



August 9, 2021

FOOD ASSISTANCE TRANSMITTAL LETTER NO. 419

TO: Food Assistance Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Food assistance: Delayed Eligibility Determinations for Initial Applications, and Reduction of Ohio Works First (OWF) Benefits Due to Assistance Group's Failure to Perform a Required Action.

In accordance with section 106.03 of the Ohio Revised Code (ORC), each state agency is required to review each of its rules in the Ohio Administrative Code a minimum of once every five years. The intent of the review is to ensure that Administrative Code rules are clearly written and that program requirements are accurate, up-to-date based on regulations from the United States Department of Agriculture (USDA) Food and Nutrition Services (FNS) and clearly expressed. To the extent possible, unnecessary paperwork will be eliminated, local agencies will be given increased flexibility, and any adverse impact on businesses will be eliminated or reduced. As a result of the review, the agency may amend the rule; rescind the rule; or continue the rule without amendment.

These rules have been reviewed by the Joint Committee on Agency Rule Review (JCARR) and will be effective on 09/01/2021.

Chapter 5000

5101:4-5-07 "Food assistance: Delayed Eligibility Determinations for Initial Applications."

This rule describes delayed eligibility determinations for initial applications. Minor language changes were made for clarity; however, no substantive changes were made.

Chapter 6000

5101:4-6-16 "Food assistance: Reduction of Ohio Works First (OWF) Benefits Due to Assistance Group's Failure to Perform a Required Action."

This rule describes the processes and procedures for county agencies to calculate the Supplemental Nutrition Assistance Program (SNAP) allotment when a member of an assistance group fails to perform a required action. Changes to the rule include:

- The title of the rule was amended for clarity;

- Paragraph (B)(2) was removed due to the Disability Financial Assistance (DFA) program being obsolete;
- The term “cash assistance” was changed to “Ohio Works First (OWF)” throughout the rule for clarity; and
- Minor language changes for clarity.

5101:4-5-07

Food assistance: delayed eligibility determinations for initial applications.

(A) What happens when an eligibility determination on an initial application is not made within thirty days?

When the county agency cannot make an eligibility determination within thirty days from the date of application, the cause of the delay must be determined. Depending on the cause of the delay, a notice of either denial or of pending status must be provided on the thirtieth day for applications that are delayed in processing. The county agency shall determine the cause of the delay using the following criteria:

(1) Assistance group caused delays

- (a) The assistance group is at fault when the assistance group fails to complete the application process (e.g. failure to provide required verifications or complete an interview) even though the county agency has taken the required actions to assist the assistance group as described in paragraph (A)(2) of this rule.
- (b) When the assistance group fails to participate in the first interview and a subsequent interview has been requested by the assistance group but is postponed at the assistance group's request or cannot otherwise be rescheduled until after the twentieth day but before the thirtieth day following the date the application was filed, the assistance group must participate in the interview and provide verification by that thirtieth day; otherwise, the delay shall be the fault of the assistance group.
- (c) When the assistance group fails to participate in the first interview, fails to schedule a second interview, and/or the subsequent interview is postponed at the assistance group's request until after the thirtieth day following the date the application was filed, the delay shall be the fault of the assistance group. When the assistance group has missed both scheduled interviews and requests another interview, any delay shall be the fault of the assistance group.

(2) County agency caused delays

The county agency is at fault when it fails to comply with the following:

- (a) Offer assistance with completing the application;
- (b) Provide the assistance group with a statement of required verification, offer to assist in obtaining required verification and allow the assistance group

sufficient time prior to the thirtieth day following the date of application to provide the missing verification. Sufficient time shall be at least ten days from the date of the county agency's initial request for the particular verification that was missing;

(c) Send the assistance group a JFS 04218 "Notice of Missed Interview" (~~rev. 9/2011~~) or its equivalent from the statewide automated eligibility system and notify the assistance group that it is responsible for rescheduling a missed interview pursuant to rule 5101:4-2-07 of the Administrative Code. When the assistance group contacts the county agency within the thirty day processing period, the county agency must schedule a second interview; or

(d) Process a case by the thirtieth day when the assistance group has met all of its application obligations.

(B) What happens to an application when the assistance group caused the delay in the initial thirty days?

When the assistance group causes the delay, the application shall be processed as follows:

(1) The county agency shall send a notice of denial in accordance with ~~paragraph (B) of~~ rule 5101:4-2-11 of the Administrative Code.

(2) The assistance group shall lose its entitlement to benefits for the month of application. However, the assistance group shall be given an additional thirty days to take the required action.

(3) When a notice of denial is sent and the assistance group takes the required action within sixty days of the date the application was filed, the county agency shall reopen the case without requiring a new application. No further action by the county agency is required after the notice of denial is sent when the assistance group fails to take the required action within sixty days of the date the application was filed.

(C) How is an application processed when the county agency caused the delay in the initial thirty days?

(1) A notice of pending status must be sent on the thirtieth day or the business day prior to the thirtieth day. A notice of denial cannot be sent for county agency caused delays.

- (2) The county agency shall notify the assistance group of any action it must take to complete the application process. When the application is to be held pending because some action by the county agency is necessary to complete the application process, the county agency shall provide the assistance group with a written notice informing the assistance group that its application has not been completed and is being processed. When some action by the assistance group is also needed to complete the application process, the notice shall also explain what action the assistance group must take and that its application will be denied ~~if~~when the assistance group fails to take the required action within sixty days of the date the application was filed.
- (D) How is an application processed when the application has pended sixty days and all information is received?
- (1) When the county agency is at fault for not completing the application process by the end of the second thirty-day period and the case file is otherwise complete, the county agency shall continue to process the original application until an eligibility determination is reached.
 - (2) When the assistance group is determined eligible and the county agency is at fault for the delay in the initial thirty days, the assistance group shall receive benefits retroactive to the month of application.
 - (3) When the initial delay is the assistance group's fault, the assistance group shall receive benefits retroactive only to the month following the month of application.
- (E) How is an application processed when the application has pended sixty days and information is still incomplete?
- (1) When the county agency is at fault for not completing the application process by the end of the second thirty-day period, but the case file is not complete enough to reach an eligibility determination, the county agency may continue to process the original application, or deny the application. The notice of denial shall be accompanied by notification to the assistance group to file a new application and of its possible entitlement to benefits lost as a result of county agency delay.
 - (2) When the assistance group is determined eligible and the county agency is at fault for the delay in the initial thirty days, the assistance group shall receive benefits retroactive to the month of application.

- (3) When the initial delay is the assistance group's fault, the assistance group shall receive benefits retroactive only to the month following the month of application.
- (4) When the assistance group is at fault for not completing the application process by the end of the second thirty-day period, the county agency shall deny the application and require the assistance group to file a new application.

Effective: 9/1/2021
Five Year Review (FYR) Dates: 4/27/2021 and 09/01/2026

CERTIFIED ELECTRONICALLY

Certification

08/06/2021

Date

Promulgated Under: 111.15
Statutory Authority: 5101.54
Rule Amplifies: 329.04, 329.042, 5101.54
Prior Effective Dates: 06/02/1980, 04/01/1989, 01/01/1995, 02/01/1999,
06/01/2001 (Emer.), 08/27/2001, 03/01/2002 (Emer.),
05/13/2002, 05/01/2006, 08/01/2011, 10/01/2016

5101:4-6-16

Food assistance: reduction of ~~cash assistance benefits~~ Ohio works first due to assistance group's failure to perform a required action.

~~For purposes of this rule, Ohio works first (OWF) and disability financial assistance (DFA) will be referred to as cash assistance.~~

- (A) When are supplemental nutrition assistance program (SNAP) benefits not to be increased?

The county agency shall not increase the SNAP allotment as the result of a decrease in ~~cash assistance~~ Ohio works first (OWF) when the decrease is due to the failure of an assistance group member to perform a required action. ~~Cash assistance~~ OWF benefits shall be considered decreased when reduced, suspended or terminated.

- (B) What is considered a failure to perform a required action?

Failure to perform a required action shall be limited to a situation when benefits are being received and then decreased. The individual must be certified for SNAP benefits at the time of the failure to perform a required action for this rule to apply.

Failures to perform a required action include:

- (1) Ohio works first:

- (a) Learnfare failure as described in rule 5101:1-3-14 of the Administrative Code.
- (b) Intentional violation of program requirements disqualification as described in rule 5101:1-23-75 of the Administrative Code.
- (c) Termination of employment without just cause as described in rule 5101:1-3-14 of the Administrative Code.
- (d) Fraud provisions (assistance group ineligibility) as described in rule 5101:1-23-75 of the Administrative Code.
- (e) Refusal to accept unconditionally available income as described in rule 5101:1-3-14 of the Administrative Code.
- (f) Refusal of a minor parent to reside in an adult-supervised living arrangement as described in rule 5101:1-3-03 of the Administrative Code.

- (g) Failure of a learning, earning and parenting (LEAP) participant to perform a required action with the high school equivalency diploma as described in rule 5101:1-23-50 of the Administrative Code.
- (h) Imposition of a LEAP sanction (does not apply to situations where the LEAP bonus is not paid, but no sanction is imposed) as described in rule 5101:1-23-50 of the Administrative Code.
- (i) Failure to perform a required action with a provision of the OWF self-sufficiency contract as described in rule 5101:1-3-14 of the Administrative Code.
- (j) Residence fraud as described in rule 5101:1-3-14 of the Administrative Code, that does not result in a period of ineligibility for SNAP benefits for the individual(s) who was convicted.

~~(2) Disability financial assistance:~~

- ~~(a) Erroneous payments as described in rule 5101:1-5-50 of the Administrative Code.~~
- ~~(b) Refusal to accept unconditionally available income as described in rule 5101:1-5-40 of the Administrative Code.~~
- ~~(c) Failure or refusal to take necessary and available legal action to make a resource owned, jointly with someone other than an assistance group member, available as described in rule 5101:1-5-30 of the Administrative Code.~~

(C) How are SNAP benefits affected when there is a penalty in both SNAP and ~~cash assistance~~ OWF programs for the same failure to perform a required action?

- (1) The appropriate SNAP penalty shall be applied.
- (2) After the SNAP penalty is applied (i.e. individual failing or refusing is removed from the assistance group), the allotment is calculated based on the new assistance group size and the actual benefit amount issued by the ~~cash assistance~~ OWF program, if any. When there is no increase, the calculated allotment shall be issued. For example, when a penalty occurs in the OWF program and a penalty is also applied to the SNAP OWF member, the SNAP allotment is calculated based on a zero OWF grant and one less member in the assistance group.

- (3) When the allotment calculation results in a greater amount of SNAP benefits than the assistance group was receiving prior to the OWF penalty, the county agency shall issue the SNAP allotment being issued prior to the month of the OWF penalty. The county agency shall then subtract the allotment that the assistance group was receiving prior to the OWF penalty from the newly calculated allotment. This difference is the amount by which the SNAP benefits cannot increase when other changes occur. The calculated difference shall continue to be the amount deducted from a newly calculated allotment when other changes unrelated to the failure to perform a required action occur for the duration of the penalty.
- (4) After the SNAP penalty is served, if there are any remaining months of the ~~cash assistance program's~~ OWF penalty to be served, SNAP benefits shall not be increased during the remaining month(s) of the ~~cash assistance program's~~ OWF penalty due to the decrease in the payments.

- (D) How are SNAP benefits calculated when there is no penalty in SNAP for failure to perform a required action but there is a penalty for ~~cash assistance~~ OWF?

When there is no penalty in SNAP for a failure to perform a required action with the ~~cash assistance~~ OWF program, the county agency shall calculate the SNAP benefits using the ~~cash assistance~~ OWF benefit amount that would be issued if no penalty had been imposed. When the ~~cash assistance~~ OWF benefit amount cannot be specifically identified, the prohibition on increased SNAP benefits do not apply.

- (E) How are SNAP benefits calculated when there is a recoupment and a reduction of benefits?

- (1) When an assistance group is subject to both a recoupment and a reduction for the same act of noncompliance, SNAP benefits shall be calculated based on the amount of the ~~cash assistance program's~~ OWF benefit prior to recoupment and reduction.
- (2) Monies that are voluntarily or involuntarily withheld from a ~~cash assistance program~~ OWF, or returned to repay a prior overpayment that is not considered a failure to complete a required action, shall be handled as recoupments in accordance with rule 5101:4-4-13 of the Administrative Code.

- (F) How long does the prohibition on increasing SNAP benefits apply?

The prohibition on increasing SNAP benefits applies for no longer than the duration of the decrease in ~~the cash assistance program~~ OWF. When the penalty is still in effect at the end of one year, the county agency shall review the case to determine

if the penalty continues to be appropriate. For example, when the assistance group is still not receiving ~~cash assistance~~ OWF after one year, it may not be appropriate to continue the penalty. Penalties extended beyond one year shall be reviewed at least annually but may be ended by the county agency at any time ~~if~~ when appropriate. The penalty shall be concurrent with the reduction in the other assistance program to the extent allowed by normal SNAP change processing and notice procedures. When the county agency can no longer determine the amount of the reduction in assistance, the county agency must document the case accordingly and end the SNAP penalty.

(G) What requirements must the county agency meet to comply with this rule?

- (1) The county agency shall lift the ban on increasing SNAP benefits when it becomes aware that the person is ineligible for ~~the cash assistance program~~ OWF during the disqualification period for some other reason.
- (2) The county agency shall not decrease or terminate an assistance group's current SNAP allotment when the assistance group's benefits under another assistance program, other than ~~cash assistance~~ OWF, have been decreased due to a failure to perform a required action of that program.
- (3) When an individual joins a new assistance group, the prohibition on increasing SNAP benefits shall be applied unless that person is ineligible for the assistance program for some other reason. When an individual moves to a new state, the prohibition on increasing benefits shall not be applied.
- (4) The county agency shall restore lost benefits when necessary in accordance with rule 5101:4-8-03 of the Administrative Code when it is later determined that the reduction in the ~~cash assistance~~ OWF benefit was not appropriate.
- (5) The county agency shall act on changes that are not related to the assistance group's violation and that would affect the assistance group's benefits.

Effective: 9/1/2021
Five Year Review (FYR) Dates: 4/27/2021 and 09/01/2026

CERTIFIED ELECTRONICALLY

Certification

08/06/2021

Date

Promulgated Under: 111.15
Statutory Authority: 5101.54
Rule Amplifies: 5101.54, 329.04, 329.042
Prior Effective Dates: 06/02/1980, 03/20/1983, 06/17/1983, 12/31/1984 (Emer.), 04/01/1985, 05/03/1985 (Emer.), 08/01/1985, 01/16/1987 (Emer.), 04/06/1987, 05/01/1987 (Emer.), 07/10/1987, 07/20/1988 (Emer.), 10/16/1988, 04/01/1989, 07/11/1989 (Emer.), 09/17/1989, 02/07/1991, 02/03/1992, 08/01/1992 (Emer.), 10/30/1992, 09/01/1994, 08/01/1995 (Emer.), 10/13/1995, 07/01/1996, 09/22/1996 (Emer.), 10/01/1996 (Emer.), 11/22/1996, 01/01/1997 (Emer.), 03/23/1997, 10/01/1997 (Emer.), 12/15/1997, 01/02/1998 (Emer.), 03/19/1998, 10/11/2001, 12/05/2002, 05/01/2006, 08/01/2011, 09/01/2016