



September 14, 2023

Food Assistance Transmittal Letter No. 445

TO: All Food Assistance Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: Food assistance: Shared Parenting and Elderly and Disabled Individuals Living with Others Five Year Rule Review.

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) Federal 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 subject to a review by the Joint Committee on Agency Rule Review (JCARR). The changes will become effective on 10/01/2023.

Chapter 6000

5101:4-6-02 "Food Assistance: Shared Parenting."

The rule describes the process the county agency is to use when determining eligibility for a dependent child in a shared parenting arrangement. This rule has been revised with the following changes:

- The order of paragraphs was updated for easier readability;
- Old paragraph (A)(2) was moved to new paragraph (B)(1)(d);
- Old paragraph (D) was moved to new paragraph (B) and was amended for clarity;
- New paragraph (B)(2) was added to explain the county agency process when there is a discrepancy regarding a child's living arrangement;
- New paragraph (C)(2) was moved to new paragraph (D)(1);
- New paragraph (D)(3) was amended to define "majority;"
- Paragraph (E) was updated with correct paragraph citations; and
- Other minor changes for clarity.

5101:4-6-29 "Food Assistance: Elderly and Disabled Individuals Living with Others."

The rule describes the options available to elderly and disabled individuals living with others as it pertains to supplemental nutrition assistance program (SNAP) benefits. This rule has been revised with the following changes:

- Paragraph (C)(1) was amended to remove language already addressed in paragraph (B);

- Old paragraph (D)(2) was moved to new paragraph (D)(1)(b) and was amended to remove language already addressed in other parts of the rule;
- The lead-in question for paragraph (E) was amended to “Are shared expenses prorated?” to more accurately reflect what is stated in the response; and
- Other minor changes for clarity.

5101:4-6-02

Food assistance: shared parenting.

This rule describes the process the county agency shall use when determining eligibility for a dependent child in a shared parenting arrangement.

(A) What are shared parenting arrangements?

Shared parenting arrangements include:

(1) Formal, court ordered arrangements;

(2) Informal arrangements agreed upon mutually by both parents; or

(3) A combination of both formal, court ordered arrangements and informal arrangements.

~~(1) Shared parenting arrangements include:~~

~~(a) Formal, court ordered arrangements;~~

~~(b) Informal arrangements agreed upon mutually by both parents; or~~

~~(c) A combination of both formal, court ordered arrangements and informal arrangements.~~

~~(2) The county agency shall evaluate actual circumstances when the parents follow an informal arrangement that is different than the shared parenting court order or when there is no formal, court ordered arrangement.~~

(B) How does the county agency verify shared parenting arrangements?

(1) To verify shared parenting arrangements, the county agency is to:

(a) Use the procedures described in rule 5101:4-2-09 of the Administrative Code;

(b) Use the best available information to determine eligibility;

(c) Ensure that all supporting documents are located in the assistance group's case file, as well as documented in the Ohio benefits integrated eligibility system; and

(d) Evaluate the actual circumstances when the parents follow an arrangement that is different from the formal, court ordered shared parenting arrangement or when there is no formal, court ordered arrangement.

(2) When there is a discrepancy between the parents' statements regarding the child's living arrangement and a formal, court ordered arrangement exists, the county agency is to refer to that order to establish which assistance group should include the child.

~~(B)~~(C) Can both parents receive supplemental nutrition assistance program (SNAP) for the same child in the same month?

Both parents cannot receive SNAP for the same child in the same month despite a shared parenting arrangement permitting the child to live with each parent for part of the month.

~~(1) Both parents cannot receive SNAP for the same child in the same month despite a shared parenting order permitting the child to live with each parent for part of the month.~~

~~(1) Since shared parenting arrangements are not the same in each case, a child's SNAP eligibility shall be determined on a case-by-case basis.~~

~~(C)~~(D) How does the county agency determine which assistance group should include the child?

(1) Since shared parenting arrangements are not the same in each case, assistance group composition is to be determined on a case-by-case basis.

~~(1)~~(2) When ~~only~~ one parent applies for the child and the child lives with him or her for part of the month, then the child shall be included in ~~the~~ that parent's assistance group.

~~(2)~~(3) When both parents apply for the child:

For the purposes of determining which assistance group the child is to be included, "majority" means more than fifty per cent.

(a) The child shall be included in the assistance group ~~with the parent~~ where he or she lives the majority ~~(more than fifty per cent)~~ of the time.

(b) When the child lives with each parent an equal amount of time, then the county agency shall determine who provides the majority ~~(more than fifty per cent)~~ of the child's meals:

(i) When one parent provides the majority of the child's meals, then the county agency shall include the child in the assistance group with ~~the~~ that parent who provides the majority of the meals.

- (ii) When both parents provide fifty per cent of the child's meals, then the parents are to agree which parent's assistance group should include the child.
- (iii) When both parents provide fifty per cent of the child's meals but the parents cannot agree which assistance group should include the child, then the county agency shall include the child with the parent who applied first.

~~(D) How does the county agency verify shared parenting arrangements?~~

~~The county agency shall use the procedures described in rule 5101:4-2-09 of the Administrative Code to verify shared parenting arrangements. The county agency shall use the best available information to determine eligibility. The county agency shall ensure that all supporting documents are located in the assistance group's case file, as well as document the decision in the statewide automated eligibility system.~~

(E) How often should the shared parenting arrangement be evaluated?

The child shall remain in the parent's assistance group through the assigned certification period once the county agency determines the child should be included in that assistance group based on the process outlined in paragraph ~~(C)~~(D) of this rule. Eligibility shall only be re-evaluated when there is a:

- (1) Change reported in assistance group composition;
- (2) Change reported in the shared parenting arrangement;
- (3) Recertification; or
- (4) The other parent applies for the same child and:
 - (a) The county has not made a determination under paragraph ~~(C)~~(D)~~(3)~~ of this rule for the current certification; or
 - (b) There has been a change in circumstances since a determination was last made under paragraph ~~(C)~~(D)~~(3)~~ of this rule.

Effective: 10/1/2023
Five Year Review (FYR) Dates: 7/6/2023 and 10/01/2028

CERTIFIED ELECTRONICALLY

Certification

09/12/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5101.54
Rule Amplifies: 329.04, 329.042, 5101.54
Prior Effective Dates: 07/01/2013, 08/01/2018

5101:4-6-29

Food assistance: elderly and disabled individuals living with others.

(A) Can individuals who are elderly and disabled be certified for supplemental nutrition assistance program (SNAP) benefits separately from individuals they purchase food and prepare meals with?

(1) Elderly individuals, age sixty and older, who are disabled as described in paragraph (B) of this rule may be permitted separate assistance group status when they meet the following criteria:

(a) The income of the individuals with whom the elderly and disabled individual resides does not exceed one hundred sixty-five per cent of the poverty level; and

(b) The disabled individual is unable to purchase food and prepare his or her own meals.

(2) ~~If~~ When an individual meets these criteria, both the individual ~~and with~~ their spouse may be granted separate assistance group status, even ~~if~~ when the spouse does not meet the criteria.

(B) What is the disability criteria to be certified for SNAP separately?

The disability shall be considered permanent under the Social Security Act of 1935 or be a nondisease-related, severe, permanent disability. "Disability" as ~~defined~~ described in this rule is not the same as "disabled member" as ~~found~~ described in rule 5101:4-1-03 of the Administrative Code. The key factor in determining whether or not the disability would qualify an individual for separate assistance group status under this provision is an inability to purchase ~~food~~ and prepare meals because of the disability.

(C) How is a disability verified for separate assistance group status?

Disability shall be verified by one of the following procedures:

(1) A county agency shall use the social security administration's most current list of disabilities as the initial step for verifying if a person has a permanent disability ~~considered permanent~~ under the Social Security Act of 1935. ~~A person who suffers from one of the disabilities listed under the Social Security Act must also be unable to purchase and prepare meals because of the disability in order to meet the designation of a separate assistance group status.~~

(2) When it is obvious to the county agency that the person is unable to purchase and prepare meals because he or she suffers from a severe physical or mental

disability, even ~~if~~ when the disability is not specifically mentioned on the Social Security Act list, additional verification is not needed and the nature of the disability shall be documented in the case file.

- (3) When the disability is not obvious to the county agency, the person shall be required to provide a statement from a physician or licensed or certified psychologist certifying that the person is unable to purchase and prepare meals because he or she suffers from one of the non obvious disabilities mentioned in the Social Security Act list or ~~is unable to purchase and prepare meals because he or she suffers~~ from some other severe, permanent physical or mental disease or nondisease-related disability.

(D) How is the income of the other individuals in the home determined?

- (1) After an elderly individual has been determined disabled in accordance with this rule, the following must occur:

(a) The gross income of the others with whom the individual resides must be considered, as if the others were applying for ~~participation~~ SNAP; ~~and~~

(b) The gross monthly income of the others are to be compared to the one hundred sixty-five per cent of the federal poverty level for that assistance group size; and

~~(b)~~ (c) The income of the individual who is elderly and disabled and their spouse shall not be included in the calculation, nor are the elderly and disabled individual and their spouse to be considered assistance group members for this purpose.

~~(2) The gross monthly income of the others shall be compared to the one hundred sixty-five per cent of the federal poverty level for that assistance group size. If the gross income of the others with whom the elderly and disabled individual resides is no more than one hundred sixty-five per cent of the federal poverty level, the elderly and disabled individual (and their spouse) shall be granted separate assistance group status.~~

~~(3)~~ (2) The elderly and disabled individuals who wish to be a separate assistance group shall be responsible for obtaining the cooperation of the individuals with whom they reside in providing necessary income information to the county agency.

~~(4)~~ (3) Income of the others with whom the elderly and disabled individuals live shall be verified as if the others were also applying for program participation, as discussed in rule 5101:4-2-09 of the Administrative Code.

(E) ~~How are~~ Are shared expenses ~~handled~~ prorated?

Once separate assistance group status has been established, county agencies shall prorate any expenses shared by the elderly and disabled individual's assistance group and the others with whom the elderly and disabled assistance group resides. ~~If~~ When the assistance group is eligible for one of the utility allowances, the utility allowance shall not be prorated.

Effective: 10/1/2023
Five Year Review (FYR) Dates: 7/6/2023 and 10/01/2028

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