



September 16, 2021

FOOD ASSISTANCE TRANSMITTAL LETTER NO. 422

TO: Food Assistance Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Food assistance: Determining Eligibility of Assistance Groups with Ineligible Members.

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.

This rule has been reviewed by the Joint Committee on Agency Rule Review (JCARR) and will be effective on 11/1/2021.

Chapter 6000

5101:4-6-13 "Food assistance: Determining Eligibility of Assistance Groups with Ineligible Members."

This rule describes the process of how to determine income and resources of an assistance group containing an ineligible member. Changes to the rule include:

- The introduction paragraph was amended to include all individuals listed in paragraph (A); and
- Minor language changes for clarity.

5101:4-6-13

Food assistance: determining eligibility of assistance groups with ineligible members.

When an assistance group member cannot participate because he or she: has committed an intentional program violation, is a fleeing felon, is sanctioned in accordance with rule 5101:4-3-11.2 of the Administrative Code, has a social security number (SSN) disqualification, has failed to comply with an Ohio works first (OWF) requirement as described in rule 5101:4-3-09 of the Administrative Code, is an ineligible able-bodied adult without dependents, is an individual who has self-attested to being convicted of and is out of compliance with terms of a sentence for crimes described in rule 5101:4-2-03 of the Administrative Code, or is an ineligible alien, the eligibility and benefit level of any remaining assistance group members shall be determined in accordance with the procedures described in this rule.

- (A) How is the eligibility and benefit level determined for an assistance group that contains a member who has committed an intentional program violation, has a fleeing felon disqualification, has been convicted of and is out of compliance with the terms of a sentence for crimes described in rule 5101:4-2-03 of the Administrative Code, or is sanctioned in accordance with rule 5101:4-3-11.2 of the Administrative Code?
- (1) The income and resources of the ineligible member(s) shall count in their entirety and the entire assistance group's allowable earned income, medical, dependent care, legally obligated child support, and excess shelter deductions shall continue to apply to the remaining assistance group members.
 - (2) The ineligible member shall not be included when determining the assistance group size for the purposes of:
 - (a) Assigning a benefit level to the assistance group;
 - (b) Comparing the assistance group's monthly income with the income eligibility standards; or
 - (c) Applying the standard deduction.
 - (3) A notice of adverse action is not required when an individual with an intentional program violation is removed during the certification period as described in rule 5101:6-2-05 of the Administrative Code. The county agency shall notify the remaining members of their eligibility at the same time the excluded member is notified of his or her intentional program violation.
 - (4) A notice of adverse action shall be sent to the remaining assistance group members when a fleeing felon or a sanctioned individual is removed during

the certification period as described in rule 5101:6-2-04 of the Administrative Code.

- (5) No assistance group's benefit allotment shall be increased as a result of the exclusion of a member who has committed an intentional program violation, has a fleeing felon disqualification or is sanctioned.
- (B) How is the eligibility and benefit level determined for an assistance group that contains a member who has a SSN disqualification, is an ineligible able-bodied adult without dependents or is an ineligible alien as described in rule 5101:4-3-07 of the Administrative Code?
- (1) The resources of the ineligible member shall continue to count in their entirety to the remaining assistance group members.
 - (2) A pro rata share of the ineligible member's income shall be counted as income to the remaining members. This pro rata share is calculated as follows:
 - (a) Subtract the allowable exclusions from the ineligible member's income;
 - (b) Divide the income evenly among the assistance group members (including the ineligible member); and
 - (c) Count all but the ineligible member's share as income for the remaining assistance group members.
 - (3) The county agency shall not include the resources and income of an ineligible alien's sponsor and the sponsor's spouse.
 - (4) The twenty per cent earned income deduction shall apply to the prorated income earned by the ineligible member ~~which~~ that is attributed to the remaining assistance group members.
 - (5) The portion of the assistance group's allowable child support payment, shelter and dependent care expenses ~~which~~ that are either paid by or billed to the ineligible members shall be divided evenly among the assistance group's members including the ineligible members. All but the ineligible members' share is counted as a deductible child support payment, shelter or dependent care expense for the remaining assistance group members. When the assistance group is eligible for one of the utility allowances the utility allowance shall not be prorated.
 - (6) The ineligible members shall not be included when determining the assistance group's size to:

- (a) Assign benefit level to the assistance group;
 - (b) Compare the assistance group's monthly income with the income eligibility standards; or
 - (c) Apply the standard deduction.
- (7) A notice of adverse action shall be sent to the remaining assistance group members when a member described in paragraph (B) of this rule is removed during the certification period as described in rule 5101:6-2-04 of the Administrative Code.
- (C) How is the eligibility and benefit level determined for an assistance group that contains a member who is sanctioned under rule 5101:4-3-09 of the Administrative Code?
- (1) The resources of the ineligible member shall continue to count in their entirety.
 - (2) A pro rata share of the ineligible member's income shall be counted as income to the remaining members. This pro rata share is calculated as follows:
 - (a) Subtract the allowable exclusions from the ineligible member's income;
 - (b) Divide the income evenly among the assistance group members (including the ineligible members); and
 - (c) Count all but the ineligible member's share as income for the remaining assistance group members.
 - (3) The twenty per cent earned income deduction shall apply to the prorated income earned by such ineligible members ~~which~~ that is attributed to the remaining assistance group members.
 - (4) The portion of the assistance group's allowable child support payment, shelter and dependent care expenses ~~which~~ that are either paid by or billed to the ineligible members shall be divided evenly among the assistance group's members including the ineligible members. All but the ineligible member's share is counted as a deductible child support payment, shelter or dependent care expense for the remaining assistance group members. When the assistance group is eligible for one of the utility allowances the utility allowance shall not be prorated.
 - (5) The ineligible members shall not be included when determining the assistance group's size to:

- (a) Assign a benefit level to the assistance group;
 - (b) Compare the assistance group's monthly income with the income eligibility standards; or
 - (c) Apply the standard deduction.
- (6) No assistance group's benefit allotment shall be increased as a result of the exclusion of one or more assistance group members as described in rule 5101:4-6-16 of the Administrative Code.
- (7) A notice of adverse action shall be sent to the remaining assistance group members when a member as described in paragraph (C) of this rule is removed during the certification period as described in rule 5101:6-2-04 of the Administrative Code.

Effective: 11/1/2021
Five Year Review (FYR) Dates: 7/8/2021 and 11/01/2026

CERTIFIED ELECTRONICALLY

Certification

09/14/2021

Date

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