



Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

DATE: 06/27/2017

SUBJECT: Clarification of State Options for Determining Fleeing Felon Status for Supplemental Nutrition Assistance Program

TO: Regional Directors
Supplemental Nutrition Assistance Program
All Regions

The Food and Nutrition Service (FNS) understands that some confusion exists over State options relating to the determination of fleeing felon status under Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 273.11(n). This policy memo is intended to resolve any misunderstandings.

Under 7 CFR 273.11(n), a State agency may choose between two tests to establish fleeing felon status. The two possible choices are the four-part test described in 273.11(n)(1)(i) and the alternative test (often called the Martinez test) described in 273.11(n)(1)(ii).

In the Clarification of Eligibility of Fleeing Felons Final Rule Questions and Answers dated March 8, 2016, FNS explained that State agencies should choose whatever option works best in their State but that States may not adopt a hybrid test. A State must specify in its State plan of operation which fleeing felon test it has adopted. FNS now further clarifies that under SNAP regulations a State agency may only choose one of the two tests at any given time. Furthermore, State agencies must apply their chosen test consistently to every case within the State.

As stated in the March 8, 2016 questions and answers, if common practice by law enforcement officials in a State does not lend well to the Martinez test, Martinez may not be the best option for that State. FNS now further clarifies that if a State agency has adopted the Martinez test and law enforcement officials present an outstanding felony arrest warrant that does not conform to one of the prescribed National Crime Information Center (NCIC) Uniform Offense Classification Codes, the State law enforcement agency should verify with NCIC whether the State felony arrest warrant is included within one of the NCIC classification codes in the NCIC data bank. If the felony arrest warrant does not conform to one of the NCIC classification codes, SNAP regulations would not permit the State agency to then apply the four-part test.

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State agencies should take immediate action to ensure that their plan of operation and policies accurately reflect which fleeing felon test the State has chosen to implement.

Please distribute this guidance to your State agencies and advise them to contact their respective FNS Regional Offices points of contact with any questions and for technical assistance. FNS Regional Offices should contact Sasha Gersten-Paal at (703) 305-2507 with any questions concerning this memorandum.

Sincerely,

/S/

Lizbeth Silbermann
Director
Program Development Division