106 CMR 362.000: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: NONFINANCIAL ELIGIBILITY STANDARDS

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362.050: Introduction

106 CMR 362.000 describes the nonfinancial eligibility standards that must be met by SNAP applicants and recipients. Nonfinancial eligibility standards are residency, citizenship, and alien status, student eligibility, and work registration. These eligibility standards must be met by all household members prior to the determination of a household's financial eligibility.

362.100: Residency

A household must be living in the area covered by the certification office in which it files an application. In any month no individual may participate as a member of more than one household nor may any household participate in more than one state. The only individuals exempt from these dual participation restrictions are certain residents of shelters for battered women and their children as defined in 106 CMR 365.550. There is no durational residency or fixed residency requirement. For example, migrant campsites satisfy the residency requirement. Residency does not require an intent to permanently reside in the area. However, individuals in an area solely for vacation purposes shall not be considered residents. An otherwise eligible household shall not be required to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

362.110: Reporting Residency

The application contains spaces for both a physical address and a mailing address. If the two are different, the case manager should request both addresses be given. A mailing address only, such as a post office box or a rural route, will not be sufficient as it does not indicate that the household resides in the area covered by the certification office. If the address is a rural route, information should be given to identify the exact location of the home.

362.120: Verification of Residency

Residency shall be verified prior to initial certification except in unusual cases (such as homeless households, certain migrant farmworker households, or households that have just arrived in the state) where verification of residency cannot reasonably be accomplished. To the extent possible, documents used to verify rent or mortgage payments, utilities, or identity shall be used to verify residency. If such documentation does not verify residency, the Department of Transitional Assistance (Department) shall use any documents, collateral contact, or home visits in accordance with 106 CMR 361.640 that reasonably establish the applicant's residency. No requirement for a specific type of verification may be imposed. The case manager shall not limit verifications to a single document and must assist the household in obtaining verification, when necessary, as discussed in 106 CMR 361.650.

362.200: Citizens, Noncitizens, Canadian-born or Mexican-born Indians and Members of Hmong and Highland Laotian Tribes

To be eligible for SNAP benefits an individual must be:

(A) A citizen of the United States, defined as an individual born in one of the United States, District of Columbia, Commonwealth of Puerto Rico, Guam, and the Virgin Islands. In addition, nationals from American Samoa or Swain's Island shall be regarded as United States citizens for SNAP purposes;

(B) A noncitizen who meets one of the requirements of 106 CMR 362.220;

(C) An American Indian born in Canada or Mexico to whom the provisions of § 289 of the Immigration and Nationality Act apply or who are members of a tribe as defined in § 4(e) of the Indian Self Determination and Education Assistance Act; or

(D) A member of a Hmong or Highland Laotian tribe who meets the requirements of 106 CMR 362.235.

A statement certifying, under penalty of perjury, to the truth of the information contained in the application of the citizenship or noncitizen status of each member in the household applying for SNAP benefits must be completed in accordance with 106 CMR 361.100(C).

The presence in a household of a member who does not meet the above criteria shall not prevent the remainder of the household from applying for and, if eligible, receive benefits.

362.210: Citizens

(A) Verification of Citizenship. Citizenship shall be verified when the information on the application is questionable.

(B) Acceptable Forms of Verification. Acceptable forms of verification to indicate the place of birth or citizenship include:

(1) birth certificate;
(2) baptismal record;
(3) United States passport;
(4) hospital birth record;
(5) voter registration;
(6) naturalization certificate;
(7) US Citizen Identity Card (INS Form I-179);
(8) US Citizen Resident's Card (INS Form I-197);
(9) court records that specifically state the citizenship of the individual;
(10) military service papers that indicate citizenship;
(11) proof that at least one of the natural or adoptive parents was:
  (a) a U.S. citizen at the time of the person's birth, and
  (b) that the parent had resided in the United States before the birth of this person;
(12) proof that:
  (a) both parents became naturalized citizens before this person either turned age 18 or married while under age 18; and

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(b) at the time the second parent or surviving parent was naturalized, this person:
1. was residing in the U.S. with lawful admission for permanent resident status; or
2. began residing permanently in the U.S. while under the age of 18;

(13) proof that at least one parent is a U.S. citizen by birth or naturalization and the foreign-born child, including an adopted child:
(a) is under 18 years of age;
(b) is currently residing permanently in the U. S. in the legal and physical custody of the United States citizen parent; and
(c) is a lawful permanent resident; or

(14) proof that, at the time of this person's birth, one parent was a U.S. citizen residing in the U.S. for more than five years, two years of which were after the parent was 14 years old.

Participation in the Transitional Aid to Families with Department Children (TAFDC) program shall also be considered acceptable verification if verification of citizenship was obtained for that program. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the case manager shall accept a signed statement from someone who is a U.S. citizen that declares, under penalty of perjury, that the household member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud.

(C) Participation Pending Verification of U.S. Citizenship. The member whose U.S. citizenship is questionable in accordance with 106 CMR 361.620 shall be ineligible and shall be disqualified on the basis of being an ineligible noncitizen in accordance with 106 CMR 361.230(D).

362.220: Noncitizens

A noncitizen applying for SNAP benefits and claiming an eligible noncitizen status must verify that he or she is present in the United States (U.S.) under one of the noncitizen statuses in 106 CMR 362.220(A). The status of a noncitizen must be verified at certification, at recertification or whenever the status of the noncitizen changes or is questionable. Verification of an eligible noncitizen status must be presented before the determination of Supplemental Nutrition Assistance Program (SNAP) eligibility.

When a noncitizen applying for SNAP benefits indicates an inability or unwillingness to provide information about or acceptable verification of an eligible noncitizen status that household member shall be ineligible. In such cases the Department shall not continue efforts to obtain documentation. Likewise, if a noncitizen applying for SNAP benefits indicates an inability or unwillingness to provide, or apply for, a Social Security Number due to immigration status that household member is ineligible. The Department shall not continue efforts to obtain documentation. FSP eligibility will be determined in accordance with 106 CMR 365.520(A) for the remaining members of the household who verify an eligible noncitizen status.

The Commissioner or designee is required to report to the Immigration and Naturalization Service (INS) information about noncitizens "known to be in the U.S. unlawfully" as defined in 106 CMR 362.240.

SNAP Eligible Noncitizen Status. A noncitizen's eligibility for FSP benefits depends on the noncitizen being a qualified noncitizen and meeting certain conditions related to the qualified noncitizen status.

(A) A qualified noncitizen means a noncitizen who at the time the noncitizen applies for or receives SNAP benefits is in one of the following categories as determined by the INS:
(1) refugees admitted under § 207 of the INA, including a victim of severe forms of trafficking;
(2) asylees admitted under § 208 of the INA;
(3) noncitizens whose deportation is withheld under § 243(h) or whose removal is withheld under § 241(b)(3) of the INA;
(4) Cuban/Haitian entrants (as defined in § 501(e) of the Refugee Education Assistance Act of 1980);
(5) Amerasians as defined in § 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988.
(6) paroled as a refugee or asylee under § 212(d)(5) of the INA for at least one year;
(7) conditional entrant under § 203(a)(7) of the INA;

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(8) legal permanent residents; and
(9) battered noncitizens.

(B) To receive SNAP benefits the qualified noncitizen must meet the conditions of one of the following INS statuses:

(1) Refugee. A noncitizen present in the U.S. as a refugee under § 207 or 207(c) of the INA is an eligible noncitizen.

(2) Asylee. A noncitizen present in the U.S. as a refugee under § 208 of the INA is an eligible noncitizen.

(3) Withholding of Deportation. A noncitizen whose deportation is being withheld under § 243(h) or whose removal is withheld under § 241(b)(3) of the INA is an eligible noncitizen.

(4) Cuban/Haitian Entrant. A noncitizen who is present in the U.S. as a Cuban/Haitian entrant (as defined in § 501(e) of the Refugee Education Assistance Act of 1980) is an eligible noncitizen.

(5) Amerasian. A noncitizen from Vietnam who is present in the U.S. as an Amerasian immigrant (as defined in § 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988) is an eligible noncitizen.

(6) Victims of Severe Forms of Trafficking. A noncitizen who is present in the U.S. and has been issued a letter from the U.S. Department of Health and Human Services (HHS) verifying that the noncitizen is a victim of severe forms of trafficking as defined in 106 CMR 362.240(E) is an eligible noncitizen.

(7) Legal Permanent Resident. A noncitizen present in the U.S. as a legal permanent resident is an eligible noncitizen when he or she:

(a) prior to adjustment to legal permanent resident, was:

1. a refugee under § 207 of the INA, including a victim of severe forms of trafficking;
2. an asylee under § 208 of the INA,
3. a noncitizen whose deportation was being withheld under § 243(h) or 41(b)(3) of the INA,
4. a Cuban/Haitian entrant (as defined in § 501(e) of the Refugee Education Assistance Act of 1980), or
5. an Amerasian immigrant (as defined in § 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988). Export Financing and Related Programs Appropriations Act, 1988);

(b) has resided as a qualified noncitizen in the U.S. for five years;

(c) is an elderly noncitizen born on or before 8/22/31 and who was lawfully residing in the U.S. on 8/22/96;

(d) is a child under 18 years of age;

(e) is disabled as defined in 106 CMR 361.210;

(f) has worked a minimum of 40 qualifying quarters under Title II of the Social Security Act including qualifying quarters of work not covered by Title II;

(g) can be credited with a total of 40 qualifying quarters under Title II of the Social Security Act as worked by a combination of:

1. the noncitizen;
2. the parent(s) of the noncitizen while the noncitizen was under age 18 including quarters worked before the noncitizen was born or adopted; and/or
3. the spouse of the noncitizen during their marriage if the noncitizen remains married to the spouse or is widowed; or

No quarter may be claimed after December 31, 1996 if benefits from a federal means-tested program as defined in 106 CMR 362.240 were received from any state during that same quarter.

(h) is a veteran or active duty personnel as defined in 106 CMR 362.240(F).

(8) Battered Noncitizen. A noncitizen who is battered is an eligible noncitizen when he or she has proof of the battering and meets the following conditions:

(a) The noncitizen must have:

1. a Form I-130 petition filed by their spouse or the child's parent;
2. a Form I-130 petition filed as a widow(er) of a U.S. Citizen;
3. an approved self-petition under the Violence Against Women Act (including those filed by a parent); or

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4. an application for cancellation or removal or suspension of deportation filed as a victim of domestic violence;

(b) The noncitizen, the noncitizen's child or the noncitizen child's parent has been abused in the U.S. under any of the circumstances specified below:

1. The noncitizen has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to the battery and cruelty;

2. The noncitizen's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to the battery or cruelty, and the noncitizen did not actively participate in the battery or cruelty; or

3. The parent of a noncitizen child has been battered or subjected to extreme cruelty in the U.S. by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent, if the spouse consents to or acquiesces in such battery or cruelty;

(c) There is a substantial connection between the battery or extreme cruelty and the need for SNAP benefits;

(d) The battered noncitizen, child or parent, no longer resides in the same household as the abuser; and

(e) The noncitizen meets one of the following conditions:

1. has resided as a qualified noncitizen in the U.S. for five years;

2. is elderly born on or before August 22, 1931 who was lawfully residing in the U.S. on August 22, 1996;

3. a child under 18 years of age;

4. is disabled in accordance with 106 CMR 361.210; or

5. is a veteran or active duty personnel in accordance with 106 CMR 362.240(F).

(9) Parolee. A noncitizen present in the U.S. as a parolee under § 212(d)(5) of the INA for at least one year is an eligible noncitizen when he or she:

(a) has resided as a qualified noncitizen in the U.S. for five years;

(b) was born on or before August 22, 1931 and was lawfully residing in the U.S. on August 22, 1996;

(c) is a child under 18 years of age;

(d) is disabled as defined in 106 CMR 361.210; or

(e) is a veteran or active duty personnel in accordance with 106 CMR 361.240(F).

(10) Conditional Entrant. A noncitizen present in the U.S. as a conditional entrant under § 203(a)(7) of the INA is an eligible noncitizen when he or she:

(a) has resided as a qualified noncitizen in the U.S. for five years;

(b) was born on or before August 22, 1931 and was lawfully residing in the U.S. on August 22, 1996;

(c) is a child under under 18 years of age;

(d) is disabled as defined in 106 CMR 361.210; or

(e) is a veteran or active duty personnel in accordance with 106 CMR 362.240(F).

(C) Verification of Noncitizen Status. The noncitizen must submit verification in accordance with Department procedures of the eligible noncitizen status and the date the status was granted for each member of the household at application, at recertification or when the status of the noncitizen changes or is questionable. In addition, the noncitizen must verify other noncitizen eligibility requirements as described under the applicable noncitizen status at 106 CMR 362.220(A).

(D) Ineligible Legal Noncitizen Status . An individual present in the U.S. under conditions or sections of the INA not described in 106 CMR 362.220(A) and (B), notwithstanding a legal noncitizen, is ineligible for SNAP benefits. His or her income or assets shall be considered in accordance with 106 CMR 365.520(B).

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(E) Nonimmigrant Noncitizen Status. An individual lawfully residing in the U.S. in a non-qualified status and who is not exempt from immigrant restrictions (such as students) is ineligible for SNAP benefits. The nonimmigrant shall be ineligible in accordance with 106 CMR 361.230(D) and his/her income and assets considered available to any remaining household member(s) in accordance with 106 CMR 365.520(A).

(F) Undetermined Noncitizen Status. When a household indicates an inability or unwillingness to provide verification of an eligible noncitizen status for any household member, that household member shall be ineligible in accordance with 106 CMR 361.230(D) and his or her income and assets considered available to any remaining household member(s) in accordance with 106 CMR 365.520(A). In such cases the Department shall not continue efforts to obtain documentation.

(G) Not Legally Residing Noncitizen Status. When a household verifies illegal noncitizen status for any assistance unit member(s) by presenting to the Department a Final Order of Deportation, that household member shall be ineligible in accordance with 106 CMR 361.230(D) and his or her income and assets considered available to any remaining household members in accordance with 106 CMR 365.520(A).

362.230: American Indian Born in Canada or Mexico

(A) Requirements. A person with at least 50% of Indian blood born in Canada or Mexico, with treaty rights to cross the United States borders with Canada and Mexico, and who has maintained residence in the United States since his or her entry must be regarded as having been lawfully admitted for permanent residence.

Persons with less than 50% of Indian blood must satisfy the requirements of 106 CMR 362.220.

(B) Verifications. This status must be verified. An American Indian born in Canada or Mexico status is verified by one of the following:

(1) A "band card" issued by the band council of a Canadian Indian reserve;
(2) Birth or baptism records;
(3) A provincial Union of Indians card issued by the tribal nation (such as a Union of Nova Scotia Indians card); or
(4) An affidavit from a tribal official or other person knowledgeable about the applicant's or recipient's family ancestry.

362.235: Members of Hmong and Highland Laotian Tribes

A noncitizen lawfully residing in the United States is an eligible noncitizen when he or she is:

(A) a member of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam Era beginning August 5, 1964 and ending May 7, 1975 is eligible for SNAP benefits.

(B) a spouse, surviving spouse or an unmarried dependent child of the Hmong or other Highland Laotian tribe is eligible for SNAP benefits

362.240: Noncitizen Definitions

(A) Lawfully Residing in the U.S. The following noncitizens are considered lawfully residing in the United States pursuant to Department of Justice guidance:

(1) A qualified noncitizen as defined in 106 CMR 362.240;
(2) A noncitizen who has been inspected and admitted to the U.S. and who has not violated the terms of the status under which he or she was admitted or to which he or she has adjusted after admission;
(3) A noncitizen paroled into the U.S. under § 212(d)(5) for less than one year, except:
(a) aliens paroled for deferred inspection or pending exclusion proceedings under § 236(a) of the INA; or

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(b) aliens paroled into the U.S. for prosecution under § 212(5)(a)(3).

(4) A noncitizen who belongs to one of the following classes of noncitizens permitted to remain in the U.S. because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or to enforce departure:

(a) noncitizens currently in temporary residence status under § 210 or 245A of the INA;

(b) noncitizens currently under Temporary Protected Status (TPS) under § 244A of the INA;

(c) Cuban Haitians entrants as defined in § 202(b) Public Law 99-603;

(d) Family Unity beneficiaries under § 301 of Public Law 99-101-649;

(e) noncitizens currently under Deferred Enforce Departure (DED) pursuant to a decision by the President;

(f) noncitizens currently in deferred action status pursuant to Services Operation Instructions at OI 242.1(a)(22);

(g) noncitizens who are the spouse or child of a U.S. citizen whose visa petition has been approved and who have a pending application for adjustment of status.

(5) Applicants for asylum under § 208(a) of the INA and applicants for withholding of deportation under § 243(h) of the INA who have been granted employment authorization and such applicants under the age of 14 who have had an application pending for at least 180 days.

(B) Known to be in the U.S. Unlawfully. Known to be in the U.S. unlawfully means that the Department or Department representative has seen a Final Order of Deportation or other formal document with a determination subject to administrative review and Immigration Review that the noncitizen is present in the U.S. illegally.

(C) Dependent Child. An unmarried dependent child is a child under the age of 18, or if a full-time student is under the age of 22, or a disabled child 18 or older if the child was disabled and dependent on the parent before age 18.

(D) Federal Means-tested Program. The following are federal means-tested programs for purposes of determining qualifying quarters: SNAP, Transitional Assistance to Families with Dependent Children (TAFDC), SSI, Medicaid, State Child Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), Food Assistance Program in Puerto Rico, American Samoa and the Northern Marianas (CNMI).

(E) Victims of Severe Forms of Trafficking. In the Trafficking Victims Protection Act, the term "severe forms of trafficking in persons" means:

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(F) Veterans and Active Duty Personnel. A noncitizen is a veteran or active duty personnel when he or she meets one of the following criteria:

(1) is a veteran of the U.S. Armed Forces with honorable discharge not related to his or her noncitizen status who fulfilled the minimum active-duty service requirement of 24 months or the period for which the person was called to active duty;

(2) is a person on active duty in the U.S. Armed Forces, other than active duty for training, who fulfills the minimum active-duty service requirement of 24 months or the period for which the person was called to active duty;

(3) is a spouse of the veteran or the person who died during active duty if:

(a) the spouse has not remarried; and

(b) the couple was married for at least one year or for any period if a child was born of the marriage or was born before the marriage;

(4) is a spouse or unmarried dependent child as defined in 106 CMR 362.240 of the veteran or the person on active duty described in 106 CMR 362.240(F)(3)(a) or (b); or

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(5) was a member of the organized military forces of the Government of the Phillippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order dated July 26, 1941, including organized guerrilla forces under commanders organized by the U.S. Army for service prior to July 1, 1946.

362.270: Deeming of Income and Assets for Sponsored Noncitizens

The deeming of income and assets rules for sponsored noncitizens do not apply to categorically eligible households as defined in 106 CMR 365.180.

The deeming of income and assets rules for sponsored noncitizens will be applied to any household which contains a member disqualified from receiving SNAP benefits due to: a failure to comply with the SNAP Work Program at 106 CMR 362.320; a failure to comply with TAFDC Month Reporting requirements at 106 CMR 366.110(D); or any of the reasons listed in 106 CMR 367.800. In addition, non-SSI elder and/or disabled households with income, not including the income of the sponsor(s), in excess of the Categorical Eligibility Gross Income Standards at 106 CMR 364.976 will be subject to sponsor deeming requirements.

(A) Definitions.

(1) Sponsor. A sponsor is any person, including a cosigner spouse, who executed a legally enforceable affidavit of support or similar agreement on behalf of a noncitizen as a condition of that noncitizen's entry into the United States.

(2) Sponsored Noncitizen. A sponsored noncitizen is a noncitizen who has been admitted to the United States as a legal permanent resident and for whom a legally enforceable affidavit of support was signed as a condition of entry into the United States.

(3) Affidavit of Support.

(a) An affidavit of support is a contract meeting the requirements of § 213A of the INA, in which a sponsor agrees to financially support the noncitizen, so that the noncitizen will not become a public charge.

(b) The affidavit of support is a contract which is legally enforceable against the sponsor by the federal, state and local agencies which provide any means- tested public benefits program.

(4) Sponsor Deeming. Sponsor Deeming is the counting of the income and assets, in accordance with 106 CMR 363.100 through 106 CMR 363.230, of the sponsor(s) based on the amount on the affidavit of support or current verification of the sponsor(s) circumstances whether or not monies are actually given to the sponsored noncitizen.

(B) Requirements.

(1) When a sponsored noncitizen adult (age 18 or over) applies for SNAP benefits the income and assets of the sponsored noncitizen shall be deemed to include the income and assets of the sponsor(s) as specified in 106 CMR 362.270(E) unless the Sponsor Deeming provisions do not apply in accordance with 106 CMR 362.270(D).

(2) When a sponsored noncitizen adult (age 18 or over) has:

(a) provided acceptable verification of his or her noncitizen immigration status; and

(b) provided or applied for a Social Security Number; and

(c) indicates an inability or unwillingness to provide acceptable verification of the income and assets of the sponsor(s),

the sponsored noncitizen shall be ineligible. The Department shall not continue to obtain documentation. SNAP benefits will be determined for the remaining members of the household who verify an eligible noncitizen status and meet other eligibility requirements in accordance with 106 CMR 365.520(B).

(3) When a household consists solely of a sponsored noncitizen adult(s) and the sponsored noncitizen adult(s) indicates an inability of unwillingness to provide acceptable verification of the income and assets of the sponsor(s) the entire household shall be ineligible.

(C) Verification.

(1) If the sponsored noncitizen was granted legal permanent resident status on or after June 1, 1998, the Department will presume the noncitizen was sponsored under a legally enforceable affidavit of support. The sponsored noncitizen can rebut this presumption by verifying that he or she was not sponsored by a family member or was sponsored by an affidavit of support which is not legally enforceable.

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(2) The following information must be provided to the Department by the noncitizen before certification or recertification unless 106 CMR 362.270(B)(2) or (3) apply.

(a) The name and address of the sponsor(s).

(b) The income and assets of the sponsor(s). All income and assets of the sponsor(s) shall be verified in accordance with 106 CMR 363.000 *et seq*.

(D) Noncitizens not Subject to Sponsor Deeming.

(1) The Sponsor Deeming provisions shall not apply to any noncitizen, present in the United States for whom a legally enforceable affidavit of support was not required. Noncitizens not subject to sponsor deeming include:

(a) asylees under § 208 of the Immigration and Nationality Act (INA);

(b) refugees under § 207 of the INA;

(c) parolees under § 212(d)(5) of the INA for a period of at least one year;

(d) members of a Hmong or other Highland Laotian tribe at the time the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam Era beginning August 5, 1964 and ending May 7, 1975;

(e) noncitizens whose deportation is being withheld under § 243(h) or 241(b)(3) of the INA;

(f) Cuban/Haitian entrants (as defined in § 501(e) of the Refugee Education Assistance Act of 1980);

(g) Amerasian immigrants (as defined in § 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988);

(h) conditional entrants under § 203(a)(7) of the INA;

(i) veterans or active duty personnel in accordance with 106 CMR 362.240(F);

(j) noncitizens sponsored by a public or private organization or group rather than by an individual; or

(k) noncitizens living in the same SNAP household as the sponsor.

(2) At the option of the sponsored noncitizen, the Sponsor Deeming provisions shall not apply for a period of 12 months if the sponsored noncitizen claims and verifies one of the following exceptions.

(a) Battered Noncitizen Exception. The noncitizen verifies he or she was battered and there is a substantial connection between the need for SNAP benefits and the battery (in the opinion of the Department, which opinion is not subject to review by any court):

1. if the noncitizen was battered or subject to extreme cruelty in the United States by a spouse or a parent, or by a member of the family of the spouse or parent residing in the same household as the noncitizen and the spouse or parent consented or acquiesced to such battery or cruelty; or

2. if the noncitizen's child has been battered or subject to extreme cruelty in the United States by a spouse or a parent of the noncitizen (without active participation of the noncitizen in the battery or cruelty), or by a member of the family of the spouse or the parent residing in the same household as the noncitizen and the spouse or parent consented or acquiesced to such battery or cruelty; and

3. if the battered noncitizen or the battered noncitizen's child is no longer living in the same household as the individual responsible for such battery or cruelty.

This exception may be reviewed and benefits continued after the 12-month period if the noncitizen demonstrates that such battery or cruelty described above has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has a substantial connection to the need for benefits.

(b) Indigent Exception. The noncitizen verifies that the sum of the sponsored noncitizen's SNAP household's own income and any cash or in-kind assistance provided by the sponsor(s) or others is less than the Maximum Gross Monthly Income Standard in accordance with 106 CMR 364.950.

Each indigence determination is effective for 12 months and may be renewed for additional 12-month periods.

The Commissioner or designee shall notify the Attorney General of each indigency determination, including the names of the sponsor(s) and the sponsored noncitizen adult(s).

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(3) The Sponsor Deeming provisions shall end when:

(a) The sponsored noncitizen achieves United States citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; or

(b) The sponsored noncitizen has worked a minimum of 40 qualifying quarters under Title II of the Social Security Act; or

(c) The sponsored noncitizen can be credited with a total of 40 qualifying quarters under Title II of the Social Security Act as worked by:

1. the noncitizen; and/or

2. the parent(s) of the noncitizen prior to the birth of the noncitizen up to age 18; and/or

3. the spouse of the noncitizen during their marriage if the noncitizen remains married to the spouse or is widowed.

However, no quarter may be claimed after December 31, 1996 if benefits from a means tested program were received from any state during that same quarter.

(d) The sponsored noncitizen ceases to hold the status of a noncitizen lawfully admitted for permanent residence and has departed the United States; or

(e) The sponsor(s) dies.

(E) Determination of Available Income from a Sponsor. Identify the total monthly countable income of the sponsor(s) in accordance with 106 CMR 363.220. Excluded income listed in 106 CMR 363.230 must not be counted. The portion of the monthly income of the sponsor(s) that shall be deemed as unearned income to the sponsored noncitizen adult(s) shall be calculated as follows:

(1) Subtract 20% from the monthly gross earned income and add the result to the monthly gross unearned income, if any.

(2) Subtract from the result of (1) the Maximum Gross Monthly Income Standards at 106 CMR 364.976 for the household equal in size to the sponsor(s) and any other person who is claimed or could be claimed by the sponsor(s) as a dependent for federal income tax purposes.

(3) Divide the result of (2) by the number of sponsored noncitizens.

(4) Multiply the result of (3) by the number of sponsored noncitizen adults applying for SNAP benefits. This is the countable sponsor(s) income amount.

(F) Determination of Countable Assets from a Sponsor. Identify the total countable assets of a sponsor(s) in accordance with 106 CMR 363.130. Excluded assets listed in 106 CMR 363.140 must not be counted. The portion of the assets of a sponsor(s) which shall be deemed to the noncitizen shall be calculated as follows:

(1) Add the countable assets together.

(2) Subtract from the result of (1) $1500.

(3) Divide the result of (2) by the number of sponsored noncitizens.

(4) Multiply the result of (3) by the number of sponsored noncitizen adults applying for SNAP benefits. This is the countable sponsor(s) asset amount.

(G) Sponsorship of More than One Noncitizen. If an individual(s) has sponsored more than one noncitizen, the total monthly income and total assets of the sponsor(s), shall be prorated among all the sponsored noncitizens.

(H) Request for Reimbursement.

(1) The sponsor is obligated to reimburse the Department for any means-tested public benefit which was provided to the sponsored noncitizen, unless the sponsor's obligation terminates as listed in 106 CMR 362.270(B)(4). The termination of the sponsor's support obligation does not relieve the sponsor of reimbursement obligation that accrued before the support obligation terminated.

(2) The request for reimbursement shall be a written request notifying the sponsor that the sponsor must, within 45 days of the date of service, respond to the request for reimbursement either by paying the reimbursement or arranging to commence payments. If within 45 days the sponsor does not indicate a willingness to pay, the Department may sue the sponsor in a state or federal court.

362.300: Work Requirements

Nonexempt household members between the ages of 16 and 59 must comply with the SNAP Employment and Training Program (SNAP/ET) requirements found at 106 CMR 362.310. Failure to comply with these requirements without good cause will result in disqualification in accordance with 106 CMR 367.800. Good cause criteria are found at 106 CMR 362.330.

Unless an exemption or exception applies, household members between the ages of 18 and 49 must comply with the SNAP Work Program requirements found at 106 CMR 362.320. Failure to comply with these requirements for 33 months in a three-year period without good cause may result in ineligibility. The good cause criterion is found at 106 CMR 362.320(C).

362.310: SNAP Employment and Training Program

(A) Targeted Populations and Requirements

(1) Mandatory Population.

(a) Nonexempt household members between 18 and 59 who receive Emergency Assistance (EA) benefits only and reside in a shelter, hotel or motel must:

1. Register for work at application and every 12 months after initial registration;
2. Comply with Skills Training and Related Job Search Activity participation criteria at 106 CMR 362.310(D); and
3. Provide information to the Department regarding employment status or job availability when requested.

(b) All other nonexempt household members between the ages of 16 and 59 must:

1. Register for work at application and every 12 months after initial registration; and
2. Comply with the Skills Training and Related Job Search Activity participation criteria at 106 CMR 362.310(D) or the Self-directed job search requirements at 106 CMR 362.310(E); and
3. Provide information to the Department regarding employment status or job availability when requested.

(2) Voluntary Population. All exempt household members between the ages of 16 and 59 may volunteer to comply with Skills Training and Related Job Search Activity participation criteria at 106 CMR 362.310(D) if a slot is available.

(B) Exemptions. The individuals listed below are exempt. Verification necessary for a particular exemption, if any, is noted under that exemption.

(1) Age. A person younger than 16 years of age or older than 59 years of age is exempt.

A child having a 16th birthday within a certification period shall fulfill the work registration requirement at the next scheduled recertification, unless the child qualifies for another exemption.

(2) Persons Physically or Mentally Unfit. Persons who are physically or mentally unfit for employment, either permanently or temporarily, are exempt. Appropriate verification includes but is not limited to:

(a) receipt of temporary or permanent disability benefits from a government or private source;

(b) a written, dated and signed statement from a competent medical authority stating that the person is physically or mentally unfit for employment;

(c) participation in a Massachusetts Rehabilitation Commission program or other Massachusetts-approved vocational rehabilitation program.

(3) Persons Temporarily Unfit due to Illness. Persons who are physically or mentally unfit for employment due to a temporary illness are exempt. Appropriate verification would include proof that the individual is temporarily ill, the illness is expected to last less than 30 days and such illness is serious enough to temporarily prevent employment.

Persons claiming temporary unfitness for employment due to illness shall be required to meet work requirements once they become physically or mentally fit.

(4) SNAP Work Program Participants. A SNAP recipient subject to and complying with the SNAP FS/Work Program requirements in accordance with 106 CMR 362.320 is exempt.

(5) TAFDC/EAEDC Work Program Participants. A TAFDC, or EAEDC recipient subject to and complying with the cash assistance program work requirement is exempt.

(6) Unemployment Compensation Applicants/Recipients. Unemployment Compensation applicants or recipients subject to and participating in a comparable work program are exempt.

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(7) Caretakers. A parent or other household member responsible for the care of a dependent child under six or an incapacitated person is exempt, even if the child or incapacitated person does not live in the same household.

If the child has his or her sixth birthday within a certification period, the individual responsible for care of the child shall fulfill the Work Requirements at the next scheduled recertification, unless the individual qualifies for another exemption.

If a parent and another member of the household both claim to be responsible for the care of the same dependent child or incapacitated household member, the actual responsibility shall be determined by discussion with the applicant or recipient.

(8) Students. Persons enrolled at least half-time in any recognized school, training program or institution of higher education who have met the conditions of 106 CMR 362.400 and 362.410 are exempt. Enrollment must be verified at application and recertification.

Persons enrolled less than half-time or who experience a break in their enrollment status due to graduation, expulsion or suspension, or who drop out or otherwise do not intend to return to school do not qualify for this exemption.

(9) Addicts and Alcoholics. A regular participant, either on a resident or nonresident basis, in a drug addiction or alcoholic treatment and rehabilitation program is exempt. Participation, if questionable, may be verified through the organization or institution operating the program.

(10) Employed Persons. Persons employed or self-employed may be exempt if working a minimum of 30 hours weekly or receiving weekly earnings equal to or greater than the federal minimum wage multiplied by 30 hours. The guidelines for determining an applicant's or recipient's eligibility for this exemption are as follows:

(a) Verification of earned income, as required for certification, is sufficient to establish this exemption, provided the amount of income appears to be consistent with a 30-hour work week.

1. If the income of the employed individual does not meet the preceding test but he or she still claims to be employed, the applicant shall be requested to supply documentary evidence of the existence of an employee- employer relationship and that the number of hours worked is equivalent to 30 hours a week.

2. If a self-employed person's income does not meet this test, he or she must establish that the income received from the self-employment enterprise is sufficient to be considered gainful employment and that the volume of work claimed justifies a determination that the self-employment enterprise is a full-time job for the purpose of this exemption.

(b) Persons engaged in hobbies or any other activity that cannot, because of the minimal amount of monies received from such activity, be considered gainful employment are not exempt.

(11) Teens. A person aged 16 or 17 who is not a head of household or who is attending school on at least a half-time basis, or who is enrolled in an employment and training program on at least a half-time basis, is exempt.

(12) Pregnant Women. A woman in her second or third trimester of pregnancy is exempt.

(C) Method of Work Registration. Nonexempt household members must complete and sign the work registration section on a form prescribed by the Department. A copy of the form is retained in the case record. Refusal to work-register without good cause will result in disqualification in accordance with 106 CMR 367.800.

(D) Skills Training and Related Job Search Activity Participation Criteria. Skills Training and Related Job Search Participants must:

(1) Complete the SNAP/ET enrollment form;

(2) Attend a SNAP/ET interview unless they have good cause for failure to do so in accordance with 106 CMR 362.330;

(3) Begin participating through the vendor when referred by the Department;

(4) Provide verification of Skills Training and Related Job Search at time periods determined by the Department on a form prescribed by the Department;

(5) Fulfill all Skills Training and Related Job Search activities within 60 days of enrollment;

(6) Continue vendor-assisted job search activities;

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(7) Accept an offer of employment; and
(8) Maintain employment found by the vendor.

(E) Self-directed Job Search Program Participation Criteria. Self-directed Job Search Program participants must:
(1) Complete the SNAP/ET enrollment form;
(2) Attend a SNAP/ET interview unless they have good cause for failure to do so in accordance with 106 CMR 362.330;
(3) Begin participating within 30 days of enrollment;
(4) Provide verification of job search activities at time periods determined by the Department on a form prescribed by the Department; and
(5) Make at least 18 job contacts, or five job contacts and other job search activities which combined total 24 hours of effort within 60 days of enrollment.
This fulfills the participation requirement for 12 consecutive months.

362.320: SNAP Work Program

(A) Targeted Population and Requirements.
(1) All nonexempt household members between the ages of 18 and 49 must:
(a) Register for work at application and every 12 months after initial registration; and
(b) Work at a job for 20 hours per week averaged monthly; or
Work at a community service site for a specified number of hours per month determined by dividing the monthly SNAP allotment by the minimum wage; or
Work at a job less than 20 hours per week and at a community service site for a specified number of hours per month (determined by dividing the monthly SNAP allotment by the minimum wage); and
(c) Provide information to the Department regarding employment status or job availability when requested.
(2) Any Nonexempt SNAP/WP household members currently meeting their WP requirement may volunteer to comply with a SNAP/ET Skills Training and Related Job Search Activities at 106 CMR 362.310(D), if a slot is available.

(B) Exemptions.
(1) Age. Persons under 18 years of age or over 49 years of age are exempt.
(2) Pregnant Women. A pregnant woman is exempt.
(3) Caretakers and Persons Residing with Children Under 18.
(a) A parent or other household member who is responsible for the care of a dependent child under six or an incapacitated person is exempt, even if the child or incapacitated person does not reside in the same household. If the child has his or her sixth birthday within a certification period, the individual responsible for care of the child must fulfill the work requirements at the next scheduled recertification, unless the individual qualifies for another exemption.
(b) Persons residing in a household where a household member is under age 18, even if that household member who is under 18 is not eligible for SNAP benefits, are exempt.
(4) Persons Physically or Mentally Unfit. Persons physically or mentally unfit for employment, either permanently or temporarily, are exempt. Appropriate verification includes but is not limited to:
(a) receipt of temporary or permanent disability benefits from a government or private source;
(b) a written, dated and signed statement from a competent medical authority that the person is physically or mentally unfit for employment;
(c) participation in a Massachusetts Rehabilitation Commission program or other Massachusetts-approved vocational rehabilitation program.
(5) Persons Temporarily Unfit due to Illness. Persons physically or mentally unfit for employment due to a temporary illness are exempt. Appropriate verification would include proof that the individual is temporarily ill, the illness is expected to last less than 30 days and such illness is serious enough to temporarily prevent employment.

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Persons claiming temporary unfitness for employment due to illness shall be required to meet work requirements once they become physically or mentally fit.

(6) TAFDC/EAEDC Work Program Participants. A TAFDC or EAEDC recipient subject to and complying with the cash assistance program work requirement is exempt.

(7) Unemployment Compensation Applicants/Recipients. Unemployment Compensation applicants or recipients subject to and participating in a comparable work program are exempt.

(8) Students. Persons enrolled at least half-time in any recognized school, including high school, training program or institution of higher education, who have met the conditions of 106 CMR 362.400 and 362.410, are exempt. Enrollment must be verified at application and recertification.

Persons enrolled less than half-time or who experience a break in their enrollment status due to graduation, expulsion or suspension, or who drop out or otherwise do not intend to return to school do not qualify for this exemption.

(9) Addicts and Alcoholics. A regular participant, resident or nonresident, in a drug addiction or alcoholic treatment and rehabilitation program is exempt. Participation, if questionable, may be verified through the organization or institution operating the program.

(10) Employed Persons. Persons employed or self-employed may be exempt if working a minimum of 30 hours weekly or receiving weekly earnings equal to or greater than the federal minimum wage multiplied by 30 hours. The guidelines for determining an applicant's or recipient's eligibility for this exemption are as follows:

(a) Verification of earned income, as required for certification, is sufficient to establish this exemption, provided the amount of income appears to be consistent with a 30-hour work week.

1. If the income of the employed individual does not meet the preceding test but he or she still claims to be employed, the applicant shall be requested to supply documentary evidence of the existence of an employee-employer relationship and that the number of hours worked is equivalent to 30 hours a week.

2. If a self-employed person's income does not meet this test, he or she must establish that the income received from the self-employment enterprise is sufficient to be considered gainful employment and that the volume of work claimed justifies a determination that the self-employment enterprise is a full-time job for the purpose of this exemption.

(b) Persons engaged in hobbies or any other activity that cannot, because of the minimal amount of monies received from such activity, be considered gainful employment are not exempt.

(11) Resident of a Waived Area. A person who otherwise would be required to partcipate in the SNAP Work Program is exempt if living in an area of the state approved as exempt by the United States Department of Agriculture.

(C) Method of Work Registration. Nonexempt household members must complete and sign the work registration section on a form prescribed by the Department. A copy of the form is retained in the case record.

(D) Community Service Program Participation Criteria.

(1) SNAP/Work Program participants unable to find a job must work in an uncompensated volunteer Community Service Program site in a public, quasi-public or non-profit organization, except that such placement cannot be in the office of an individual candidate's campaign for public office.

(2) Participation Requirements.

(a) Each Community Service Program participant must:

1. self-arrange a volunteer Community Service Program placement approved by the Department; or

2. select a volunteer SNAP Community Service Program placement identified by the Department; or

3. if available, accept a Department-assigned volunteer SNAP Community Service Program placement within ten days when the participant has not selected one of the participation options listed in 106 CMR 362.320(D)(2)(a)1. or 2.

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(b) Each Community Service Program participant must comply with the following Community Service Program activities:

1. Attend the required hours per month as specified in 106 CMR 362.320(A); and
2. Perform satisfactorily in this component, as defined by the provider; and
3. Provide verification of placement and participation at time periods determined by the Department on a form prescribed by the Department.

(3) Other Community Service Program Participant Responsibilities.

(a) Report to the appropriate Community Service Program site when referred by the Department.

(b) Report for an interview to the appropriate Community Service Program site upon reasonable request.

(c) Respond to a request from the Community Service Program site for supplemental information regarding employment status or availability for work.

(d) Accept an offer of employment from the Community Service Program site.

(E) Ineligibility for Failure to Comply. SNAP/Work Program participants who choose not to comply with the above requirements for three months (which do not have to be consecutive) in a three-year period will be ineligible for SNAP benefits for the remaining months in the three-year period unless they meet the requirements of 106 CMR 362.320(H).

(F) Regaining Eligibility. Household members who are determined ineligible for failure to comply with the SNAP/Work Program requirements for three months during a three-year period may regain eligibility, if otherwise eligible, after the member who failed to comply:

(1) Works at a job for 80 hours during a 30-day period; or

(2) Works at a community service site for a specified number of hours per month determined by dividing the monthly SNAP allotment by the minimum wage.

(G) Maintaining Eligibility. Household members who regain eligibility under 106 CMR 362.320(H) shall remain eligible for the balance of the three-year period as long as they continue to comply with the SNAP/Work Program requirements by:

(1) Working at a job 20 hours per week averaged monthly; or

(2) Working at a community service site for a specified number of hours per month determined by dividing the monthly SNAP allotment by the minimum wage.

(H) Loss of Employment Exception. Household members who regain eligibility under 106 CMR 362.320(H) and are subsequently terminated from a job for reasons beyond their control may continue to participate in the SNAP for an additional three months without complying with 106 CMR 362.320(A). This exception is limited to a single three months during the balance of the three-year period.

362.330: Good Cause Criteria for the SNAP Employment and Training Program

Good cause for failure to meet the SNAP Employment & Training Program requirements exists in the following situations:

(A) Good Cause Reasons.

(1) Suitable state-standard child care is totally unavailable, or unavailable during the individual's hours of training or employment, including additional commuting time, or arrangements for child care have broken down or have been interrupted. This includes the unavailability of suitable special needs child care for identified special needs children, *i.e.*, handicapped or retarded children, or the unavailability of suitable child care for children with other specific needs.

(2) The individual, a member of the individual's immediate family, or anyone whose relationship to the individual makes it appropriate for the individual to provide care or support during a crisis or emergency situation, suffers a family crisis or emergency situation or other compelling circumstances, beyond the control of the individual that:

(a) demands the individual's immediate attention;

(b) can only be attended to by the individual; and

(c) can only be attended to by the individual during the hours of his or her employment or work program activity.

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Examples of crisis or emergency situations include, but are not limited to, a death, a health emergency, domestic violence or a child's school problem.

(3) The employment or offer of paid employment is at a wage level below the higher of:

(a) the applicable federal minimum wage;

(b) the applicable state minimum wage; or

(c) 80% of the federal minimum wage, if neither the federal nor the state minimum wage applies to the job, the applicable federal or state minimum wage laws, or the prevailing rate for similar work, whichever is applicable; or it exceeds the daily or weekly hours of work customary to the occupation.

(4) The employment, offer of employment, or activity discriminates in terms of age, sex, race, religion, ethnic origin, or physical or mental handicap.

(5) The employment is available due to a strike or lockout.

(6) The employment causes an unreasonable risk to health and safety.

(7) The working hours or nature of the employment interferes with the member's religious observances, convictions or beliefs.

(8) The employment or SNAP/ET site would require travel time in excess of two hours, not including the time necessary to transport family members to a school or a place providing care, or, if walking, the round trip distance is more than two miles.

(9) SNAP/ET Job Search Program costs exceed reimbursement.

(B) Verifications. Verification of good cause is mandatory. The following are the specific verifications for the good cause reasons specified in 106 CMR 362.330(A):

(1) The unavailability, or breakdown or interruption of suitable, state-standard childcare shall be verified by a written, dated and signed statement from an appropriate official of the designated agency under contract with the Department, stating that such services are unavailable in the area, or are unavailable during the hours of the individual's employment or training. If there is a breakdown of suitable, state-standard childcare which is not provided through a designated agency under contract with the Department appropriate verifications, such as a statement from the childcare provider, must be submitted. If these childcare services have been interrupted, verification shall be by a written, dated and signed statement from an appropriate official of the designated agency under contract with the Department, or from the childcare provider. If these childcare services are otherwise available, the individual may not refuse a Department referral to a childcare facility that provides suitable state- standard childcare within a reasonable distance from the individual's home. Unavailability of suitable special needs childcare for identified special needs children, or for children with other special needs, shall be verified by:

(a) A written, dated, and signed statement from a competent medical authority, or appropriate school official that the child in question suffers from a special needs handicap, as recognized under state law, or suffers from other specific needs; and

(b) A written, dated, and signed statement from the designated agency under contract with the Department stating that such special needs childcare services are unavailable, within reasonable proximity, to the individual and his or her family.

(2) The occurrence of a serious family crisis, an emergency situation, or other compelling circumstances, as described in 106 CMR 362.330(A)(2), shall be verified by a written, dated, and signed statement from the individual describing the crisis, emergency situation or other compelling circumstances and a collateral contact with another individual or organization involved in the situation. To the extent possible, the collateral contact shall be with a third party who is not a family member.

(3) Employment, or an offer of employment, below the applicable federal or state minimum wage, or exceeding the customary daily and weekly hours of work shall be verified by a written, dated, and signed statement from the individual and, if appropriate, by a collateral contact with the employer by the Department.

(4) Employment, offer of paid employment or activity for employment which discriminates on the basis of age, sex, race, religion, ethnic origin, or physical or mental handicap shall be verified by a written, dated, and signed statement from the individual and, if appropriate, by collateral contact with the employer by the Department.

(5) A strike or lockout shall be verified by a written, dated, and signed statement from either the collective bargaining representative or the employer.

362.340: Voluntary Quit Provisions

(A) If a household member is unemployed and has voluntarily quit a job without good cause, the individual or household will be disqualified in accordance with 106 CMR 367.800. Good cause criteria are found in 106 CMR 362.340(C).

(1) Applicant Households For applicant households, when a household member subject to the SNAP Employment and Training Program (SNAP/ET) requirements at 106 CMR 362.310 is unemployed and has voluntarily quit a job without good cause within the 60 days before application, the entire household shall be ineligible in accordance with 106 CMR 367.800.

(2) Ongoing Households. For ongoing households, when a household member subject to SNAP/ET requirements is unemployed and has voluntarily quit a job without good cause while participating in the program, the individual shall be disqualified in accordance with 106 CMR 367.800. The entire household will be disqualified in accordance with 106 CMR 367.800 if the head of household voluntarily quits a job while participating in the program.

Persons who have been disqualified for quitting a job without good cause will carry their sanction with them if they join a new household.

(B) Definition of Unemployed. Employed less than 20 hours per week or receiving less than weekly earnings at least equivalent to the federal minimum wage multiplied by 20 hours.

Note: This 20-hour requirement is different from that used to determine fulltime employment for exemption from SNAP/ET (*see* 106 CMR 362.310(B)(10)).

(C) Good Cause Criteria. Good cause for leaving employment includes the good cause reasons found at 106 CMR 362.330 as well as the following reasons:

(1) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule.

(2) Acceptance of employment by the household member or enrollment at least half-time in any recognized school, training program or institution of higher education that requires the household member to leave employment.

(3) Acceptance of employment by the household member or enrollment at least half-time in any recognized school, training program or institution of higher education that requires the household to move and the household member to leave employment.

(4) Resignations by persons under the age of 60 when the resignation is recognized by the employer as retirement.

(5) Employment becomes unsuitable after acceptance of such employment in accordance with 106 CMR 362.330(A)(3) through (8).

(6) Acceptance by the household member of a bona fide offer of employment of more than 20 hours per week or in which the weekly earnings are at least equivalent to the federal minimum wage multiplied by 20 hours when, because of circumstances beyond the household member's control, the employment subsequently either does not materialize or results in employment of less than 20 hours per week or weekly earnings of less than the federal minimum wage multiplied by 20 hours.

(7) The leaving of employment by the household member in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work. There may be some circumstances when households will apply for SNAP benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered considered as with good cause if it is part of the pattern of that type of employment.

(D) Changes in Employment that are not Considered a Voluntary Quit.

(1) Reducing hours of employment while working for the same employer.

(2) Termination of a self-employment enterprise.

(3) Resigning from a job at the demand of the employer.

Exception: Federal, state, or local government employees who participate in a strike against such employers and who are dismissed from their jobs because of participation in the strike shall be considered to have voluntarily quit their job without good cause.

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(4) If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or through no fault of his or her own loses the new job, the earlier quit will not form the basis of a disqualification.

(E) Exemption from the Voluntary Quit Provision. Persons exempt from SNAP/ET in accordance with 106 CMR 362.310(B), with the exception of 106 CMR 362.310(B)(10), are exempt from voluntary quit provisions.

(F) Verification of Voluntary Quit. The case manager shall request verification of the household's statements only when information given by the household is questionable, inconsistent with information on the application or previous applications or inconsistent with information known to the case manager. The primary responsibility for providing verification rests with the household. However, if it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the case manager shall offer assistance to the household to obtain the needed verification.

(1) Sources of Verification. Acceptable sources of verification include, but are not limited to, the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, the case manager shall substitute a collateral contact. If the collateral contact designated by the household cannot be expected to provide accurate third-party verification, the case manager shall ask the household to designate another collateral contact and document in the case record why the original collateral contact was unacceptable.

(2) Inability to Obtain Verification. No household shall be denied participation in the SNAP when the household and the case manager are unable to obtain verification from the sources in 106 CMR 362.340(F)(1), or from other sources because the reason for the quit cannot be verified. Such reasons include, but are not limited to, resignation due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located.

(G) Voluntary Quit at Application. When a case manager makes a determination of voluntary quit without good cause, the household's application shall be denied and the entire household shall remain ineligible to participate in SNAP in accordance with 106 CMR 367.800.

If a household reapplies with less than 30 days remaining in the disqualification period, the case manager shall use the same application to deny benefits for the remainder of the disqualification period and to certify the household for subsequent month(s) if all other eligibility criteria are met by the household. (*See* 106 CMR 364.110(A).)

(H) Voluntary Quit for Participating Household. When a case manager makes a determination of voluntary quit during a household's paricipation in the program, a Notice of Adverse Action shall be sent within ten days after the determination of a voluntary quit is made. The disqualification period shall be in accordance with 106 CMR 367.800.

(I) Ending a Voluntary Quit Disqualification. Following the end of the disqualification period, a household may begin participation in the program if it applies again and is determined eligible.

Eligibility may be reestablished during a disqualification period and the household shall be permitted to resume participation in the program, if the household is otherwise eligible and the member who caused the disqualification:

(1) gets a new job that is comparable in salary or hours to the job that was quit (comparable employment may entail fewer hours or a lower net salary than the job that was quit);

(2) leaves the household; or

(3) becomes exempt from SNAP/ET (*see* 106 CMR 362.310(B) with the exception of 106 CMR 362.310(B)(10).)

362.400: Student Status

(A) Definition. A student is an individual aged 18 through 49 who is enrolled at least half-time in an institution of post-secondary education, a vocational or technical school at any level, a program that provides for completion of a secondary school diploma or the equivalent, or a school at any level for the physically or mentally handicapped. A student shall be ineligible to participate in SNAP unless he or she meets one of the eligibility requirements in 106 CMR 362.410.

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An institution of post-secondary education is any public or private educational institution that admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located or normally requires a high school diploma or equivalency certificate for enrollment. The institution must be legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or to provide a training program that will prepare students for gainful employment. This includes but is not limited to colleges, universities, and correspondence schools.

This student definition does not apply to individuals who are:

(1) under age 18 or age 50 or older;

(2) physically or mentally unfit for employment;

(3) attending high school;

(4) participating in on-the-job training programs during the period training is actually being conducted by the employer;

(5) enrolled full-time in schools and training programs that are not institutions of higher education; or

(6) enrolled for the exclusive purpose of obtaining training in English as a Second Language (ESL), provided that the courses are not taken for credit as part of a total program.

(B) Verification. If mental or physical unfitness for employment is claimed and the unfitness is not evident, verification may be required. Appropriate verification may consist of:

(1) receipt of temporary or permanent disability benefits from a government or private source;

(2) a statement from a physician or licensed or certified psychologist stating that the person is physically or mentally unfit for employment; or

(3) participation in a Massachusetts Rehabilitation Commission program or other Massachusetts approved vocational rehabilitation programs.

362.410: Student Eligibility Requirements

To be eligible to participate in SNAP, a student, as defined in 106 CMR 362.400(A), must meet at least one of the following requirements:

(A) Be employed at least 20 hours per week or be employed for 20 hours per week averaged monthly and be paid for the employment, or, if self-employed, be employed for a minimum of 20 hours per week or be employed for 20 hours per week averaged monthly and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours;

(B) Participate during the school year in a federally-funded work-study program (financed at least partially under Title IV-C of the Higher Education Act of 1965) or a state-funded work-study program;

(C) Be responsible for the care of a dependent household member under the age of six;

(D) Be responsible for the care of a dependent household member who has reached the age of six but is under the age of 12 for whom adequate child care is not available to enable the student to attend school and work a minimum of 20 hours per week, or participate in a federally-funded or state-funded work-study program during the regular school year;

(E) Be receiving TAFDC or AFDC;

(F) Be assigned to or placed in an institution of higher learning through:

(1) a program under the Job Training Partnership Act (JTPA);

(2) a program under § 236 of the Trade Act of 1974;

(3) an employment and training program under the Food and Nutrition Act; or

(4) an employment and training program operated by a state or local government; or

(G) Be a single parent enrolled full-time in an institution of higher education and responsible for the care of a dependent child under the age of 12 regardless of the availability of adequate child care.

362.420: Continuous Enrollment

The enrollment status of a student begins on the first day of the school term of the institution. Such enrollment continues through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

362.500: Social Security Numbers

(A) Requirements.

(1) A Social Security number (SSN) must be provided either orally or in writing for each household member applying for SNAP benefits before the initial certification period, unless good cause exists in accordance with 106 CMR 362.500(C).

(2) If an SSN cannot be provided either orally or in writing for each household member applying for SNAP benefits, the applicant or recipient must receive written verification from SSA stating that the household member for whom the SSN cannot be provided:

(a) has applied for an SSN or

(b) has requested that an already-existing SSN be validated.

(3) A household eligible for expedited SNAP benefits must meet the SSN requirement before the first full month of participation.

(4) SNAP benefits may not be denied, delayed or decreased pending the issuance or verification of an SSN if the applicant or recipient has complied with the requirements specified in 106 CMR 362.500(A) and (B).

(5) Each household member applying for SNAP benefits who does not meet the SSN requirements shall be considered a disqualified household member in accordance with 106 CMR 365.520. An otherwise eligible household member disqualified for failing to meet the SSN requirements becomes eligible upon meeting the requirements.

(B) Verification.

(1) The Department will verify the SSN provided for each household member applying for SNAP benefits by computer match with SSA. SSA sources that verify the SSN include, but are not limited to, BENDEX Title II and Title XVIII data, Numident, State Data Exchange information and the enumeration process.

(2) For each household member for whom no SSN is provided, for whom an SSN cannot be verified by SSA computer match or for whom more than one SSN is verified by SSA computer match, the applicant or recipient must receive written communication from SSA, verifying that the household member has applied for an SSN, has applied to have an already-existing number validated, or has made every effort to supply SSA with the information necessary to apply for an SSN, or to apply to have an already-existing number validated.

Once the SSN has been issued or validated, the Department will verify the SSN by computer match with SSA.

(C) Determining Good Cause.

(1) Good cause for failure to comply with the requirements in 106 CMR 362.500(A) exists when there is documentary evidence or collateral information that the household member has made every effort to supply SSA with the information necessary to apply for an SSN or to apply to have an already-existing number validated.

Good cause must be verified monthly until the SSN is provided and verified by computer match with SSA in accordance with 106 CMR 362.500(A)(3).

(2) Good cause for failure to comply with 106 CMR 362.500 (A) exists when a noncitizen indicates an unwillingness or inability to provide, or apply for, an SSN due to immigration status in accordance with 106 CMR 362.220.

(D) Right to Know Uses of Social Security Numbers. The applicant or recipient has the right to know how the Department will use his or her SSN and the numbers of all members of the household. At the time the applicant is given the application form and at the time of recertification, he or she will also be given written notice on a form prescribed by the Department explaining the following:

(1) the purposes for which the numbers are sought. The Department will use the SSN to prevent duplicate participation, to facilitate mass changes in benefits and to determine the accuracy of the information given by the household member;

362.500: continued

(2) that the SSN(s) will be computer cross-checked with SSNs appearing in other personal data files;

(3) what those files are, whether within the Department, in other governmental agencies or elsewhere. The Department will regularly use the SSN to obtain and use wage and benefit information from other sources for purposes of verifying eligibility for SNAP and the amount of SNAP benefits. These sources include, but are not limited to, any federal or state agency, providers under contract with the Department, welfare departments in other states and banks and other financial institutions; and

(4) the household member who fails to meet the requirements in 106 CMR 362.500(A) must have benefits denied or terminated, unless good cause exists as specified in 106 CMR 362.500(C)(1).

The Department need not obtain the prior approval of the applicant or recipient to acquire and use the information from the sources and for the reasons indicated in 106 CMR 362.500(D).

REGULATORY AUTHORITY

106 CMR 362.000: M.G.L. c. 18, § 10.

NON-TEXT PAGE