



Food and  
Nutrition  
Service

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DATE: February 19, 2021

SUBJECT: Supplemental Nutrition Assistance Program (SNAP) –  
Consolidated Appropriations Act, 2021 - Questions and Answers

TO: All Regional Administrators  
All SNAP Regional Directors

The Food and Nutrition Service (FNS) is issuing the attached set of questions and answers to address inquiries received about the implementation of certain provisions in the Consolidated Appropriations Act, 2021, signed into law on December 27, 2020.

Thank you for your partnership in continuing to implement legislative provisions intended to strengthen the nutrition assistance support American families need. Please let us know if you have any additional questions.

Sincerely,

Jessica Shahin  
Associate Administrator  
Supplemental Nutrition Assistance Program

Enclosure

## Enclosure 1

Issuing Agency/Office:	FNS/SNAP
Title of Document:	Questions and Answers - Consolidated Appropriations Act, 2021
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Summary:	Provides operational guidance to SNAP State agencies implementing provisions of the Consolidated Appropriations Act, 2021.
Disclaimer:	The contents of this guidance document do not have the force and effect of law and are not meant to bind the public or FNS in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Pursuant to the Congressional Review Act and Executive Order 13891, the Office of Information and Regulatory Affairs has designated this document as not major and not significant.

### Questions and Answers – Consolidated Appropriations Act, 2021

#### Section 702(b)(3) – Quality Control Variance Exclusion:

The Consolidated Appropriations Act, 2021 (P.L. 116-260) (Appropriations Act) provided a variance exclusion provision at Section 702(b)(3) for the increase in SNAP benefits to 115 percent of the June 2020 value of the thrifty food plan, as found in Section 702(a) (referred to as “benefit increase” throughout these Questions and Answers).

#### 1. How does the variance exclusion provision in Section 702(b)(3) work?

The provision differs from the standard variance exclusion statutory authority in the Food and Nutrition Act of 2008, as amended, and SNAP regulations, in that the Consolidated Appropriations Act, 2021 variance exclusion is provided for the application of the benefit increase without regard for the standard 120-day time period after implementation. This exclusion would apply to variances associated with the application of the benefit increase amount only from January 1, 2021 through June 30, 2021. Therefore, if the State miscalculates the new allotments with the application of the benefit increase, variances resulting from that incorrect application would be excluded. Errors made in determining eligibility or in the base benefit amount will not be excluded.

**2. Does the lack of an expiration date mean Quality Control will never call an error on the SNAP benefit increase?**

The benefit increase was provided from January 1, 2021, to June 30, 2021. Any cases certified or acted upon using the benefit increase during this variance exclusion period will exclude variances related to the application of the benefit increase. For purposes of the Quality Control (QC) analysis, this exclusion is extended until the case is required to be recertified or acted upon for some reason (see 7 CFR 275.12(d)(2)(vii)). Any recertifications, actions based on changes during the certification period, or certifications occurring after June 30, 2021 must not apply the benefit increase and any such variance (i.e. benefit levels erroneously calculated with a benefit increase after June 30, 2021) will not be excluded.

**Section 702(b)(3) Case Review Examples:**

***Example when a difference in the benefit increase is excluded***

A case is certified on May 1, 2021, applying the benefit increase for a 6 month certification. The QC reviewer would exclude variances related to the application of the benefit increase until the case is recertified or must be acted on after June 30, 2021. If the case is pulled in the September 2021 sample month, and assuming the State did not recertify or act on the case for some other reason after June 30, 2021, any variance resulting from the application of the benefit increase is excluded.

***Example when a difference in the benefit increase is not excluded***

A case is certified on May 1, 2021, applying the benefit increase for a 6 month certification, but the household reported a change that the State must act on in July 2021. The benefit increase is not excluded from Comparison I, but will be for Comparison II. The change is not excluded from Comparison I because the change took place after June 30, 2021, which is after the variance exclusion period ends.

**Section 702(b)(4) - Overissuances:**

**3. My State's overpayment calculations are calculated automatically by the eligibility system and then are reviewed/authorized by a claims worker. Will the State be required to review, and recalculate every overpayment to ensure the increase is not included prior to authorizing the claim against the household? Will guidance be coming out about how this process should be conducted?**

Each State is responsible for developing a process to review and recalculate all overpayments to ensure the benefit increases related to Section 702(a) are excluded from the final claim amount calculation, as required by Section 702(b)(4). States should follow 7 CFR 273.18(c) to calculate the claim amount.

- 4. Can FNS confirm that this requirement is limited to the calculation of an overissuance only? That is, the portion of the temporary benefit increase will be ignored when calculating any overpayment that occurs between January and June 2021? However, a State can recoup from the portion of the temporary benefit increase for an active claim being recouped during the 6-month period?**

Yes, Section 702(b)(4) covers only the calculation of overissuance claims relating to and occurring during the benefit increase period of January 1 to June 30, 2021. Claims established before that period, and claims established for that period in compliance with Section 702(b)(4) (i.e. disregarding the benefit increase in determining the amount of an overissuance), can be recouped from benefit issuances as usual according to the procedures in 7 CFR 273.18(g).

- 5. Can FNS confirm that a household's new monthly allotment resulting from the temporary increase will need to be taken into consideration when determining the monthly allotment reduction? For example: A customer's monthly SNAP benefit prior to January 2021, is \$85 and an agency error claim is being recouped through a monthly allotment reduction of \$10. In January 2021, the customer's monthly SNAP benefit increases to \$115 as a result of the temporary increase. Does the State agency need to increase the monthly allotment reduction to \$11.50 (10 percent of \$115) as 10 percent is now greater than the \$10 limit?**

No, the State is not required to increase the allotment reduction due to benefit increases related to Section 702(a).

- 6. Can recoupment or expungement of the 15 percent benefits be applied to SNAP claims?**

Yes, States may recoup a SNAP claim from a benefit that has been calculated using the benefit increase following regulations at 7 CFR 273.18(g). Section 702(b)(4) only refers to the exclusion of the benefit increase when determining the amount of an overissuance claim against a household. This legislation does not affect the expungement of benefits process. States should continue following regulations at 7 CFR 274.2(i).

**Section 702(c) - Administrative Expenses:**

- 7. Is the additional funding for States contained in the appropriations bill 100 percent funding and if the funding is for administration of the SNAP program, does it include P-EBT?**

Section 702(c) of the Act allocates the \$100 million for States to carry out the benefit increase as well as general SNAP administration. Administrative funding for P-EBT is not included as part of Section 702(c) and is addressed separately.

**Section 702(g): Quality Control Suspension:**

**8. What if States want to use the SNAP-QCS during the suspension but not have Federal QC staff review the cases?**

States may continue to use the auto FNS-380 in SNAP-QCS to complete the case reviews during the QC suspension<sup>1</sup>. Upon the State's completion of its QC case reviews, the State would not release the cases to FNS for sub-sampling. There would be no Federal data available for these cases, however, the State reported data will be available.

**9. How do States determine sample sizes given the QC suspension?**

The sample size should be reduced proportionally with the number of months of QC suspension. For instance, if the State's Fiscal Year (FY) 2020 normal minimum sample size is 1,020 cases and the State took advantage of the QC suspension during March – May that was offered by waiver and the full suspension period offered in subsequent legislation, then the State would need to produce data for the sample months of October 2019, through February 2020. The State, then, would reduce the sample size proportionally to account for only 5 months of data and would use the following formula:  $1020 * (5/12) = 425$  cases as the minimum sample size for FY 2020. Similarly, if a State is small and took advantage of the same waiver and statutory authority to waive QC then the sample size would be determined according to the following formula:  $300 * (5/12) = 125$  cases for FY 2020. For States that take the full suspension period in FY 2021, the formula would change to account for only 3 of the 12 months such that the  $(5/12)$  calculation would be replaced by the calculation of  $(3/12)$ . States should work with their FNS Regional Office statistician to develop a plan to ensure the State will sample a sufficient number of cases for FYs 2020 and 2021.

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<sup>1</sup> "QC suspension" refers to the waiver and suspension of quality control provisions allowed by the FNS April 30, 2020 blanket waiver approval and Section 4603(a)(2) of the Continuing Appropriations Act, 2021 and Other Extensions Act (PL 116-159).