

DSS-4357EL

WGIUPD

GIS 98 TA/DC026

GENERAL INFORMATION SYSTEM
DIVISION: Temporary Assistance

09/24/98

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TO: Local District Commissioners, IM Directors, FS Directors,
WMS Coordinators, CAP Coordinators
FROM: Patricia A. Stevens, Deputy Commissioner, Division of Temporary
Assistance
SUBJECT: November 1 Changes to Food Stamp Alien Eligibility Rules

EFFECTIVE DATE: November 1, 1998

CONTACT PERSON: FS questions - Regional Representatives: Region I
(518) 473-0332; Region II (518) 474-9433;
Region III (518) 474-9307; Region IV (518) 474-9300;
Region V (518) 473-1469; Region VI (212) 383-1658.

This is to follow-up GIS 98 TA/DC020. As noted in that GIS, the Agricultural Research, Extension and Education Reform Act (AREERA) of 1998 expanded the groups of aliens who can be eligible for food stamps.

As noted in GIS 98 TA/DC020, AREERA makes the following changes to food stamp (FS) eligibility effective November 1, 1998:

1. An alien whose eligibility was limited to a 5-year period will be eligible for FS for a 7-year period.
2. Certain American Indians may be eligible for FS.
3. An alien may be eligible for FS if that alien is lawfully residing in the U.S. and was a member of a Hmong or Highland Laotian tribe.
4. An alien may be eligible for FS if that alien is a "qualified alien" and was lawfully in the U.S. on August 22, 1996 AND
 - a) was 65 years of age or older on August 22, 1996, OR
 - b) is currently under 18 years of age, OR
 - c) is currently disabled as defined by the Food Stamp Act (see FSSB section V-A-6.1 - 6.2).

See GIS 98 TA/DC020 for additional information about these newly eligible aliens.

Districts Participating In FAP - Policy

As noted in GIS 98 TA/DC020, local districts must convert all NYS Food Assistance Program (FAP) recipients who will be eligible for federal FS to federal FS by November 1.

Almost all FAP recipients will qualify for federal FS effective November 1. The only group who will remain potentially eligible for FAP but not for federal FS are those aliens who are not disabled and were not 65 or older on August 22, 1996.

Upstate districts were sent a listing of their FAP cases on August 25 to facilitate the conversion process.

FAP conversion in NYC will involve an automated conversion process and is being discussed directly with HRA.

Notices to FAP Recipients Converted to Federal FS

This Office has developed the attached notice. This notice must be reproduced locally and sent to every FAP recipient transferred from FAP onto the federal food stamp program. Districts having difficulty printing this notice should contact their district representative to obtain a FAXed copy.

Deciding to Participate in FAP

On September 23, all Districts received a letter from Commissioner Wing asking for their district's intention regarding participation in FAP. Districts are asked to fill out and return to this Office a document indicating their decision to:

- o not participate in FAP,
- o discontinue their current participation in FAP, or
- o continue or begin to participate in FAP.

Those districts choosing to discontinue their current program must provide this Office with at least 30 days notice. Therefore, formal notice to discontinue FAP effective November 1 must be received by this Office no later than October 2.

Districts choosing to continue or start FAP must fill out a document committing that district to all the FAP regulatory requirements.

This Office is developing a notice that must be sent to clients who are losing FAP benefits should the district decide to no longer participate in FAP.

Converting FAP Cases to FS - WMS Upstate

The process for converting FAP individuals onto federal food stamps on Upstate WMS for FAP-Only cases follows:

1. initiate undercare maintenance Change Transaction Type "05-Change" using Reason Code "924-Change in State Law or agency policy",
2. on screen 3, delete the FAP indicator for each affected individual,
3. on screen 6,
 - * shorten the existing "X6" payment line to 10/31/98, and
 - * write a new payment line effective 11/1/98 using Pay Type "96".

Absent other changes, there is no need to rebudget the case or alter the household benefit amount. For mixed FS/FAP cases:

1. store a new budget for all case members including the former FAP recipients,
2. initiate undercare maintenance Change Transaction Type "05-Change" using Reason Code 924 "Change in State Law or agency policy",
3. on screen 3, delete the FAP indicator for each affected individual,
4. on screen 6, shorten the existing FS payment line (Pay Type 96) and FAP payment line (Pay Type X6) to 10/31/98, and
5. write a new payment line (Pay Type 96) for the newly calculated benefit from 11/1/98 to the end of the certification period.

Coding Newly Eligible Aliens - Edits

In order to properly put up a case on WMS, a Citizenship/Alien Indicator, a Date of Entry, and an Alien Number must be entered for every non-citizen. In addition, edits on both the NYC and Upstate system limit eligibility for the various programs to specified aliens under certain conditions. Because of AREERA, some of these edits are no longer valid.

Effective October 19, edits for NPA food stamp cases on Upstate WMS will permit newly eligible aliens to be coded correctly. Therefore, upstate districts must delay entering aliens newly eligible for NPA/FS onto WMS until October 19. This makes it imperative that NPA FAP cases be readied for data entry early enough to permit the conversion of FAP individuals onto federal FS effective November 1.

On Upstate WMS, PA/FS cases have no edits which would prevent proper coding of newly eligible PA/FS individuals. Therefore, PA/FS cases can be processed at any time.

Information about the coding of newly eligible aliens on NYC-WMS will be provided directly to HRA.

Coding Newly Eligible Aliens - Native Americans and Members of a Hmong or Highland Laotian Tribe

Because a non-citizen Native American (American Indian) may not have any INS documentation nor a Date of Entry or Alien Number, a Native American cannot currently be coded as a non-citizen. Until a new WMS code becomes available, Native Americans made FS eligible by AREERA must be coded as "C-Citizen" on WMS. Districts must maintain a list of such individuals to enable re-coding in the future.

Currently, some members of a Hmong or Highland Laotian tribe may qualify for FAP or federal FS based on their current alien status. Others may be ineligible for any food benefits.

Until a new WMS code becomes available, members of a Hmong or Highland Laotian tribe (and their unmarried dependent children and unremarried surviving spouses) made FS eligible by AREERA must be coded as an "S-LPR with 40 quarters" on WMS. Districts must maintain a list of such individuals to enable re-coding in the future.

Districts should note that members of a Hmong or Highland Laotian tribe made FS eligible by AREERA do not have to be "qualified aliens" nor is their eligibility for FS time-limited.

Outreach to Ineligible Households

This Office is reviewing WMS to identify NPA/FS cases which were closed due to alien status since September 1, 1996. This Office will be sending a letter to such households informing them of the November 1 changes to FS alien eligibility requirements. We expect this letter will be mailed out by early October.

We have also been informed that the Social Security Administration (SSA) will be conducting their own mailout to aliens in receipt of SSI informing them of the FS changes made by AREERA.

Questions

Any questions concerning these instructions should be directed to your district representative from the Division of Temporary Assistance, OTDA.

NOTICE OF INTENT TO CONVERT TO
FEDERAL FOOD STAMP PROGRAM

Case Number:
Loc. Off./Unit/Worker:

General Telephone No. for
Questions or Help:

Fair Hearing Telephone
Number:

Dear Food Stamp Recipient:

On June 23, 1998, President Clinton signed into law the Agricultural Research, Extension and Education Reform Act of 1998 (AREERA, P. L. 105-85). Among other provisions, this law amends the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to restore federal food stamps to certain non-citizens previously made ineligible for federal food stamps by PRWORA.

Based on this change in law, beginning November 1, 1998 some or all individuals who have been receiving food stamp benefits under the State Food Assistance Program (FAP) (NYCRR Part 388) and who meet the new federal requirements will become eligible to receive their food stamps under the federal food stamp program (18 NYCRR 387.1 and 387.9). The total amount of food stamp benefits, resulting from the combination of the two programs or from Federal Food Stamps alone, that a household will receive WILL BE THE SAME.

Some non-citizens in your household who were receiving food stamp benefits under the State FAP instead of the federal food stamp program may continue to receive food stamp benefits under the State FAP if they do not meet the new federal food stamp requirements.

A non-citizen currently receiving food stamp benefits under the FAP will be eligible to get federal food stamp benefits effective November 1, 1998 if that non-citizen was lawfully in the U.S. on August 22, 1996 AND:

- o was 65 years of age or older on August 22, 1996 (was born 8/22/31 or earlier), OR
- o is currently under 18 years of age, OR
- o is currently disabled as defined by the Food Stamp Act. Generally, these are people in receipt of Supplemental Security Income (SSI) because of disability or in receipt of Social Security Disability benefits.

This is based on Department Regulations 387.1, 387.8(b), 387.9(a)(2) and 387.14(a).

If any members of your household do not meet these requirements and are still going to receive their food stamp benefits under the State FAP, they must continue to comply with all requirements of the State FAP.

YOU HAVE THE RIGHT TO APPEAL THESE DECISIONS

REGARDING THE FEDERAL FOOD STAMP PROGRAM

AND

THE STATE FOOD ASSISTANCE PROGRAM

BE SURE TO READ THE ENTIRE NOTICE ON HOW TO APPEAL THIS DECISION

RIGHT TO A CONFERENCE: You may have a conference to review these actions. If you want a conference, you should ask for one as soon as possible after you receive your benefit. At the conference, if we discover that we made a wrong decision or if, because of information you provide, we determine to change our decision, we will take corrective action and give you a new notice. You may ask for a conference by calling us at the number on the top of this notice or by sending a written request to us at the address listed at the top of this notice. This number is used only for asking for a conference. It is not the way to request a fair hearing. If you ask for a conference you are still entitled to a fair hearing. If you want to have your benefits continue unchanged (aid continuing) until you get a fair hearing decision, you must request a fair hearing in the way described below. A request for a conference alone will not result in continuation of benefits. Even if you ask for a conference, you will still have only 90 days from the date your February food stamps become available to request a fair hearing and 10 days from the date your November benefits become available to have your benefits continue unchanged. Read below for fair hearing information.

NOTICE OF INTENT TO CONVERT TO
FEDERAL FOOD STAMP PROGRAM

RIGHT TO A FAIR HEARING: If you believe that the above action is wrong, you may request a State fair hearing by:

(1) **Telephoning:** See Fair Hearing Telephone No. at the top of the front side of this notice. (Please have this notice with you when you call)

OR

(2) **Writing:** By sending a copy of **BOTH SIDES** of this notice **completed**, to the Office of Administrative Hearings, New York State Office of Temporary and Disability Assistance, PO Box 1930, Albany, New York 12201. Please keep a copy for yourself.

I want a fair hearing. The Agency's action is wrong because: _____

Name of Client (Print): _____

Signature of Client: _____ Date: _____

Client Address: _____

Client Phone Number: _____ County: _____

Case Number: _____

YOU HAVE 90 DAYS FROM THE DATE YOUR NOVEMBER 1998 FOOD STAMP BENEFITS BECOME AVAILABLE TO REQUEST A FAIR HEARING.

The date your November food stamps become available is the date you can access your November food stamp benefits with your plastic ID card.

If you request a fair hearing the State will send you a notice informing you of the time and place of the hearing. You have the right to be represented by legal counsel, a relative, a friend or other person or to represent yourself. At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents such as this notice, paystubs, receipts, medical bills, heating bills, medical verification, letters, etc., that may be helpful in presenting your case.

CONTINUING YOUR BENEFITS: If you request a fair hearing within 10 days after your November 1998 food stamp benefits become available, your food stamps will be reinstated to the amount you received before the change until the fair hearing is issued. However, if you lose the fair hearing, you will owe any food stamps that you should not have received. We are required by Federal Law to recover any food stamp overpayments. We must make a claim against you for any food stamps you receive that you were not entitled to, which may be collected by reduction of future food stamp allotments, lump sum installment payments or through legal action. If you want to avoid this possibility you can check the box below. You can also indicate over the telephone or in a letter that you do not want reinstatement of your food stamps. If you check the box below, your benefit will not be reinstated to the amount it was before the November food stamp issuance while you are waiting for your fair hearing.

I do not want my benefits reinstated and continued unchanged until the hearing decision is issued.

If at the hearing, the hearing officer determines that you are not complaining about an incorrect computation of your benefits or that there has been a misapplication or misinterpretation of Federal Law or regulations, the hearing officer may determine that you were not entitled to have your food stamp benefits continue unchanged until the fair hearing decision is issued, and order that the reduction take effect immediately.

Legal Assistance: If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers" or by calling the number indicated on the top of the front of this notice.

Access to Records/Information: You have the right to review your case record. Upon your request, you have the right to free copies of other documents from your fair hearing. Also, upon request, you have the right to free copies of other documents from your case record which you need for your fair hearing. To request such documents or to find out how you may review your case record call the number indicated on the top of the front of this notice.

If you want additional information about your case, how to request a fair hearing, how to gain access to your case file and/or additional copies of documents, you may call the number indicated on the top of the front of this notice or write us at the address listed at the top of the front of this notice.