

DECLARATION OF EMERGENCY

Department of Children and Family Services

Economic Stability

Public Assistance Programs

(LAC 67:III.301, 307, 309, 313, 1209, 1229, 1255, 1987, 1988, 1999, 2103, 2107, 5307, and 5345)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend the *Louisiana Administrative Code* (LAC), Title 67, Part III Economic Stability. Amendment is pursuant to the authority granted to the department by the Food and Nutrition Act of 2008, in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR and Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant. This emergency rule is adopted on September 29, 2017 and shall be effective October 1, 2017. It shall remain in effect for a period of 120 days.

Sections 301, 307, 309, and 313 are being amended to remove references to the Child Care Assistance Program (CCAP).

Sections 1209, 1999, and 5307 are being amended to update circumstances in which a concurrent notice is allowable.

Section 1229 is being amended to allow a dependent care deduction for any child who is not receiving CCAP.

Sections 1255 and 5345 are being repealed and Sections 1987, 1988, and 2103 are being amended to maintain compliance with Act 265 of the 2017 Regular Session of the Louisiana Legislature, which eliminated restrictions on eligibility for certain persons with prior drug convictions.

Section 2107 is being amended to update that there are three standard benefit amounts.

The department considers emergency action necessary to clarify the programs' administrative rules and facilitate the expenditure of TANF funds, which is authorized by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 1. General Administrative Procedures

Chapter 3. Hearings

§301. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Benefits—any kind of assistance, payments or benefits made by the department for Family Independence Temporary Assistance Program (FITAP), Strategies to Empower People (STEP) Program, Kinship Care Subsidy Program (KCSP), or Supplemental Nutrition Assistance Program (SNAP), ~~or Child Care Assistance Program (CCAP).~~

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:2259 (November 1999), LR 26:350 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 43:

§307. Time Limits for Requesting a Fair Hearing

A.1. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a fair hearing.

FITAP	30 days
STEP Program	30 days
KCSP	30 days
CCAP	30 days
SNAP	90 days

2. The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended LR 26:350 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

§309. Time Limits for Decisions to be Rendered

A. A prompt, definitive, and final decision must be provided within the number of days from the date of the fair hearing request as listed below.

FITAP	90 days
STEP Program	90 days
KCSP	90 days
CCAP	90 days
SNAP	60 days*

~~*or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and SNAP cases~~

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended LR 26:351 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic

Stability, LR 38:965 (April 2012), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

§313. Continuation of Benefits

A. Recipients in all categories, except STEP Program ~~and~~ ~~CCAP~~, who request a fair hearing prior to the expiration of the advance notice of adverse action or within 13 days of the date of concurrent notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. the recipient indicates he does not want benefits continued;

2. a determination is made at the hearing that the sole issue is one of existing or changing state or federal law; or

3. a change unrelated to the appeal issue affecting the client's eligibility occurs while the hearing decision is pending and the client fails to request a hearing after receiving the notice of change.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the FITAP payee;

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. the case is closed due to the amount of child support collected through child support enforcement services;

11. the client has been certified for Supplemental Security Income or foster care payments and that fact has been established;

12. the child is certified for kinship care subsidy payments;

13. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

14. ~~the agency receives a report of change through the semi-annual reporting process that would reduce or terminate~~ benefits are reduced or terminated effective the month following the simplified report month;

15. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B. and R.S. 46:237; Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 28:2565 (December 2002), LR 30:493 (March 2004), LR 32:1911 (October 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 43:

Subchapter B. Conditions of Eligibility

§1229. Income

A. - B.2. ...

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to the following deductions only.

1. Standard deduction of \$120.

2. \$900 Time-Limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the

\$120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six-month lifetime limit for the individual.

3. Dependent Care Deduction. Recipients may be entitled to a deduction for dependent care for:
 - a. an incapacitated adult;
 - b. ~~effective May 1, 2006,~~ a child ~~13 or older~~ who is not receiving CCAP; or
 - c. effective May 1, 2006, the amount charged by a child care provider that exceeds the CCAP maximum for a child in care.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:1651 (October 2016), amended by the Department of Children and Family Services, Economic Stability Section, LR 43:

~~§1255. Individuals Convicted of a Felony Involving a Controlled Substance~~

~~A. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the~~

~~possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6)] shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.~~

~~AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.~~

~~HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).~~

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households

Subchapter J. Determining Household Eligibility and Benefit Levels

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

1. Households in which a member is a recipient of benefits from the FITAP, STEP, and/or Kinship Care Subsidy Program, and households in which all members are recipients of SSI, shall be considered categorically eligible for SNAP.

2. "Recipient" includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. "Recipient" shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than \$10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. the household is disqualified for failure to comply with the work registration requirements;

~~e. any member of the household is ineligible because of a drug related felony.~~

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a social security number;

f. an individual who is on strike.

6. Households which are categorically eligible are considered to have met the following SNAP ~~food stamp~~ eligibility factors without additional verification:

a. resources;

b. Social Security numbers;

c. sponsored alien information;

d. residency.

7. These households also do not have to meet the gross and net income limits, ~~but verification of income not counted for TANF/SSI is required (e.g., educational assistance).~~

If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all SNAP eligibility factors except as outlined above.

9. Changes reported by categorically-eligible SNAP households shall be handled according to established procedures

except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of ~~\$10~~ \$15. Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274, F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2, (j), and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2531 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1312 (July 2014), amended by the Department of Children and Family Services, Economic Stability Section, LR 43:

§1988. Eligibility Disqualification of Certain Recipients

A. Fleeing felons and probation/parole violators are ineligible for benefits.

~~B. Effective May 7, 1998 an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in section 102(6) of the Controlled~~

~~Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving SNAP benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.~~

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L.105-33, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

Subchapter M. Notice of Adverse Action

§1999. Reduction or Termination of Benefits

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the household at the time of action in the following situations.

1. The agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or ended because of the disqualification.

2. Benefits are reduced or terminated at the end of the certification period when the client timely reapplies.

3. The client has been certified in another state and that fact has been established.

4. The client signs a statement requesting closure or reduction in benefits and waives the right to advance notice.

5. Benefits are reduced or terminated effective the month following the simplified report month ~~as a result of changes reported through the simplified reporting process.~~

6. The agency receives a written report signed by the head of the household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility.

7. Mass changes.

8. Based on reliable information, the agency determines that the household has moved or will be moving out of the state prior to the next monthly issuance.

9. The household applied for cash assistance and SNAP at the same time and has been getting SNAP benefits while waiting for approval of the cash assistance grant.

10. The client was a certified resident in a drug or alcohol treatment center or a group living arrangement which loses its state certification or FNS disqualifies it as a retailer.

11. A household certified under expedited processing rules provides postponed verification which reduces or terminates benefits.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 7 CFR 273.12(a)(1)(vii), P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 32:2270 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

Chapter 21. Louisiana Combined Application Project (LaCAP)

Subchapter A. Household Concept

§2103. Household Definition

A. The definition of a household is an individual who is receiving Supplemental Security Income (SSI) and:

1. is at least 60 years old;
2. has a federal living arrangement of Code "A" as determined by the Social Security Administration (SSA);
3. is not institutionalized, or otherwise ineligible for SNAP due to immigration status, or an Intentional Program Violation, ~~or drug conviction~~; and
4. lives alone or declares to purchase and prepare food separately from others in a shared living situation.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7 CFR Part 282, and Section 17 of the Food Stamp Act of 1977, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

§2107. Benefits

A. Participants will receive one of ~~four~~ three standard amounts of SNAP benefits based on the household's total combined shelter (housing and utilities) costs.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 43:

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5307. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the KCSP payee;
2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;
3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the post office indicating no known forwarding address;
4. a client has been certified in another state and that fact has been established;
5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;
6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an intentional program violation and benefits are terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. the case is closed due to the amount of child support collected through child support enforcement services;

11. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the client's ineligibility;

~~12. the agency receives a report of change through the semi-annual reporting process that would reduce or terminate~~
benefits are reduced or terminated effective the month following the simplified report month;

13. mass changes;

14. effective May 1, 2006, the child has been certified for Supplemental Security Income and that fact has been established.;

15. the child has been certified for foster care payments and that fact has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:2565 (December 2002), LR 32:1913 (October 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 43:

Subchapter B. Conditions of Eligibility

~~§5345. Individuals Convicted of a Felony Involving a
Controlled Substance~~

~~A. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance [as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6)] shall be disqualified from receiving KCSP for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.~~

~~AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.~~

~~HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:356 (February 2000).~~

Marketa Garner Walters
Secretary