

June 12, 2006

SUBJECT: Separate Household Status for Disabled Persons

TO: All Regional Directors
Food Stamp Program

It has come to our attention through a court suit filed in the State of Alabama that there may be some confusion regarding the proper treatment of situations involving severely disabled persons who do not purchase and prepare their food with the individuals with whom they reside.

The named plaintiff in the litigation is an individual who is so severely disabled that she cannot purchase and prepare her own food. She asserts that another person in the home purchases and prepares food separately on her behalf. The individual believes that she is entitled to separate household status; however, the State agency, acting on previous Food and Nutrition Service (FNS) guidance, certified the two individuals as one household. In researching the issue, we found that, over two decades, we had issued various policy guidance documents in connection with situations involving disabled persons, the household definition, and the provision in the Food Stamp Program Regulations generally known as the 165 percent rule (7 CFR 273.1(b)(2)). Not all these guidance documents have provided a consistent message on the issue. We are now setting the record straight.

Under the regulations at 7 CFR 273.1(a)(2) a person who lives with others but customarily purchases and prepares his or her meals for home consumption separate and apart from others can be a separate household. It is our view that this provision applies to any person who is too disabled to purchase his or her own food but who has arranged to have his or her food purchased and prepared separately from those with whom he or she lives. Even if the person who shops for food or prepares meals for the disabled person may be residing with the disabled person, the disabled person may claim separate household status.

The regulatory provision at 7 CFR 273.1(b)(2) deals only with the exception to the provision at 7 CFR 273.1(a)(3) that all individuals who live together and customarily purchase food and prepare meals together for home consumption are one household. The elderly and disabled individuals considered under 7 CFR 273.1(b)(2) have their food purchased and prepared together with those with whom they live. This provision allows them to be a separate household for food stamp purposes from those with whom they reside if the income of those with whom they reside (excluding the income of the elderly and disabled person) is no more than 165 percent of the Federal poverty income guideline.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

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Please contact Patrick Waldron on (703) 305-2495 if you have questions.

/s/

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