not relevant to this section	<p>4.207.2 Initial Month Allotment Prorating</p> <p>A. A household's benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. A household applying on the thirty-first (31st) of a month shall be treated as though it applied on the thirtieth (30th) of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and Food Assistance prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.</p> <p>B. The only exception to the proration policy shall be migrant and seasonal farm worker households who are in the job stream and the break in participation does not exceed thirty (30) days. These households are entitled to a full month allotment.</p> <p>C. The state automated system will utilize the exact number of days in the calendar month to determine the proration of benefits. The following formula shall be used to determine</p>	<p>4.207.2 Initial Month Allotment Prorating</p> <p>A. A household's benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. Applicant households consisting of residents of a public institution who apply jointly for SSI and Food Assistance prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.</p> <p>B. The only exception to the proration policy shall be migrant and seasonal farm worker households who are in the job stream and the break in participation does not exceed thirty (30) days. These households are entitled to a full month allotment.</p> <p>C. The state automated system will utilize the exact number of days in the calendar month to determine the proration of benefits. The following formula shall be used to determine the amount of prorated benefits:</p>	<p>States may elect to prorate initial benefits based on actual dates or based on a standard 30-day month. Colorado has elected to use actual days and thus must remove the incorrect reference to a standard 30-day count. Additionally, the provision regarding ongoing allotments more closely aligns with 4.207.3 and is being removed from 4.207.2 and moved to this section.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>the amount of prorated benefits:</p> <ol style="list-style-type: none"> 1. Number of days in month plus one; 2. Subtract the date of application; 3. Multiply by the full month's benefits the household is eligible to receive; 4. Divide by the number of days in the application month. <p>D. If the calculation of benefits for an initial month yields an allotment of less than ten dollars (\$10) for the household, no benefits shall be issued to the household for the initial month. Except during an initial month, only one- and two- person households are eligible to receive the minimum monthly allotment.</p> <p>Except for households that are eligible under basic categorical eligibility, households with three or more members who are entitled to zero benefits shall have the Food Assistance application denied. This provision does not apply if zero benefits are due to the pro-ration requirements or due to the initial month's allotment being less than ten dollars (\$10).</p> <p>For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the county department shall certify the household for a certification period beginning with the month of application.</p>	<ol style="list-style-type: none"> 1. Number of days in month plus one; 2. Subtract the date of application; 3. Multiply by the full month's benefits the household is eligible to receive; 4. Divide by the number of days in the application month. 		
4.207.3	Adding	<p>4.207.3 Benefit Allotment</p> <p>A. After eligibility has been established, the monthly Food Assistance benefit allotment will be</p>	<p>4.207.3 Benefit Allotment</p> <p>A. After eligibility has been established, the monthly Food Assistance benefit allotment</p>	Clarification was recently received	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
	provision regarding ongoing allotments formerly located in 4.207.2, clarifying minimum thresholds and rounding procedures	<p>determined. The state automated system will compute the household's allotment. The following formula shall be used to determine a household's benefit allotment.</p> <ol style="list-style-type: none"> 1. Multiply the net monthly income by thirty percent (30%). 2. Round the product up to the next whole dollar if it ends in one (1) through ninety-nine (99) cents. 3. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in C below. <p>B. Except for an initial month, if the allotment for a one- or two-person household is less than ten dollars (\$10), round the allotment up to the minimum benefit allowed for one- or two-person household. If the calculation of benefits for an initial month is less than ten dollars (\$10), then no benefits shall be issued to the household for the initial month.</p> <p>C. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA, Food and Nutrition Service (FNS)).□</p>	<p>will be determined. The state automated system will compute the household's allotment. The following formula shall be used to determine a household's benefit allotment.</p> <ol style="list-style-type: none"> 1. Multiply the net monthly income by thirty percent (30%). 2. Round the product down to the next whole dollar if it ends in one (1) through ninety-nine (99) cents. 3. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in D below. <p>B. If the calculation of benefits for an initial month yields an allotment of less than the federal minimum allotment referenced in 4.207.3, D, no benefits shall be issued to the household for the initial month.</p> <p>For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the county department shall certify the household for a certification period beginning with the month of application.</p> <p>Except for households that are eligible under basic or expanded categorical eligibility, households with three or more members who are entitled to zero (0) benefits shall have their Food Assistance application denied. This provision does not apply if zero (0) benefits are due to the pro-ration requirements or due to the initial month's allotment being less than the federal minimum allotment referenced in 4.207.3, D.</p>	<p>indicating the minimum threshold for an initial month's issuance should align with the federal minimum allotment. The reference to \$10 reflects outdated federal rule. Allotments should be rounded down, not up, to the nearest whole dollar.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
			<p>C. Except for an initial month, if the allotment for a one- or two-person household is less than the federal minimum allotment referenced in 4.207.3, D, round the allotment up to the minimum benefit allowed for one- or two-person household.</p> <p>D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA, Food and Nutrition Service (FNS)).</p>		
4.210	Language added regarding the required reminder notice for Periodic Reporting households.	<p>4.210 PERIODIC REPORTING REQUIREMENTS</p> <p>A. A household consisting solely of members who are persons with a disability and/or members who are elderly with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four month certification period are considered simplified reporting households and are required to report changes at the twelve (12) month interim reporting period and at redetermination.</p> <p>B. A periodic report form shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the change report form is not submitted to the local office by the last day of the twelfth (12th) month of the certification period, the Food Assistance case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a periodic report form or a change report</p>	<p>4.210 PERIODIC REPORTING REQUIREMENTS</p> <p>A. A household consisting solely of members who are persons with a disability and/or members who are elderly with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four month certification period are considered simplified reporting households and are required to report changes at the twelve (12) month interim reporting period and at redetermination.</p> <p>B. A periodic report form shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the change report form is not submitted to the local office by the fifth (5th) day of the twelfth (12th) month of the certification period, a reminder notice shall be sent advising the household that it has ten (10) calendar days plus one (1) calendar day</p>	Households eligible for 24 month certifications must submit a periodic report form at the one year interval. Federal regulations were recently updated to require the agency to send a reminder notice prior to taking action to terminate benefits for failure to file the form.	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>from for any other public assistance program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be reinstated without proration.</p> <p>C. The local office must act on all changes reported by those households filing a periodic report. If the household files a complete report that results in reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two (2) business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction</p>	<p>for mailing to return the completed report. Households participating in the Address Confidentiality Program shall be afforded five (5) days mailing time. If the household has not submitted the completed report by extended due date on the reminder notice, the Food Assistance case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a periodic report form or a change report from for any other public assistance program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be reinstated without proration.</p> <p>C. The local office must act on all changes reported by those households filing a periodic report. If the household files a complete report that results in reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two (2) business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction.</p>		
4.309.3	Added clarification about the application process for	<p>4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers</p> <p>A. Residents of publicly operated community mental health centers or private non-profit</p>	<p>4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers</p> <p>A. Residents of publicly operated community mental health centers or private non-profit</p>	The Department of Public Health and Environment is no longer the appropriate State	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
	residents of a drug and alcohol facility, clarified the CDHS entity responsible for approving the center.	<p>organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in the Food Assistance Program.</p> <p>B. The drug or alcohol treatment or rehabilitation center shall be approved by the Colorado Department of Public Health and Environment, before its residents are eligible for Food Assistance participation. The Department of Public Health and Environment will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction. Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer, is certified by the Department of Public Health and Environment, and such proof may be provided in the form of a license or an approval letter issued to the center by that agency, or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.). Children of the residents in a drug and alcohol treatment center who live with their parents in the treatment center will qualify for Food Assistance. Meals served to the children are eligible for purchase with Food Assistance.</p> <p>C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in the Food Assistance Program. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households.</p>	<p>organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in the Food Assistance Program. Applications shall be made through an authorized representative who is employed by the drug or alcohol treatment or rehabilitation facility and designated by the facility for that purpose. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E).</p> <p>B. The drug or alcohol treatment or rehabilitation center shall be approved by The Colorado Department of Human Services (CDHS), Office of Behavioral Health (OBH) before its residents are eligible for Food Assistance participation. The Office of Behavioral Health will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction.</p> <p>Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer, is certified by the Office of Behavioral Health, and such proof may be provided in the form of a license or an approval letter issued to the center by that agency, or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.).</p> <p>C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in the Food Assistance Program. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. Children of the residents in a drug and alcohol treatment center who live with</p>	<p>entity for certifying the DNA. Additionally, residents of a DNA must have a staff member from the center apply on their behalf as an authorized representative.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>D. Residents may be receiving public assistance or SSI benefits, or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven calendar days following the date the application was filed.</p> <p>E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process</p> <p>through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their Food Assistance benefits to purchase food prepared for or served to the individual during the course of such program provided the program has been authorized by FNS for such purposes.</p>	<p>their parents in the treatment center will qualify for Food Assistance. Meals served to the children are eligible for purchase with Food Assistance. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households.</p> <p>D. Residents may be receiving public assistance or SSI benefits, or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven calendar days following the date the application was filed.</p> <p>E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their Food Assistance benefits to purchase food prepared for or served to the individual during the course of such program provided the program has been authorized by FNS for such purposes.</p>		
4.309.31	Added clarification about EBT responsibilities for the center.	<p>4.309.31 Responsibilities of the Center</p> <p>Drug or alcohol treatment and rehabilitation centers will be responsible for the following:</p>	<p>4.309.31 Responsibilities of the Center</p> <p>Drug or alcohol treatment and rehabilitation centers will be responsible for the following:</p>	Federal regulations require states to develop a plan as to how	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>A. Each treatment and rehabilitation center shall provide the certification office with a certified list of currently participating residents and their children residing with them in the center. The certification office shall require the list on a monthly or semimonthly basis. In addition, the certification office shall conduct periodic, random, onsite visits to the center to ensure the accuracy of the listings and that the local office's records are consistent and up-to-date. The frequency of periodic visits is left to the discretion of the local office but once each year is recommended.</p> <p>B. The treatment center shall notify the certification office if households participating in the program while residing at the center experience any of the following:</p> <ol style="list-style-type: none"> 1. Changes in the source of income or amount of gross monthly income of more than twenty-five dollars (\$25); 2. Acquisition of A nonexempt vehicle; or, 3. Acquisition of additional liquid resources that increase the household's resource value to at least two thousand dollars (\$2,000). <p>C. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the household has left the center.</p> <p>The treatment center shall provide the residents</p>	<p>A. The drug or alcohol treatment center employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and Personal Identification Number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility.</p> <p>The resident's EBT card shall be stored in a secure area while the resident receives treatment at the facility. The drug or alcohol treatment center shall not have access to, or knowledge of, the PIN for the resident's own EBT card.</p> <p>B. Each treatment and rehabilitation center shall provide the certification office with a certified list of currently participating residents and their children residing with them in the center. The certification office shall require the list on a monthly or semimonthly basis. In addition, the certification office shall conduct periodic, random, onsite visits to the center to ensure the accuracy of the listings and that the local office's records are consistent and up-to-date. The frequency of periodic visits is left to the discretion of the local office but once each year is recommended.</p> <p>C. The treatment center shall notify the certification office of changes in the household's circumstances in accordance with reporting requirements outlined in Section 4.603.</p> <p>D. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the</p>	<p>benefits will be accessed from resident cards. Clarification has been added regarding the semi-monthly "swipes" and return of both cards upon the resident's departure from the facility.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance

Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf. If benefits have been issued and any portion have been spent on his/her behalf and the resident leaves prior to the sixteenth (16th) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16th), and benefits have already been used, the resident shall not receive any benefits. The center shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the center.</p> <p>D. The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the organization or institution shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf.</p> <p>E. The organization or institution may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state office when it has reason to believe that an organization or institution is misusing Food Assistance benefits in its possession. However, no action shall be taken against the organization</p>	<p>household has left the center.</p> <p>The treatment center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf. If benefits have been issued and any portion have been spent on his/her behalf and the resident leaves, the treatment center shall return a prorated amount of the household's monthly allotment back to the household's EBT account based on the number of days in the month that the household resided at the center. Under no circumstances shall the center pull benefits from an EBT card after the resident has left the facility. In addition, the drug or alcohol treatment center shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure.</p> <p>The center shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local Food Assistance office within ten (10) days of any change the household is required to report.</p> <p>E. The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the organization or</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered as a result of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.</p>	<p>institution shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf.</p> <p>F. The organization or institution may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state office when it has reason to believe that an organization or institution is misusing Food Assistance benefits in its possession. However, no action shall be taken against the organization or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered as a result of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.</p>		
4.309.4	Added clarification about Authorized Representative responsibilities.	<p>4.309.4 Residents of Group Living Arrangements</p> <p>A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person shall be blind or disabled as defined in Section 4.304.41. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents, and is certified as a group living arrangement by the Colorado</p>	<p>4.309.4 Residents of Group Living Arrangements</p> <p>A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person shall be blind or disabled as defined in Section 4.304.41. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents, and is certified as a group living</p>	Clarified the process for designating the GLA as an Authorized Representative	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>Department of Public Health and Environment and the Colorado Department of Human Services under Section 1616(e) of the Social Security Act. FNS may also certify under standards determined by the USDA that are comparable to standards implemented the state under 1616(e) of the Social Security Act (codified at 42 USC). The federal laws 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 by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository.</p> <p>B. Residents of group living arrangements may elect to participate in the Food Assistance Program. Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement, or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for Food Assistance on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs.</p> <p>1. If residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. The group living arrangement may either receive and spend the allotment on food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the allotment on his/her own behalf.</p>	<p>arrangement by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services under Section 1616(e) of the Social Security Act. FNS may also certify under standards determined by the USDA that are comparable to standards implemented the state under 1616(e) of the Social Security Act (codified at 42 USC). The federal laws 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 by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository. Individuals residing in a for profit facility are considered residents of an institution per Section 4.304.4(E).</p> <p>B. Residents of group living arrangements may elect to participate in the Food Assistance Program. Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement, or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for Food Assistance on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs.</p> <p>1. If residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. The group living</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>2. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement.</p> <p>C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other Food Assistance households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued.</p> <p>D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other Food Assistance households, and resident households shall be afforded the same rights all other Food Assistance households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.</p>	<p>arrangement may either receive and spend the allotment on food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the allotment on his/her own behalf.</p> <p>The group living facility employee designated to serve as an authorized representative shall be responsible for obtaining their own Electronic Benefit Transfer (EBT) card and personal identification number (PIN) with which to access benefits from the resident's account while the resident remains a resident of the facility.</p> <p>The resident's EBT card shall be stored in a secure area while the resident resides in the group living facility. The group living facility shall not have access to, or knowledge of, the pin for the resident's own EBT card.</p> <p>2. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
			<p>purchase meals prepared and served by the group living arrangement.</p> <p>C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other Food Assistance households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued.</p> <p>D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other Food Assistance households, and resident households shall be afforded the same rights all other Food Assistance households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.</p>		
4.309.41	Removed outdated references to pro rata shares of benefits, corrected misnumbering.	<p>4.309.41 Responsibilities of Group Living Arrangements</p> <p>A. Each group living arrangement shall provide the local office with a list of currently participating residents. The local office shall require the list on either a monthly or semimonthly basis and the list shall be signed by a responsible center official attesting to the validity of the list. In addition, the local office shall conduct periodic random onsite visits to ensure the accuracy of the list and that the local office's records are consistent and up to date.</p> <p>B. If the resident has applied on his/her own behalf, the household is responsible for</p>	<p>4.309.41 Responsibilities of Group Living Arrangements</p> <p>A. Each group living arrangement shall provide the local office with a list of currently participating residents. The local office shall require the list on either a monthly or semimonthly basis and the list shall be signed by a responsible center official attesting to the validity of the list. In addition, the local office shall conduct periodic random onsite visits to ensure the accuracy of the list and that the local office's records are consistent and up to date.</p> <p>B. If the resident has applied on his/her own</p>	<p>Federal regulations require states to develop a plan as to how benefits will be accessed from resident cards. Clarification has been added</p> <p>regarding the semi-monthly "swipes" and return of both cards upon the</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>reporting changes to the local office in accordance with Section 4.603. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the local office of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.</p> <p>C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.</p> <p>However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement prior to the sixteenth (16th) day of the month, the facility shall provide the household with its EBT card and one-half of its monthly benefit allotment. If the household leaves after the sixteenth (16th) of the month and the benefits have already been issued and used, the household does not receive any benefits.</p> <p>If a group of residents has been certified as one household and has returned the benefits to the facility to use, the departing residents shall be given a pro rata share of one-half of the household's monthly benefit allotment if leaving prior to the sixteenth (16th) day of the</p>	<p>behalf, the household is responsible for reporting changes to the local office in accordance with Section 4.603. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the local office of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.</p> <p>C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.</p> <p>However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement , the facility shall return a prorated amount of the household's monthly allotment back to the household's EBT account based on the number of days in the month that the household resided at the center.</p> <p>Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. Under no circumstances shall the group living arrangement pull benefits from an EBT card</p>	<p>resident's departure from the facility.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>month. Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative.</p> <p>The group living arrangement shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the group living arrangement.</p> <p>If a group of residents have applied as one household, a pro rata share of the remaining benefits shall be provided to any departing household member. The group living arrangement shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the group living arrangement. The household is responsible for reporting the changes in household circumstances.</p> <p>C. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the facility shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household.</p> <p>D. The group living arrangement may purchase</p>	<p>after the resident or group of residents have left the facility. In addition, the facility shall return the authorized representative EBT card, and the resident's card if it was left behind, to the issuing office within five (5) calendar days of the resident's departure.</p> <p>The group living arrangement shall provide the household with a change report form as soon as it has knowledge the household plans to leave the facility and advise the household to return the form to the local Food Assistance office within ten (10) days of any change the household is required to report..</p> <p>D. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the facility shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household.</p> <p>E. 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</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>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 individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's Food Assistance benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/she may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.</p>	<p>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 individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's Food Assistance benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/she may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.</p>		
4.407.4	<p>Added clarification about allowable dependent care costs</p>	<p>4.407.4 Dependent Care Deduction</p> <p>Refer to Section 4.407.6 if the attendant care is for a household member who is age sixty (60) or older or who receives SSI or Social Security disability payments. The attendant costs, including meals provided, shall be considered as a medical expense.</p> <p>A. Dependent care expenses, as billed to a household member or as paid by or billed to a person disqualified for being an ineligible non-citizen or failure to provide or apply for a SSN, for the care of a child or disabled dependent shall be considered when the dependent care expenses are necessary for a household member to accept or continue employment, seek employment, or attend training or pursue education which is preparatory to employment. Dependent care expenses that are paid by or billed to the disqualified person shall be divided equally among all household members and the disqualified person. All except the disqualified member's pro rata share is considered for a deduction.</p>	<p>4.407.4 Dependent Care Deduction</p> <p>Refer to Section 4.407.6 if the attendant care is for a household member who is age sixty (60) or older or who receives SSI or Social Security disability payments. The attendant costs, including meals provided, shall be considered as a medical expense.</p> <p>A. Dependent care expenses, as billed to a household member or as paid by or billed to a person disqualified for being an ineligible non-citizen or failure to provide or apply for a SSN, for the care of a child or disabled dependent shall be considered when the dependent care expenses are necessary for a household member to accept or continue employment, seek employment, or attend training or pursue education which is preparatory to employment. Dependent care expenses that are paid by or billed to the disqualified person shall be divided equally among all household members and the disqualified person. All except the disqualified member's pro rata share is considered for a</p>	<p>Federal clarification was received to better define the types of fees and costs that are allowable regarding child care deductions for SNAP.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>The dependent care deduction that is paid by or billed to individuals disqualified for intentional Program violation/fraud will be allowed in its entirety.</p> <p>B. The total dollar amount that the household is responsible to pay for dependent care expenses is deductible.</p> <p>C. Only direct monetary payments to an agency or a person outside of the household will be allowable. The value of in-kind benefits paid to an attendant, such as meals, is not considered for a dependent care deduction.</p> <p>D. A child care expense which is reimbursed or paid for by the JOBS program under Title IV-F of the Social Security Act or the Transitional Child Care (TCC) program shall not be a deductible expense.</p>	<p>deduction.</p> <p>The dependent care deduction that is paid by or billed to individuals disqualified for intentional Program violation/fraud will be allowed in its entirety.</p> <p>Allowable dependent care costs include:</p> <ol style="list-style-type: none"> 1. The cost of care given by an individual care provider or care facility; 2. Transportation costs to and from the care facility; and 3. Activity or other fees associated with the care provided to the dependent that are necessary for the household to participate in the care. <p>B. The total dollar amount that the household is responsible to pay for dependent care expenses is deductible.</p> <p>C. Only direct monetary payments to an agency or a person outside of the household will be allowable. The value of in-kind benefits paid to an attendant, such as meals, is not considered for a dependent care deduction.</p> <p>D. A child care expense which is reimbursed or paid for by the JOBS program under Title IV-F of the Social Security Act or the Transitional Child Care (TCC) program shall not be a deductible expense.</p>		
4.410	Added additional exempt retirement accounts	<p>4.410 EXEMPT RESOURCES</p> <p>In determining the resources for a household, the following shall be excluded from consideration.</p>	<p>4.410 EXEMPT RESOURCES</p> <p>In determining the resources for a household, the following shall be excluded from consideration.</p>	Federal regulations added additional IRA types and ABLE accounts	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>A. Vehicles</p> <p>All of a household's licensed and unlicensed automobiles, motorcycles and vehicles, including recreational vehicles and seasonal vehicles, shall be totally exempt as a resource.</p> <p>B. Home and Property The home and surrounding property, which is not separate from the home by intervening property owned by others, will be an exempt resource. Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness or uninhabitability caused by casualty or natural disaster, if the household intends to return. The property owned or being purchased by households that currently do not own a home and on which the household intends to build or is building a permanent home shall be exempt.</p> <p>C. Prorated Income Monies that have been prorated and considered as income for eligibility purposes will be an exempt resource. Prorated student and self-employment income is exempt as a resource as long as a portion is still being counted as income.</p> <p>D. Household Goods, Personal Effects, and Retirement Accounts</p> <p>1. Household goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.</p>	<p>A. Vehicles</p> <p>All of a household's licensed and unlicensed automobiles, motorcycles and vehicles, including recreational vehicles and seasonal vehicles, shall be totally exempt as a resource.</p> <p>B. Home and Property</p> <p>The home and surrounding property, which is not separate from the home by intervening property owned by others, will be an exempt resource. Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness or uninhabitability caused by casualty or natural disaster, if the household intends to return. The property owned or being purchased by households that currently do not own a home and on which the household intends to build or is building a permanent home shall be exempt.</p> <p>C. Prorated Income</p> <p>Monies that have been prorated and considered as income for eligibility purposes will be an exempt resource. Prorated student and self-employment income is exempt as a resource as long as a portion is still being counted as income.</p> <p>D. Household Goods, Personal Effects, and Retirement Accounts</p> <p>1. Household goods, personal effects,</p>	<p>to the list of exempt resources.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:</p> <ul style="list-style-type: none"> a. Pension or traditional defined benefit plan; b. 401(K) plan and simple 401(K); c. 501C (18); d. 403(B) plan; e. 457 plan; f. Federal employee thrift savings plan; g. Keogh plan; h. Individual Retirement Account (IRA); i. Roth IRA and simple IRA; j. Simplified employer plan; k. Profit sharing plan; and, l. Cash balance plans. 	<p>including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.</p> <p>2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:</p> <ul style="list-style-type: none"> a. Pension or traditional defined benefit plan; b. 401(K) plan and simple 401(K); c. 501C (18); d. 403(a) and 403(b) plans; e. 408 plans including traditional Individual Retirement Accounts (Roth IRA, SIMPLE IRA, and myRA), traditional Individual Retirement Annuities f. 457 plan; g. Federal employee thrift savings plan; h. Keogh plan; i. 529A funds including funds in a qualified ABLE program 		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
			<ul style="list-style-type: none"> j. Simplified employer plan; k. Profit sharing plan; and, l. Cash balance plans. 		
4.604.1	Added clarification regarding request for contact when information is unclear.	<p>4.604.1 Verification of Reported Changes</p> <p>Changes that affect an allotment may require additional verification prior to taking action. If the county local office</p> <p>receives information about changes in a household's circumstances but cannot determine if the change will affect the household's benefits, the local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar days' time period. The local office shall offer assistance in obtaining the verification if the household cannot obtain the information. The notice shall advise the household to respond by telephone or by correspondence and state the consequences of not responding to the notice.</p> <p>If a non-simplified reporting household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar days' timeframe, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days.</p> <p>Changes which result in increased Food Assistance benefits for a household shall be verified prior to adjusting the household's allotment. If the household</p>	<p>4.604.1 Verification of Reported Changes</p> <p>Changes that affect an allotment may require additional verification prior to taking action.</p> <p>A. Unclear Information</p> <ul style="list-style-type: none"> 1. If the local county office receives information about changes in a household's circumstances but cannot determine if or how the change will affect the household's benefits and the unclear information is: <ul style="list-style-type: none"> a. Fewer than sixty (60) days old relative to the current month of participation; and b. Was required to have been reported as outlined in Section 4.603; or c. Appears to present significantly conflicting information about the household's circumstances from that used by the agency at the time of certification, including changes to the household's categorical eligibility tier, then; 	<p>Big Rule changes in federal regulations recently added</p> <p>clarification about when it is appropriate to disrupt the certification period to request additional information from the household to assess ongoing eligibility as well as the procedures for addressing computer match data not considered verified upon receipt.</p>	

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
 Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		<p>fails to provide verification, benefits shall remain at the original level until verification is obtained. Any increase in benefits resulting from a change shall take effect the month following the month the change was verified.</p> <p>If a simplified reporting household reports a change during the certification period that it was not required to report, the local office may request verification of the change, but if the household does not provide verification, then the case cannot be denied for failing to provide the requested information.</p>	<p>The local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar days plus one (1) additional calendar day for mailing time period. Households participating in the Address Confidentiality Program (ACP) shall receive five (5) additional calendar days for mailing time. The local office shall offer assistance in obtaining the verification if the household cannot obtain the information.</p> <p>If the household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar days plus one (1) additional calendar day for mailing timeframe, or five (5) additional calendar days mailing time for ACP households, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days.</p> <p>2. If the information is more than sixty</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: OES, FEAD, Food Assistance
Rule Author: Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
			<p>(60) days old relative to the current month of participation, was not required to be reported per Section 4.603, or does not present significantly conflicting information from that used by the agency at the time of certification, the agency shall not act on this information or require the household to provide the information until the household's next recertification or periodic report.</p> <p>3. Changes which result in increased Food Assistance benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Any increase in benefits resulting from a change shall take effect in accordance with the provisions outlined in Section 4.604(C)(1).</p> <p>B. Computer Matches Not Considered Verified Upon Receipt</p> <p>When information is received from a prisoner verification system indicating an individual is currently being held in a federal, state, or local detention or correctional institution for more than thirty (30) days or information is received from a deceased matching system indicating a household member has recently died, a notice of match shall be sent to the affected household prior to taking action to adjust or terminate the household's benefits.</p> <p>The notice of match shall explain what</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
			<p>information is needed to challenge the match and the consequences of failing to respond. The notice shall provide the household with ten (10) calendar days plus one (1) additional calendar day for mailing time to respond. Households participating in the Address Confidentiality Program (ACP) shall be provided five (5) additional calendar days for mailing time.</p> <p>If the household substantiates the match, fails to respond to the notice, or fails to provide sufficient verification to challenge the match results, the agency shall remove the subject individual from the food assistance household and adjust benefits accordingly following the procedures outlined in Section 4.604.</p> <p>If the household provides sufficient verification that the match is invalid, no further action shall be taken to remove the subject individual or adjust the household's benefits. The case record shall be documented accordingly.</p>		

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program: Rule Author:
OES, FEAD, Food Assistance Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Office of Economic Security (OES) sub-PAC
Colorado Department of Human Services (CDHS) Employment and Benefits Division
CDHS Office of Performance and Strategic Outcomes
CDHS Office of Appeals

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:

Office of Economic Security (OES) sub-PAC
Colorado Department of Human Services (CDHS) Employment and Benefits Division
CDHS Office of Performance and Strategic Outcomes
CDHS Office of Appeals
Colorado Center on Law and Policy
Colorado Legal Services
Colorado Cross-Disability Coalition
Colorado Coalition for the Homeless
Hunger Free Colorado
Care and Share Food Bank for Southern Colorado
Benefit Data Trust
Weld Food Bank

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

If yes, who was contacted and what was their input?

Sub-PAC

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

Yes No

Name of Sub-PAC	Economic Security Sub-Policy Advisory Committee		
Date presented	February 8, 2018		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	13	1	2
If not presented, explain why.			

Title of Proposed Rule: Big Rule Updates

CDHS Tracking #: 18-02-07-03

Office, Division, & Program:
OES, FEAD, Food Assistance

Rule Author:
Karen Dyke

Phone: (303) 866-2538

E-Mail: karen.dyke@state.co.us

PAC

Have these rules been approved by PAC?

Yes No

Date presented March 8, 2018

What issues were raised? None

Vote Count

<i>For</i>	<i>Against</i>	<i>Abstain</i>
16	2	0

If not presented, explain why.

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

(10 CCR 2506-1)

4.207.2 Initial Month Allotment Prorating

- A. A household's benefit level for the initial month of application shall be based on the day of the month it applies for benefits. Benefits for the initial month shall be prorated from the date of application to the end of the month. ~~A household applying on the thirty-first (31st) of a month shall be treated as though it applied on the thirtieth (30th) of the month.~~ Applicant households consisting of residents of a public institution who apply jointly for SSI and Food Assistance prior to release from an institution will have their eligibility determined for the month in which the applicant household was released from the institution. The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release through the end of the month. Eligible households are entitled to a full month allotment for all months except an initial month of application.
- B. The only exception to the proration policy shall be migrant and seasonal farm worker households who are in the job stream and the break in participation does not exceed thirty (30) days. These households are entitled to a full month allotment.
- C. The state automated system will utilize the exact number of days in the calendar month to determine the proration of benefits. The following formula shall be used to determine the amount of prorated benefits:
1. Number of days in month plus one;
 2. Subtract the date of application;
 3. Multiply by the full month's benefits the household is eligible to receive;
 4. Divide by the number of days in the application month.
- ~~D. If the calculation of benefits for an initial month yields an allotment of less than ten dollars (\$10) for the household, no benefits shall be issued to the household for the initial month. Except during an initial month, only one- and two- person households are eligible to receive the minimum monthly allotment.~~

~~Except for households that are eligible under basic categorical eligibility, households with three or more members who are entitled to zero benefits shall have the Food Assistance application denied. This provision does not apply if zero benefits are due to the pro-ratio requirements or due to the initial month's allotment being less than ten dollars (\$10).~~

~~For eligible households that are entitled to no benefits in their initial month of application, but are entitled to benefits in subsequent months, the county department shall certify the household for a certification period beginning with the month of application.~~

4.207.3 Benefit Allotment [Rev. eff. 10/1/17]

- A. After eligibility has been established, the monthly Food Assistance benefit allotment will be determined. The state automated system will compute the household's allotment. The following formula shall be used to determine a household's benefit allotment.
1. Multiply the net monthly income by thirty percent (30%).

2. Round the product ~~up~~-DOWN to the next whole dollar if it ends in one (1) through ninety-nine (99) cents.
3. Subtract the result from the maximum benefit allowed for the appropriate household size, as shown in ~~C~~ D. below.

B. IF THE CALCULATION OF BENEFITS FOR AN INITIAL MONTH YIELDS AN ALLOTMENT OF LESS THAN THE FEDERAL MINIMUM ALLOTMENT REFERENCED IN 4.207.3, D, NO BENEFITS SHALL BE ISSUED TO THE HOUSEHOLD FOR THE INITIAL MONTH.

FOR ELIGIBLE HOUSEHOLDS THAT ARE ENTITLED TO NO BENEFITS IN THEIR INITIAL MONTH OF APPLICATION, BUT ARE ENTITLED TO BENEFITS IN SUBSEQUENT MONTHS, THE COUNTY DEPARTMENT SHALL CERTIFY THE HOUSEHOLD FOR A CERTIFICATION PERIOD BEGINNING WITH THE MONTH OF APPLICATION.

EXCEPT FOR HOUSEHOLDS THAT ARE ELIGIBLE UNDER BASIC OR EXPANDED CATEGORICAL ELIGIBILITY, HOUSEHOLDS WITH THREE OR MORE MEMBERS WHO ARE ENTITLED TO ZERO BENEFITS SHALL HAVE THEIR FOOD ASSISTANCE APPLICATION DENIED. THIS PROVISION DOES NOT APPLY IF ZERO BENEFITS ARE DUE TO THE PRO-RATION REQUIREMENTS OR DUE TO THE INITIAL MONTH'S ALLOTMENT BEING LESS THAN THE FEDERAL MINIMUM ALLOTMENT REFERENCED IN 4.207.3,D.

~~B. C.~~ Except for an initial month, if the allotment for a one- or two-person household is less than ~~ten dollars (\$10)~~ THE FEDERAL MINIMUM ALLOTMENT REFERENCED IN 4.207.3, D, round the allotment up to the minimum benefit allowed for a one- or two-person household. ~~If the calculation of benefits for an initial month is less than ten dollars (\$10) then no benefits shall be issued to the household for the initial month.—~~

~~C. D.~~ The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA, Food and Nutrition Service (FNS)).

HOUSEHOLD SIZE	MAXIMUM MONTHLY ALLOTMENT EFFECTIVE OCTOBER 1, 2017
1	\$192
2	\$352
3	\$504
4	\$640
5	\$760
6	\$913
7	\$1,009
8	\$1,153
Each Additional Person	+ \$144

HOUSEHOLD SIZE	MINIMUM MONTHLY ALLOTMENT EFFECTIVE OCTOBER 1, 2017
1-2	\$15

4.210 PERIODIC REPORTING REQUIREMENTS

- A. A household consisting solely of members who are persons with a disability and/or members who are elderly with no earned income can be certified for twenty-four (24) months. For households certified for twenty-four months, no interview during the certification period shall be required. Households with a twenty-four month certification period are considered simplified reporting households and are required to report changes at the twelve (12) month interim reporting period and at redetermination.
- B. A periodic report form shall be mailed to the household during the eleventh (11th) month of the certification period for the household to report all changes. If the change report form is not submitted to the local office by the ~~last~~ FIFTH (5TH) day of the twelfth (12th) month of the certification period, A REMINDER NOTICE SHALL BE SENT ADVISING THE HOUSEHOLD THAT IT HAS TEN (10) CALENDAR DAYS PLUS ONE (1) CALENDAR DAY FOR MAILING TO RETURN THE COMPLETED REPORT. HOUSEHOLDS PARTICIPATING IN THE ADDRESS CONFIDENTIALITY PROGRAM SHALL BE AFFORDED FIVE (5) DAYS MAILING TIME. IF THE HOUSEHOLD HAS NOT SUBMITTED THE COMPLETED REPORT BY EXTENDED DUE DATE ON THE REMINDER NOTICE, the Food Assistance case shall be terminated effective the first day of the thirteenth (13th) month and a termination letter shall be mailed to the household. If the household submits a periodic report form or a change report from for any other public assistance program within thirty (30) calendar days following the effective date of the termination notice and provides all required verification, benefits shall be reinstated without proration.
- C. The local office must act on all changes reported by those households filing a periodic report. If the household files a complete report that results in reduction or termination of benefits, the agency shall send an adequate notice. The adequate notice must be mailed at least two (2) business days prior to the date that benefits are normally received by the household. If the household fails to provide sufficient information or verification regarding a deductible expense, the county local office shall not terminate the household but shall instead determine the household's benefits without allowing the deduction.

4.309.3 Drug and Alcohol Treatment and Rehabilitation Centers

- A. Residents of publicly operated community mental health centers or private non-profit organizations or institutions, operating a residential drug or alcohol treatment or rehabilitation program, are eligible to participate in the Food Assistance Program. APPLICATIONS SHALL BE MADE THROUGH AN AUTHORIZED REPRESENTATIVE WHO IS EMPLOYED BY THE DRUG OR ALCOHOL TREATMENT OR REHABILITATION FACILITY AND DESIGNATED BY THE FACILITY FOR THAT PURPOSE. INDIVIDUALS RESIDING IN A FOR PROFIT FACILITY ARE CONSIDERED RESIDENTS OF AN INSTITUTION PER SECTION 4.304.4(E).
- B. The drug or alcohol treatment or rehabilitation center shall be approved by the COLORADO DEPARTMENT OF HUMAN SERVICES (CDHS), OFFICE OF BEHAVIORAL HEALTH (OBH) ~~Colorado Department of Public Health and Environment~~, before its residents are eligible for Food Assistance participation. ~~The Department of Public Health and Environment~~ THE OFFICE OF BEHAVIORAL HEALTH will ensure that the center is providing treatment that can lead to the rehabilitation of drug or alcohol addiction.

Before the certification of residents can be accomplished, the local office shall verify that the center has been approved by FNS as a retailer, is certified by the ~~Department of Public Health and Environment~~ OFFICE OF BEHAVIORAL HEALTH, and such proof may be provided in the form of a license or an approval letter issued to the center by that agency, or is funded under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x, et seq.). ~~Children of the residents in a drug and alcohol treatment center who live with their parents in the treatment center will qualify for Food Assistance. Meals served to the children are eligible for purchase with Food Assistance.~~

- C. Residents and their children residing in an approved drug or alcohol treatment and rehabilitation center shall voluntarily elect to participate in the Food Assistance Program. Residents shall have their eligibility determined as one-person households unless children are residing with them at the center. CHILDREN OF THE RESIDENTS IN A DRUG AND ALCOHOL TREATMENT CENTER WHO LIVE WITH THEIR PARENTS IN THE TREATMENT CENTER WILL QUALIFY FOR FOOD ASSISTANCE. MEALS SERVED TO THE CHILDREN ARE ELIGIBLE FOR PURCHASE WITH FOOD ASSISTANCE. The local office shall certify residents of drug/alcohol treatment centers by using the same provisions that apply to other applicant households.
- D. Residents may be receiving public assistance or SSI benefits, or may be destitute of income and resources and eligible for expedited service. Residents who qualify for expedited service shall have benefits available for spending no later than seven calendar days following the date the application was filed.
- E. Any applicant household containing a member who regularly participates in a drug or alcohol treatment program on a non-resident basis shall include this member when having its eligibility determined, complete the application process through the head of household or through an authorized representative, and shall meet all financial and non-financial criteria unless specifically exempt. Such households may use any part of their Food Assistance benefits to purchase food prepared for or served to the individual during the course of such program provided the program has been authorized by FNS for such purposes.

4.309.31 Responsibilities of the Center

Drug or alcohol treatment and rehabilitation centers will be responsible for the following:

- A. THE DRUG OR ALCOHOL TREATMENT CENTER EMPLOYEE DESIGNATED TO SERVE AS AN AUTHORIZED REPRESENTATIVE SHALL BE RESPONSIBLE FOR OBTAINING THEIR OWN ELECTRONIC BENEFIT TRANSFER (EBT) CARD AND PERSONAL IDENTIFICATION NUMBER (PIN) WITH WHICH TO ACCESS BENEFITS FROM THE RESIDENT'S ACCOUNT WHILE THE RESIDENT REMAINS A RESIDENT OF THE FACILITY.

THE RESIDENT'S EBT CARD SHALL BE STORED IN A SECURE AREA WHILE THE RESIDENT RECEIVES TREATMENT AT THE FACILITY. THE DRUG OR ALCOHOL TREATMENT CENTER SHALL NOT HAVE ACCESS TO, OR KNOWLEDGE OF, THE PIN FOR THE RESIDENT'S OWN EBT CARD.

- AB. Each treatment and rehabilitation center shall provide the certification office with a certified list of currently participating residents and their children residing with them in the center. The certification office shall require the list on a monthly or semimonthly basis. In addition, the certification office shall conduct periodic, random, onsite visits to the center to ensure the accuracy of the listings and that the local office's records are consistent and up-to-date. The frequency of periodic visits is left to the discretion of the local office but once each year is recommended.

- BC. The treatment center shall notify the certification office OF CHANGES IN THE HOUSEHOLD'S CIRCUMSTANCES IN ACCORDANCE WITH REPORTING REQUIREMENTS OUTLINED IN SECTION 4.603. if households participating in the program while residing at the center experience any of the following:

1. ~~Changes in the source of income or amount of gross monthly income of more than twenty-five dollars (\$25);~~

2. ~~Acquisition of a nonexempt vehicle; or,~~

3. ~~Acquisition of additional liquid resources that increase the household's resource value to at least two thousand dollars (\$2,000).~~

GD. The treatment center shall also report when the resident leaves the treatment center. The treatment center shall return to the issuing office any benefits received after the household has left the center.

The treatment center shall provide the residents with their EBT card when the household leaves the treatment and rehabilitation program. Once the household leaves the treatment center the center is no longer allowed to act as that household's authorized representative. The departing resident shall receive his/her full allotment if already issued and if no benefits have been spent on his/her behalf. If benefits have been issued and any portion have been spent on his/her behalf and the resident leaves, THE TREATMENT CENTER SHALL RETURN A PRORATED AMOUNT OF THE HOUSEHOLD'S MONTHLY ALLOTMENT BACK TO THE HOUSEHOLD'S EBT ACCOUNT BASED ON THE NUMBER OF DAYS IN THE MONTH THAT THE HOUSEHOLD RESIDED AT THE CENTER prior to the sixteenth (16th) of the month, the center shall provide the resident with one half of his/her monthly allotment; on or after the sixteenth (16th), and benefits have already been used, the resident shall not receive any benefits. UNDER NO CIRCUMSTANCES SHALL THE CENTER PULL BENEFITS FROM AN EBT CARD AFTER THE RESIDENT HAS LEFT THE FACILITY. IN ADDITION, THE DRUG OR ALCOHOL TREATMENT CENTER SHALL RETURN THE AUTHORIZED REPRESENTATIVE EBT CARD, AND THE RESIDENT'S CARD IF IT WAS LEFT BEHIND, TO THE ISSUING OFFICE WITHIN FIVE (5) CALENDAR DAYS OF THE RESIDENT'S DEPARTURE.

The center shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the center. PROVIDE THE HOUSEHOLD WITH A CHANGE REPORT FORM AS SOON AS IT HAS KNOWLEDGE THE HOUSEHOLD PLANS TO LEAVE THE FACILITY AND ADVISE THE HOUSEHOLD TO RETURN THE FORM TO THE LOCAL FOOD ASSISTANCE OFFICE WITHIN TEN (10) DAYS OF ANY CHANGE THE HOUSEHOLD IS REQUIRED TO REPORT.

DE. The organization or institution shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the organization or institution shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf.

EF. The organization or institution may be penalized or disqualified if it is determined administratively or judicially that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The certification office shall promptly notify the state office when it has reason to believe that an organization or institution is misusing Food Assistance benefits in its possession. However, no action shall be taken against the organization or institution prior to an FNS investigation. The certification office shall establish a claim for over-issuance of Food Assistance benefits held on behalf of resident clients if any over-issuances are discovered as a result of an FNS investigation or hearing. If FNS disqualifies an organization or institution as an authorized treatment center, the certification office shall suspend its authorized representative status for the same period.

4.309.4 Residents of Group Living Arrangements

A. Group living arrangements are residential settings that are considered alternatives to institutional living. Institutional settings are not included in this provision. To be eligible as residents of a group living arrangement, the person shall be blind or disabled as defined in Section 4.304.41. In addition, the local office shall verify that the group living arrangement is a public or private nonprofit facility with no more than sixteen (16) residents, and is certified as a group living arrangement by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services under Section 1616(e) of the Social Security Act. FNS may also

certify under standards determined by the USDA that are comparable to standards implemented the state under 1616(e) of the Social Security Act (codified at 42 USC). The federal laws 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 by contacting: Director, Food Assistance Programs Division, Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado 80203; or a state publications depository. INDIVIDUALS RESIDING IN A FOR PROFIT FACILITY ARE CONSIDERED RESIDENTS OF AN INSTITUTION PER SECTION 4.304.4(E).

B. Residents of group living arrangements may elect to participate in the Food Assistance Program. Residents shall either apply and be certified through an authorized representative, who is employed and designated by the group living arrangement, or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for Food Assistance on his/her own behalf; the determination shall be based on the resident's physical and mental capability to handle his/her own affairs.

1. If residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. The group living arrangement may either receive and spend the allotment on food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the allotment on his/her own behalf.

THE GROUP LIVING FACILITY EMPLOYEE DESIGNATED TO SERVE AS AN AUTHORIZED REPRESENTATIVE SHALL BE RESPONSIBLE FOR OBTAINING THEIR OWN ELECTRONIC BENEFIT TRANSFER (EBT) CARD AND PERSONAL IDENTIFICATION NUMBER (PIN) WITH WHICH TO ACCESS BENEFITS FROM THE RESIDENT'S ACCOUNT WHILE THE RESIDENT REMAINS A RESIDENT OF THE FACILITY.

THE RESIDENT'S EBT CARD SHALL BE STORED IN A SECURE AREA WHILE THE RESIDENT RESIDES IN THE GROUP LIVING FACILITY. THE GROUP LIVING FACILITY SHALL NOT HAVE ACCESS TO, OR KNOWLEDGE OF, THE PIN FOR THE RESIDENT'S OWN EBT CARD.

2. If the residents apply on their own behalf, the applications shall be accepted for any individual applying as one-person household or for any grouping of residents applying as a household. If residents are certified on their own behalf, the allotment may be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents, used by eligible residents to purchase and prepare food for their own consumption, and/or to purchase meals prepared and served by the group living arrangement.

C. Applications for residents of group living arrangements shall be processed using the same standards that apply to all other Food Assistance households including that residents entitled to expedited service shall have benefits available for spending no later than seven (7) calendar days following the date the application was filed. Required verification shall be obtained prior to further benefits being issued.

D. The local office shall process changes in household circumstances and recertifications by using the same standards that apply to all other Food Assistance households, and resident households shall be afforded the same rights all other Food Assistance households enjoy, including the right to notices of adverse action, fair hearings, and entitlement to lost benefits.

4.309.41 Responsibilities of Group Living Arrangements

- A. Each group living arrangement shall provide the local office with a list of currently participating residents. The local office shall require the list on either a monthly or semimonthly basis and the list shall be signed by a responsible center official attesting to the validity of the list. In addition, the local office shall conduct periodic random onsite visits to ensure the accuracy of the list and that the local office's records are consistent and up to date.
- B. If the resident has applied on his/her own behalf, the household is responsible for reporting changes to the local office in accordance with Section 4.603. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the local office of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.
- C. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their EBT card. The household, not the group living arrangement, shall be allowed to receive his/her authorized issuance. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

However, if the benefits have already been issued and any portion spent on behalf of the individual and the household leaves the group living arrangement, THE FACILITY SHALL RETURN A PRORATED AMOUNT OF THE HOUSEHOLD'S MONTHLY ALLOTMENT BACK TO THE HOUSEHOLD'S EBT ACCOUNT BASED ON THE NUMBER OF DAYS IN THE MONTH THAT THE HOUSEHOLD RESIDED AT THE CENTER ~~prior to the sixteenth (16th) day of the month, the facility shall provide the household with its EBT card and one-half of its monthly benefit allotment. If the household leaves after the sixteenth (16th) of the month and the benefits have already been issued and used, the household does not receive any benefits.~~

~~If a group of residents has been certified as one household and has returned the benefits to the facility to use, the departing residents shall be given a pro-rata share of one-half of the household's monthly benefit allotment if leaving prior to the sixteenth (16th) day of the month.~~

Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. UNDER NO CIRCUMSTANCES SHALL THE GROUP LIVING ARRANGEMENT PULL BENEFITS FROM AN EBT CARD AFTER THE RESIDENT OR GROUP OF RESIDENTS HAVE LEFT THE FACILITY. IN ADDITION, THE FACILITY SHALL RETURN THE AUTHORIZED REPRESENTATIVE EBT CARD, AND THE RESIDENT'S CARD IF IT WAS LEFT BEHIND, TO THE ISSUING OFFICE WITHIN FIVE (5) CALENDAR DAYS OF THE RESIDENT'S DEPARTURE.

~~The group living arrangement shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the group living arrangement.~~ PROVIDE THE HOUSEHOLD WITH A CHANGE REPORT FORM AS SOON AS IT HAS KNOWLEDGE THE HOUSEHOLD PLANS TO LEAVE THE FACILITY AND ADVISE THE HOUSEHOLD TO RETURN THE FORM TO THE LOCAL FOOD ASSISTANCE OFFICE WITHIN TEN (10) DAYS OF ANY CHANGE THE HOUSEHOLD IS REQUIRED TO REPORT.

~~If a group of residents have applied as one household, a pro-rata share of the remaining benefits shall be provided to any departing household member. The group living arrangement shall, if possible, provide the household with a change report form to report to the local office the individual's new address and other circumstances after leaving the group living arrangement. The household is responsible for reporting the changes in household circumstances.~~

- GD. When acting as the authorized representative, a group living arrangement shall be responsible for any misrepresentation or fraud, which it knowingly commits in the certification of center residents. As an authorized representative, the facility shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying

on their behalf. The facility shall be strictly liable for all losses or misuse of benefits held on behalf of resident households and for all over-issuances that occur while the households are residents of the treatment center. However, the resident applying on his/her own behalf shall be responsible for over-issuance as would any other household.

- DE. 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 individual consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's Food Assistance benefits are used for meals intended for that resident. If the resident retains use of his/her own allotment, he/she may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.

4.407.4 Dependent Care Deduction

Refer to Section 4.407.6 if the attendant care is for a household member who is age sixty (60) or older or who receives SSI or Social Security disability payments. The attendant costs, including meals provided, shall be considered as a medical expense.

- A. Dependent care expenses, as billed to a household member or as paid by or billed to a person disqualified for being an ineligible non-citizen or failure to provide or apply for a SSN, for the care of a child or disabled dependent shall be considered when the dependent care expenses are necessary for a household member to accept or continue employment, seek employment, or attend training or pursue education which is preparatory to employment. Dependent care expenses that are paid by or billed to the disqualified person shall be divided equally among all household members and the disqualified person. All except the disqualified member's pro rata share is considered for a deduction.

The dependent care deduction that is paid by or billed to individuals disqualified for intentional Program violation/fraud will be allowed in its entirety.

ALLOWABLE DEPENDENT CARE COSTS INCLUDE:

1. THE COST OF CARE GIVEN BY AN INDIVIDUAL CARE PROVIDER OR CARE FACILITY;
 2. TRANSPORTATION COSTS TO AND FROM THE CARE FACILITY; AND
 3. ACTIVITY OR OTHER FEES ASSOCIATED WITH THE CARE PROVIDED TO THE DEPENDENT THAT ARE NECESSARY FOR THE HOUSEHOLD TO PARTICIPATE IN THE CARE.
- B. The total dollar amount that the household is responsible to pay for dependent care expenses is deductible.
 - C. Only direct monetary payments to an agency or a person outside of the household will be allowable. The value of in-kind benefits paid to an attendant, such as meals, is not considered for a dependent care deduction.
 - D. A child care expense which is reimbursed or paid for by the JOBS program under Title IV-F of the Social Security Act or the Transitional Child Care (TCC) program shall not be a deductible expense.

4.410 EXEMPT RESOURCES

In determining the resources for a household, the following shall be excluded from consideration.

A. Vehicles

All of a household's licensed and unlicensed automobiles, motorcycles and vehicles, including recreational vehicles and seasonal vehicles, shall be totally exempt as a resource.

B. Home and Property

The home and surrounding property, which is not separate from the home by intervening property owned by others, will be an exempt resource. Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness or un-inhabitability caused by casualty or natural disaster, if the household intends to return. The property owned or being purchased by households that currently do not own a home and on which the household intends to build or is building a permanent home shall be exempt.

C. Prorated Income

Monies that have been prorated and considered as income for eligibility purposes will be an exempt resource. Prorated student and self-employment income is exempt as a resource as long as a portion is still being counted as income.

D. Household Goods, Personal Effects, and Retirement Accounts

1. Household goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, and livestock not excluded as income producing property are exempt resources.

2. All retirement accounts with Federal tax preferred retirement status are exempt resources. The following retirement accounts are exempt:

a. Pension or traditional defined benefit plan;

b. 401(K) plan and simple 401(K);

c. 501C (18);

d. 403(A) AND 403(B) planS;

E. 408 PLANS INCLUDING TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNTS (ROTH IRA, SIMPLE IRA, AND MYRA), TRADITIONAL INDIVIDUAL RETIREMENT ANNUITIES

eF. 457 plan;

fG. Federal employee thrift savings plan;

gH. Keogh plan;

~~h. Individual Retirement Account (IRA);~~

~~i. Roth IRA and simple IRA;~~

I. 529A FUNDS INCLUDING FUNDS IN A QUALIFIED ABLE PROGRAM

- j. Simplified employer plan;
- k. Profit sharing plan; and,
- l. Cash balance plans.

4.604.1 Verification of Reported Changes

Changes that affect an allotment may require additional verification prior to taking action. ~~If the county local office receives information about changes in a household's circumstances but cannot determine if OR HOW the change will affect the household's benefits, the local office shall send a verification request notice requesting the household to provide the specific information or verification within the ten (10) calendar day PLUS ONE (1) ADDITIONAL CALENDAR FOR MAILING time period. HOUSEHOLDS PARTICIPATING IN THE ADDRESS CONFIDENTIALITY PROGRAM (ACP) SHALL RECEIVE FIVE (5) ADDITIONAL CALENDAR DAYS FOR MAILING TIME. The local office shall offer assistance in obtaining the verification if the household cannot obtain the information. The notice shall advise the household to respond by telephone or by correspondence and state the consequences of not responding to the notice.~~

A. UNCLEAR INFORMATION

1. IF THE LOCAL COUNTY OFFICE RECEIVES INFORMATION ABOUT CHANGES IN A HOUSEHOLD'S CIRCUMSTANCES BUT CANNOT DETERMINE IF OR HOW THE CHANGE WILL AFFECT THE HOUSEHOLD'S BENEFITS AND THE UNCLEAR INFORMATION IS:

- A. FEWER THAN SIXTY (60) DAYS OLD RELATIVE TO THE CURRENT MONTH OF PARTICIPATION; AND
- B. WAS REQUIRED TO HAVE BEEN REPORTED AS OUTLINED IN SECTION 4.603; OR
- C. APPEARS TO PRESENT SIGNIFICANTLY CONFLICTING INFORMATION ABOUT THE HOUSEHOLD'S CIRCUMSTANCES FROM THAT USED BY THE AGENCY AT THE TIME OF CERTIFICATION, INCLUDING CHANGES TO THE HOUSEHOLD'S CATEGORICAL ELIGIBILITY TIER, THEN;

THE LOCAL OFFICE SHALL SEND A VERIFICATION REQUEST NOTICE REQUESTING THE HOUSEHOLD TO PROVIDE THE SPECIFIC INFORMATION OR VERIFICATION WITHIN THE TEN (10) CALENDAR DAYS PLUS ONE (1) ADDITIONAL CALENDAR DAY FOR MAILING TIME PERIOD. HOUSEHOLDS PARTICIPATING IN THE ADDRESS CONFIDENTIALITY PROGRAM (ACP) SHALL RECEIVE FIVE (5) ADDITIONAL CALENDAR DAYS FOR MAILING TIME. THE LOCAL OFFICE SHALL OFFER ASSISTANCE IN OBTAINING THE VERIFICATION IF THE HOUSEHOLD CANNOT OBTAIN THE INFORMATION.

If THE ~~a non-simplified reporting~~ household fails or refuses to provide the verification or to request assistance with obtaining the verification within the ten (10) calendar dayS PLUS ONE (1) ADDITIONAL CALENDAR DAY FOR MAILING timeframe, OR FIVE (5) ADDITIONAL CALENDAR DAYS MAILING TIME FOR ACP HOUSEHOLDS, the process for closing the case shall be initiated. The Notice of Action Form shall advise the household that a change occurred that could not be acted upon, that the case is being closed, and that the household must provide the needed verification if it wishes to continue participation in the program. The household may be required to reapply if the household takes the required action after a break in benefits of more than thirty (30) calendar days.

2. IF THE INFORMATION IS MORE THAN SIXTY (60) DAYS OLD RELATIVE TO THE CURRENT MONTH OF PARTICIPATION, WAS NOT REQUIRED TO BE REPORTED PER SECTION 4.603, OR DOES NOT PRESENT SIGNIFICANTLY CONFLICTING INFORMATION FROM THAT USED BY THE AGENCY AT THE TIME OF CERTIFICATION, THE AGENCY SHALL NOT ACT ON THIS INFORMATION OR REQUIRE THE HOUSEHOLD TO PROVIDE THE INFORMATION UNTIL THE HOUSEHOLD'S NEXT RECERTIFICATION OR PERIODIC REPORT.
3. CHANGES WHICH RESULT IN INCREASED FOOD ASSISTANCE BENEFITS FOR A HOUSEHOLD SHALL BE VERIFIED PRIOR TO ADJUSTING THE HOUSEHOLD'S ALLOTMENT. IF THE HOUSEHOLD FAILS TO PROVIDE VERIFICATION, BENEFITS SHALL REMAIN AT THE ORIGINAL LEVEL UNTIL VERIFICATION IS OBTAINED. ANY INCREASE IN BENEFITS RESULTING FROM A CHANGE SHALL TAKE EFFECT IN ACCORDANCE WITH THE PROVISIONS OUTLINED IN SECTION 4.604(C)(1).

B. COMPUTER MATCHES NOT CONSIDERED VERIFIED UPON RECEIPT

WHEN INFORMATION IS RECEIVED FROM A PRISONER VERIFICATION SYSTEM INDICATING AN INDIVIDUAL IS CURRENTLY BEING HELD IN A FEDERAL, STATE, OR LOCAL DETENTION OR CORRECTIONAL INSTITUTION FOR MORE THAN THIRTY (30) DAYS OR INFORMATION IS RECEIVED FROM A DECEASED MATCHING SYSTEM INDICATING A HOUSEHOLD MEMBER HAS RECENTLY DIED, A NOTICE OF MATCH SHALL BE SENT TO THE AFFECTED HOUSEHOLD PRIOR TO TAKING ACTION TO ADJUST OR TERMINATE THE HOUSEHOLD'S BENEFITS.

THE NOTICE OF MATCH SHALL EXPLAIN WHAT INFORMATION IS NEEDED TO CHALLENGE THE MATCH AND THE CONSEQUENCES OF FAILING TO RESPOND. THE NOTICE SHALL PROVIDE THE HOUSEHOLD WITH TEN (10) CALENDAR DAYS PLUS ONE (1) ADDITIONAL CALENDAR DAY FOR MAILING TIME TO RESPOND. HOUSEHOLDS PARTICIPATING IN THE ADDRESS CONFIDENTIALITY PROGRAM (ACP) SHALL BE PROVIDED FIVE (5) ADDITIONAL CALENDAR DAYS FOR MAILING TIME.

IF THE HOUSEHOLD SUBSTANTIATES THE MATCH, FAILS TO RESPOND TO THE NOTICE, OR FAILS TO PROVIDE SUFFICIENT VERIFICATION TO CHALLENGE THE MATCH RESULTS, THE AGENCY SHALL REMOVE THE SUBJECT INDIVIDUAL FROM THE FOOD ASSISTANCE HOUSEHOLD AND ADJUST BENEFITS ACCORDINGLY FOLLOWING THE PROCEDURES OUTLINED IN SECTION 4.604.

IF THE HOUSEHOLD PROVIDES SUFFICIENT VERIFICATION THAT THE MATCH IS INVALID, NO FURTHER ACTION SHALL BE TAKEN TO REMOVE THE SUBJECT INDIVIDUAL OR ADJUST THE HOUSEHOLD'S BENEFITS. THE CASE RECORD SHALL BE DOCUMENTED ACCORDINGLY.

~~Changes which result in increased Food Assistance benefits for a household shall be verified prior to adjusting the household's allotment. If the household fails to provide verification, benefits shall remain at the original level until verification is obtained. Any increase in benefits resulting from a change shall take effect the month following the month the change was verified.~~

~~If a simplified reporting household reports a change during the certification period that it was not required to report, the local office may request verification of the change, but if the household does not provide verification, then the case cannot be denied for failing to provide the requested information.~~
