

Introduction to Food Stamps

By Anne Pearson and Sonya Schwartz

The Food Stamp Program is a federal entitlement program that gives low-income people government benefits that they can spend on food at grocery stores.¹ Most states give out food stamps in the form of an access card, which can be used in certain grocery stores, in an “electronic benefits transfer” (EBT) system.²

What May Food Stamps Buy?

Food Stamps may be used to buy most food items, but not prepared foods or alcohol, tobacco, soap, paper products, pet food, or other nonfood items.³

Who May Get Food Stamps?

Almost anyone who meets federal income, resource, and work requirements may get food stamps, but there are some exceptions.

One is not eligible for food stamps if one is⁴

■ an unemployed, able-bodied, childless adult who is between 18 and 50 and received three months of benefits within

the past thirty-six-month period while one was unemployed; however, if one lives in a certain geographic area exempted from this requirement by the U.S. Department of Agriculture (USDA), one is not subject to the three-month time limit;⁵ or

■ disqualified for a certain time period because of an intentional violation of Food Stamp Program rules;⁶ or

■ cut off food stamps because one quit a job without a good reason or did not comply with food stamp work requirements;⁷ or

■ enrolled at least half-time in college, unless one works twenty hours per week or is getting federal work-study money or is under 18 or over 50 and is physically or mentally unfit or is receiving cash from the Temporary Assistance for Needy Families (TANF) program or is taking care of a small child;⁸ or

■ living in a hospital, a jail, or one of certain other kinds of institutions that serve meals;⁹ or

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¹ 7 U.S.C. § 2011 (2001).

² 7 C.F.R. § 274.12 (2001).

³ 7 U.S.C. § 2012(g).

⁴ *Id.* § 2012(f).

⁵ 7 C.F.R. § 273.24.

⁶ *Id.* § 273.16.

⁷ *Id.* § 273.7.

⁸ *Id.* § 273.5(a).

⁹ *Id.* § 273.1(e).

- on strike (unless one quit a job without a good reason or did not comply with food stamp work requirements);¹⁰ or
- convicted of a drug felony for conduct on or after August 22, 1996, and the state has not passed legislation allowing one so convicted to receive benefits;¹¹ or
- an undocumented immigrant or a certain type of legal immigrant.

However, immigrants are eligible for food stamps if they¹²

- have a state-based food stamp replacement program;
- were lawfully residing in the United States on August 22, 1996, and are (1) born before August 22, 1931, or (2) children who are now younger than 18, or (3) blind or disabled and receiving benefits or assistance for the condition;
- are lawful permanent residents and have or may inherit forty quarters of work history;
- are an asylee, a refugee, a Cuban or Haitian entrant, an Amerasian or have been granted withholding of deportation (these individuals may receive food stamps for only seven years from the date the asylum, refugee, or other status was granted);
- are members of a Hmong or Highland Laotian tribe;
- are American Indians born in Canada; or
- are individuals with U.S. military status.

Note that the farm bill changes the immigrant rules.¹³

- All qualified immigrant children, regardless of date of entry to the United States, become eligible (effective Oct. 1, 2002).

- Qualified immigrants who have been qualified immigrants in the United States for five years become eligible (this also removes the seven-year cap for refugees and asylees) (effective Apr. 1, 2003).

- Disabled legal immigrants who entered the United States after August 22, 1996, and receive a disability benefit such as Supplemental Security Income (SSI) become eligible (effective Oct. 1, 2002).

What Is a Food Stamp Household?

A household consists of a person living alone, or a group of people living together (whether or not they are related) who purchase and prepare meals together. More than one household may live under one roof and share living space. Parents and minor children who live together may not be in separate households even if they do not buy and cook food together. Neither may husbands and wives who live together receive food stamps separately.¹⁴

How Does a Household Apply for Food Stamps?

Applicants must fill out an application, have an interview, cooperate in the verification process, and register for work if necessary.¹⁵

Does a Household Have to Turn in an Application in Person?

An applicant may turn in the application form in person, through the mail, or by having a friend or relative take it to the food stamp office for the applicant.¹⁶

Does a Household Have to Have an In-Person Interview?

A member of the household or an authorized representative generally needs to have a face-to-face interview with an eligibility worker at the household member's or representative's initial certification. However, states are required to

¹⁰ *Id.* § 273.24.

¹¹ 21 U.S.C. § 862(a) (2001).

¹² 7 C.F.R. § 273.4.

¹³ Food Stamp Reauthorization Act of 2002, Pub. L. No. 107-171 § 4401.

¹⁴ 7 C.F.R. § 273.1.

¹⁵ *Id.* § 273.2.

¹⁶ *Id.*

notify applicants that they may waive the face-to-face interview in favor of a telephone interview on a case-by-case basis because of household hardship conditions such as illness, transportation difficulties, work schedule, and care of a household member.¹⁷

What Type of Proof Does the Food Stamp Office Need?

The food stamp office may ask an applicant for proof or “verification” of some of the facts about the household. An applicant may not be denied food stamps because the applicant “fails” to cooperate but may be denied if the applicant “refuses” to cooperate. If the applicant cannot give verification on paper, the food stamp office may talk to a non-household member who can confirm the applicant’s information. The food stamp office may use a home visit as verification *only* when the documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or the documentary evidence cannot be obtained, and the home visit is scheduled in advance with the household.¹⁸ The food stamp rules require applicants to give the food stamp worker proof of the following items:¹⁹

- income and its source;
- immigration status of anyone in the household who is applying for food stamps (nonapplicants do not have to disclose their immigration status);²⁰
- social security number of anyone in the household who is applying for food stamps. (nonapplicants do not have to disclose their social security number);²¹
- utility bills in order to deduct actual utility costs and not the standard utility allowance;

- medical expenses (only if the household is allowed to take this deduction because it has an elderly or disabled member);

- a home address;

- identification of the person applying for food stamps; and

- any disability benefits that a household member may be receiving so that the household may also utilize special rules that apply to disabled people.

Do all Applicants Have to Register for Work?

An applicant must register for work unless the applicant is exempt. An applicant may be exempt if the applicant is under 18, over 60, physically or mentally disabled, or is taking care of young children.²²

How Long May a Household Receive Food Stamps Before It Has to Apply Again?

A household is “certified” to receive food stamps for a certain number of months, or a “certification period.” The certification period can be as short as one month or as long as two years. In order to keep getting food stamps after the certification period ends, the household has to reapply during the last one or two months of the certification period.²³

How Many Resources May a Household Have and Still Receive Food Stamps?

Resources include money in cash or in the bank, stocks and bonds, money from insurance settlements, tax refunds, rebates, awards, prizes, inheritances, and the cash value of an IRA (Individual Retirement Account). Resources also include cars (rules are different in each

¹⁷ *Id.* § 273.2(e) (2).

¹⁸ *Id.* § 273.2 (f).

¹⁹ *Id.*

²⁰ For more information, see [www.frac.org/html/federal_food_programs/programs/](http://www.frac.org/html/federal_food_programs/programs/fsp_stateapprules.html)
[fsp_stateapprules.html](http://www.frac.org/html/federal_food_programs/programs/fsp_stateapprules.html).

²¹ *Id.*

²² 7 C.F.R. § 273.7(e).

²³ *Id.* § 273.12.

state), trucks, boats, some land and buildings, and other valuable property.²⁴

If no one in the household is 60 years old, the household may have up to \$2,000 in resources and still receive food stamps. If at least one person in the household is 60 or older, the household may have up to \$3,000. Note that the farm bill allows households with a disabled member to have up to \$3,000 in resources and still receive food stamps (effective Oct. 1, 2002).²⁵

Also, households where all members benefit from cash assistance provided through the TANF program are categorically eligible for food stamps. “Categorically eligible” means that such households do not have to pass a separate assets test. State agencies have the option to expand categorical eligibility so that households receiving TANF services other than cash assistance are categorically eligible for food stamps.²⁶

The following resources do not count against receiving food stamp benefits:²⁷

- a house and the land it sits on;
- personal belongings and household goods;
- burial plots;
- the cash or face value of life insurance policies and pension funds;
- tools, equipment, livestock, buildings, and other objects used to make money;
- accounts that cannot be turned into money, such as a trust fund;
- any resources of someone who receives TANF or SSI; and
- items that cannot be sold for a “significant return” such as property which is owned with many other people.

Do Cars Count as Resources?

The food stamp office may or may not count a car, truck, or other vehicle as a countable resource for a variety of reasons. The office never counts cars, trucks, or other vehicles that are lived in; used to make a living (such as a taxi or a fishing boat); used to travel long distances for work; or used to transport a physically disabled member of the household.²⁸

State food stamp agencies have the option of substituting the vehicle rules they use in their TANF programs for food stamp vehicle rules when doing so results in a lower attribution of assets to households.²⁹ If the food stamp office does count the value of a car, truck, or other vehicle, it counts only its current fair market value according to the used car Blue Book. The first \$4,650 of such value is always exempt.

How Much Income May a Household Have and Still Receive Food Stamps?

Unless someone in the household is over 60 or receiving disability checks, a household may not receive food stamps if the gross income (before deductions) is more than 130 percent of the federal poverty level. A household may not receive food stamps if its net monthly income, after deductions, is more than 100 percent of the federal poverty level. The food stamp monthly income limits go up on October 1 of every year to reflect inflation. Table 1 shows the maximum gross and net income limits and the maximum food stamp benefits levels. The table deducts some expenses from income in figuring out how many food stamps to give.³⁰

The food stamp office does not count the following as income:³¹

²⁴ *Id.* § 273.8.

²⁵ Pub. L. No. 107-171 § 4107 (2002).

²⁶ 7 C.F.R. § 273.8(e) (17) (2001). USDA (U.S. Department of Agriculture), Food and Nutrition Service, Report on Food Stamp State Options, at www.fns.usda.gov/fsp/MENU/ADMIN/CERTIFICATION/SUPPORT/StateOptionTable.pdf.

²⁷ 7 C.F.R. § 273.8(e).

²⁸ *Id.* § 273.8(g)–(h).

²⁹ See USDA, *supra* note 26.

³⁰ 7 C.F.R. § 273.9(a), 273.10(e).

³¹ *Id.* § 273.9(c).

**Table 1.—Income Levels in Effect
Until September 30, 2002**

Household size	1	2	3	4	5	6	7	8	Each additional person
Maximum monthly gross income (130% of federal poverty level)	\$931	\$1,258	\$1,585	\$1,913	\$2,240	\$2,567	\$2,894	\$3,221	+\$328
Maximum monthly net income (100% of federal poverty level)	716	968	1,220	1,471	1,723	1,975	2,226	2,478	+252
Maximum monthly food stamp allotment	135	248	356	452	537	644	712	814	+102

Source: U.S. Department of Agriculture. An updated version is available at www.fns.usda.gov/fsp/MENU/APPS/BENEFITS/fsResBenEli.htm.

- Anything that is not in the form of money, such as free food or clothing, public housing, school breakfasts, and lunches or WIC (Supplemental Nutrition Program for Women, Infants, and Children) benefits.
- Most “vendor payments” such as money paid on behalf of the household (e.g., a friend pays rent for a household directly to the landlord) (Note: Vendor payments that are part of a TANF or general assistance grant count as income).
- Money earned by a child under 18 who is a student at least half-time.
- Small amounts of income not received on a regular basis if those payments do not total more than \$30 in three months.
- Money from private charities if that does not total more than \$300 in three months.
- All loans, except student loans that do not have to be paid back until school is complete, and student loans received under Title IV of the Higher Education Act, such as Pell grants (other student income is not counted if it is used for tuition, school fees, supplies, books, and transportation).
- Payments (reimbursements) for past or future expenses (such as special work clothes or the cost of using the household’s own car for work) unless they are for normal living expenses.
- Money used to take care of or support someone who is not in the household (such as social security checks received for an elderly relative).
- Lump-sum payments not received regularly, such as tax refunds and credits or back benefits from TANF, SSI, or social security, and any EITC (earned income tax credit).
- Work or business expenses when an individual is self-employed.
- Some government payments to help pay heat, cooling, or light bills (such as LIHEAP (Low-Income Home Energy Assistance Program)).
- Money received under some other federal programs.

What Expenses May Households Deduct from Their Income?

Households may make the following deductions from their income:³² a standard deduction of \$134 (Note: The farm bill sets the standard deduction at 8.31 percent of each year’s inflation adjusted poverty level for each household size (effective Oct. 1, 2002));³³

- an earned income deduction of 20 percent of all income received from a job or self-employment;
- a deduction for child care costs, or the costs of having someone take care of anyone else in the household who needs care,

³² *Id.* § 273.9(d), 273.10(e).

³³ Pub. L. No. 107-171 § 4103 (2002).

up to \$200 for children under 2 and \$175 for all other dependents who need care;

- a deduction for any child support that is paid because the household legally owes it to a nonhousehold member;
- a deduction that elderly and disabled people may take for monthly medical expenses over \$35; and
- a deduction for housing costs—including rent, mortgage, and utilities that together are more than half of the remaining income after all of the other deductions for which the household qualifies is subtracted (unless the household has an elderly or disabled person in the household, it may deduct these excess shelter costs only up to a certain limit; the current shelter deduction cap is \$354).³⁴

What Are Expedited Food Stamps?

If a household has little income and resources and qualify for food stamps, federal law requires that the food stamp office provide “expedited service” within seven calendar days of the application date. If the household does not qualify for expedited service, the food stamp office must provide food stamps within thirty calendar days from the application date.³⁵

One may receive expedited service if

- one has \$100 or less in liquid resources (cash) and less than \$150 in gross monthly income; or
- one’s household shelter costs are more than the total of the gross income and liquid resources; or
- one is a migrant farmer with \$100 or less in liquid resources, or if all of the income for the month before application was from a job that is still not paying, and one does not expect to get more than \$25

from any new source of income for at least the next ten days.

For verification, an applicant for expedited services needs to show the food stamp office some form of identification or find someone who can confirm who the head of household is. No other verification is necessary to get the first months food stamps.

What Must the Food Stamp Office Do When It Cuts a Household’s Food Stamps?

The food stamp office must send a household a notice in writing before it reduces or cuts off the household’s food stamps. In most cases, this notice must offer the household a fair hearing. A household can ask for a hearing if the food stamp office turns down an application, if the food stamps are reduced or cut, or if the household thinks it is not getting its full amount of food stamps.³⁶

What Problems Are Clients Likely to Encounter?

Food stamp applicants and recipients are likely to meet many problems.

Deterrence and Diversion upon Application. In some areas, local food stamp and welfare agencies are undertaking aggressive, and often illegal, diversion practices to drive down the rolls, including referring eligible food stamp applicants to food pantries and refusing new applications. In advocating on behalf of a client who has been denied the opportunity to submit an application for food stamps, ask yourself:

- *Was my client permitted to file an application?* Under the federal Food Stamp Act, households must be permitted to file an application on the first day that they contact the local social services office.³⁷

³⁴ The shelter deduction cap increases each year. See www.fns.usda.gov/fsp/MENU/APPS/BENEFITS/fsResBenEli.htm. Homeless households with shelter costs may deduct up to \$143 a month in states that have opted for a homeless shelter allowance. This amount may have been updated; see www.fns.usda.gov/fsp/MENU/ADMIN/CERTIFICATION/SUPPORT/MonthlyAllotmentsandDeductions1.htm.

³⁵ 7 C.F.R. § 273.2(a).

³⁶ *Id.* § 273.15.

³⁷ 7 U.S.C. § 2020(e)(2)(b)(III); 7 C.F.R. § 273.2(c)(1).

■ *Was my client “encouraged” to file?* Food stamp offices are required to “encourage” households to file applications the same day they contact the office.³⁸

■ *Was my client required to give more than the bare minimum information upon application?* The application filed on day one by an individual or household seeking food stamps need only include the applicant’s name, address, and signature.³⁹

■ *Did the agency respond promptly?* Food stamp offices must act promptly on all applications for food stamps and give applicants an opportunity to participate in the Food Stamp Program.⁴⁰

■ *Was my client required to apply twice?* If the cash assistance application is denied or withdrawn, the applicant may not be required to submit a new application for food stamps.⁴¹

Failure to Screen Applicants for Eligibility for Expedited Food Stamps.

Households with very little income and few resources are often eligible to receive expedited food stamps in as few as seven days (or in three to five days in some states). In fact, all applicants whose monthly expenses exceed their incomes are eligible for expedited service. In spite of this statutory requirement, many needy households do not receive expedited food stamps because they are not screened to see if they qualify or because the food stamp office does not process their application timely. In advocating on behalf of a client who needs food stamps quickly, ask yourself: Was my client screened for expedited service? All applicants for food stamps must be screened to see if they qualify for expedited issuance of food stamps and must be provided with expedited food stamps within seven days (or faster if state law requires a shorter time frame) if they qualify.⁴²

Denial of Application for “Failure to Verify Eligibility.”

Not uncommon is for food stamp applications to be denied on the ground that the applicant “failed to provide verification” of some aspect of eligibility. While applicants for food stamps must cooperate with the agency to prove their eligibility for food stamps, they may not be denied those benefits because they cannot supply the requested verification. They may be denied only if they flat-out *refuse* to cooperate with the verification process. In advocating on behalf of a client who has been denied for this reason, ask yourself:

■ *Did my client receive a notice listing verification requirements?* The food stamp office must send each household a notice informing them of the verification requirements that the household must meet as part of the application process. The notice must also inform the household of the state agency’s responsibility to assist the household in obtaining required verification, provided that the household is cooperating with the state agency.⁴³

■ *Did my client refuse to cooperate, or did my client just fail to cooperate?* A household’s application for food stamps may not be denied simply because it *fails* to submit one of the documents requested on the list of verification requirements.⁴⁴ Rather, the household may be denied food stamps only if it *refuses* to cooperate.⁴⁵ For a determination of *refusal* to be made, the household must be able to cooperate but clearly demonstrate that it will not take actions that it can take and that are required to be taken to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed. Simply failing to appear for the interview is not enough.⁴⁶

³⁸ 7 C.F.R. § 273.2(c)(2).

³⁹ *Id.* § 273.2(c)(2), (g)(1).

⁴⁰ 7 U.S.C. § 2020(e)(3); 7 C.F.R. § 273.2(a), (g)(1).

⁴¹ 7 C.F.R. § 273.2(b)(3).

⁴² 7 U.S.C. § 2020(e)(9); 7 C.F.R. § 273.2 (i)(2).

⁴³ 7 C.F.R. § 272.2(c)(5).

⁴⁴ *Id.* § 273.2(d)(1).

⁴⁵ *Id.*

⁴⁶ *Id.*

Inaccessibility of Food Stamp Offices.

While underenrollment in the Food Stamp Program is a problem for all types of households, it is a particular problem for working families and households with elderly or disabled individuals who are unable to go to the food stamp office to fill out an application. In some cases, however, these households need not go to the food stamp office to apply. If your client cannot get to the food stamp office, ask yourself:

■ *Can my client get an application by mail?* To obtain a food stamp application, a household can call or write to the food stamp office to have an application be mailed.⁴⁷

■ *Was my client notified of the opportunity to have a phone interview?* Usually households applying for food stamps must have a face-to-face interview with an eligibility worker at their initial certification. However, states are required to notify applicants that they will waive the face-to-face interview in favor of a telephone interview on a case-by-case basis because of household hardship conditions.⁴⁸ These hardship conditions include, but are not limited to, work or training hours which prevent the household from participating in an in-office interview; illness; transportation difficulties; care of a household member; hardships due to residency in a rural area; and prolonged severe weather.

Language Barriers. For limited-English-proficient clients, getting and keeping food stamps can be especially difficult. However, under certain circumstances, the food stamp office must translate informational materials, certification materials (including notices), and provide

bilingual staff or interpreters. As a general rule, a food stamp office must translate materials and provide bilingual staff or interpreters if that office serves a community that includes at least 100 low-income single-language minority households.⁴⁹

Overpayments. On any given day, tens of thousands of households are having their food stamp benefits “recouped” (reduced) to pay back food stamp benefits that they were previously overpaid. This means that many families are forced to make ends meet with fewer food stamps than they really need. If your client receives a notice indicating a reduction in food stamps due to an overpayment, ask yourself:

■ *Was my client sent a legally sufficient notice of overpayment?* The notice must give the client a great deal of information about the claim, including the amount, the method of calculation, the number to call for more information, the right to a hearing, and much, much more. If the notice does not include this information, it is legally deficient.⁵⁰

■ *Does the claim include amounts the agency cannot recoup?* The agency cannot recoup benefits it issued more than six years before it became aware of the overpayment and may exclude benefits issued more than twelve months before it became aware of the claim.⁵¹

■ *Is the amount of the overpayment correct?* When calculating the overpayment, the agency must apply all relevant income exclusions.⁵²

■ *Did the agency wait too long to state the claim?* The agency must establish a claim no later than the quarter after the quarter in which it was discovered.

⁴⁷ *Id.* § 273.2(c)(2).

⁴⁸ *Id.* § 273.2(e)(2).

⁴⁹ *Id.* § 272.4(b). For a summary of the Food Stamp Act’s translation requirements and how to enforce them, see Anne Pearson, Welfare Law Ctr., Food Stamp Bilingual Requirements (2002), at www.welfarelaw.org/food_stamps.htm. For food stamp class action, see Victor Goode & Phyllis Flowers, *Invisibility of Clients of Color: The Intersection of Language, Culture, and Race in Legal Services Practice*, 36 CLEARINGHOUSE REV. 109, 125 n.54 (May–June 2002).

⁵⁰ 7 C.F.R. § 273.18(e)(3)(iv).

⁵¹ *Id.* § 273.18(c)(1)(i).

⁵² *Id.* § 273.18(c)(1)(ii).

Information About the Food Stamp Program

- Food Stamp Act, 7 U.S.C. § 2011 (2001), www.access.gpo.gov/uscode/usmain.html.
- Federal regulations (issued by the U.S. Department of Agriculture (USDA)), 7 C.F.R. § 273 (2001), www.access.gpo.gov/nara/cfr/; Electronic Code of Federal Regulations beta site (with links to updates in the *Federal Register*), at www.access.gpo.gov/ecfr/.
- Program rules (they often change, and, since states are allowed many choices in operating the Food Stamp Program, some rules may vary among states; check the *Federal Register* for any changes that affect you; see also the Food Stamp Program section of the USDA Web site, www.fns.usda.gov/fsp/).
- FOOD RESEARCH AND ACTION CENTER, FRAC'S GUIDE TO THE FOOD STAMP PROGRAM (10th ed. 1999) (to be updated).
- Food Research and Action Center Web site, www.frac.org.
- Welfare Law Center's food stamp access Web site, www.welfarelaw.org/food_stamps.htm.
- USDA Farm Bill, Nutrition Title, Implementation Web site, www.usda.gov/farmbill/nutrition_fb.html.

■ *Was my client advised of the right to request that the claim be waived because of inability to pay?* The agency must advise clients that it may reduce any part of the claim if the agency believes that the household is not able to repay the claim in a period of three years.⁵³

Discontinuance of Food Stamps. Due to deficient computer systems and coding procedures, overworked caseworkers often enter incorrect codes, thereby terminating a family's entire assistance case (food stamps, Medicaid, cash assistance) upon employment, rather than discontinuing only the cash assistance benefits. However, when a welfare office has reason to close a client's cash assistance case, it must make a separate determination as to whether the client is still eligible for ongoing food stamps. In other words, the agency may not automatically close the food stamp case because it is closing the cash assistance case. In an effort to help families make the transition off welfare, some states have implemented Transitional Benefit Alternative (TBA) programs whereby households whose cash assistance cases are closed have their food stamp cases frozen for a period up to five months. For these transitional months, the household's food stamp allotment is frozen at the amount it received before its TANF

case closure. If your client's cash assistance case is closed, ask yourself:

■ *When my client's public assistance case was closed, was a separate determination made as to eligibility for food stamps, or was the closing automatic?* The food stamp office may not terminate a household's food stamp benefits solely because it has terminated the household's public assistance benefits without a separate determination that the household fails to satisfy the eligibility requirements for participation in the program.⁵⁴

■ *Is more information necessary to determine ongoing eligibility?* If the food stamp office cannot determine whether the household is still eligible for food stamps, it should send a "request for contact" asking the household to get in touch with the office to help determine its continuing eligibility.⁵⁵

■ *Does my state operate a TBA program?* If the state operates a TBA program, a household whose cash assistance case is closed for a nonpunitive reason may have its food stamp benefits continue at the same level that it was receiving at the time its TANF case was closed for up to five months at the level the household received when it was receiving TANF.⁵⁶

⁵³ *Id.* § 273.18(e)(3)(iv)(M), (e)(7)(i).

⁵⁴ *Id.* § 273.12(f)(3).

⁵⁵ *Id.*

⁵⁶ *Id.* § 273.12(f)(4)(i), amended by Pub. L. No.107-171 (2002).