

### 3-000 ELIGIBILITY

3-001 Nonfinancial Eligibility Standards: This section outlines the nonfinancial eligibility standards for the Food Stamp Program. These include:

1. Identity;
2. Residency;
3. Citizenship/alien status;
4. Work requirement;
5. Voluntary quit;
6. Student status;
7. Social Security number;
8. Drug felon status;
9. Striker status; and
10. Household composition

{Effective 1/3/2005}

3-001.01 Identity: To be eligible, the individual making application must prove his/her identity. The worker must verify the identity of the person making application. When an authorized representative applies on behalf of a household, the worker must verify the identity of both the authorized representative and the head of the household.

3-001.01A Verification of Identity: The worker must:

1. Verify identity through readily available documentary evidence or, if this is unavailable, through a collateral contact; and
2. Accept any documents which reasonably establish the applicant's identity. The worker must not impose a requirement for a specific type of document, such as a birth certificate.

3-001.02 Residency: A local office may only certify households who are residents of Nebraska. (The entire State of Nebraska is one project area). An individual may participate in only one household in any one month, unless that individual is a resident of a shelter for battered women and children and was a member of the household containing the abusive person.

3-001.02A Duration: The local office must not impose any durational residency requirement. Residency does not require an intent to live in the state permanently. However, the local office must not consider persons in the state solely for vacation purposes as residents.

3-001.02B Fixed Residence: A fixed residence is not required.

3-001.02C Verification of Residency: The local office must verify the residence requirements except in unusual cases where verification of residency cannot reasonably be accomplished. The worker must:

1. Verify residency in conjunction with the verification of other information as much as possible;
2. Use a home visit, collateral contact, or other readily available documentary evidence for verification of residency if it cannot be done in conjunction with other verification; and
3. Accept any documents or collateral contacts which reasonably establish the applicant's residency. The worker must not require a specific type of verification. Documents which verify other eligibility factors would normally verify residency.

3-001.03 Citizenship/Alien Status: This section covers the requirements of the citizenship/alien provisions for individuals receiving food stamp benefits in Nebraska. The two sets of immigrant provisions are federally funded food stamp benefits and state funded food stamp benefits.

When a non-citizen requests to participate in the Food Stamp Program, his/her alien status must first be determined using the federal alien regulations. If the individual does not meet the federal regulations, his/her alien status is then determined using the expanded state alien policies. If the individual does not meet either the federal or state alien provisions, s/he is ineligible and cannot participate in the Food Stamp Program.

The status of all aliens requesting benefits must be verified through the Systematic Alien Verification for Entitlements (SAVE) program which is operated by the Citizenship and Immigration Services (CIS). If an alien does not wish to have CIS contacted to verify his/her immigration status, the worker must give the household the option of participating without that member. The household may also choose to withdraw its entire application.

{Effective 1/3/2005}

3-001.03A Household Members Meeting Federal Alien Requirements: If an individual is in one of the following categories, s/he is eligible for federally funded food stamp benefits:

1. U.S. citizen;
2. Alien veteran who fulfills the minimum active duty service requirements and has an honorable discharge not related to his/her alien status. Minimum active duty is defined as 24 months or the period for which the person was called to active duty;

The following individuals are also considered veterans:

- a. Members of a Hmong or Highland Laotian tribe who fought on behalf of the United States during the Vietnam Era;

Note: Eligibility for the federally funded program also includes any 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 rescue operation between August 5, 1964, and May 7, 1975. This includes the spouse; surviving spouse; an unmarried dependent child age 17 or younger; a dependent child age 21 or younger if a full-time student; an unmarried, disabled child age 18 or older if the child was disabled before his/her 18<sup>th</sup> birthday.

- b. Individuals who served in the Philippine Commonwealth Army and Philippine Scouts during WWII. Their spouses, widows, and dependent children are also eligible under the federal program.
3. Alien serving in active military duty;
4. Alien spouse or unmarried dependent child(ren) of a veteran or active military person who is eligible by meeting the criteria in either number 2 or 3;
5. Effective April 1, 2003, a qualified alien who has lived in the United States for five years beginning with the date the immigrant obtained legal status through CIS.
6. Effective October 1, 2003, a child now age 17 or younger who is a qualified alien and living in the United States;
7. An elderly individual who was at least 65 years old on August 22, 1996, and who was lawfully present in the United States on that date;
8. A disabled person as defined by the Food Stamp Act or a person who becomes disabled in the future, and who is a qualified alien and lawfully present in the United States;
9. A Native American born in Canada who is at least 50 percent of the American Indian race;
10. An individual who is not a U.S. citizen, but is a member of an Indian tribe which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians; and
11. An alien, an alien's child, or an alien child's parent who has been subject to battery or extreme cruelty.

{Effective 1/3/2005}

3-001.03B Aliens Eligible for Federal Time-Limited Benefits: If an individual is in one of the following categories, s/he is eligible for time-limited federally funded food stamp benefits for seven years from the date his/her current status was determined. All sections refer to the Immigration and Nationality Act.

1. An alien granted asylum under Section 208;
2. A refugee admitted into the United States under Section 207;
3. An alien whose deportation is being withheld under Section 243(h) or Section 241(b)(3);
4. An alien admitted as an Amerasian immigrant under Section 204; or
5. An alien granted status as a Cuban or Haitian entrant under Section 501(e).

{Effective 3/2/99}

3-001.03C State Eligible Alien Statuses: If an individual does not meet the federal citizenship/alien provisions, s/he is eligible for state funded food stamp benefits if s/he is a qualified alien who has lived in the United States less than five years.

{Effective 6/9/2003}

3-001.03D Ineligible Aliens: Aliens, other than those described as eligible, are ineligible aliens. These include, but are not limited to, alien visitors, tourists, diplomats, students who enter the United States with no intention of abandoning their residence in a foreign country, and any individuals who do not provide information regarding their citizenship/alien status.

{Effective 9/4/2002}

3-001.03D1 Attesting to Citizenship/Alien Status: At the time of initial certification, the individual making application must attest to the citizenship of all household members requesting benefits by checking the appropriate field and signing the application.

Citizenship/alien status of a new household member is determined at the time the individual is added to the household.

{Effective 10/28/96}

3-001.03E Income and Resources of Ineligible Aliens: All of the household's resources and income including those of an ineligible alien living with a household are considered in determining the eligibility or benefit level of the household as set forth in 475 NAC 3-002.07 ff.

{Effective 12/27/97}

3-001.03F Expedited Services: If unable to verify alien status in time to meet expedited time frames, the worker must postpone verification.

3-001.03G Reporting Undocumented Aliens: The worker must immediately inform the local CIS office whenever personnel responsible for the certification or recertification of households determine that an applicant or recipient is ineligible to receive food stamp benefits because the member is present in the United States in violation of the Immigration and Nationality Act. When a household member declines to provide documentation of his/her alien/citizenship status, that member should be considered as an ineligible alien. In these cases, the worker must not continue efforts to obtain that documentation.

{Effective 9/4/2002}

3-001.03H Verification of Citizenship: When the citizenship of any person applying for benefits is questionable, the worker must require the household to provide verification of the citizenship. The household member is disqualified from the Food Stamp Program until proof of U.S. citizenship is received.

3-001.03J Pending Verification of Immigration Status: An alien is ineligible until acceptable documentation is provided which can be verified through SAVE, unless:

1. The worker has submitted a copy of a document provided by the household to CIS for verification;
2. The lawful permanent resident (LPR) or the worker has:
  - a. Submitted a request to SSA for information regarding the number of quarters of work that can be credited to the individual;
  - b. SSA has responded that the individual has fewer than 40 quarters; and
  - c. The individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited; or

3. The applicant or worker has submitted a request to a federal agency for verification of information which bears on the individual's eligible alien status.

During the period of time the alien's status is under review by the CIS, SSA or another federal agency, the worker cannot delay, deny, reduce, or terminate the individual's eligibility on the basis of the individual's immigration status. Pending the outcome of the review, the alien can be certified under the federally funded program for up to six months. The worker must review the alien's eligibility based on the results of the investigation when received from the federal agency. The alien may be eligible under the federal or state program or may be determined ineligible.

3-001.04 Work Requirements: The work requirement provision is applied statewide. Exemptions from the work requirements and eligibility for meeting the work requirements are covered in the following material. Each household member age 16 through 59 must meet or be exempt from the work participation requirements which are:

1. Work Registration;
2. Employment and Training (E & T);
3. Bona Fide Job Offer; or
4. Voluntary Quit.

In addition to the work participation requirements previously listed, an Able-Bodied Adult Without Dependents (ABAWD) age 18 through 45 must also meet or be exempt from the ABAWD work requirements.

{Effective 12/27/97}

3-001.04A Work Requirement Exemptions: The following household members are exempt from meeting any work requirements:

1. A person age 15 or younger. If a household member's sixteenth birthday falls within a certification period, that member will register for work as part of the next scheduled recertification unless otherwise exempt;
2. A person age 16 or 17 who is not the head of household," or who is attending school, or enrolled in an employment and training program on at least a half-time basis;
3. High school students of any age who are attending classes at least half-time;
4. A student enrolled at least half time in any recognized school, training program, or post-secondary education when the individual is an exempt student. The worker must not consider the following persons as students:
  - a. Persons enrolled less than half time;
  - b. Persons who experience a break in their enrollment due to graduation, expulsion, suspension; or
  - c. Persons who drop out or do not intend to return to school.

The above individuals must comply with the work requirements unless exempt for a different reason.

5. A person age 60 or older. If a person who is age 59 will turn 60 during the application month, the worker considers the person exempt;
6. A person who is physically or mentally unfit for employment. Verification may be required if a disability is claimed but is not evident to the worker. If a disability is evident, the worker documents this in the case record. The individual is considered disabled if s/he receives one of the following:
  - a. Retirement Survivors and Disability Insurance (RSDI) or Supplemental Security Income (SSI) based on disability;
  - b. A statement from the Veteran's Administration indicating inability to work;
  - c. Medical Assistance based on disability;
  - d. A statement from the individual's physician or licensed certified psychologist indicating inability to work; or
  - e. Temporary or permanent disability benefits from other government or private sources.
7. An employed or self-employed person if that person is working at least 30 hours per week or is receiving weekly earnings equal to or greater than the federal minimum wage or training wage multiplied by 30 hours. This includes migrant and seasonal farmworkers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days. These individuals may still seek additional services from Workforce Development;
8. A person who is enrolled in ADC Employment First;
9. A parent or other household member responsible for the care of a dependent child age five or younger or an incapacitated person. If the child's sixth birthday falls within a certification period, the member responsible for that child's care must register for work as part of the next scheduled recertification unless otherwise exempt;
10. A person who receives unemployment compensation (UC). A person who has applied for but has not yet received unemployment compensation is also exempt if that person was required to register for work with the Job Service Workforce Development as part of the unemployment compensation application. This is verified through wage match procedures;
11. A chemically dependent person if s/he is participating in a chemical dependency treatment and rehabilitation program;
12. A person age 50 or older who is enrolled at least half-time in any recognized school, training program, or post secondary education.

3-001.04A1 Change in Exemption Status: Household member(s) who lose their exempt status due to a change in circumstances that is required to be reported are screened for the work requirements at the time of report. Household member(s) who lose their exemption due to a change in circumstances that is not required to be reported are screened for the work requirements at the household's next recertification.

3-001.04A2 Employment First or Unemployment Compensation (UC) Noncompliance: Household members who fail to comply with the ADC, Employment First, or unemployment compensation requirements lose their work requirement exemption. Unless these individuals are otherwise exempt, the worker will require them to comply with the work requirements as appropriate.

3-001.04B Work Registration: Household members who are not exempt from work registration are considered registered when an adult household member or an authorized representative signs the completed application form. The worker must explain the requirements of work registration as part of the application process, preferably during the interview.

To be eligible for food stamp benefits, all non-exempt household members must be work registered and be screened for the Employment and Training (E & T) Program. Household members who are not exempt must be work registered at the time of application and re-registered every 12 months as long as they are not exempt.

3-001.04C Employment and Training (E & T): The worker must explain the requirements of the E & T program, if appropriate, and the applicant's rights and responsibilities. All non-exempt household members must be referred to the E & T program and participate in the program.

The E & T Program may involve job search training, individual job search, or Workfare for ABAWD's.

3-001.04C1 Employment & Training Compliance: Any household member required to participate in the E & T Program must comply with all the requirements of the component they are assigned to including any of the following:

1. Attending a job training workshop;
2. Making a specified number of contacts with potential employers;
3. Following up on job leads; and
4. Accepting suitable employment if offered.

The worker must explain the requirements of the assigned component to any household member required to participate in the E & T program. In addition, mandatory E & T participants must be informed that they may be exempted from participation if their monthly expenses that are reasonably necessary and directly related to participation in the E & T Program exceed the allowable reimbursement amount.

If the household member does not comply, the worker must send the household a timely notice which includes a statement outlining the disqualification. The timely notice must include a disqualification statement that informs the household of the:

1. Individual who is being disqualified;
2. Reason for the disqualification;
3. Minimum length of the disqualification; and
4. Action the individual can take to end the E & T disqualification, if applicable.

The Employment and Training (E & T) disqualification remains in effect until the individual has:

1. Served the minimum disqualification period;
2. Complied with E & T requirement that caused disqualification, if longer than minimum disqualification period; or
3. Become exempt from the regular work requirements.

{Effective 1/3/2005}

3-001.04C2 Employment and Training Reimbursement: Any household member participating in an E & T Program qualifies for a reimbursement for actual costs that are reasonably necessary and directly related to participation for each month of participation.

3-001.04C2a Employment and Training Exemptions: Individuals may be exempted from E & T requirements based on such factors as geographical distance from the local office, the availability of child care, health factors and other considerations as approved by FNS in the approval of Nebraska's E & T plan.

3-001.04D Refusal to Accept a Bona Fide Job Offer or Voluntary Quit: If an individual refuses to accept a bona fide job offer or voluntarily quits employment within 60 days before a food stamp application is filed, anytime after the application is filed or after the household is certified, the worker must make a determination of whether or not the refusal to accept suitable employment or termination of employment met the criteria of the requirement and was without good cause. The household cannot claim good cause for refusing a bona fide job offer due to not meeting the drug test requirement. The following conditions do not constitute a refusal to accept a bona fide offer or a voluntary quit:

1. Employment of less than 30 hours per week or 30 hours times the federal minimum wage;
2. Changes in employment status which do not result in reducing hours of employment to less than 30 hours per week for the same employer;
3. Terminating a self-employment enterprise; or
4. Resigning from a job at the employer's demand.

{Effective 1/3/2005}

3-001.04E Non-Compliance with Work Requirements: In any of the following situations an individual is ineligible to participate in the Food Stamp Program when s/he:

1. Refuses without good cause to register for employment;
2. Voluntarily and without good cause quits a job or reduces employment to less than 30 hours per week;
3. Refuses without good cause to accept an offer of bona fide employment; or
4. Refuses without good cause to participate in the E & T program in areas not geographically exempt.

The worker must explain the requirements of compliance to the household at the time of application and at recertification. A household member is exempt from these requirements if s/he is exempt from work requirements at the time of noncompliance. If the individual is participating in the Food Stamp Program at the time of discovery, the household is treated as a certified household.

{Effective 9/4/2002}

3-001.04E1 Failure to Comply with Work Requirement: If a household member who has work registered refuses or fails to comply with any of the work participation requirements, the worker initiates the noncompliance process. The process includes the following steps:

1. Determine the reason(s) the noncompliance occurred;
2. If good cause exists, document the reason in the case file; or
3. If good cause does not exist, document the reason in the case file and determine if the individual who committed the violation is the head of household or another household member;
  - a. If the individual who committed the violation is the head of household, close the case for the month following the expiration of the timely notice; or
  - b. If the individual who committed the violation is another household member:
    - (1) Remove that household member from the unit for the month following the expiration of the timely notice; and
    - (2) Determine the length of the disqualification period based on whether the violation is the first, second, or third offense.

{Effective 9/4/2002}

3-001.04E2 Good Cause: Good cause for not meeting the work participation requirement includes:

1. Illness of the employed household member;
2. Illness of another household member requiring the presence of the employed member;
3. A household emergency;
4. Unavailability of transportation;
5. Recognition of the fact that the employment does not meet the suitability of employment criteria;
6. Discrimination by an employer based on age, race, sex, color, disability, religious beliefs, national origin, or political beliefs;
7. Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;
8. Acceptance of employment or enrollment of at least half-time in any recognized school, training program, or institution of higher education that requires the head of household to leave other employment;
9. Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program, or institution of higher education which requires the household to relocate and requires other employed household members to leave their employment;
10. Resignations by persons under 60 which are recognized by the employer as retirement;

11. Employment which becomes unsuitable by not meeting the suitable employment criteria after the employment has been accepted;
12. Acceptance of a bona fide job offer which meets the criteria for employment but because of circumstances beyond the control of the head of household, subsequently either:
  - a. Does not materialize;
  - b. Results in employment of less than 30 hours per week; or
  - c. Earnings of less than the federal minimum wage multiplied by 30 hours per week; or
13. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as in migrant farm labor or construction work. There may be some cases where households will apply for food stamp benefits between jobs, particularly when work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the worker must consider the quitting of the previous employment as with good cause if it is part of the pattern of that type of employment.

Note: Problems caused by the work registrant's inability to speak, write, or read English could constitute good cause.

{Effective 9/2/2002}

3-001.04E2a Limitation of Good Cause: The worker must not apply the good cause provision to federal, state, or local governmental employees who strike against their employers and consequently lose their jobs.

{Effective 11/19/97}

3-001.04F Head of Household: The worker must designate a head of household for each applicant household. The head of household's name will appear on the case record, Electronic Benefits Transfer (EBT) card, and all correspondence related to that case. Workers must not use the head of household classification as a means to impose special requirements on that individual. The head of household is not required to appear at the certification office to apply for benefits.

{Effective 1/3/2005}

3-001.04F1 Designation of Head of Household: The head of household designation determines how the disqualification penalties will be applied in situations of failure to comply with the work related requirements. The head of household is determined as follows:

1. If there is only one adult parent of a child in the household, that individual is the head of household;
2. If there is more than one parent of a child in the household, the worker must allow the household to select which parent is the head of household; or
3. If there is no adult parent of a child in the home, the head of household must be the primary wage earner.

Note: The primary wage earner must be the household member (including excluded members) who is the greatest source of earned income in the two months before the month of the violation. The provision applies only if the employment involves 20 or more hours per week or provides weekly earnings at least equivalent to the federal minimum wage multiplied by 20 hours.

The designation of head of household for households consisting of parents must be made at the time of application and may be changed at the time of review or if the household composition changes. The household cannot designate a disqualified household member as the head of household. The head of household for work requirement compliance must be an eligible household member.

{Effective 1/3/2005}

3-001.04F2 Ineligibility of an Applicant Household: If the individual who has been named the head of household on the application is ineligible to participate due to a work requirement noncompliance, the entire household is ineligible. The household is ineligible to participate for:

1. Thirty days from the application filing date for the first disqualification;
2. Ninety days from the application filing date for the second disqualification; and
3. One hundred eighty days from the application filing date for the third or subsequent disqualification.

If the individual in violation is the head of household, the household is not eligible for food stamp benefits until the disqualification period is served or until compliance, whichever is later. If the head of household becomes exempt from the work requirements during the disqualification period, the household may reapply for benefits.

{Effective 1/3/2005}

3-001.04F3 Ineligibility of a Certified Household: If the individual who is the head of household becomes ineligible to participate in the Food Stamp Program due to a work requirement noncompliance, the household is ineligible to participate for

1. One calendar month for the first disqualification;
2. Three calendar months for the second disqualification; and
3. Six calendar months for the third and subsequent disqualification.

If the individual in violation is the head of household, the household is not eligible for food stamp benefits until the disqualification period is served or until compliance, whichever is later. If the head of household becomes exempt from the work requirements during the disqualification period, the household may reapply for benefits

{Effective 1/3/2005}

3-001.04G Other Household Member

3-001.04G1 Ineligibility of an Applicant Household Member: If any household member, other than the head of household, becomes ineligible to participate due to work requirements, the household member is ineligible to participate for:

1. Thirty days from the application filing date for the first disqualification;
2. Ninety days from the application filing date for the second disqualification; and
3. One hundred eighty days from the application filing date for the third or subsequent disqualification.

If the individual in violation is another member of the household, the individual is not eligible for food stamp benefits until the disqualification period is served or until in compliance, whichever is later.

{Effective 6/9/2003}

3-001.04G2 Ineligibility of a Certified Household Member: If the individual in violation is not the head of household, the individual household member becomes ineligible to participate in the food stamp program due to a work requirement noncompliance. The individual is ineligible to participate in any household for:

1. One calendar month for the first violation;
2. Three calendar months for the second violation; and
3. Six calendar months for the third and subsequent violation.

If the individual in violation is another member of the household, the individual is not eligible for food stamp benefits until the disqualification period is served or until in compliance, whichever is later.

The disqualification for the noncompliance violation is imposed in the month following the expiration of the adverse action. The individual in violation must not be included in the household's allotment until the month following the last month of the disqualification period or compliance, whichever is later.

{Effective 6/9/2003}

3-001.04H Worker Action: Within ten days of noncompliance or notification of noncompliance, the worker must:

1. Provide the household with a timely notice which describes:
  - a. The specific reason or action of noncompliance;
  - b. The penalty imposed for the noncompliance, including the period of disqualification; and
  - c. That the household may apply at the end of the disqualification period or the household member would be added back to the unit at the end of the disqualification period.
2. Begin the disqualification period with the first month after the expiration of the timely notice period, unless a fair hearing is requested. If a fair hearing is held and the worker action is upheld, the disqualification period begins the month after the decision is made.

{Effective 1/3/2005}

3-001.04H1 Fair Hearings: Each household has a right to a fair hearing to appeal a denial, reduction or termination of food stamp benefits because of a determination of non-exempt status or a determination of failure to comply with work participation requirements. Actions that may be appealed include:

1. Exemption status;
2. Type of requirement imposed; or
3. The worker's refusal to grant good cause.

A household is allowed to examine the documents in his/her case file at a reasonable time before the fair hearing except that confidential information such as test results may be withheld. Information not released to the household may not be used by either party at the hearing.

{Effective 11/19/97}

3-001.04H2 Ending the Disqualification: A household's disqualification must be ended if the head of household:

1. Becomes exempt from work requirements; or
2. Leaves the household.

If the disqualified individual is not the head of household, the disqualification period must be ended if the individual becomes exempt from work requirements.

If the disqualified individual leaves the household and joins a different food stamp household, the disqualification period in the new food stamp household continues until served. If the individual becomes the head of household in the new household and is not exempt from work requirements, the entire household is ineligible for the remainder of the disqualification period or until compliance, whichever is later. If the individual is not the head of household in the new household and not exempt from work requirements, the individual is ineligible for the remainder of the disqualification period or until compliance, whichever is later.

{Effective 1/3/2005}

3-001.04H3 Reapplying after Disqualification: The household may apply in the last month of the disqualification period or after cooperating with the requirement that caused the disqualification, whichever is later. Eligibility can be reestablished no earlier than the date after the disqualification ends. If the household does not reapply, no further action is required of the worker.

If the household files an application before the end of the current disqualification period, the worker must use this application to:

1. Deny benefits for the remaining month(s) of the disqualification period; and
2. Certify the household for subsequent months if all other eligibility standards are met.

{Effective 11/19/97}

3-001.04H4 Occurrence or Discovery in the Last Month of Certification:

3-001.04H4a Household Reapplies: If a failure or refusal to comply with a work participation requirement occurs or is discovered in the last month of the certification period, the worker shall determine the disqualification at recertification.

If the household member who fails or refuses to comply with the work requirement is the head of household, the household is disqualified for an appropriate period starting with the day after the certification period expires. The length of the disqualification is determined by whether it is the first, second, or third violation.

If the individual who fails or refuses to comply with the work requirement is another household member, the individual in violation is disqualified for an appropriate period starting with the day after the certification period expires. The length of the disqualification period is determined by whether it is the first, second, third or subsequent violation.

{Effective 9/4/2002}

3-001.04H4b No Reapplication: If a failure or refusal to comply with a work requirement occurs or is discovered in the last month of the certification period and the household does not reapply, the worker reviews when the violation occurred at the household's next certification. If the household reapplies during the disqualification period for the prior failure to comply violation, the remainder of the disqualification period must be applied. The disqualification period would begin the day after the certification period expires, which is:

1. One month for the first violation or until compliance, whichever is later;
2. Three months for the second violation or until compliance, whichever is later; or
3. Six months for the third and subsequent violation(s) or until compliance, whichever is later.

If the individual in violation is the head of household, the household is not eligible for benefits until the disqualification period is served. If the individual is another household member, s/he must not be added to the household until the month following the month the disqualification period has been served.

When there has been a break in service due to no application after the minimum length of disqualification period is served, the disqualification period for Employment & Training (E&T) noncompliance continues until the individual complies with the E & T requirement or becomes exempt from participation in the work requirements.

{Effective 1/3/2005}

3-001.04J Able-Bodied Adult Without Dependents (ABAWD) Work Requirement:

3-001.04J1 Work Requirement for Able Bodied Adults: Individuals ages 18 through 45 are ineligible to receive food stamp benefits after three full months unless they meet one of the following criteria:

1. Work 20 or more hours per week (including in-kind or volunteer work) averaged over a four-week period;
2. Participate in and comply with a Workforce Investment Act (WIA) program or Trade Adjustment Assistance Act program for 20 or more hours per week; or
3. Participate and comply with the Workfare Program (under Section 20 of the Food Stamp Act) or a comparable state or local program.

Months of prorated benefits do not count in the three months.

{Effective 6/9/2003}

3-001.04J1a ABAWD Work Requirement Exemptions: Individuals are exempt if they meet one of the following:

1. Physically or mentally unfit for employment;
2. Residing in a household where a household member is age 17 or younger, even if the household member who is age 17 or younger is not participating in the FS program;
3. Pregnant;
4. Exempt from work requirements;
5. Special state waivers in areas with insufficient jobs to provide employment for the individuals; or
6. Special hardship exemptions.

{Effective 1/3/2005}

3-001.04J2 Regaining Eligibility: Individuals denied eligibility under the ABAWD work requirement can regain eligibility if during any consecutive 30-day period the individual:

1. Works 80 hours or more;
2. Anticipates working 80 hours or more;
3. Participates in and complies with an approved work program for 80 or more hours; or
4. Participates in and complies with the Workfare program.

If an individual subsequently loses this employment or ceases participation in work or a workfare program, participation in the Food Stamp Program can continue for up to three consecutive months. After the initial three months and additional three months (six months total) during the 36-month period, the individual must comply with the ABAWD work requirement or become exempt from the work requirement to meet ABAWD eligibility.

{Effective 9/4/2002}

3-001.05 (Reserved)

3-001.06 Student Status: A household member who is enrolled at least half time in an institution of higher education must meet one of the student eligibility exemptions to be eligible to participate. The program definition of a student is an individual enrolled at least half time in a regular curriculum at:

1. A college or university that offers degree programs, regardless of whether a high school diploma is required; or
2. A business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certification for enrollment.

Note: An individual who is enrolled in a special program, such as courses for English Language Learners (ELL) or courses which are not part of the regular curriculum, is not considered enrolled in an institution of higher education.

{Effective 7/29/96}

3-001.06A Student Exemptions: A student by program definition who meets one of the following requirements is eligible to participate if s/he is:

1. Age 17 or younger;
2. Age 50 or older;
3. Physically or mentally unfit;
4. Included in an ADC grant unit;
5. Enrolled in the Employment First Program;
6. Working a minimum of 20 hours per week for pay or, if self-employed, working a minimum of 20 hours per week and receiving weekly earnings at least equal to the federal minimum wage multiplied by 20 hours;
7. Participating in a state or federally financed work-study program during the regular school year;

Note: The following restrictions apply to work study:

- a. The student must be approved for work study at the time of application for food stamp benefits;

- b. The work study must be approved for the school term and the student must anticipate actually working during that time;
  - c. The work study exemption begins the month the school term begins or the month the work study is approved, whichever is later; and
  - d. The work study exemption does not continue between terms when there is a break of a full month or more, unless the student is participating in work study during the break.
8. Participating in an on-the-job training program;  
Note: An individual is considered participating only during the time the person is being trained by the employer. During the period of time the person is only attending classes, this exemption would not apply.
  9. Responsible for the care of a dependent household member who is age five or younger;
  10. Responsible for the care of a dependent household member who is age 11 or younger when the worker has determined that adequate child care is not available to enable the student to attend class and comply with the work requirements of student eligibility;
  11. A single parent enrolled full time in an institution of higher education and responsible for the care of a dependent child age 11 or younger;  
Note: This provision applies when only one natural, adoptive, or stepparent (regardless of marital status) is in the same food stamp household as the child. This provision may apply to another full-time student in the same food stamp household as the child when:
    - a. No biological, adoptive, or stepparent is in the same food stamp household; and
    - b. The student has parental control over the child and is not living with his or her spouse.
  12. Assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the following programs:
    - a. Workforce Investment Act (WIA);
    - b. State's Employment and Training Program;
    - c. Section 236 of Trade Act of 1974; or
    - d. Employment First program.

{Effective 9/4/2002}

3-001.06B (Reserved)

3-001.06C Continued Enrollment: The worker considers enrollment as continued through normal periods of class attendance, vacation, and recess unless the student graduates, drops out, is suspended or expelled, or does not intend to register for the next normal school term (excluding summer school).

3-001.06D Verification of Student Status: The worker verifies student status eligibility by taking the following steps:

1. If the student indicates s/he is employed at least 20 hours per week, the worker verifies the number of hours employed.
2. If the student indicates s/he actively participates in a state or federal work-study program during the regular school year, the worker verifies this participation.

3. If the student states s/he is physically or mentally unfit, the worker verifies the physical or mental impairment if it is not obvious to the worker.
4. If the student states s/he is receiving and is included in the ADC grant, the worker verifies the receipt of the ADC grant.
5. If the student states s/he is enrolled in the Employment First Program the worker verifies the enrollment.
6. If the student states s/he is responsible for the physical care of a dependent child, the worker uses the student's declaration as verification and documents the client's declaration in the case record.
7. If the student is participating in training through the Workforce Investment Act (WIA), a program under Section 236 of the Trade Act of 1974, or a state or local employment and training program, the worker verifies participation and that the student is attending an institution of higher education.

3-001.07 Social Security Number (SSN): All household members applying for participation in the Food Stamp Program must provide their SSN. If an applicant household member does not have an SSN, s/he must apply for one before certification unless s/he has good cause for failure to apply.

Providing the SSN is voluntary, however failure to provide or apply for an SSN will result in the denial of food stamp benefits to each individual failing to provide an SSN. A household member with more than one SSN must provide all of them. The SSN of a non-participating household member will be used in computer matching and program reviews or audits in the same manner as the SSN of a participating household member.

To be eligible, a household member who previously has not provided an SSN must:

1. Provide the local office with his/her SSN;
2. Demonstrate that application has been made for an SSN; or
3. Demonstrate that s/he has attempted to supply the documentation required for an SSN.

Parents of a newborn child may apply for an SSN for the child at the hospital when this service is available. A household must provide proof of application for an SSN for a newborn child or within six months following the month the baby is born or at its next recertification, whichever is later.

The application cannot be delayed pending the verification of an SSN.

{Effective 1/3/2005}

3-001.07A Applying for a Social Security Number (SSN): Individuals who wish to participate in the Food Stamp Program but do not have an SSN should be referred to their local Social Security Administration Office to apply for an SSN. Once an application for an SSN has been completed, the individual may participate during the period the SSN is being obtained from the Social Security Administration.

{Effective 9/4/2002}

3-001.07B Good Cause: The worker must consider the following when determining whether good cause exists for failure to provide an SSN;

1. Information received from the household member;
2. Information received from the SSA; and
3. Information received by the local office staff.

The worker considers documentary evidence or other information that the household has applied for or made every effort to supply the necessary information for an SSN as proof of good cause.

Good cause does not include delays caused by illness, lack of transportation, or temporary absences from the home because SSA makes provisions for mail in applications in lieu of applying in person.

3-001.07B1 Continued Participation: If a household member can show good cause for why s/he has been unable to provide verification in order to complete the SSN application process, the worker allows him/her to participate for the month of application and one additional month. After this, the household must show good cause monthly in order to continue participating.

3-001.07C Ending Disqualification: An ineligible household member may become eligible by:

1. Providing the worker with his/her SSN;
2. Demonstrating that application has been made for an SSN; or
3. Demonstrating that s/he has attempted to supply the documentation required for an SSN application.

3-001.07D Use of the Social Security Number: Workers are required to use their access to information regarding individual food stamp applicants and participants who receive benefits under Title XVI of the Social Security Act to determine a household's eligibility or to verify information related to the benefits of these households. Workers use the SDX and BENDEX to the greatest extent possible. The worker uses the SSN to:

1. Prevent duplicate participation;
2. Facilitate mass changes in federal benefits;
3. Determine the accuracy or reliability of information given by households; and
4. Initiate computer matches through the automated system.

3-001.07E Verification of Social Security Numbers: SSNs for all household members are verified through the interface in the automated system.  
{Effective 9/4/2002}

3-001.08 Drug Felon Status: For the Food Stamp Program, a drug felon is any individual who has a drug-related felony violation and conviction after August 22, 1996, involving the sale or distribution of a controlled substance, including the intent to sell or distribute, or for the possession or use of a controlled substance.

(Effective 4/10/2006)

3-001.08A Permanently Disqualified Drug Felon: An individual who is a drug felon is permanently disqualified from the Food Stamp Program when s/he has:

1. A drug-related violation and felony conviction after August 22, 1996, involving the sale or distribution of a controlled substance, including the intent to sell or distribute;
2. Fewer than three drug-related felony violations and convictions after August 22, 1996, for the possession or use of a controlled substance but has not participated in or completed an approved substance abuse treatment program since the last conviction; or
3. Three or more drug-related felony violations and convictions after August 22, 1996, for possession or use of a controlled substance.

{Effective 4/10/2006}

3-001.08B Eligible Drug Felon: An individual with fewer than three drug-related violations and convictions after August 22, 1996, for the possession or use of a controlled substance continues to be an eligible household member when s/he is participating in or has completed an approved substance abuse treatment program since their last conviction. The program must be either nationally accredited or state-licensed to qualify as an approved substance abuse treatment program.

The determination of whether or not the drug felon is participating in or has completed the program must be made by the treatment provider administering the program.

{Effective 4/10/2006}

3-001.09 Strikers: For Food Stamp Program purposes, a striker is anyone who is not affected by a lockout or is not exempt from work requirements the day before the strike occurred and is involved in:

1. A strike;
2. A planned break in work by employees (including a break in work which occurs because a collective bargaining agreement has expired); or
3. A planned slowdown or other planned interruption of operations by employees.

Note: The work requirement exemption must be based on grounds other than solely being employed the day before the strike.

3-001.09A Non-Strikers: The following persons are not considered strikers:

1. Employees whose workplace is closed by an employer in order to resist demands of employees (i.e., lockout);
2. Employees unable to work as a result of striking employees (i.e., baggage handlers unable to work due to a strike of airline pilots); and
3. Employees who are not part of the bargaining unit on strike who do not want to cross the picket line due to fear of personal injury or death.

3-001.09B Eligibility of Strikers: A household containing a striker is eligible only if the household would have been eligible the day before the strike began. Households which were participating in the program before a member became a striker retain their eligibility only if they are otherwise eligible. For households which contain a striker at the application filing date, the worker determines whether the household would have been eligible before the strike. If the household would not have been eligible, the application must be denied. If the household would have been eligible, the worker processes the application to determine current eligibility.

3-001.09C Work Requirements of Strikers: Strikers are subject to the same work requirements as other food stamp applicants/participants unless they were exempt on the application filing date. When it is determined that a strike is unlawful as specified in the program definition for suitable employment, and the striker refuses to return to work, the worker denies the application or terminates the household's participation (whichever is appropriate).

3-001.10 Household Composition: Before the worker can determine financial eligibility, the household must meet certain criteria, and the worker must determine the number of individuals to be included in the household. The following guidelines apply:

1. Individuals participating in the program titled, "Food Distribution Program for Households on Indian Reservations" are not eligible to receive food stamp benefits in the same calendar month.
2. Household members may only participate in one household during the month unless the members live in a shelter for battered women and children and were members of the household containing the person who allegedly abused them.
3. Persons who reside in institutions are not included in the same household with persons who do not.
4. Unborns are not considered household members.
5. Persons who live with the household but also maintain separate residence because of work, school, or other reasons are not considered household members if they are apart from the household for a majority of their meals.
6. Persons who receive SSI or State Supplementary payments from California are not eligible for food stamp benefits. SSI and supplementary payments from California have been specifically increased to include the value of the food stamp benefit. Once these individuals begin receiving SSI through Nebraska, they would be eligible for food stamp benefits in Nebraska.

3-001.10A Household Concept: A household may be composed of any of the following individuals or groups of individuals:

1. An individual living alone;
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;
3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption;

4. An individual who is 60 years of age or older and who is unable to purchase and prepare meals separate from other household members because:
  - a. S/he suffers from a disability considered permanent by SSA; or
  - b. S/he suffers from a non-disease-related, severe, permanent disability.An individual meeting the above criteria may be a separate household provided that the income of the others with whom the individual resides (excluding the income of the spouse of the elderly and disabled member) does not exceed the 165 percent poverty guidelines. The individual's spouse would be included in the household with the disabled individual.
5. Children (age 22 or older) and their parent(s) may be separate households if they purchase and prepare their meals separately;
6. A foster child in the Independent Living Program under the supervision of the Department; or
7. A resident who lives in an institution which is:
  - a. Providing federally subsidized housing for the elderly under Section 202 of the Housing Act of 1959;
  - b. Serving residents of a chemical dependency treatment and rehabilitation program;
  - c. Serving disabled individuals in group homes;
  - d. Serving women or women with children who temporarily reside in a shelter for battered women and children. These persons are considered as individual household units for the purpose of applying for and participating in the Food Stamp Program; or
  - e. Serving the homeless.

Note: Other residents of institutions are not eligible if the institution provides the residents with the majority of their meals. Residents of institutions who jointly apply for SSI and food stamp benefits before release from the institution are not eligible until their date of release.

{Effective 9/4/2002}

**3-001.10B Determining Household Status:** Some individuals or groups of individuals who meet the definition of a household by customarily purchasing and preparing food apart from others must not be granted separate household status. The worker does not grant separate household status to:

1. A spouse of a household member when the spouse lives with the household;
2. A boarder;
3. Parent(s) and their child(ren) who are age 21 or younger and live together; or
4. Children who are age 17 or younger and under the parental control of an adult household member.

Note: A child is considered to be under parental control for purposes of this provision if s/he is financially or otherwise dependent on a member of the household.

Individuals who claim separate household status are responsible for proving the separate status to the satisfaction of the worker.

{Effective 9/4/2002}

3-001.10C Non-Household Members: The following individuals residing with a household will not be considered household members in determining the household's eligibility or benefit:

1. A roomer or an individual to whom a household furnishes lodging, but not meals, for compensation;
2. A live-in attendant who resides with a household to provide medical, housekeeping, child care, or other similar personal services;
3. Other individuals who share quarters with the household but who do not customarily purchase food and prepare meals with the household;
4. Students who are enrolled in an institution of higher education and who are ineligible because they failed to meet the student eligibility exemption criteria; and
5. Individuals receiving SSI or State Supplemental payments from California.

3-001.10C1 Eligible As A Separate Household: The following non-household members may be separate households, providing they file an application, if otherwise eligible:

1. Roomers;
2. Live-in attendants; and
3. Other individuals who live with the household but who do not customarily purchase and prepare food with the household.

3-001.10C2 Not Eligible As Separate Household: The following non-household members are not eligible as separate households:

1. Ineligible students;
2. Individuals receiving SSI or State Supplemental payments from California;
3. Foster child(ren); and
4. Ineligible aliens.

3-001.10D Excluded from Benefit: The following household members are excluded from the household when determining benefit level and may not participate as separate households:

1. Individuals who do not apply for or provide their Social Security numbers;
2. Ineligible ABAWDs;
3. Disqualified aliens or individuals who do not provide information regarding their citizenship/alien status;
4. Individuals disqualified for failure to comply with the work requirements; and
5. Individuals disqualified for the following reasons:
  - a. Intentional program violation;
  - b. Conviction for the use of food stamp benefits in the sale of a controlled substance;
  - c. Conviction for trafficking food stamp benefits totaling \$500 or more;
  - d. Drug-related felony violation and conviction after August 22, 1996, involving a controlled substance as follows:

- (1) Conviction for a drug-related felony involving the sale or distribution of a controlled substance, including the intent to sell or distribute;
  - (2) Three or more drug-related felony violations and convictions for possession or use of a controlled substance; or
  - (3) Fewer than three drug-related felony violations and convictions for possession or use of a controlled substance and not participating in or not completing an approved substance abuse treatment program since the last conviction;
- e. Fleeing from prosecution or custody for a felony, parole or probation violation;
  - f. Found guilty by a court or state agency of having made fraudulent representation of identity or residency to receive food stamp benefits in more than one household in the same month; and
  - g. Conviction for the use of food stamp benefits in the sale of firearms, ammunition, or explosives.

{Effective 4/10/2006}

3-001.10E Determining Household Composition: To determine the household composition, the worker must:

1. Identify the total number of people who live together;
2. Determine the relationship of individuals who live together;
3. Identify who:
  - a. Must be a member of the household;
  - b. Is a member by choice;
  - c. Is not a member of the household; and
4. Include as household members those who must be and those who choose to be household members.

3-001.10E1 Verification of Household Composition: The worker must verify and document any factors affecting the composition of the household, such as boarder status, if questionable. However, due to the difficulty in verifying whether a group of individuals customarily purchases or prepares meals together and therefore constitutes a household, the worker must generally accept the household's statement regarding preparation and purchasing of food.

3-002 Financial Eligibility: This section discusses financial eligibility criteria including how to treat resources and income in determining eligibility for the Food Stamp Program.

3-002.01 Resources: All households must comply with the resource eligibility standard to establish or continue eligibility. The household's available resources at the time the household is interviewed are used to determine eligibility. Resources acquired after the interview date are considered in subsequent months.

3-002.01A Resource Eligibility Standard: To be eligible, the value of a household's resources cannot exceed:

1. \$2,000; or
2. \$3,000 for a household which consists of or includes a member who is disabled or elderly.

All resources which are not specifically excluded or exempt are considered in determining eligibility. This includes nonrecurring lump sum payments in the month received. If a household exceeds the maximum resource limit, its application must be denied or its participation terminated.

{Effective 6/9/2003}

3-002.01B Type of Resources: There are two types of resources: liquid and nonliquid.

3-002.01B1 Liquid Resources: Liquid resources include cash on hand; money in checking and savings accounts, savings certificates, stocks or bonds; nonrecurring lump sum payments; funds held in individual retirement accounts (IRA's), in Keogh plans which do not involve the household member in a contractual relationship with individuals who are not household members; and other liquid assets not specifically excluded or exempt.

3-002.01B2 Nonliquid Resources: Nonliquid resources include personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property, provided none of these are specifically excluded.

3-002.01C Excluded Resources: The following resources are excluded in determining eligibility:

1. The home and surrounding property which is not separated from the home by intervening property owned by others. The worker notes that:
  - a. Public rights of way, such as roads which run through the surrounding property and separate it from the home, do not affect the exclusion of the property;
  - b. The home and surrounding property must remain excluded when temporarily unoccupied for reasons of employment, training for future employment, illness, or not habitable due to a casualty or natural disaster, if the household intends to return;
  - c. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, receive an exclusion for the value of the lot and, if it is partially completed, for the home;
2. Household goods, such as furniture including antiques;
3. Personal effects, including all clothing, jewelry, pets, and personal collections such as coins, stamps, or guns;
4. A burial space per household member, ineligible alien, or disqualified member;
5. Prepaid burial items which include the crypt, mausoleum, urn, casket, marker, vault, charges for opening and closing the grave or other repository for the remains of the deceased person;
6. Bona fide funeral agreements that are accessible to the household up to a total of \$1,500 equity per household member;
7. The cash value of life insurance policies;
8. Irrevocable burial agreements (prearranged funeral plans) pursuant to Neb. Rev. Stat., Section 71-1342;
9. The cash value of pension funds, including 401K plans and deferred compensation plans under Sections 401 and 457 of the Internal Revenue Section Code even if they are accessible with a penalty;
10. Licensed vehicles;
11. Leased vehicles during the agreement or contract period. If a household purchases the vehicle at the end of the contract, the value of the vehicle at the time of purchase would be considered;

12. Property which annually produces income consistent with its fair market value, even if it is only used on a seasonal basis. This includes rental homes and vacation homes;
13. Property deemed essential to the employment or self-employment of a household member, an ineligible alien or a disqualified person whose resources are being counted as part of the household's resources. This could include farm land and work-related equipment, such as the tools of a tradesman or the machinery of a farmer;
14. Real and personal property used for the maintenance of a vehicle used to transport a handicapped person or a disqualified household member whose resources are considered available to the household or used for income producing purposes. Only that portion of real property necessary for maintenance of the vehicle is excludable;
15. Money which is projected and counted as income in the food stamp budget. Money is never counted as both income and a resource in the same month;
16. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with the fair market value;
17. The value of property sold under an installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property;
18. Any government payments such as, but not limited to, Small Business Administration (SBA) loans when used for the restoration of a home damaged in a disaster. The household is subject to a legal sanction if the funds are not used as intended;
19. Money which has been prorated as income for students and self-employed persons;  
Note: The funds retain their exemption for the period of time over which they have been intended to cover;
20. All financial assistance given to students in the form of grants, loans and scholarships during the period the funds are intended to cover;
21. A business bank account provided the account is clearly separated from the household's personal bank account to the extent that money in the account was considered as income;
22. Land that can be sold only with the approval of the Bureau of Indian Affairs or Indian lands held jointly with the tribe;
23. Benefits under P.L. 104-204 for children of Vietnam veterans who were born with spina bifida. A child is the biological child conceived after the veteran first served in the Republic of Vietnam during the Vietnam era, regardless of age or marital status of the Vietnam veteran;
24. Payments from designated Energy Assistance Programs;
25. A non-liquid asset which has a lien placed against it as a result of taking out a business loan if the household is prohibited from selling the asset by the security or lien agreement;
26. Resources excluded for food stamp purposes by provisions of federal statutes. These include:
  - a. Benefits received under the special supplemental food program for women, infants, and children (WIC) program under the Child Nutrition Act of 1966;

- b. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970;
- c. Payments received under the Alaska Native Claims Settlement Act, the Sac and Fox and Indian claims agreement, and payments received by certain Indian tribal members, under P.L. 94-189, Section 6;
- d. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540);
- e. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (P.L. 95-433, Section 2);
- f. Payments to the Passamaquoddy Tribe, the Penobscot Nation, the Houton Band of Maliseet pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420, Section 9(c));
- g. Relocation assistance payments to members of the Hopi and Navajo tribes under P.L. 93-531, Section 22;
- h. Payments distributed or held in trust by the Chippewas of the Mississippi Tribe (P.L. 99-377, Section 4b) and to the Red Lake Band of Chippewa Indians under P.L. 98-123, Section 3;
- i. Financial assistance provided by the program funded in whole or part under Title IV of the Higher Education Act in accordance with P.L. 99-498;
- j. Mandatory deductions from military pay for educational purposes while the recipient is enlisted;
- k. Payments to U.S. citizens of Japanese ancestry and resident Japanese aliens or their survivors and payments to eligible Aleuts (P.L. 100-383, Wartime Relocation of Civilians);
- l. Payments made under the Disaster Relief and Emergency Assistance Amendments of 1988;
- m. Indian per capita payments of \$2,000 or less for each household member per payment under Per Capita Distribution Act (P.L. 103-66, Section 13736);
- n. Per capita payments made under P.L. 98-124, and distributions to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Pack Indian Reservation, Montana;
- o. Payments made from the Agent Orange Settlement Fund or any fund established by the Settlement of the Agent Orange liability under the Radiation Exposure Compensation Act (P. L. 101-426, Section 6 (h) (2)).
- p. Disaster assistance payments made to farmers under P.L. 100-387;
- q. Earned Income Tax Credit (EITC) the month of receipt and the following month;
- r. EITC for 12 months if the household is participating at the time of receipt and participates continuously during the 12-month period;
- s. The resources of any household member who receives an ADC, SSI, SDP, or AABD payment;
- t. Funds in a Program To Achieve Self-Sufficiency (PASS) account;
- u. Payments to individuals due to their status as victims of Nazi persecution;
- v. Subsidy received by household through the prescription drug discount card program under the Medicare Prescription Drug Improvement and Modernization Act; and

- w. Funds in HUD Family Self-Sufficiency Program (FSSP) escrow account;
- 27. The value of farmland, equipment, supplies, and licensed vehicles for a period of one year after a household member ceases to be self-employed in farming;
- 28. Resources whose cash value is not accessible to the household. These include, but are not limited to:
  - a. Security deposits on rental properties or utilities;
  - b. Property in probate;
  - c. Real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold (the worker may verify that the property is for sale and that the household has not declined a reasonable offer); and
  - d. Irrevocable trust funds. For purposes of this section, an irrevocable trust is one in which no household member has the power to revoke the trust arrangement. The worker considers irrevocable trust funds inaccessible to the household provided all the following conditions are met:
    - (1) No household member has the power to change the name of the beneficiary during the certification period and the trust arrangement is not likely to cease during the certification period.
    - (2) The trustee is either:
      - (a) A court, institution, corporation, or organization not under the direction of any household member; or
      - (b) An individual appointed by the court with court-imposed limitations placed on the use of the funds.
    - (3) Trust investments do not directly involve any business or corporation under the direction or influence of a household member.
    - (4) The irrevocable trust funds are either:
      - (a) Established from the household's own funds to make investments on behalf of the trust or to pay educational or medical expenses of a household member; or
      - (b) Established from non-household funds by a non-household member; and
- 29. Resources whose sale is unlikely to produce any significant amount of funds to the household and whose sale would result in a return of \$1500 or less. This exclusion does not apply to financial instruments such as stocks, bonds, and negotiable financial instruments.

{Effective 1/3/2005}

3-002.01C1 Handling Excluded Liquid Resources: Excluded monies remain excluded for an unlimited period of time if these monies are kept in a separate account and not combined in an account with non-excludable funds. Funds, other than assistantships, fellowships and stipends, received for educational financial assistance are an excluded resource during the period the funds are intended to cover. When excludable monies are combined in an account with non-excludable funds, the excluded monies remain excluded for six months from the date they were combined with non-excluded funds. After the six months have elapsed, all funds in the combined account are counted as resources.

Note: When an exclusion applies because of the use of a resource by or for a household member, the exclusion also applies when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources.

{Effective 1/3/2005}

3-002.01D Valuation of Resources: The value of any non-excluded resource is its equity value with the exception of some licensed vehicles.

3-002.01D1 Equity Value: Equity value equals the fair market value minus all encumbrances.

3-002.01D2 Encumbrances: An encumbrance is the balance due on a mortgage, sales agreement, or contract.

3-002.01E Jointly Owned Resources: Resources owned jointly by separate households must be considered entirely available to each household, unless the applicant household can demonstrate that these resources are inaccessible to the household's member(s).

Ineligible household members and disqualified household members are considered household members for purposes of this section.

3-002.01E1 Portions of a Resource: If a household can demonstrate that it has access to only a portion of a jointly owned resource, the value of that portion is counted toward the resource limit.

3-002.01E2 Totally Inaccessible Resources: A jointly owned resource is considered totally inaccessible to a household when both of the following conditions are met:

1. The resource cannot realistically be subdivided; and
2. The household's access to the value of the resource depends on the agreement of a joint owner who refuses to cooperate.

3-002.01E3 Residents of Shelters for Battered Women and Children: Resources are considered inaccessible to residents in shelters for battered women and children if:

1. The resources are jointly owned by these women and children and by members of their previous households which included the persons who subjected them to abuse; and
2. The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still lives in the previous household which included the person who subjected them to abuse.

3-002.01F Transfer of Resources: The transfer of resources for the purpose of qualifying for or attempting to qualify for food stamp benefits is prohibited. At the time of application, the worker asks the household if any member has transferred any resources within the three-month period immediately preceding the application date.

3-002.01F1 Allowable Transfers: Eligibility is not affected by the transfer of the following:

1. Resources which would not otherwise affect eligibility;
2. Resources which are sold or traded at or near fair market value;
3. Resources which are transferred between members of the same household including aliens or disqualified household members whose resources are being considered available to the household; or
4. Resources which are transferred for reasons other than qualifying for or attempting to qualify for food stamp benefits.

3-002.01F2 Disqualification: Households which have transferred resources deliberately for the purpose of qualifying for or attempting to qualify for food stamp benefits must be disqualified from participation for up to one year from the date the transfer is discovered as follows:

1. The resources are transferred in the three-month period before eligibility determination; or
2. The resources are transferred after the household is determined eligible in order to maintain eligibility. (This would apply to resources acquired after the eligibility determination.)

3-002.01F3 Disqualification Notice: When the local office has established that a household has transferred resources in order to qualify for benefits or to maintain eligibility, the worker must send the household a notice of denial or a timely notice whichever is appropriate. This notice must explain the reason for and the length of the disqualification.

3-002.01F4 Disqualification Period: The disqualification period begins in the application month for applicants. For households participating at the time of the discovery, the disqualification period begins with the first allotment after the timely notice period expires, unless a fair hearing and continued benefits are requested.

The length of the disqualification period is based on the value of the excess resources at the time of the transfer. This amount is determined by:

1. Establishing the value of any non-excluded transferred resources;
2. Adding this amount to the value of other countable resources; and
3. Subtracting the maximum allowable resources from the result of step 2.  
{Effective 1/3/2005}

3-002.01G Licensed Vehicle as a Resource: The following sections regarding determining the value of licensed vehicles do not apply when the household is categorically eligible.

3-002.01G1 Access to Vehicles: The worker uses the following policy to determine if a vehicle is accessible to all persons whose names appear on the title:

1. "And/or" indicates that the vehicle is available to all parties.
2. "Or" indicates that the vehicle is available to all parties.
3. "And" indicates that the vehicle is available to all parties unless the applicant household can demonstrate that the resource is totally.

3-002.01G2 Excluded Licensed Vehicles: Any licensed vehicle is an excluded resource if the vehicle meets one of the following conditions:

1. The vehicle is used for income-producing purposes such as taxi; truck; vehicle used for deliveries, to call on clients or customers, or required by the terms of employment.
2. The vehicle is annually producing income consistent with its fair market value, even if it is used only seasonally.
3. The vehicle is necessary for long distance travel that is essential to the employment of a household member (or household member[s] whose resources are being considered as available to the household), such as a vehicle belonging to a traveling salesperson or a migrant farm worker following the workstream. This exemption does not include vehicles used for daily commuting.

Note: Exclusions 1 through 3 continue to apply when the vehicle is not in use because of temporary unemployment, e.g., when a taxi driver is ill and cannot work.

4. The vehicle is used as the household's home.
5. The vehicle is needed to transport a physically disabled household member (or household member[s] whose resources are being considered as available to the household) for any reason. The vehicle does not have to be specially equipped for this purpose. This exclusion is limited to one vehicle for each physically disabled household member.
6. The vehicle is necessary to carry the primary source of fuel for heating or water for home use.
7. The vehicle has been used in self-employed farming by a household member for a period of one year after the household member ceases to be self-employed in farming.
8. The sale of the vehicle and all related sale costs would return to the household \$1500 or less.
9. After vehicle exclusions numbers 1 through 8 have been processed for each household vehicle, one licensed or unlicensed vehicle per household may be excluded using the following policy.  
If the vehicle has a fair market value of:
  - a. \$12,000 or less, the total value of the vehicle is excluded; or
  - b. More than \$12,000, the amount over \$12,000 is counted toward the household's resource limit.The vehicle with the greatest fair market value is processed through the \$12,000 rule. The \$12,000 rule is limited to one vehicle per household.

The worker must accept the statement of the household regarding vehicles qualifying for an exclusion unless questionable.

{Effective 1/3/2005}

3-002.01G3 Determining Fair Market Value: Each vehicle which cannot be excluded must be assigned a fair market value. The fair market value of a vehicle is the average trade-in value as determined by [Kelley Blue Book](#). The basic value of a vehicle must not be increased by adding value for low mileage, optional equipment, or special equipment for people with disabilities, etc. For vehicles which are in less than average condition (as indicated by the household), the household must be given the opportunity to get verification of the true value from a reliable source.

For vehicles not listed in the Kelley Blue Book, the worker must accept the household's estimate of the value unless:

1. The worker has reason to believe the estimate is incorrect; and
2. The estimate will affect the household's eligibility.

In these cases, the household must obtain an appraisal or produce other evidence of the vehicle's value, such as a tax assessment or newspaper advertisement listing the price of similar vehicles.

For licensed antique, custom-made, or classic vehicles, the worker asks the household to provide verification of the value if the worker is unable to make an accurate appraisal.

3-002.01G4 Exempt Licensed Vehicles: The following vehicles are evaluated for their fair market value:

1. One licensed vehicle per household member age 18 or older (or household member[s] whose resources are being considered available to the household), regardless of use of the vehicle; and
2. Any other vehicle a household member age 17 or younger drives (or a household member[s] age 17 or younger whose resources are being considered as available to the household):
  - a. To and from employment;
  - b. To and from training or education which is preparing a household member for employment; or
  - c. To seek employment in compliance with job search criteria.

Note: The fair market test for number 2 continues to be applied during periods such as summer vacation or temporary unemployment.

{Effective 6/9/2003}

3-002.01G4a Other Non-Excluded Licensed Vehicles: If a household has any other licensed vehicles, they must be evaluated for both equity and fair market value. For vehicles evaluated separately for both fair market value and equity value, the greater of these two amounts will be applied toward the household's countable resources.

3-002.01H Unlicensed Vehicles as a Resource

3-002.01H1 Excluded Unlicensed Vehicles: An unlicensed vehicle is excluded if:

1. Used as the household's home;
2. Annually produces income consistent with its fair market value;
3. Essential to a household member's employment such as farm equipment;  
or
4. On an Indian reservation which does not require vehicles driven by tribal members to be licensed; or
5. One licensed or unlicensed vehicle per household may be excluded using the following policy. This exclusion is limited to only one vehicle per household. If the vehicle has a fair market value of:
  - a. \$12,000 or less, the total value of the vehicle is excluded; or
  - b. More than \$12,000, the amount over \$12,000 is counted toward the household's resource limit.

The vehicle with the greatest fair market value is processed through the \$12,000 rule. The \$12,000 rule is limited to one vehicle per household.

{Effective 1/3/2005}

3-002.01J Verification of Resources: The worker must verify the value of non-excluded resources and loans at the time of application and recertification. For categorically eligible households, the worker is not required to verify the value of resources independent of verification for SSI, AABD, SDP, and/or ADC. The worker does not verify resources on an ongoing basis during the certification period unless:

1. The worker receives information which makes the information given by the household at application appear questionable;
2. The CR or SR household reports the receipt of a resource which may put the household over the resource limit; or
3. The CR or SR household loses its categorical eligibility.

3-002.01J1 Verification of Loans: Loans are considered a resource in the month received. To verify that money coming to the household is a loan (and is therefore considered a resource rather than income), the worker:

1. Accepts as loan verification a simple statement signed by the household member receiving the loan AND the party providing the loan indicating that the payment is a loan and must be repaid; and
2. Requires a statement from the provider indicating that payments are being made or will be made in accordance with an established schedule when a household claims that payments from the same source received on a recurrent or regular basis are loans.

3-002.02 Types of Income: Household income is all income, regardless of source, that is not specifically excluded. There are two types of income: earned and unearned.

3-002.02A Earned Income: Earned income includes all the following:

1. All gross wages and salaries of an employee including wages earned by a household member that are garnished or transferred by an employer and paid to a third party for household expenses, such as rent;
2. The gross income from a self-employment enterprise minus the cost of doing business. This includes payments from a roomer or boarder and income from rental property if a household member actually manages the property for at least an average of 20 hours per week;
3. Training allowances from vocational or rehabilitative programs recognized by federal, state, or local governments, as long as these allowances are not reimbursements or are not excluded for another reason;
4. Payments to a volunteer under Title I (VISTA) of the Domestic Volunteer Services Act of 1973 if the volunteer was not receiving food stamps or public assistance at the time s/he joined VISTA;
5. Agricultural program payments in the year received;
6. Fellowships, stipends, and assistantships with a work requirement; and
7. On-the-job training payments under Title I of the Workforce Investment Act (WIA) except for dependents 18 years or younger.

{Effective 1/3/2005}

3-002.02B Unearned Income: Unearned income includes all the following:

1. Assistance payments from federal, federally aided or state funded public assistance programs such as Supplemental Security Income (SSI), SDP, AABD, or ADC;
2. All or part of a public assistance (PA) or general assistance (GA) (including GA vendor payments for shelter) grant that would normally be a money payment to the household but which is diverted to a third party or a protective payee unless the vendor payment is specifically excluded;  
Note: No portion of benefits provided under Title IV-A of the Social Security Act except for Transitional Child Care (TCC) used as an adjustment for work-related or child care expenses is considered excludable under this provision.
3. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves;
4. Foster care payments:
  - a. Foster care payments from grant programs Child and Family Services, Juvenile Court, and Subsidized Guardianship. Households have the option to include or exclude the children. If the children are included the payment is counted; or
  - b. Foster care payments from the grant program Subsidized Adoption. Households are required to include these children and their payments in the food stamp budget;
5. State and local energy payments made directly to the household or as a vendor payment to the provider;  
Note: LIEAP payments and one-time costs of weatherization or replacement of unsafe or inoperative heating devices are excluded.

6. Retirement benefits, veterans' benefits, disability benefits, RSDI benefits, strike benefits, workmen's compensation, the gross amount of unemployment compensation, annuities, and pensions;
7. Gross rental property income minus the cost of doing business if a household member is not actively engaged in managing the property for an average of at least 20 hours per week;
8. Portions of reimbursements if both the following conditions are met:
  - a. The reimbursement exceeds the actual incurred expense it is intended to cover; and
  - b. The household or the provider of the reimbursement indicates that the reimbursement exceeds the expense;
9. Alimony payments made directly to the ex-spouse or money deducted or diverted from a court-ordered support to a third party for a household expense.
10. Child support payments made directly to the household from non-household members. This includes:
  - a. All child support payments returned to the client by the Child Support Payment Center; and
  - b. Money deducted or diverted from a court-ordered support payment (or other binding written support agreement) to a third party for a household expense;
11. All other direct money payments which can be construed as a gain or benefit to the household, such as cash gifts which can be anticipated, dividends, interest, or royalties, are unearned income, regardless of source;
12. The portion of charitable donations that exceed \$300 in a federal fiscal quarter (see also 475 NAC 3-002.03A13); and
13. Two types of income from irrevocable trust funds as follows:
  - a. Monies withdrawn from the trust fund are considered unearned income in the month they are received unless they are otherwise excluded;
  - b. Dividends which the household has the option of either receiving as income or reinvesting in the trust are considered unearned income in the month they become available to the household unless the dividends are otherwise excluded.

{Effective 1/3/2005}

3-002.03 Handling Income:

3-002.03A Income Exclusions: Income exclusions are not counted as income for the household. Exclusions apply to both earned and unearned income.

Payments between household members are excluded. This includes payments for child care or other services provided for other household members as long as the source of the payment is from an individual within the household and not an outside source.

{Effective 6/9/2003}

3-002.03A1 In-Kind Income: In-kind income is any gain or benefit to the household which is not in the form of money, such as meals, clothing, private or public housing, and garden produce. All in-kind income is excluded.

3-002.03A2 Vendor Payment: Certain vendor payments are excluded. A vendor payment is a money payment which meets all the following conditions. It is:

1. Made on behalf of a household;
2. Paid by a person or organization outside the household with that person's or that organization's own funds; and
3. Paid directly to either the household's creditors or a person or organization providing a service to the household.

Income which is legally obligated and otherwise payable to the household but which is diverted by the provider of the payment to a third party for a household expense is counted as income and not excluded as a vendor payment.

3-002.03A2a Excluded Vendor Payments: Excluded vendor payments include:

1. Support payments which are not required by a court order or other legally binding agreement, including payments exceeding the amount specified in a court order or agreement, which are paid directly to a third party rather than the household;
2. Rent paid directly to the landlord by a household member's employer in addition to the member's regular wages;
3. Rent or mortgage payments made to landlords or mortgagees by Housing and Urban Development (HUD) or a state or local housing authority; and
4. A PA or GA payment which is paid directly to a third party for:
  - a. Medical assistance;
  - b. Child care assistance;
  - c. Burial expenses;
  - d. Expenses incurred by migrant and seasonal farm workers while in the job stream; or
  - e. Expenses over and above the normal assistance payment.
5. LIEAP payments.

{Effective 9/4/2002}

3-002.03A3 Irregular Income: Any income which is received too irregularly or too infrequently to be reasonably anticipated and is less than \$30 in a three-month period is excluded.

3-002.03A4 Student Financial Assistance: All student financial assistance with the exception of assistantships, fellowships and stipends is excluded. Fellowships, assistantships, and stipends are countable income.

{Effective 1/3/2005}

3-002.03A5 Loans: All loans from private individuals and commercial institutions are excluded as income.

{Effective 6/9/2003}

3-002.03A6 Reimbursements: Reimbursements for past or future expenses are excluded if all the following conditions are met:

1. The reimbursement must be provided for a specifically identified expense other than normal living expenses. When a reimbursement covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses such as rent or mortgage payments, personal clothing, or food eaten at home.
2. The reimbursement must be used for the intended purpose.
3. The reimbursement must not represent a gain or benefit to the household.

The amount by which a reimbursement exceeds the actual expense is counted as unearned income. Reimbursements are not considered to exceed the expense unless the provider or household indicates the amount is excessive.

3-002.03A6a Examples of Excludable Reimbursements: Excludable reimbursements include but are not limited to reimbursements for -

1. Out-of-pocket expenses incurred by volunteers in the course of their work;
2. Medical expenses;
3. Dependent care expenses including reimbursements received by households to pay for services provided by Title XX of the Social Security Act, and child care payments under the Development Block Grant Act of 1990;
4. Job or training-related expenses such as travel (including travel expenses incurred by migrant workers), per diem, uniforms, and transportation to and from the job or training site. Flat allowances for on-the-job or training-related expenses are also excluded, but this type of expense is not deductible under any other circumstances.
5. Utility payments made directly to the household or to the utility company by the Department of Housing and Urban Development (HUD) and Farmers Home Administration (FmHA).
6. Out-of-pocket expenses for one-time costs of weatherization or repair or replacement of unsafe or inoperative heating devices.
7. FEMA reimbursements for temporary disaster housing or 'out of ordinary' expenses are excluded. Any excess funds retained by the household are countable unearned income.

{Effective 1/3/2005}

3-002.03A7 Third-Party Maintenance Payments: Monies received for the care and maintenance of a third-party beneficiary who is not a household member are excluded. If a single payment is intended to cover both household and nonhousehold members, the worker excludes any identifiable portion of the payment intended and used for the care of the nonhousehold member(s). If that portion cannot be identified, the worker:

1. Prorates the payment among intended beneficiaries; and
2. Excludes the lesser of the following:
  - a. The nonhousehold member's pro rata share; or
  - b. The amount actually used for the non-household member's care and maintenance.

3-002.03A8 Income of Children: The earned income of a child age 16 or 17 who is not attending school half-time must be counted. The earned income of a child who is age 17 or younger and attending elementary or secondary school at least half-time is excluded. The child must live with his/her biological, adoptive or stepparent(s), or under the parental control of a non-parent adult household member to have his/her earned income excluded. The earned income of a child reaching age 18 is counted in the food stamp budget the month following his/her 18<sup>th</sup> birthday. Unearned income is counted regardless of age.

Note: A student who attends classes at least half-time to obtain a GED or attends home-school classes at least half-time is eligible for the income exclusion when the classes are recognized, operated, or supervised by the student's state or local school district.

This exclusion continues to apply during temporary interruptions in school (such as semester or vacation breaks) if it is the child's intent to resume enrollment following the break. If a child's earnings or the amount of work the child performed cannot be identified separately from other household members' earnings or work, the worker prorates the total earnings among the working members and excludes the child's pro rata share.

{Effective 11/19/97}

3-002.03A9 Nonrecurring Lump Sum Payments: Nonrecurring lump sum payments are excluded. These include but are not limited to:

1. Tax refunds, rebates, EIC, or credits;
2. Retroactive lump sum Social Security;
3. Insurance settlements;
4. Refunds of security deposits on rental property or utilities; and
5. Retroactive ADC and AABD payments.

3-002.03A10 Income Withheld for Repayment: Any portion of earned or unearned income which is withheld to repay the source of the income for a prior overpayment is excluded, as long as the overpayment was not excludable. However, money withheld from assistance payments is counted as income if the recoupment is a result of the household's being found guilty of fraud per the assistance program standards.

3-002.03A11 Transferred Child Support Payments: Child support payments which meet the following conditions are excluded:

1. The payments are received by ADC recipients; and
2. The payments are transferred to the IV-D agency to maintain eligibility.

3-002.03A12 Income Excluded by Federal Statutes: The following types of income are excluded by federal statute:

1. Income derived from land held in trust for certain Indian tribes;
2. Payments from designated Energy Assistance Programs;
3. Payments received under the Americorps Program;
4. Payments received from the youth incentive entitlement pilot projects and the youth community conservation and improvement projects of 1978, but not payments from the Adult Conservation Corps (P.L. 95-524);
5. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540);
6. Payments received from the Workforce Investment Act (WIA) to :
  - a. Native Americans, veterans, and migrant households under Section 181(a)(2);
  - b. Youth Build, Summer Youth Programs;
  - c. Payments to dependents age 18 years or younger under Title I;
7. Payments received under the Alaska Native Claims Act including those to Nana Indians;
8. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (P.L. 95-433);
9. Payments to the Passamaquoddy Tribe and Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420, Section 5);
10. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970;
11. Payments of relocation assistance to members of the Navajo and Hopi tribes;
12. Payments received under Title V of the Older Americans Act Amendments of 1987 including projects involving Experience Works, American Association of Retired Persons (AARP), U.S. Department of Agriculture Forest Service, and Area Aging Agencies (AAA);
13. Per capita payments to Indian tribal members up to \$2,000 per person per payment;
14. The portion of a military retirement payment which goes to an ex-spouse under a divorce decree property settlement;

15. Mandatory deductions from military pay for educational purposes while the individual is enlisted;
16. Payments made under the Disaster Relief and Emergency Assistance Amendments of 1988;
17. Payments to U. S. citizens of Japanese ancestry and resident Japanese aliens or their survivors and payments to eligible Aleuts per P.L. 100-383, Wartime Relocation of Civilians;
18. Payments to individuals due to their status as victims of Nazi persecution;
19. Per capita payments made under P.L. 98-124, distributions to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana;
20. Per capita payments made to Chippewas of Mississippi under P.L. 99-377, August 8, 1986, and the payments made to the Red Lake Band of Chippewa Indians under P.L. 98-123;
21. Payments made from the Agent Orange Settlement Fund or any fund established by the settlement of the Agent Orange liability litigation under Public Law 101-201 and P.L. 101-239;  
Note: P.L. 102-4, Agent Orange Act of 1991, authorized veteran's benefits to some veterans with service connected disabilities resulting from exposure to agent orange. These VA payments are not excluded by law.
22. Veteran's Administration annual adjustment in disability pension;
23. Earned Income Tax Credits (EITC) and Advanced Earned Income Tax Credits (AEITC);
24. Assistance to children under PL 89-642, Section 11(b) of the Child Nutrition Act of 1966;
25. Food stamp benefits under WIC demonstration projects, exchanged for food at farmers' markets under P.L. 100-435, Section 501;
26. Payments to specific Indian tribes (see 475-000-313);
27. Payments under P.L. 98-500, the Old Age Assistance Claims Settlement Act except for per capita shares in excess of \$2,000;
28. Payments under P.L. 101-426, Section 6(h)(2), the Radiation Exposure Compensation Act of 1990;
29. Payments under P.L. 104-204, dated September 26, 1996, to any child of a Vietnam veteran who was born with spina bifida. The term "child" means a biological child of any age or marital status who was conceived after the date on which the veteran first served in the Republic of Vietnam during the Vietnam era;
30. Any income, regardless of the source, that is deposited in a PASS account;
31. Payments received under Title II (Retired Senior Volunteer Program {RSVP}, Foster Grandparents, and Senior Companion Program) and Title III (SCORE and ACE) of the Domestic Volunteer Services Act of 1973 (P.L. 93-113, as amended). Payments under Title I, including VISTA, University Year for Action, and the Urban Crime Prevention Program to volunteers are excluded for those persons receiving food stamps or public assistance at the time they joined the Title I program;

Exception: Households which were receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion.

32. Subsidy received by household through Medicare Drug Discount Program under the Medicare Prescription Drug Improvement and Modernization Act. Temporary interruptions in food stamp participation must not alter the exclusion once an initial determination has been made;
33. Any education loans on which payment is deferred, grants, scholarships, fellowships, and veteran's educational benefits and similar assistance; and;
34. Rent or mortgage payments made by HUD or a state or local housing authority and payments for the purpose of providing energy assistance including utility reimbursements by HUD or FmHA.; and
35. Funds in HUD Family Self-Sufficiency Program (FSSP) escrow accounts  
{Effective 1/3/2005}

3-002.03A13 Charitable Contributions: Needs-based cash donations from private non-profit charitable organizations are excluded as income if they do not exceed \$300 per federal fiscal quarter. Vendor payments made by private non-profit charitable organizations are excluded.

3-002.03B Anticipating Income: Anticipating income is the process of projecting the income that the local office is reasonably certain a household will receive each month during the certification period. All forms of non-excluded income must be prospectively anticipated at the time of application and at recertification according to the policies given in the Nebraska Program Policy Manual. This makes it possible for the worker to determine eligibility and benefit level based on monthly income. If the amount of income or when it will be received is uncertain, the income must not be counted in the food stamp budget. However, any portion of the income that can be anticipated with reasonable certainty and verified must be counted.

3-002.03B1 Application Month Income: When the worker is computing application month income and the actual income for that month is known, the worker must use the following procedures:

1. If the income is for less than a full month, actual application month income is used.
2. If the income is for a full month and paid either weekly or bi-weekly, the income is converted to a monthly amount.
3. If the income is for a full month and is not paid weekly or biweekly, actual income is used.

{Effective 1/3/2005}

3-002.03B2 Income in the Month Received: Income anticipated during the certification period is considered only in the month it is expected to be received. Income counted in the budget is never counted as a resource for the same month.

Wages held back at the employee's request are considered income in the month the wages would otherwise have been received. Wages held back by the employer as a general practice, even if in violation of law, are not counted as income unless:

1. The household anticipates that it will ask for and receive an advance; or
2. The household anticipates that it will receive income from wages that were previously held by the employer and therefore not counted as income.

Advances on income are counted in the month received only when they can be reasonably anticipated.

Anticipated income received monthly or twice a month must not be varied solely because mailing cycles cause more than the normal number of payments in a one month period. Examples of this type of income are PA benefits, SSI benefits, RSDI payments or an employer issuing checks early because the normal payday falls on a weekend or holiday.

{Effective 1/3/2005}

3-002.03B3 Using Past Income

3-002.03B3a Past 30 Days as an Indicator: Income from the 30 days before the interview date is used as an indicator to project income for future months unless changes have occurred or are anticipated.

For households with seasonal income, the worker must compare the income of the most recent season to the certification period. In the case of a substantial change in the household's business, income is determined prospectively. This method is not used for migrant and seasonal farm workers.

{Effective 1/3/2005}

3-002.03B3b Past 30 Days Not Representative: When the past 30 days are not representative of future income, the income is based on the verified employer best estimate. This criteria would apply when the income is from a new source, the pay rate has increased or decreased, or the number of hours has increased or decreased.

3-002.03B3c Using More Than 30 Days: If income fluctuates to the extent that the past 30 days does not provide a reasonable basis of anticipation of future income, the worker may use more than 30 days' income to project the household's monthly income. Fluctuating income is that which varies from month to month due to:

1. Work hours fluctuating;
2. Variances in the amount of work when paid other than hourly; or
3. The irregular nature of the income.

Note: Income which varies from pay period to pay period because of an increase or decrease in the pay rate or because the number of hours have permanently changed would not be considered fluctuating income.

3-002.03B3d Income Paid Monthly or Semi-Monthly: If paid monthly or semi-monthly and the past 30 days of income are not representative because of fluctuating income, the worker may use a period of longer than 30 days to compute the monthly income amount. If monthly income is used, a minimum of two recent months must be used to arrive at the monthly income. The months used must be representative of the anticipated fluctuation.

3-002.03C Income Averaging:

3-002.03C1 Income Received in Less than One Year: Some households receive their annual income in a period of less than one year by contract or through self-employment. The worker averages the income for these households over a 12-month period, provided the contract income is not received on an hourly or piecework basis. Self-employment income or contract income that is not received on an hourly or piecework basis and that is intended to meet the household's needs for only part of the year must be averaged over the period of time the income is intended to cover. Examples of households of this type are those containing school employees, share croppers, and farmers. These averaging provisions do not apply to:

1. Households whose income is received on an hourly or piece work basis; and
2. Migrant or seasonal farm workers.  
{Effective 11/19/97}

3-002.03D Verification of Income: Before initial certification, the worker verifies gross non-excluded income. At the time of recertification, the worker verifies earned income. Additionally, s/he verifies unearned income if the amount or the source has changed. However, under certain conditions, the worker determines an income amount based on the best available information. These conditions are as follows:

1. All attempts to verify the income have failed because the source has failed to cooperate with the household and the worker; and
2. No other source of verification is available.

3-002.04 Policies for Self-Employment Income: The following policies apply to all households receiving self-employment income including households that own and operate a commercial boarding house.

3-002.04A Annualizing Self-Employment Income: Annualizing income is averaging income over a 12-month period. Self-employment income which represents a household's annual income must be annualized when:

- 1 The income is received within a short period of time during the 12 months;  
or
2. The income is received on a monthly basis but represents a household's annual support.

Self-employment income is annualized even if the household receives additional income from sources other than self-employment. Self-employment income which is intended to meet the household's needs for only part of the year must be averaged over the period of time it is intended to cover.

3-002.04A1 Substantial Change in Circumstances: The worker computes self-employment income based on anticipated earnings when:

1. The household has experienced a substantial increase or decrease in business; and
2. The averaged amount does not reflect the household's actual monthly income.

3-002.04A2 New Enterprises: If a household's self-employment enterprise has been in existence for less than one year, the income from that enterprise must be averaged over the period of operation. The monthly income must be projected for the coming year.

3-002.04B Determining Self-Employment Income:

3-002.04B1 Averaged Self-Employment Income: The worker divides the gross income from self-employment including capital gains after subtracting the costs of doing business over the months the income is intended to cover. If there is more than one source of self-employment for the household, the worker subtracts the allowable costs of self-employment from the total self-employment of that household.

3-002.04B1a Special Procedures for Farming Self-Employment Income: If the costs of producing self-employment farm income exceed the gross farm income, the losses are offset against other countable income. To qualify for this offset, the person must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise.

3-002.04B2 Capital Gains: The full amount of any capital gain is counted as income for food stamp purposes. The proceeds from the sale of capital goods or equipment are computed in the same way as a capital gain is computed for federal income tax purposes. Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the worker counts the full amount of the capital gain as income in computing the food stamp budget.

3-002.04B3 Costs of Producing Self-Employment Income: Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; taxes paid on income-producing property; and reimbursement from the USDA Child and Adult Care Food Program.

{Effective 9/4/2002}

3-002.04B4 Costs Not Allowed: The worker does not allow the following items as costs of doing business:

1. Net losses from previous tax years;
2. Federal, state, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses, such as transportation to and from work.
3. Depreciation; and
4. Depletion.

{Effective 9/4/2002}

3-002.04C Income from Boarders: These provisions apply to households that receive income from boarders but do not operate a commercial boarding house.

3-002.04C1 Payments: Payments from boarders must be treated as self-employment income. Income from boarders includes all direct payments to the household for room and meals, including contributions to the household's shelter expenses. However, shelter expenses paid directly by boarders to someone outside the household are not counted as income to the household.

3-002.04C2 Cost of Doing Business: The cost of doing business equals either of the following amounts provided that the amount allowed as a cost of business does not exceed the payment the household receives from the boarder for lodging and meals:

1. The value of the maximum allotment for a household size equal to the number of boarders; or
2. The actual documented cost of providing room and meals, if this cost exceeds the amount of item 1 above. Only separate and identifiable costs of providing room and meals to boarders are included as actual documented costs.

3-002.05 Treatment of Resources, Income and Deductions of Ineligible Students or Other Non-Household Members: This section applies to ineligible students and other non-household members.

The resources of ineligible students or other non-household members are excluded. The income of ineligible students or other non-household members is excluded unless the ineligible student or other non-household member makes a cash contribution to the food stamp household. These cash contributions or payments are considered countable unearned income to the household. Vendor payments by the ineligible student or other non-household member on behalf of the household are excluded.

If a household shares deductible expenses with an ineligible student or non-household member, the ineligible student's or non-household member's prorated share is not deductible as a household expense.

{Effective 9/4/2002}

3-002.05A Combined Wage: When the earned income of one or more household members and the earned income of a non-household member are combined into one wage, the income of the household members is determined as follows:

1. If the household's share can be identified, the worker counts that portion due to the household as earned income.
2. If the household's share cannot be identified, the worker prorates the earned income among all those who earned it.

3-002.06 Treatment of Resources, Income and Deductions of Household Members Ineligible Due to Failure to Provide an SSN and Ineligible ABAWDs: This section describes procedures for determining the eligibility of remaining household members when a household member(s) is ineligible due to failure to provide an SSN or non-compliance with ABAWD work requirements.

The resources of the ineligible ABAWD or the person who has failed to provide an SSN are counted in their entirety to the remaining household members. A pro rata share of the income of the ineligible individual must be counted as income to the remaining household members. The pro rata share is calculated by dividing the countable income evenly among the household members, including the ineligible members. All but the ineligible member's share is counted as income for the remaining household members.

When considering deductible expenses for households in which a member(s) is ineligible due to failure to provide an SSN or is an ineligible ABAWD, the following conditions apply:

1. The earned income deduction applies only to the prorated income which is attributed to the household.
2. Those portions of the household's allowable expenses for medical, dependent care, child support and shelter costs which are either paid by or billed to the ineligible member must be divided evenly among the household members, including the ineligible member.
3. All but the ineligible member's share is counted as a deductible expense for the remaining household members.

{Effective 9/4/2002}

3-002.06A Eligibility and Benefit Level: The ineligible member must not be included in determining the household's size for the purpose of assigning a benefit level to the household, comparing the household's monthly income to the income eligibility standards, or comparing the household's resources with the resource limits. The income and deductions are prorated between the ineligible household member and the remaining eligible household members.

{Effective 1/3/2005}

3-002.06B Reduction or Termination of Benefits Within the Certification Period: When an individual becomes an ineligible household member during the household's certification period, the ineligible household member is removed when determining the benefit level and allotment for the remaining members of the household.

3-002.07 Treatment of Resources, Income and Deductions of Disqualified Household Members:

This section describes procedures for determining the eligibility of remaining household members when a household member has been disqualified for:

1. An ineligible immigration status;
2. A work requirement violation;
3. An intentional program violation;
4. Conviction for the use of food stamp benefits in the sale of a controlled substance;
5. Conviction for trafficking of food stamp benefits of \$500 or more;
6. Violation and conviction after August 22, 1996, of a drug-related felony involving the sale or distribution of a controlled substance, including the intent to sell or distribute;
7. Fewer than three drug-related felony violations and convictions after August 22, 1996, for the possession or use of a controlled substance and not participating in or not completing an approved substance abuse treatment program after the last conviction;
8. Three or more drug-related felony violations and convictions after August 22, 1996, for the possession or use of a controlled substance;
9. Fleeing from prosecution or custody for a felony, parole, or probation violation;
10. Found guilty by a court or state agency of having made a fraudulent representation of identity or residency to receive food stamp benefits in more than one household for the same month; and
11. Conviction for the use of food stamp benefits in the sale of firearms, ammunition, or explosives.

The resources of the disqualified individual are counted in their entirety to the remaining household members. The earned or unearned income of the disqualified individual is counted in its entirety to the remaining eligible household members. The household's entire allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions continue to apply to the remaining eligible household members.

(Effective 4/10/2006)

3-002.07A Eligibility and Benefit Level: The disqualified member must not be included in determining the household's size for the purpose of assigning a benefit level to the household, comparing the household's monthly income with the income eligibility standards, or comparing the household's resources with the resource limits or determining the household's standard deduction.

{Effective 1/3/2005}

3-002.07B Reduction or Termination of Benefits Within the Certification Period: When an individual is disqualified during the household's certification period, the worker determines the eligibility or ineligibility of the remaining household members.

{Effective 9/4/2002}

3-002.07B1 Intentional Program Violation Notice to the Household: Adequate notice only is required to reduce the household's allotment. The household may request a fair hearing to contest the reduction or termination of benefits unless the household has already had a fair hearing on the claim amount as a result of consolidation of the disqualification hearing with the fair hearing.

{Effective 9/4/2002}

3-002.08 Treatment of Income of Strikers: When determining eligibility for households containing a striker, the worker:

1. Compares the striker's income as it stood the day before the strike to the striker's current income; and
2. Adds the higher of the two amounts to the current income of non-striking members during the month of application.

The worker determines eligibility by considering the day before the strike as the day of application and assuming the strike did not occur.

3-002.09 Deeming of Immigrant Sponsor's Resources and Income: People lawfully admitted to the United States as actual or prospective permanent residents or persons with the right to eventually obtain citizenship may be immigrants. For immigrants who are sponsored by individuals deeming is the process of counting a sponsor's income and resources as accessible to an immigrant. Effective December 19, 1997, the income and resources of an individual sponsor are counted when determining the eligibility of an immigrant. The individual sponsor signs an affidavit of support as required by the Immigration and Nationality Act. The resources and income of the sponsor's spouse are used in the deeming process only if the spouse has also signed the affidavit of support. The sponsor's resources and income are considered available until the immigrant:

1. Becomes a U.S. citizen; or
2. Obtains 40 qualifying work quarters of coverage as defined in Title II of the Social Security Act and the immigrant did not receive any federal means-tested public benefit during a countable quarter after December 31, 1996.

Qualified work quarters earned after December 31, 1996, cannot be counted if the noncitizen, parent, or spouse received certain federal means-tested public benefits during the quarter the earnings were credited. Individuals who believe they should be credited with more quarters of work may request that SSA investigate their work history to determine if more quarters can be credited. The applicant may participate pending the results of the investigation for up to six months from the date of SSA's original finding of insufficient quarters.

{Effective 1/3/2005}

3-002.09A Report of Sponsor's Changes: During the certification period, the immigrant is not required to report changes regarding the sponsor unless the sponsor:

1. Changes employment;
2. Loses employment; or
3. Dies.

{Effective 6/9/2003}

3-002.09B Exempt from Deeming: Individuals are exempt from deeming requirements if they are:

1. Not required to have a sponsor under the Immigration and Nationality Act, such as refugees, parolees, asylees, Cuban or Haitian entrants, Amerasians, or deportees;
2. Sponsored by an organization or employer;
3. Participating in the sponsor's food stamp household;
4. Children age 17 or younger;
5. Indigent aliens;
6. Battered spouse or child; or
7. Ineligible and disqualified household members.

{Effective 1/3/2005}

3-002.09C Battered Immigrants: Deeming is exempted for 12 months if:

1. The immigrant and/or his/her child were battered; and
2. The battery was committed by a spouse, a parent, or a member of the spouse's or parent's family while they are residing together.

The battered alien, child, or parent must no longer reside in the same household as the abuser.

3-002.09D Indigent Immigrants: If an immigrant is unable to obtain food and shelter, taking into account the immigrant's own income plus any cash, food, housing, or other assistance provided by other individuals including the sponsor(s), the amount deemed must be the amount actually provided to the immigrant by the sponsor.

The worker must determine the amount of income and other assistance provided in the month of application. This income is the sum of the eligible sponsored alien household's own income, the cash contributions of the sponsors and others, and the value of any in-kind assistance of the sponsor or others.

If the alien is indigent, the amount that must be deemed will be the amount actually provided for a period beginning on the date of determination and ending 12 months after the determination date. Each instance of indigence is renewable for an additional 12-month period.

{Effective 6/9/2003}

3-002.09D1 Reporting Indigent Immigrants: When an immigrant is determined indigent, Food Programs must notify the U.S. Attorney General of each determination, including the names of the sponsor and the sponsored immigrant involved.

3-002.09E Immigrant Responsibilities: As an eligibility requirement, an immigrant is responsible for:

1. Obtaining the necessary cooperation from the sponsor; and
2. Providing income and resource information/verification from the sponsor.

If an immigrant does not provide the necessary information/verification, s/he is not eligible for assistance. If the sponsor or required documents related to the sponsor cannot be located, the eligibility of any remaining household members is determined by including the income and resources of the ineligible immigrant and excluding the deemed income and resources of the sponsor.

3-003 Eligibility Computations: After the worker has established the household's resource eligibility and determined how to treat the household's income, the net monthly food stamp income is determined for households which either passed the gross income test or who are exempt from meeting the gross income standards. This section discusses the process of finding the net monthly food stamp income by outlining deductions, and applying monthly income standards.

#### 3-003.01 Policies for Handling Deductions

3-003.01A Deductions: Deductions are taken after the worker has determined how to treat the household's earned and unearned income.

3-003.01A1 Items Not Allowed: The following expenses must not be allowed as deductions:

1. An expense covered by an excluded reimbursement;
2. An expense is not deductible if:
  - a. The expense is for a service provided by a household member; or
  - b. The household does not make a money payment for the service.

3-003.01A2 Expenses as Billed: A deduction is allowed only in the month the expense is billed regardless of when the household intends to pay the bill. Amounts carried forward from past billing periods are not deductible with the exception of medical expenses. A particular expense may be deducted only once.

3-003.01A3 Averaging Expenses: For fluctuating expenses, the household chooses one of the following methods to determine the monthly deduction:

1. Expenses which are billed less often than monthly may be averaged over the period the expense is intended to cover;
2. "One time only" expenses may be averaged over the entire certification period in which they are billed; or
3. An expense may be deducted entirely in the month in which it is billed.

The worker documents in the case file that the client was offered the choice of methods of averaging.

3-003.01A4 Anticipating Expenses: The worker computes a household's expenses based on the expenses the household expects to be billed for during the certification period. The anticipation of expenses must be based on the most recent month's bills unless the household is reasonably certain a change will occur.

3-003.01A5 Verification of Deductions: If the household claims an expense, it must be verified before it can be allowed as a deduction. If the household claims an expense but does not provide verification, the household may be certified; however, the deduction will not be allowed.

3-003.01B Earned Income Deduction: A percentage of a household's gross earned income must be deducted. This deduction is calculated by the automated system.

Households in the Change Reporting or Six-Month Reporting category are not allowed the earned income deduction when an overissuance (IHE or IPV) was caused by the household's failure to meet a reporting requirement for a new source or change in earned income timely.

{Effective 1/3/2005}

3-003.01C Standard Deduction: Each household must be allowed a monthly standard deduction. This deduction is applied against the household's income by the automated system.

3-003.01D Medical Expense Deduction: The medical expense deduction is allowed only for the eligible individuals in households with one or more elderly or disabled members. Only the amount of the expense incurred or reasonably anticipated by the elderly or disabled household member(s) may be considered.

To qualify for the deduction, the medical expenses must be:

1. Verified as non-reimbursable; and
2. In excess of the monthly threshold amount.

Note: This deductible amount is applied to the household's budget monthly by the automated system and not to each member who qualifies for the deduction.

3-003.01D1 SSI Eligibility for Medical Expense Deduction: Persons receiving the following payments are considered eligible for the medical expense deduction:

1. SSI presumptive disability payments - Regular benefits for a three-month period are paid to persons most likely to meet SSI disability criteria. These persons are considered SSI-eligible by the Social Security Administration (SSA) and receive a federal SSI check for the amount of entitlement.
2. SSI Emergency advance payments - A single \$100 payment is made to applicants who appear to meet the SSI disability criteria and who are considered in need of immediate assistance. These persons are considered SSI-eligible by SSA.

Note: Spouses or other persons receiving benefits as a dependent of an SSI or disability recipient are not eligible to receive this deduction.

3-003.01D2 Allowable Medical Expenses: Any nonreimbursable costs over the monthly amount for allowable items are deducted from the household's income if the cost was incurred by an eligible household member. These items are:

1. Medical care including psychotherapy and rehabilitative costs provided by a licensed medical practitioner;
2. Dental care provided by a licensed medical practitioner;
3. Hospitalization or nursing home care which is paid on behalf of a person who was a household member immediately before entering the hospital or nursing home;
4. Health and hospitalization insurance premiums which cover medical costs;
5. Ambulance insurance premiums;

6. Medicare premiums and any cost sharing (copay) or spenddown expenses incurred by a Medicaid recipient;
7. Animals providing service to disabled persons such as seeing eye dogs, their veterinary fees, food, and other maintenance costs;
8. Prosthetic devices;
9. Dentures;
10. Hearing aids;
11. Transportation to obtain medical treatment, services, or prescriptions (to be deductible, costs for this transportation must be reasonable);
12. The cost of a medic-alert system (the additional expense above the basic telephone rate);
13. The principal (but not the interest) on a loan to cover medical expenses;
14. Corrective footwear, wheelchairs, and other items prescribed by a licensed medical practitioner;
15. Drugs (including over-the-counter) prescribed by a licensed medical practitioner;
16. Eyeglasses prescribed by a physician skilled in eye diseases or by an optometrist;
17. Attendant, housekeeper, or home health aide if the care is needed because of age, infirmity, or illness. When the household supplies a majority (51 percent) of an attendant's meals, the maximum allowable one-person allotment is deducted in addition to the attendant's wages.
18. Adult day care expenses for the elderly or disabled;
19. Telephone amplifiers, warning signals for handicapped, and costs of typewriter equipment for the deaf, etc; and
20. Annual enrollment fee for Medicare prescription drug card.

Note: If a vendor payment for any allowable medical expense is excluded as income, this expense must not be allowed as a medical deduction.

{Effective 1/3/2005}

3-003.01D2a Non-Allowable Medical Costs: The following medical costs are not allowed:

1. Premiums for life or dismemberment insurance;
2. Premiums for income producing policies;
3. Special diets;
4. Interest on a loan to pay medical expenses;
5. The basic telephone rate for a medic-alert system;
6. Overdue or past due expenses;
7. Medical expenses previously deducted in the food stamp budget. ;
8. Prescriptions received at no cost through the prescription drug discount program; and
9. Automobile medical liability insurance.

{Effective 1/3/2005}

3-003.01D3 "One Time Only" Medical Expenses: A "one time only" medical expense is the cost of a medical occurrence which is not ongoing or routine.

Example: A broken leg is a one-time occurrence, but high blood pressure is an ongoing, routine medical occurrence for anyone who has it. The cost of medication for high blood pressure is therefore not a one time only medical expense.

The following procedures apply solely to one time only medical expenses:

1. If a household reports a one time only medical expense at certification or recertification, the worker shall offer the household the choice of having the expense:
  - a. Budgeted as a lump sum; or
  - b. Averaged and budgeted over the certification period.
2. If a household reports they anticipate a medical expense during the certification period and at the time of certification they can provide adequate verification of the anticipated expense, the expense can be prorated over the entire certification period.
3. If a household reports a one time only medical expense during the certification period, the worker shall offer the household the choice of having the expense:
  - a. Budgeted as a lump sum; or
  - b. Averaged and budgeted over the remaining months in the certification period; and
4. If a household reports they anticipate a medical expense during the certification period but are unable to provide the verification at the time of certification, the worker shall inform the household that the expense will be allowed if the verification is provided during the certification period and the expense will be prorated over the balance of the certification period.
5. If a one-time medical expense was averaged over the certification period and the certification period is extended, the one-time medical expense must be recalculated. The medical expense must be averaged over the months in the extended certification period.

3-003.01D4 Verification of Medical Expenses:

1. Before initial certification, the worker must verify:
  - a. The amount of medical expenses, including the amount of reimbursement if any; and
  - b. The type of medical expense (allowable or nonallowable).
2. At the time of recertification the worker must verify medical expenses claimed by the household if changes have occurred since last verified.

3-003.01E Dependent Care Cost Deduction: Each household is allowed to deduct the cost of care for a child or other dependent, up to a monthly limit, provided the care meets one of the needs for dependent care listed below. The dependent care deduction for children can be allowed through age 15. The allowable amount entered by the worker on the automated system up to the limit will be automatically deducted.

3-003.01E1 Need for Dependent Care: The deduction for dependent care costs must be allowed when the care is necessary for a household member to do any of the following:

1. Accept or continue employment;
2. Seek employment;
3. Attend training; or
4. Pursue education which is preparatory to employment.

When attendant care costs qualify as a deduction under both medical expenses and dependent care costs, the worker must treat the cost as a medical expense.

3-003.01E2 Verification of Dependent Care Costs: The worker must verify any dependent care costs claimed by the household:

1. If questionable; or
2. If allowing the expense could potentially result in a deduction.

Subsequent verification is not required unless the household reports a change in the provider or in the amount of the deduction or unless the information is questionable.

3-003.01E3 Changing Child Care Costs When the Child Reaches Age 2: When a dependent care deduction is being claimed and the child turns two, the reduced maximum amount per dependent must be applied no later than the next recertification after the child's second birthday.

{Effective 11/19/97}

3-003.01F Child Support Deductions: Child support paid by a household member is an allowable expense when it meets all of the following conditions:

1. Child support is paid to or for a nonhousehold member;
2. The household member has a legal obligation to pay child support; and
3. The amount of child support paid is verified.

The household has the primary responsibility to verify all child support payments. If the noncustodial parent makes a payment to a third party in accordance with the court order, these payments are allowable as child support expenses.

{Effective 4/23/96}

3-003.01F1 Allowable Child Support Costs: In computing the child support deduction, the worker shall consider the following provided the expense is court-ordered and verified as paid:

1. Payments to the court;
2. Payments to the custodial parent in accordance with a court order;
3. Payments to the custodial parent's mortgage company or landlord;
4. Payments to the custodial parent's utility company;
5. Payments to obtain health insurance for the child(ren); and/or
6. Payments for child care per court order.

Note: Alimony or spousal payments made to or for a nonhousehold member are not an allowable child support deduction.

{Effective 4/23/96}

3-003.01F2 Arrearages: Households which have a three-month record of current child support payments and are also paying arrearages will have the arrearage amount also included as part of the child support deduction. The three-month record of payment is the current three-month period.

{Effective 4/23/96}

3-003.01F3 Verification of Child Support Costs: The household has the responsibility to provide verification of:

1. The legal obligation;
2. The obligated amount; and
3. The amount paid.

The same document cannot be used to verify the household's legal obligation to pay child support and to verify the household's actual monthly child support payments.

The amount of legally obligated child support a household member pays to a nonhousehold member must be verified at initial certification and at each recertification. If the child support payments are made to the Clerk of the District Court (CDC), the worker is responsible for obtaining verification of the household's child support payments. The Department must give the household an opportunity to resolve any discrepancy between the household verification and the CDC records.

{Effective 4/23/96}

3-003.01F4 Budgeting the Child Support Payment: The amount of the child support deduction is determined by the amount of child support paid by the household. Child support must actually be paid before it can be allowed as a deduction.

If a household has an irregular pattern of paying child support, the worker may use the past payment history in determining the monthly amount used as a child support deduction. If a household has no record of paying child support or a payment record of less than three months, the worker will budget the child support deduction using the best information available.

{Effective 11/19/97}

3-003.01G Shelter Deductions: Each household is allowed to deduct shelter expenses in excess of 50 percent of the household's net income (after allowable deductions). This is automatically calculated by the automated system. The following procedures apply:

1. The household's excess shelter deduction cannot exceed the maximum allowable amount for households with no elderly or disabled members.
2. If the household contains a member who is elderly or disabled the household is entitled to an unlimited excess shelter deduction.

3-003.01G1 Allowable Shelter Costs: The following shelter costs are allowable deductible expenses:

1. Rent, mortgage payments;
2. Property taxes;
3. Homeowner's Insurance;
4. Special assessments;
5. Home repairs;
6. Temporarily unoccupied homes: Costs of a home temporarily not occupied by the household because of employment or training away from the home, illness, or abandonment caused by a natural disaster or casualty loss are allowed only if all of the following conditions are met:
  - a. The household intends to return to the home;
  - b. The home is not leased or rented during the household's absence; and
  - c. The current occupants, if any, are not claiming shelter costs for this home for food stamp purposes; and
7. Utility allowances.

3-003.01G1a Computing the Shelter Deduction: In computing the shelter deduction, the worker considers the following a deductible expense when verified:

1. Continuing charges for the shelter occupied by the household, including rent payments, condominium fees, mortgage payments and other continuing charges leading to the ownership of the shelter:
  - a. Payments on second mortgages and home equity loans are allowable shelter costs regardless of how the money was used. If a second mortgage is obtained for medical expenses, repayment is treated as a shelter expense and not as a medical expense;
  - b. If a household moves in the middle of the month and is billed for shelter expenses for two residences, the costs of both residences are allowable for one month;
  - c. If HUD is involved in partial payment of rent costs, only the amount the household actually owes to the landlord may be allowed as a shelter expense;
2. Real estate taxes may be allowed as a shelter cost in the month billed or taxes may be prorated forward over the period between billings. The household chooses the option;
3. Homeowner's insurance premiums covering the structure are allowable shelter costs.
  - a. If this expense is billed less often than monthly, the household may elect to have the expense used when billed or prorated forward over the period between billings. The household chooses the option.

- b. If the household has a homeowner's insurance policy that lists the structure and contents separately on the premium notice, only the amount on the structure and any associated administrative costs may be allowed.
- c. If the household has a homeowner's insurance policy that includes insurance both on the structure, contents and additional costs, but the costs cannot be separately identified; the entire premium may be allowed.
4. Only assessments related to the home and lot are allowable. Allowable assessments include special payments for civic improvements such as curb, storm sewer, sidewalks, streetlights, sewage treatment, etc.
5. Non-reimbursable charges for the repair of a home which has been substantially damaged or destroyed due to a natural disaster such as a flood or fire.

{Effective 1/3/2005}

3-003.01G2 Nonallowable Shelter Costs: The following are not allowable as shelter costs:

1. Mortgage payments on unsecured or personal loans. A loan is considered secured only when a lien is placed on the property by the lender. Continuing charges leading to ownership of a property are not considered an unsecured loan and are allowable shelter costs;
2. Costs of insuring the contents of the shelter, such as furniture and personal belongings, liability, etc.;
3. One time deposits required by landlords;
4. Charges for repair of a home which has been substantially damaged or destroyed due to a natural disaster when these charges have been or will be reimbursed from any source;
5. Down payments;
6. Closing costs as a whole are not allowable. However, if the closing costs can be itemized to identify allowable costs such as taxes and insurance, these costs can be allowed;
7. Repairs and/or improvements in exchange for rent (no income is counted and no deduction for rent is allowed);
8. The costs of repairs as the result of wear and tear, incidental repairs, and improvements;
9. Late fees or charges for being late in making shelter payments. Amounts carried forward from past billing periods are not allowable;
10. Shelter expenses being paid by an insurance company; and
11. Any amount of housing costs (including utilities) covered by HUD or other vendor payments to the landlord.

{Effective 1/3/2005}

3-003.01G3 Verification of Shelter Costs: At initial certification, the worker must verify rent, mortgage payments and related expenses such as lot rental, taxes, and insurance if allowing the expense could potentially result in a deduction. These items would not be verified if their amounts would not alter the amount of the deduction or unless the information is questionable.

The following reporting requirement is applicable for Change Reporting (CR) households only. Subsequent verification is not required unless the household moves, reports a change or gives questionable information. A household is required to report changes in shelter costs only at the time of recertification unless the household moves. When the household reports a move, the household must verify the resulting changes in shelter costs and the type(s) of utilities that the household is obligated to pay. If the household reports a change in shelter costs, the eligibility worker must act on the reported change.

All CR households must report and provide verification of any changes in shelter expenses that have occurred since last verified or if the information is questionable. At application the worker has the option of verifying shelter expenses when no change has been reported.

Shelter expenses must be allowed in the month the expense is billed, regardless of when the household intends to pay the expense. When a household occupies a residence that has a monthly rent structure and the rent has been paid in advance, the monthly amount of rent should be taken into consideration each month when the shelter deduction is determined without regard to when it is actually paid.

Exception: Expenses which are billed less often than monthly, i.e., taxes or insurance may be prorated forward over the period between billings.

{Effective 1/3/2005}

3-003.01G4 Standard Shelter Deduction for Homeless Individuals: Homeless households which incur or anticipate they will have shelter costs for any portion of the month are eligible for a standard shelter allowance. The standard shelter allowance is updated annually.

Utilities are considered a part of the homeless standard shelter allowance, therefore, the household does not qualify for any utility expenses. Homeless households which have free shelter do not qualify for the standard shelter allowance.

{Effective 10/28/96}

3-003.01G4a Verification of Shelter Costs for Homeless Individuals: In order to allow the standard shelter allowance, the cost must be verified. The need for a specific type of verification must be evaluated on a case-by-case basis and is based on the worker's judgment.

If the shelter costs seem questionable and there is no other documentation to support the household's shelter costs, collateral contacts may be used.

If the household claims to have shelter costs in excess of the homeless shelter standard for homeless individuals, verification must be obtained to allow the higher costs. The same type of verification may be used for homeless households claiming actual costs that are used for homeless people using the standard shelter allowance.

The case file must contain documentation to support the use of the standard shelter allowance or the use of actual shelter costs and the utility allowance if appropriate.

3-003.01G5 Shelter Shared with Others: Shared shelter is when multiple households are living in one physical residence and more than one household is being billed for or is contributing to the shelter costs. This type of shared shelter is for convenience of the households and is not a self-employment enterprise. Any payments made from one household to another for rent/mortgage expenses when they reside together are excluded income as a pass through payment up to the full amount of the rent/mortgage payment billed. If the payment is more than the total rent/mortgage payment billed, the excess payments are considered unearned income to the household receiving the payment. A shelter deduction for each household is allowed based on the amount each household contributes toward the total rent/mortgage billed.

{Effective 1/3/2005}

3-003.01H Utility Allowance: To qualify for a utility allowance, the household must be billed for utilities on a recurring basis apart from the rent or mortgage. Utility allowances are established in accordance with formulas approved by the Food and Nutrition Service and are adjusted annually to reflect changes. The household may receive one of the following:

1. Standard Utility Allowance (SUA);
2. Limited Utility Allowance (LUA); or
3. One Utility Allowance (OUA); or
4. Telephone Standard Allowance.

For CR reporting households entitlement to a utility allowance must be re-determined when the household moves. If an SR reporting household reports a move the entitlement to a utility allowance must be re-determined. When the household does not qualify for the SUA, LUA, OUA, or Telephone Allowance, the household is not eligible for any utility deduction. Actual utility costs cannot be allowed as a deduction.

If a household owns a home that is temporarily unoccupied because of employment or training away from home, illness, or abandonment due to a casualty or natural disaster, the household is entitled to only one utility allowance. If the household is paying different utility types at the two residences, the household has the choice of using the temporarily unoccupied structure or their current residence in the food stamp budget.

{Effective 1/3/2005}

3-003.01H1 Standard Utility Allowance (SUA): To qualify for the SUA, the household must be either:

1. Billed for a recurring heating or cooling expense; or
2. Receive or anticipate receipt of a Nebraska Low Income Energy Assistance Program (NLIEAP) payment.  
{Effective 6/9/2003}

3-003.01H1a Costs Included in the SUA: The SUA includes:

1. Costs of heating and cooking fuel, such as oil, gas (including the rental fee for the propane tank); wood when the primary heating source; or electricity;
2. Costs of air conditioning;
3. Costs of septic tank installation and maintenance;
4. Fees for water;
5. Sewage costs;
6. Garbage and/or trash collection fees;
7. Basic telephone rate; and
8. Initial fees, other than the deposit, charged by the utility provider.

{Effective 1/3/2005}

3-003.01H1b Eligibility for Standard Utility Allowance (SUA): Any household which is billed for a heating or cooling expense on a recurring basis separately and apart from its rent or mortgage is entitled to the SUA. A household must have a recurring heating or cooling cost or receive or anticipate they will receive a Nebraska Low Income Energy Assistance Program (NLIEAP) payment during the period the SUA is intended to cover. If the household does not expect to receive another NLIEAP payment in the next season and does not pay heating or cooling costs, the household is no longer entitled to the SUA.

Recurring means that the household is billed on a regular basis or the expense is incurred on a regular basis. A household that only incurs cooling costs for two weeks out of the year is not entitled to the SUA. A household that incurs heating or cooling costs several months out of the year is entitled to the SUA. A household which incurs recurring cooling or heating fuel costs on an irregular basis (i.e., propane) but is otherwise eligible to use the SUA may continue to use the SUA between billings. A household only needs to receive one NLIEAP payment for its current residence during the SUA year to entitle the household to the SUA for the entire SUA year.

Cooling costs that entitle the household to the SUA are those costs related to the operation of an air conditioning system, evaporative cooler, swamp box, or room air conditioner(s). The use of a fan does not qualify the household for the SUA.

Utility costs for the operation of a space heater, electric blanket, heat lamp, a cooking stove, etc., when used as a supplemental heating source do not qualify a household for the SUA. The cost of operating an electric blower for an oil or gas furnace does not qualify a household for the SUA.

{Effective 1/3/2005}

3-003.01H1c Budgeting Households Receiving NLIEAP Payments: The household is entitled to the SUA based on an NLIEAP payment when the following conditions apply:

1. The household received one NLIEAP payment for the current residence during the current NLIEAP year; or
2. It is anticipated the household will receive an NLIEAP payment for the current residence during the current NLIEAP year.

Eligibility for the SUA based on the receipt of an NLIEAP payment applies only for the physical residence of the household at the time they were determined eligible for the NLIEAP payment.

When a household in the CR reporting category moves, the eligibility for the SUA cannot be based on the receipt of the NLIEAP payment at the previous physical address. The SUA must be determined using the current physical address and current household circumstances. Households in the SR or TBR reporting categories are not required to report a move. If the SR household reports a move, the eligibility for the SUA cannot be based on the receipt of the NLIEAP payment at the previous physical address. The SUA must be determined using the current physical address and current household circumstances.

{Effective 1/3/2005}

3-003.01H2 Limited Utility Allowance (LUA): To qualify for the LUA, the household must be billed on a recurring basis separately and apart from its rent or mortgage for at least two utilities (other than heating or cooling). The LUA covers the basic telephone rate, water, sewer, garbage or trash collection, maintenance of wells and septic tank systems. Gas, propane, and electricity are included when only non-heating or cooling costs are incurred.

{Effective 1/3/2005}

3-003.01H3 One Utility Allowance (OUA): To qualify for the OUA, the household must be billed for no more than one utility. The household cannot be eligible for the OUA and be billed for heating or cooling costs, the telephone or have received a NLIEAP payment at the current address. A household which is billed for one utility on a recurring basis separately and apart from its rent or mortgage payment is entitled to the OUA.

{Effective 1/3/2005}

3-003.01H4 Telephone Allowance: To qualify for the Telephone Allowance, the household must be billed for the basic service fee for a telephone. The Telephone Allowance may be allowed for a cell phone if there is no house phone available and the cell phone is the household's primary phone.

{Effective 6/9/2003}

3-003.01H5 Utilities Shared With Others: When multiple households are living in one physical residence and more than one household is being billed for or contributing to the utility costs, this agreement is considered shared utilities. This type of shared utilities is for convenience and is not a self-employment enterprise. The SUA, LUA, OUA, or Telephone Allowance is not prorated for households that share utility expenses. These households are eligible for the appropriate utility allowance.

{Effective 6/9/2003}

3-003.01H6 Rental Housing:

3-003.01H6a Private Housing: The following households are also eligible for one of the utility deductions:

1. Private rental housing units which are billed by the landlord on the basis of individual usage.
2. Private rental housing units which are charged a flat fee separately from their rent; and
3. Households receiving direct or indirect energy assistance which is excluded from income consideration (other than NLIEAP) if their expenses exceed the amount of assistance.

{Effective 6/9/2003}

3-003.01H6b Public Housing: The following households are eligible for one of the utility deductions:

1. Public housing units which determine the amount of usage separately for each household through a metering system;
2. Public housing units which have central meters and which charge the household only for excess cost;
3. The household received or anticipates receiving a NLIEAP payment;

{Effective 6/9/2003}

3-003.01H7 Verification of Utility Expenses: The worker must verify that a household actually incurs a utility expense(s) if the Standard Utility Allowance, Limited Utility Allowance, One Utility Allowance, or Telephone Allowance is used. The worker need not verify the amount of the expense. The source of utilities are verified at:

1. Initial application;
2. Recertification when a change is reported.

When a Change Reporting (CR) household moves during the certification period or changes the sources of its utilities, the utility allowance must be re-determined based on the current physical address and current household circumstances. When an Six-Month Reporting (SR) household reports a move or a change in the source of utilities during the certification period, the utility allowance must be re-determined based on the current physical address and household circumstances. When a Transitional Benefit Reporting (TBR) household reports a move or change in the source of utilities during the certification period, the information is acted on at the next recertification.

{Effective 1/3/2005}

3-003.02 Income Eligibility Standards: Applicant households must meet the income eligibility standards of the Food Stamp Program as follows:

1. Households containing a member who is elderly or disabled must meet the net monthly income eligibility standards;
2. Households which do not contain an elderly or disabled member must meet both the gross and net monthly income eligibility standards; and
3. Households which are categorically eligible are not required to meet either the gross or net monthly income standard. Eligible one or two-person households whose income exceeds the net income limits are entitled to \$10 except during an initial month if the benefit prorates to less than \$10. Households of three or more persons who are eligible for the program but not entitled to food stamp benefits will be closed by the automated system.

3-003.02A Gross Monthly Income Eligibility Standards: Gross income refers to income after any allowable income exclusions have been applied. Households which do not include an elderly or disabled member and are not categorically eligible must be under the gross monthly income standard for their household size. Households which are determined to be eligible under gross monthly income standards must also pass the net monthly income standards. Households which include one or more elderly or disabled household members are exempt from the gross monthly income standard. If the household income exceeds the gross income limits, the automated system will deny or close the case when a final budget is processed.

{Effective 1/3/2005}

3-003.02B Net Monthly Income Eligibility Standards: Net income refers to income after all deductions have been applied. These standards are used for all households in determining benefit amounts. Eligible one or two-person households which are categorically eligible qualify for a minimum of \$10 in benefits even if their income exceeds the net monthly income limits.

{Effective 1/3/2005}



These exclusions continue to apply when the vehicle is not in use because of temporary unemployment, e.g., when a taxi driver is ill and cannot work.”

3. Petitioner seeks to amend 475 NAC 3-002.01H1 as follows:

“Any unlicensed vehicle, not excluded as the primary motor vehicle under 475 NAC 3-002.01G2, is excluded if:

1. It is used as the household’s home;
2. It annually produces income consistent with its fair market value;
3. It is essential to a household member’s employment such as farm equipment; or
4. It is on an Indian reservation which does not require vehicles driven by tribal members to be licensed.”

4. Petitioner seeks to amend these rules because of the large number of working families that are income eligible for Food Stamps, but are found ineligible for the program because the vehicle they use to commute to work has a value that exceeds the resource limit for Food Stamp eligibility. These amendments simplify the resource determination process by adopting the vehicle valuation system used by the Aid to Dependant Children (ADC) program and will allow these working families to have the food they need to feed their family.

These amendments simplify the vehicle value determination by exempting the primary vehicle of the household. Most of the families affected by this rule only have one vehicle. In the event that there are multiple vehicles, the vehicle of the highest value will be exempt and the additional vehicles will be exempted or valued based on the current food stamp vehicle valuation process.

This type of change was expressly authorized when President Clinton signed Public law 106-387, the agriculture Appropriations Act for fiscal year 2001. This law gives states the power to use a method for valuing vehicles that has been established under a TANF/MOE-funded cash or non-cash assistance program, as long as it is not more restrictive than the federal food stamp rules.

This change is necessary because the value limit for vehicles, originally intended to affect only households with expensive cars, has not been adjusted for inflation. Since 1977, when the limit was established at \$4,500, the value limit has only increased \$150.00 to its present level of \$4,650. For the vehicle limit to have the same real value today as it did in 1977, it would need to be set at around \$12,000. *See David Super & Stacy Dean, Center on Budget and Policy Priorities, New State Options to Improve the Food Stamp Vehicle Rule* (revised January 16, 2001). This failure to adjust has turned the vehicle limit into a tough restriction on working families who would be eligible for food stamps if they did not own a car.

The present vehicle value limit has even more devastating effects in rural states like Nebraska. Working poor families in rural areas are extremely dependant on reliable vehicles to travel long distances to work. A significant number of rural poor households are now ineligible for food stamps due to the cars they use to commute to work. *Id.*

Adopting the above amendments will not only simplify vehicle value calculations, it will allow the State to provide more working families with the food they need to survive. It is estimated that changing this rule could put \$2.9 million in federal Food Stamp dollars into the hands of working families and in turn into the State's economy. Because the Food Stamp program is federally funded, all of these benefits would come to the citizens of Nebraska without any increased cost to the State.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2001.

---

Rebecca L. Gould  
Welfare Due Process Project  
Nebraska Appleseed Center  
For Law in the Public Interest  
941 "O" Street, Suite 105  
Lincoln, NE 68508  
(402) 438-8853

---

D. Milo Mumgaard  
Nebraska Appleseed Center  
For Law in the Public Interest  
941 "O" Street, Suite 105  
Lincoln, NE 68508  
(402) 438-8853

Mr. Ron Ross  
Director of Health and Human Services  
P.O. Box 95044  
Lincoln, NE 68509-5044

December 6, 2001

Dear Mr. Ross,

The Nebraska Appleseed Center for Law in the Public Interest has been very excited about the recent changes that have been implemented by your department to simplify the food stamp process. However, there is another step that can be taken to not only further simplify the process but to help a large number of working poor families that are struggling to put food on the table.

Please find attached to this letter a Petition for a Rules Change requesting that the State of Nebraska exercise the option granted to them by the federal government to replace the federal food stamp vehicle rules with the ADC cash assistance vehicle rules. The ADC rules exclude the primary vehicle of each household from the food stamp resource calculations. This change will help the large number of working poor families who are found ineligible for food stamps simply because they own a reliable car needed for transportation to and from their jobs.

Thanks for your consideration of this very important change.

Sincerely,

Rebecca L. Gould  
Staff Attorney  
Welfare Due Process Project

Cc: Richard Nelson  
Chris Peterson  
Mike Rumbaugh

February 6, 2002

Mr. Ron Ross  
Director of Health and Human Services  
P.O. Box 95044  
Lincoln, NE 68509-5044

Dear Mr. Ross,

The Nebraska Appleseed Center for Law in the Public Interest would like to thank you for agreeing to implement the federal vehicle option to the Food Stamp eligibility rules, and help working poor Nebraskans provide food for their families. We look forward to working with you to make sure the final drafts of the rules are in full compliance with federal law and to ensure that all Nebraska families participating in the Food Stamp program are treated equally. Thanks again for agreeing to make this very important change.

Sincerely,

Rebecca L. Gould  
Staff Attorney  
Welfare Due Process Project

cc: Mike Rumbaugh  
Richard Nelson  
Chris Peterson  
Mike Harris