USDA United States Department of Agriculture
Food and Nutrition Service

Questions and Answers on the Noncitizen Eligibility and Certification Provisions Final Rule

Subject: Questions and Answers on the Noncitizen Eligibility and Certification Provisions Final Rule (November 21, 2000)

To: All Regional Directors - Food Stamp Program

The attached questions and answers concern the final rule’s provisions on Semi-Annual Reporting. They address both certification policy and quality control review procedures. Please share this information with your State agencies.

If you or your staff have any questions or comments about the attachment, please direct them to Thomas O'Connell at 703-305-2390.

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Section A Households That are Eligible for 6-Month Reporting

Question A-1

Do ***households with earned income*** include the following groups?

- The only earnings are a minor’s earnings, and they are excluded
- The only earnings are from a disqualified group member
- The only earnings are from self-employment, and after expenses the net earnings are $0

Answer A-1

The second and third groups are ***households with earned income***. The first group is not.
In order for a household to be required to report only when its income exceeds 130% of the poverty guideline, the household must have countable earned income.

Question A-2

If a household reports that it has lost its earned income, may the state agency keep the household on six-month, 130% reporting?

Answer A-2

Yes. It is the state agency’s option to switch the household to a different reporting requirement or to leave the six-month reporting requirement in place.

Question A-3

If a household reports that it has lost its earned income, and the state agency switches the household to another reporting requirement, when must the switch take place?

Answer A-3

The state agency must switch the household no later than the

- The next recertification

- The end date of the six-month reporting period

Question A-4

A household is not on the six-month reporting option. The household reports a change during its certification period. The change makes the household eligible for the six-month reporting option.

Can the state agency change the household's reporting requirement during its certification period?

Answer A-4

It is the state agency's decision whether to change the household's reporting requirement or keep it the same. *Please also see questions A-5 and A-6.*

Question A-5

For the household described in question A-4, suppose the state agency changes the household to the six-month reporting requirement. Must the state agency notify the household of its new reporting requirement?

Answer A-5

Yes.

Question A-6

For the household described in question A-4, how must the state agency align the household's reporting requirement and certification period?

Answer A-6

There is no requirement that the reporting requirement and the certification be aligned. However, we are aware of at least three scenarios the state agencies may use.

One. Lengthen the certification period up to 12 months, choosing a length between 6 and 12 months in order to align the 6-month reporting requirement with the recertification action.

For example, suppose the household had been certified for six months (but not using the 130% reporting requirement). The household then reports a change in month two that would allow it to have the 130% reporting requirement. The state agency could advise the household of its new reporting requirement and recertify the household at the end of its already established six-month certification. The household could, at its recertification, be certified for either 6 months or 12 months and have its reporting and certification periods then be aligned.

- The household is certified 01-01-02 through 06-30-02
- The household reports gaining earned income on 02-02-02
- The state agency gives the household the 130% reporting requirement effective 03-01-02
- The state agency recertifies the household in 06-02, giving it a certification period of 07-01-02 through 06-30-03
- The household's six-month report is due around the end of 12-02.

Two. Extend the certification period to give the household six months under semi-annual reporting (the basic circumstances are the same as in method one).

- The household is certified 01-01-02 through 06-30-02
- The household reports gaining earned income on 02-02-02
- The state agency gives the household the 130% reporting requirement effective 03-01-02
- The state agency extends the certification period until 08-31-02.

- The state agency then recertifies the household, effective 09-01-02.

Three. Keep the certification period and reporting period out of alignment until the next recertification.

For example, suppose the household had been certified for 12 months (but not using the 130% reporting requirement). The household then reports a change in month two that would allow it to have the 130% reporting requirement. The state agency could advise the household of its new reporting requirement. The household's first six-month required report would not be due in the sixth month of its certification period in this circumstance and its reporting period would not align with its certification period in six month increments until it was recertified at the end of 12 months.

- The household is certified 01-01-02 through 12-31-02
- The household reports gaining earned income on 02-02-02
- The state agency gives the household the 130% reporting requirement effective 03-01-02. The household's six-month report is due around the end of 08-02
- The state agency recertifies the household around the end of 12-02, giving it a certification period of 01-01-03 through 12-31-03
- The household's six-month report is due around the end of 06-03.

Section B The 130% Reporting Requirement

Question B-1

If a household is categorically eligible and reports that its gross income is over 130% of the monthly poverty income guideline, does the household continue to have a reporting requirement?

Answer B-1

It is not necessary for a state agency to continue a household's reporting requirement as long as the household's income remains above its 130% figure. However, a state agency ***may*** continue the requirement. If it does so, it must explain the requirement to FNS.

Please also see question B-2.

Question B-2

For households that are described in Question B-1, what action would the state agency take on a reported change?

Answer B-2

The state agency will act in accordance with 273.12(a)(1)(vii)(A). That is, the state agency will raise or lower benefits as it would for any other household that is on semi-annual reporting.

Question B-3

In the regulations, 273.12(a)(1)(vii)(A) states that:

> Households with earned income certified for 6 months in accordance with paragraph (a)(1)(vii) must not be required to report changes in accordance with paragraphs (a)(1)(ii) through (a)(1)(vi) of this section.

This leaves out (a)(1)(i), which contains all the income-reporting requirements. It seems the intent would be that they would not have to comply with that section since they only have to report if gross income exceeds 130% of poverty.

Does (a)(1)(vii) replaces (a)(1)(i) for this purpose?

Answer B-3

273.12(a)(1)(vii) replaces (a)(1)(i) for the purpose of income-reporting. The prohibition of applying paragraphs (a)(1)(ii) through (a)(1)(vi) is solely to make it clear that the only reporting requirement for households is the 130% income-reporting requirement.

Question B-4

When the household is measuring its total gross income to determine whether that income exceeds 130% of the monthly poverty income guideline, must the household use actual income, converted income, averaged income, pro-rated income, or annualized income?

Answer B-4

The state agency may choose the way in which the household will measure its monthly income. It may be that a combination of methods will be useful for some households.

The state agency should make its decision so that a household clearly understands what it must report.

Question B-5

For the situation in question B-4, does the state have the same options regarding the calculation of the household's allotment?

Answer B-5

No. The Food Stamp Program's normal rules, regarding conversion, pro-rating, averaging, and annualizing, continue to apply.

Section C Acting on Changes

Question C-1

Is the state agency required to act, for food stamp purposes, on changes that are known to the state agency because they were reported for PA or GA?

Answer C-1

Yes, but only if the state agency acts on the other programs by changing the PA or GA grant.

The regulation calls for acting on changes when there has been a change in the PA grant. The intent is that once the PA grant changes, ***all changes related to the grant, as well as the grant itself***, be acted on for the Food Stamp Program.

Please also see question C-2.

Question C-2

When must the state agency act on changes that are described in question C-1?

Answer C-2

At the same time that the state agency takes the corresponding action on the other program, or as soon thereafter as possible, in accordance with the provisions for notices of adverse action in 273.12(c).

Question C-3

What happens if a household reports a change that the worker is not supposed to act on (like a decrease in rent) and later the household reports another change that the worker does have to act on (like a decrease in income)? Does the state agency use the "old shelter amount" when it processes the income change, or the "new shelter amount"?

If the "new shelter", this would put the state agency in the position of having to track and keep changes that it does not have to process. If the "old shelter", this would mean an error if the worker included the "new shelter amount".

Answer C-3

It is up to the state agency to decide.

When a household reports a change, the state is required to determine whether the change is one on which it must act. If the state agency does not need to act on the change, the state agency needs to annotate the case file accordingly. It is up to the state agency to decide whether to track reported changes and to act on them if another report change occurs that does require a recalculation of benefits.

Question C-4

Is the state agency required to act on a change in household composition that would ***increase*** the household's allotment?

Answer C-4

Yes.

Question C-5

Suppose a household member leaves a six-month reporting requirement household and moves into another household (or becomes a separate household). Or suppose a household reports a new member who is already participating in another household. How should the state agency handle the change?

Answer C-5

The state agency must take its normal appropriate action:

- To remove the person from the losing household
- To add the person to the gaining household, and
- To do so without causing duplicate participation.

This is because Section 11(e)(20) of the Food Stamp Act prohibits duplicate participation and 273.12(a)(1)(vii) cannot overturn the Food Stamp Act.

Please also see question C-6

Question C-6

To avoid duplicate participation, as described in Question C-5, what kind of notice must the state agency give to the households?

Answer C-6

273.12(c)(2)(i) and 273.13(a) describe the notices that are appropriate when a household's benefits decrease. Depending upon the circumstances of the report, the state agency may be required to send an advance Notice of Adverse Action or send one that would arrive when the household receives its reduced allotment.

Question C-7

When may the state agency close a six-month reporting case?

Answer C-7

Examples of when the state agency may close a six-month reporting case are:

- The household becomes ineligible based on a reported change in income that exceeds 130%
- The household fails to submit a required six-month report
- The household asks the state agency to close the case
- The household no longer resides in the state, or
- All household members have died.

Section D Verified Upon Receipt

Question D-1

What does **verified upon receipt** mean?

Answer D-1

Verified upon receipt means that information:

- Is not questionable, and
- The provider is the primary source of the information, as indicated in the examples that follow:
    - BENDEX, from the Social Security Administration
    - SDX, from the Social Security Administration
    - SAVE, from the Immigration and Naturalization Service
    - Unemployment compensation, from the state UC agency
    - Worker's compensation, from the state WC agency

In addition, the state agency may determine what other sources provide information that is considered verified upon receipt. One of these sources could be the household itself, when it reports changes in household composition and deductible expenses.

Question D-2

What are some other examples of information that is **verified upon receipt** because it is more or less internal to the state agency?

Answer D-2

Some other examples include:

- Information from a state work agency that a client failed to comply with work requirements
- The state agency's determination of an Intentional Program Violation (IPV)
- Actions, taken by other programs within the state agency, that affect food stamp expenses

Question D-3

What are some examples of information that is not **verified upon receipt**?

Answer D-3

Some examples of information that is not **verified upon receipt** are:

- Quarterly wage match data
- New hire matches
- Unearned income matches from the Social Security Administration
- Wage data from the Social Security Administration

Question D-4

Does **verified upon receipt** have anything to do with verification's being required by federal regulation?

Answer D-4

No. Just because verification is not required does not mean that information is verified upon receipt.

Question D-5

Can the state agency hold the results of an IEVS match until the interim report or recertification?

Answer D-5

Yes, if the information is not considered verified upon receipt.

No, if the information is considered verified upon receipt. This includes information from SDX and BENDEX.

Section E The Interim (6-Month) Report

Question E-1

What must the client report?

Answer E-1

The items for change reporting, that appear at 273.12(a)(1)(i) through (vi). These are:

- Changes in the sources of income or in the amount of gross monthly income of more than $25, except changes in the public assistance grant, or the general assistance grant in project areas where GA and food stamp cases are jointly processed in accordance with 273.2(j)(2)
- All changes in household composition, such as the addition or loss of a household member
- Changes in residence and the resulting change in shelter costs
- The acquisition of a licensed vehicle not fully excludable under 7 CFR 273.8(e)
- When cash on hand, stocks, bonds, and money in a bank account or savings institution reach or exceed a total of $2000
- Changes in the legal obligation to pay child support.

Question E-2

When the state agency receives the six-month report, must it act on all reported changes?

Answer E-2

Yes. The final rule requires the state agency to act on the six-month report according to the normal standards at 273.12 (c). Please see the final rule's provision at 273.12(a)(1)(vii)(B).

Question E-3

The final rule requires the household to submit the interim report "at 6 months" (please see 273.12(a)(1)(vii)(B)). What does that mean? At the beginning of the sixth month? At the end of the sixth month? Shortly after the end of the sixth month?

Answer E-3

It is up to the state agency to set the due date for the interim report.

Question E-4

Suppose the household does not submit the required interim report on time. What does the state agency do?

Answer E-4

It is up to the state agency to decide how to handle this situation. One method would be to use the procedure for missing or incomplete monthly reports, which appears at 7 CFR 273.21(j)(1)(iii), (iv), and (v) and (j)(3)(i) and (ii). This procedure would have the state agency:

- Determine what must be verified or what is missing
- Contact the household directly to obtain to obtain necessary information
- Notify the household in writing that it must submit a complete interim report.

Section F - Quality Control

Question F-1

If the EW decreased the allotment and should not have done it, would there be an error?

Answer F-1

If the EW decreased the allotment incorrectly there will be a variance considered in the error determination.

Question F-2

How should State agencies review for the 130% of gross income standard when certification is for six months or longer?

Answer F-2

The reviewer will look to see if the sample month income exceeded 130% level of the poverty income guideline for the household size. If it does not, the reviewer will make no further investigation into this requirement. If it does exceed there will be further checks to determine whether the variance should be considered in the error determination.

Question F-3

Regarding the prohibition against decreasing an allotment, what if a household member leaves a household and starts a new household? What should quality control do?

Answer F-3

Quality control will follow the direction of certification policy on the handling of this situation and the reviewer will determine if there are any variances from the certification requirements.

Question F-4

What will be the hold harmless period for this option?

Answer F-4

There is no variance exclusion period for optional provisions.

Question F-5

In doing the QC review will the 130% be looked for in the review month versus any month between certification and the sample month?

Answer F-5

The procedures under development have the QC reviewer look at the sample month for the 130% change in income. If there is not a change over 130%, the reviewer will stop examining this reporting requirement. If during the sample month, the 130% is exceeded the reviewer will make further examination to determine if there is a variance to be considered in the error determination.

Question F-6

With the three-month reporting waiver requirement, if less than a three-month certification period has been assigned, the review is done using standard change reporting procedures in the QC review. With the six-month reporting option what do you follow if less than a six-month certification period has been assigned?

Answer F-6

If the household is given a certification period of less than six months, QC would review the household using established review procedures for standard change reporting households within the state. It is a requirement of this reporting option that the household be certified for at least six months. If the State agency fails to do so it is not in compliance with the provisions of the six-month reporting option, and QC (as in the case of the three-month reporting option) reverts to the review procedures for households not subject to the six-month reporting option.