



Food and
Nutrition
Service

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DATE: May 21, 2021

SUBJECT: Supplemental Nutrition Assistance Program (SNAP) – Updated Emergency Allotments (EA) Guidance – Questions and Answers

TO: All SNAP State Agencies
All Regions

In response to the President's *Executive Order on Economic Relief Related to the COVID-19 Pandemic* issued on January 22, 2021, which directed all Federal agencies to consider administrative actions to better address the current economic crisis resulting from the pandemic, USDA reviewed and updated the SNAP EA guidance. The updated policy outlining the new approach was issued on April 1, 2021.

The attached set of questions and answers addresses inquiries received regarding the updated SNAP EA guidance. The Food and Nutrition Service (FNS) is grateful for your continued partnership in responding to this emergency and ensuring SNAP households receive the assistance they need.

State agencies with additional questions should contact their respective Regional Office representatives.

Sincerely,

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Associate Administrator
Supplemental Nutrition Assistance Program

Enclosure

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Issuing Agency/Office:	FNS/SNAP
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Summary:	This document provides operational guidance to SNAP State agencies in response to questions State agencies raised during two webinars held in April 2021. The webinars described the updated Emergency Allotments Guidance issued on April 1, 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.

A. General Questions

1. Should States resubmit their April 2021 Emergency Allotments (EA) request if it was submitted prior to the updated guidance being issued?

Response: No. The State can proceed with issuing their April EA pursuant to the updated guidance once the request has been acknowledged by FNS.

2. If a State has submitted their request for April to the Regional Office, and it has not yet been approved, should they submit a new request given the updated guidance?

Response: No, the State does not need to submit a new request. The Regional Office can proceed with reviewing and approving the requests previously submitted. The State will, however, still need to implement the updated guidance and subsequently adjust April issuances.

3. When should States begin using the new EA request template?

Response: Effective April 1, 2021, all requests going forward should be on the new template¹. As noted above, however, April requests submitted on the prior template do not have to be re-submitted.

¹ OMB Control Number [0584-0652](#) (expiration 1/31/22) covers SNAP Emergency Allotment (EA) requests and associated reporting and other burden.

4. **Is this policy retroactive to prior months where EA has already been paid out to households?**

Response: No. This policy is effective starting April 1, 2021.

5. **Will FNS require States to send an individual notice to households informing them of the changes in this guidance?**

Response: No. FNS views this as a mass change, so an individual client notice is not required. However, States can choose to do so.

6. **It sounds like only two things are changing with the EA payment amount. If a household is not receiving any EA, they will now be eligible for \$95? If a household is receiving EA in an amount less than \$95, they will now be eligible for EA equaling \$95?**

Response: That is correct.

7. **Will FNS provide language that States can use when informing clients of this change?**

Response: FNS encourages States to utilize language from the policy memo in their communications.

B. Calculating Emergency Allotments

8. **If a household is currently receiving a base benefit of \$233 and \$1 in EA, the State should now add \$94 in EA?**

Response: Yes. That is correct.

9. **If a single person household is currently receiving a base benefit of \$140 and \$94 in EA, the State would now add \$1 in EA?**

Response: Yes. That is correct.

10. **Currently, if the maximum benefit is \$234 for a single-person household, and the household received \$233 as the base benefit, the EA allotment is \$1. Now the State should add \$94 to \$233 and \$1, issuing a total of \$328 (\$1 + \$94 + \$233)? Is that correct?**

Response: Yes. That is correct. A one-person household receiving a \$233 base benefit when the maximum one-person household benefit is \$234 would receive \$328 total (i.e. [\$233+(\$1+\$94)])

11. If a household is already receiving the maximum benefit due to no income, they are getting an extra \$95. This will make their total monthly benefit exceed the maximum allotment for their household size. Is that correct?

Response: Yes. The household must receive a minimum of \$95 in EA. The updated EA guidance is intended to support households that were previously receiving little or no EA.

12. Is the minimum EA benefit \$95 regardless of household size? For example, a one-person household receiving the maximum benefit receives a \$95 supplement and a 12-person household receiving the maximum receives a \$95 supplement. Correct?

Response: Yes. The amount is per household regardless of size.

13. If a household increases in size, should the State consider their EA amount when determining the supplementary issuance?

Response: If the change in household composition results in a change in the SNAP benefit allotment, the State should issue the household a supplementary regular SNAP issuance. The State should adjust the EA amount for future months as appropriate based on the updated EA guidance. If the change in household composition does not result in a change in benefit allotment, the EA amount should not change.

14. What about the initial month's pro-rated benefit? Will the \$95 be added to those with a pro-rated benefit?

Response: The EA amount should be based on the total ongoing monthly benefit amount for which the household is eligible, and not the pro-rated amount.

15. Should benefits be adjusted for households currently receiving more than \$95 due to a State-supplemented SNAP benefit?

Response: Households are entitled to a certain amount of EA based on their regular SNAP base benefit; the base benefit does not include any State-provided supplement. If a household's EA benefit is less than \$95, the State will need to go back to the base SNAP benefit the household is entitled to receive and apply the updated policy. It is at the State's discretion whether to continue issuing State supplemental payments or to adjust the amount of the State supplement.

16. Will this guidance apply to Combined Application Project or CAP households or are they exempt? What about SSI cash-out households?

Response: States should apply the EA guidance for CAP demonstration project households as they would for all other households. If a CAP household is receiving EA less than \$95, they will now be eligible for EA equaling \$95. If a CAP household is receiving more than \$95 in EA, they will not receive additional EA. The same applies to SSI cash-out households. SSI cash-out households should receive their EA benefit

through the method in which they normally receive cash-out benefits (i.e. cash EBT, direct deposit, or check).

17. Should the State calculate the EA benefit amount at “a point in time” or continually look back and possibly recalculate the EA amount when subsequent changes are processed on the case?

Response: The calculation should be a point in time for a given month. In other words, the State is not required to recalculate the EA benefit during the month if a household reports a change. The State should adjust the EA amount in the subsequent month.

For example, in May a household reports a decrease in income, but it is too late for the State to adjust their benefits normally issued on June 1. The State agency would issue a supplement for the amount of the increase in June. Since the EA amount is determined at a point in time by the household's base benefit amount, it would not be recalculated again in June. The State would then re-determine the household's EA amount based on the updated benefit amount for the July issuance.

C. Zero Benefit Households

18. Are zero benefit households eligible to receive Emergency Allotments (EA)?

Response: Households that receive zero benefits because their income is too high are not considered participating SNAP households for purposes of EA, and are therefore not entitled to EA. Households that receive zero benefits for their first month due to pro-rata and then receive SNAP benefits in subsequent months are considered SNAP recipients and are entitled to EA beginning in the initial month.

19. If a household is categorically eligible for \$0.00 in SNAP, should they get \$95 in EA, or do they get a maximum amount for household size?

Response: See above. The household is not eligible for EA.

20. Households receiving zero benefits or in a suspense status are not eligible for EA. Is this correct? Additionally, are the same types of households that are receiving the minimum allotment (because they are one- or two-member households) entitled to EA?

Response: Households that receive zero benefits because their income is too high are not considered participating SNAP households for purposes of EA, and are therefore not entitled to EA. Households that receive zero benefits for their first month due to pro-rata and then receive SNAP benefits in subsequent months are considered SNAP recipients and are entitled to EA. Households receiving the minimum allotment are eligible for EA.

D. Overpayments

21. If the household is receiving the maximum SNAP benefit, should the \$95 in EA be included in an overpayment calculation?

Response: These additional funds have been allocated to households who had not been receiving EA payments and those whose EA payments were less than \$95 per month. EA payments will not change for households who had been receiving EA benefits of \$95 or more per month. The additional \$95 in EA may only be included in a claim where the household received EA to which it was not entitled.

22. Should States be “turning-off” overpayments when issuing EA supplements?

Response: States must continue to establish claims and collect overpayments unless the State has adopted the claims blanket waiver. The waiver temporarily suspends SNAP claims collection regulations at 7 CFR 273.18(e)(1) and 7 CFR 273.18(e)(5). The claims waiver allows the State agency to temporarily suspend collection of active recoupment of overpayments and delay collection action on newly established overpayments. In addition, State agencies are allowed flexibility in the time frame for establishing or disposing of new claims.

However, if States do not have this waiver, they must establish claims according to the normal schedule collect overpayments of SNAP benefits from the base SNAP benefit plus the 15% benefit increase. If a household is found to be ineligible for SNAP or if the household size is incorrect, the claim calculation should also include the EA overpayment received from the household.

23. Is EA (including the \$95 for households already at the maximum) included when determining an over-issuance? For example, if a household is determined to be ineligible due to unreported income, would the amount of the EA also be considered part of the overpayment?

Response: Yes, the EA would be included in the calculation of the claim if the household size is incorrect or if the household is ineligible for SNAP.

E. Claims and Recoupment

24. Is the \$95 or the difference issued subject to overpayment and/or recoupments?

Response: Over-issuances of SNAP benefits cannot be collected from EA. The only way a claim can be established and collected from EA is if a household receives EA benefits to which it was not entitled.

25. Can State agencies use EA to offset a SNAP overpayment claim?

Response: No. Over-issuances of SNAP benefits cannot be collected from EA.

26. Are these additional \$95 EA amounts for households already at the maximum amount included/excluded in an overpayment calculation?

Response: The additional \$95 in EA may only be included in a claim where the household received EA to which it was not entitled.

27. When calculating the new EA amount, should States take into consideration what the household is eligible for or what the household is being issued because they are paying on a claim?

Example: One-person household, eligible for the max \$234, but is only receiving \$211 because \$23 is automatically coming out of their benefit and being applied to a claim. Would the household be eligible for \$329 (234 + 95) (disregarding what is being paid towards the claim) or would the household be eligible for \$306 (211 + 95)?

Response: In the example above, the household is eligible for \$329 (234 + 95) but would receive \$306 (\$211 + \$95, with \$23 being applied to the claim). The EA benefit which the household is eligible for should be based on the household's calculated base benefit amount and should not take the claim into consideration.

28. Should the claim amount come off the EA payment and not the SNAP benefit?

Response: A claim established from an overpayment of SNAP benefits may be recouped from the base SNAP benefit plus the 15% benefit increase, but not from the EA. A claim established from an overpayment of EAs, may be collected from the base SNAP benefit plus the 15% benefit increase, and from the EA. The State should have system programming in place which can differentiate between these fields.

F. Reporting

29. Should Emergency Allotments (EA) provided under the updated guidance be reflected separately in reporting?

Response: No, all EA payments should be reported together.

30. If a State decides to do a catch-up wave, how should they report the estimated monthly benefits that will be provided once the amount is determined?

Response: If the State agency submitted estimates to FNS prior to the April 1, 2021, guidance that did not factor the \$95 change, the State will need to provide the correct amounts at the time of reporting to account for the differences.

G. Phase-Out Month

31. What is the phase-out month?

Response: The phase-out month provides States one additional month of EA issuance after their State declaration has been terminated. For example, if a State declaration is terminated in the middle of May, the State would have June as their transition month and their final month for issuing EA.

32. Are States required to use individual notifications to inform households of the phase-out?

Response: States are not required, but may utilize, individual or mass notifications to inform households of the phase-out month.

33. What is the minimum requirement for how the states should notify SNAP households of the phase-out? Can it be another means other than a notice?

Response: FNS recommends considering this a mass change and use mass change notification requirements. At a minimum, the State agencies shall publicize this through the news media; posters in certification offices, issuance locations, or other sites frequented by certified households; or general notices mailed to households.

34. Will FNS provide language that States can use when the National Public Health Emergency ends?

Response: Yes. FNS will provide standard language when the Federal declaration comes to an end.

H. Fair Hearings and Miscellaneous

35. Will FNS provide guidance on fair hearing requests when EAs go away?

Response: Below is general guidance on notice requirements and clients' rights to fair hearings.

36. Does a client have the right to request a fair hearing because their EA ended?

Response: Yes. A household holds the right to request a fair hearing according to 7 CFR 273.12(e)(5). A reinstatement of benefits may be made only if the issue being contested is that SNAP eligibility or benefits were improperly computed or that Federal law or regulation is being misapplied or misinterpreted by the State agency (7 CFR 273.15(k)(1)).

37. What are the noticing requirements to households regarding the sunset of the temporary SNAP increase in maximum allotment levels provided for in sections 702(a)-(b) of the CAA?

Response: According to 7 CFR 273.13(b), individual notices of adverse action shall not be provided when the State initiates a mass change through means other than computer matches as described in 7 CFR 273.12(e)(1), (e)(2), or (e)(3)(i). The sunset of the temporary SNAP increase in maximum allotment levels is considered a mass change under section 7 CFR 273.12(e)(1), and therefore a Notice of Adverse Action is not necessary.

While individual notices of adverse action are not necessary, States may choose to send a Notice of Mass Change. If States choose to send a Notice of Mass Change, the notice must meet the requirements at 7 CFR 273.12(e)(4), specifying the requirements to notify the households of their right to a fair hearing (7 CFR 273.12(e)(4)(i)(D)).

38. Because these mass benefit changes under 7 CFR 273.12(e)(1) do not require a timely Notice of Adverse Action (NOAA), there will be no NOAA period (usually 10 days, during which a household may request the continued benefits pending a hearing). So, if a State doesn't issue a NOAA, and therefore doesn't have a NOAA period, for what period of time would the continued benefit request from a household that meets the requirements (i.e., is contesting improperly computed benefits or misapplied statute or regulation under 7 CFR 273.15(k)(1)) be honored by the State Agency?

Response: Per 7 CFR 273.12(e)(6), a household which requests a fair hearing due to a mass change shall be entitled to continued benefits at the previous level if it does not specifically waive its right to continued benefits, it requests a fair hearing in accordance with 7 CFR 273.13(a)(1), and its fair hearing request is based on improper computation of SNAP eligibility or benefits, or upon misapplication or misinterpretation of Federal law or regulation.

If a State chooses to send a Notice of the Mass Change, 7 CFR 273.12(e)(4)(G)(iii) indicates it should do so as soon as reasonably possible, before the household's scheduled issuance date. However, the notice need not be given any earlier than the time the State requires for a NOAA. In this case, per 7 CFR 273.12(e)(6), the request for continuation of benefits made by a household meeting the requirements in the example would be honored so long as it is made during the notice period, between the issuance of the notice and the implementation of the mass change – in short, the same as the NOAA procedure.

If a State chooses not to send a Notice of the Mass Change, a household may request a fair hearing and a continuation or restoration of benefits for the full 90 days allowed for in 7 CFR 273.15(g).

In both cases, benefits shall only be reinstated if the issue being contested is that SNAP eligibility or benefits were improperly computed or that Federal law or regulation was misapplied or misinterpreted by the State Agency.

39. The Consolidated Appropriations Act 2021 sec. 702 says SNAP “shall disregard the additional amount of benefits that a household receives as a result of this section in determining the amount of over-issuances.” So States shall disregard the amount of SNAP benefits specifically associated with the 115% increase. Based on the EA call, it seems that benefit allotments shall be calculated using 115% of the Thrifty Food Plan, and the entirety of that benefit shall be subject to claims, which appears to contradict the text of the Act. Can you please clarify?

Response: A claim resulting from an overpayment in regular SNAP benefits may be collected from the total SNAP benefit which includes the 15% benefit increase. However, States may not include the 15% benefit increase when calculating the claim.