



August 28, 2017

Food and
Nutrition
Service

Park Office
Center

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SUBJECT: Questions & Answers Concerning SNAP: Eligibility, Certification,
and Employment and Training Provisions of the Food, Conservation
and Energy Act of 2008 Final Rule – Set #3 – Military Combat Pay

TO: All Regional Directors
Supplemental Nutrition Assistance Program (SNAP)

The attached questions and answers address the SNAP: Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008 final rule (82 FR 2010 (Jan. 6, 2017) and 82 FR 11131 (Feb. 21, 2017)). The Food and Nutrition Service (FNS) is issuing this memorandum in fulfillment of the commitment made in the preamble of the final rule to provide additional guidance for State agencies on how to carry out the exclusion of certain military combat-related pay from income for purposes of SNAP eligibility determinations.

Please distribute this guidance to your State agencies and advise them to contact their respective FNS Regional Offices with any questions and for technical assistance. FNS Regional Offices should contact Sasha Gersten-Paal at Sasha.Gersten-Paal@fns.usda.gov with any questions concerning this memorandum.

Sincerely,

Lizbeth Silberman
Director
Program Development Division

Attachment

Military Combat Pay Exclusion

Section 5(d)(19) of the Food and Nutrition Act of 2008 requires the exclusion from household income of additional combat-related pay to United States Armed Forces members for purposes of SNAP eligibility determinations. When codifying this exclusion in 7 CFR 273.9(c)(20), FNS received numerous requests for guidance to assist State agencies in carrying out this provision.

1. When is this provision effective?

The exclusion from household income of certain military combat-related pay to members of the United States Armed Forces was effective on October 1, 2008, per the Food, Conservation, and Energy Act of 2008 (the Act). The regulatory changes were effective May 8, 2017.

Please note: FNS had required a similar exclusion since fiscal year 2005, as Congress originally mandated this exclusion in the Consolidated Appropriations Act, 2005. This memo overrides any prior memos FNS has issued on this subject.

2. What types of pay must be excluded from income in SNAP eligibility determinations?

For income to be excluded, it must be income received by a member of the United States Armed Forces under chapter 5 of title 37, United States Code, that is:

- (i) Received in addition to the service member's basic pay;
- (ii) Received as a result of the service member's deployment to or service in an area designated as a combat zone as determined pursuant to Executive Order or Public Law; and
- (iii) Not received by the service member prior to the service member's deployment to or service in a Federally-designated combat zone.

3. What verification should State agencies request from households?

When verifying combat pay, State agencies should request that a household seeking this exclusion provide:

- A copy of the service member's deployment order;
- A copy of the leave and earnings statement (LES) of the service member immediately before deployment; and
- A copy of the LES after deployment.

4. How should State agencies determine the combat-related pay to be excluded?

FNS consulted with the Department of Defense (DoD) Defense Finance and Accounting Service (DFAS) to determine the best method for State agencies to determine what pay should be excluded under 7 CFR 273.9(c)(20). FNS recommends a three-step process:

- (i) The State agency should verify that the combat zone described in the service member's deployment order is one of the designated combat zones listed in the Department of Defense Financial Management Regulation (DoDFMR) Volume 7A, chapter 44, which is available online at http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_07a.pdf

In particular, the State agency should look at section 440203, relating to Combat Zone Tax Exclusion (CZTE). For SNAP purposes, only pay received for deployment to or service in a Combat Zone (CZ) is excludable, **not** pay received for a Qualified Hazardous Duty Area or Direct Support Area.

- (ii) The State agency should compare the two provided leave and earnings statements to determine whether the service member is receiving Imminent Danger Pay (IDP) and Hazardous Duty Pay Location (HDP-L) as a result of deployment to or service in the designated combat zone. Special pay received immediately prior to the service or deployment in the combat zone may **not** be excluded.
- (iii) The State agency should exclude the amount of the IDP and HDP-L identified as being received as a result of deployment to or service in the designated combat zone.

5. How should State agencies resolve questions about interpreting deployment orders and leave and earning statements?

State agencies should contact the service member's supporting finance office or DFAS at DFAS.Indianapolis-IN.JFL.mbx.dfas-in-systems@mail.mil.

6. How should the identified combat-related pay be excluded?

The State agency must first determine what amount of the service member's income is actually available to the household. Only income made available to the household is considered when determining a household's SNAP eligibility and benefit level. The identified combat-related pay that is available to the household must then be excluded from that amount.

It may be helpful to understand that money is generally made available to the applicant or participating SNAP household via a direct deposit of all or a portion of the service member's pay into a joint checking account. Occasionally funds are made available via an "allotment" arrangement made by the service member for a portion of his or her pay to be sent to the applicant or participating SNAP household. More often than not, when an "allotment" arrangement is made, it is the service member who receives the "allotment" with the bulk of his or her pay being sent directly to his or her family. Regardless of the arrangement made by the absent family member for his or her military pay, only that portion of his or her pay to which the applicant or participating SNAP household has access should be counted when determining the household's income for SNAP purposes.

After identifying what portion of the combat-related pay is available to the household, that portion must be excluded from the household's income for SNAP eligibility determinations.