



Food and
Nutrition
Service

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SUBJECT: Questions and Answers: Final Rule Implementation Memo for Lottery and Gambling Provisions

**TO: All State Directors
Supplemental Nutrition Assistance Program**

The attached questions and answers address the final rule implementation memo for lottery and gambling provisions. On April 15, 2019, the Food and Nutrition Service (FNS) published the final rule for the Supplemental Nutrition Assistance Program: Student Eligibility, Convicted Felons, Lottery and Gambling, and State Verification Provisions of the Agricultural Act of 2014 (84 FR 15083). FNS received a number of questions regarding the implementation of the lottery and gambling provisions following the publication of the final rule. FNS may issue additional guidance, as needed, regarding the other provisions of this final rule.

Pursuant to the Congressional Review Act (5 U.S.C. § 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a 'major rule,' as defined by 5 U.S.C. § 804(2).

Please contact your Regional Office with any questions and requests for technical assistances regarding these provisions. FNS Regional Offices should contact the Program Design Branch with any questions concerning this memorandum.

Sincerely,

SASHA
GERSTEN-PAAL

Digitally signed by
SASHA GERSTEN-PAAL
Date: 2019.11.01
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Sasha Gersten-Paal
Acting Director
Program Development Division

Attachment

Attachment: Questions and Answers:

Section 4009: Disqualification for Substantial Lottery or Gambling Winnings

Implementation

1. When must State agencies implement the provisions of the Lottery and Gambling Winners provisions of the Agricultural Act of 2014?

State agencies must have implemented the provisions by June 14, 2019, (60 days from date of publication). In accordance with regulations at 7 CFR 275.12(d)(2)(vii), FNS will, as appropriate, hold harmless for Quality Control purposes for 120 days from the required implementation date of June 14, 2019. This means all State agencies will have a 120-day variance exclusion starting from June 14, 2019, for the purposes of the implementation of these provisions. The Act, at Section 16(c)(3)(A), provides a 120 day variance exclusion from the required implementation date of the rule. It does not allow for additional days for the variance exclusion, regardless of State agencies actual implementation date. FNS recognizes the implementation challenges States may face and encourages State agencies to reach out to their Regional Offices for technical assistance and guidance.

Reporting requirements

2. When are households required to report substantial winnings?

All SNAP households, no matter the reporting system to which they are assigned, are required to report when they receive substantial lottery or gambling winnings. This means simplified reporting households cannot wait until periodic report or recertification to report receipt of substantial lottery and gambling winnings. This requirement was codified at 7 CFR 273.12(a)(5)(iii)(G) in the final rule. State agencies have the option to require these households to report within 10 days of the date the household receives the substantial winnings or, at the State agency's option, within 10 days of the end of the month in which the household received the winnings in accordance with 7 CFR 273.12(a)(2).

3. Are substantial winnings reported under resource or income reporting requirements?

The receipt of substantial winnings is a separate reporting requirement from a change in income or resources and should be treated as such. The law requires households with substantial lottery or gambling winnings to immediately lose eligibility for SNAP benefits. Therefore, the State agency should take prompt action to verify the information and begin case closure procedures due to substantial winnings and the household has the option to reapply at a later time.

4. What happens if a SNAP household with substantial winnings spends the winnings and then falls below the limit within the 10 day reporting timeframe?

A SNAP recipient who wins and spends substantial winnings is still required to report to the State SNAP agency the substantial winnings within 10 days or, at the State agency's option, within 10 days of the end of the month in which the household received the winnings. The SNAP recipient must report the total gross substantial

winnings. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then only the portion of the winnings allocated to the member of the SNAP household will be counted toward the eligibility determination.

The State agency must then close the SNAP case for the entire household based on receipt of the winnings, in accordance with 7 CFR 273.11(r). A SNAP household with substantial winnings remains ineligible until they meet statutory income and resource standards, which are codified at 7 CFR 273.8 and 273.9.

The household may re-apply at any time for SNAP benefits. The next time such a household reapplies, the household would need to be determined eligible and certified under regular SNAP rules. The household would not be considered categorically eligible.

Example: John Doe wins \$5000 from his State's scratch-off lottery ticket. John Doe spends \$1700 after 7 days and now has \$3300 remaining from his scratch-off winnings. John Doe must report his total winnings of \$5000 to his SNAP State Agency. The SNAP State agency must then act on this information by closing John Doe's SNAP case for his entire household, which includes Jane, his wife, and Jack, his grandson. The household may choose to reapply for SNAP benefits at any time and the State agency must determine the household's eligibility under regular SNAP income and resource limits.

5. When should the State agency act on information about substantial winnings reported by the household?

When the household reports that it received substantial winnings, the State agency should take prompt action to verify the information and begin case closure procedures.

Example: Jennifer Smith reports to her caseworker that she won \$10,000 from the State lottery. Upon receipt of this information, her caseworker must then act on this information by closing the SNAP case for Jennifer Smith's entire household.

6. When should the State agency act on information about substantial winnings received from a data match?

The action required by the State agency depends on the source of the information about the substantial winnings and whether the information is unclear or questionable. If the State agency receives information about a household's substantial winnings from a direct match with a lottery or gambling entity, the State agency should take prompt action to begin case closure activities as long as the information is not unclear or questionable. If the information is questionable or unclear or the information comes from a third party data match, the State agency should follow the unclear information procedures at 7 CFR 273.12(c)(3).

Example: A direct data match from the State lottery identifies Jennifer Smith as the recipient of \$10,000 in winnings. There are 11 active households with a Jennifer Smith and the State agency is unable to identify which household contains the

Jennifer Smith in receipt of \$10,000 in winnings. The State agency should not terminate all households with a Jennifer Smith. This information is unclear and the State agency must apply the standards regarding verification in 7 CFR 273.2(f)(2) and (3). The State agency should attach the information regarding the data match to each case file with a Jennifer Smith and follow up with each household to determine which household is in receipt of the winning. Then the State agency must act on the information and close the case for the entire household of the correct Jennifer Smith.

Change in household composition

7. What happens if a member of a SNAP household with substantial winnings leaves the household?

A household with substantial lottery or gambling winnings must immediately lose SNAP benefits and would need to meet the income and resource standards under regular SNAP rules in order to again qualify for benefits if they chose to reapply. If the composition of that household changed (for example, if a member left), that household would no longer exist and any remaining members would be considered as a new household if they chose to apply. An individual who chooses to reapply, alone or as a member of an existing household, would be considered a distinct household from the household that had substantial lottery or gambling winnings. It is not practicable to expect State agencies to track members beyond the household that existed at the time of the substantial winnings and disqualification. FNS expects that State agencies will treat a household whose composition has changed subsequent to a disqualification for substantial winnings as they would any other household in similar circumstances should that household apply or reapply for SNAP benefits.

Example: John, Jane, and Jack are a SNAP household. John wins \$5,000. John reports this information within 10 days of winning and the State agency closes the SNAP case for the entire household. John subsequently leaves the household with Jane and Jack; John joins the household including Kim and Leah. The household with John, Kim, and Leah may apply for and receive SNAP, if determined eligible. Jane and Jack may also apply for and receive SNAP, if determined eligible. The requirement that a previously disqualified household must meet income and resource standards which are codified at 7 CFR 273.8 and 273.9 does not apply to the household with Jane and Jack nor the household with John, Kim, and Leah since neither household was disqualified for substantial lottery winnings; therefore these households may qualify for SNAP at their next application under categorical eligibility rules, if applicable.

a. What happens if the head of household of a SNAP household with substantial winnings leaves the household?

These provisions make no distinction between head of household and a member of the households. The requirements are the same as detailed above.

Eligibility for previously disqualified SNAP household

8. When can a household with substantial winnings reapply for SNAP benefits?

Households disqualified for substantial winnings remain ineligible until they again meet the allowable financial resources and income eligibility requirements in the Act detailed in 7 CFR 273.8 and 273.9. This provision applies to all households, including categorically eligible General Assistance (GA), Social Security Income (SSI), and Temporary Assistance for Needy Families (TANF) households, and those certified under Broad Based Categorical Eligibility (BBCE). This means the next time such a household reapplies and is certified for SNAP after losing eligibility under this rule, the household would not be considered categorically eligible. If eligible, the household would need to be certified under regular SNAP rules.

Example: John Doe won \$5000 from his State's scratch-off lottery ticket and reported this information to his caseworker on August 1. His caseworker closed John Doe's SNAP case for his entire household, which includes Jane, his wife, and Jack, his grandson. On September 15, John Doe applied for SNAP benefits and the State agency determined his eligibility under regular SNAP rules. John Doe's household must meet the income and resource limits as detailed in 7 CFR 273.8 and 273.9. John Doe is elderly and disabled. His household, including Jane and Jack, must have a net income of less than \$1,732, less than \$3,500 countable resources, and meet all other eligibility requirements in order to be eligible.

9. Will households disqualified for substantial winnings permanently be required to meet the income and resource limits in the Act as detailed in 7 CFR 273.8 and 273.9?

As required by section 4009 of the Agricultural Act of 2014, all households that lose eligibility because an individual member received substantial lottery or gambling winnings will remain ineligible until they meet the income and resource limits detailed in 7 CFR 273.8 and 273.9. The next time such a household reapplies and is certified for SNAP after losing eligibility under this rule, the household would not be considered categorically eligible. If eligible, the household would need to be certified under regular SNAP rules. This requirement is not permanent; it applies only to the first time a household is certified following the loss of eligibility for substantial lottery and gambling winnings.

Example: After winning \$5,000 from his State's scratch-off lottery ticket, John Doe's SNAP case was closed for receipt of substantial winnings, in accordance with SNAP regulations. After spending his winnings, John Doe applied for SNAP and was determined eligible as his household met the income and resource limits as in detailed in 7 CFR 273.8 and 273.9. John Doe received SNAP benefits for 6 months before reporting an increase in income due to his wife's new job that made his household ineligible and their case was closed. Several months later, John Doe applied for SNAP benefits. Since he is disabled and receives SSI benefits, John Doe's eligibility was determined and he was then certified under categorical eligibility rules.

Notices

10. Does FNS have suggested language to include on written client notices to notify households of their reporting responsibilities regarding substantial winnings in clear and understandable language?

State agencies are required to inform both new and existing households of their reporting requirement of substantial winnings as a part of the explanation of the households' rights and responsibilities in accordance with the household's assigned reporting system. FNS encourages State agencies to leverage written notices that fit the needs of their clients, work within their system constraints, and comply with Federal policy. For approachable strategies, samples, and tools to help States make their client notices more effective, FNS encourages State agencies to consult the SNAP Model Notice Toolkit, which is available on PartnerWeb.

11. When should States develop notices?

State agencies are required to inform both new and existing households of their reporting requirement of substantial winnings as a part of the explanation of the households' rights and responsibilities effective June 14, 2019, (60 days from the date of publication). All new SNAP households with initial applications with a date of application on or after June 14, 2019, must be informed of this reporting requirement. State agencies must begin informing existing households of their new reporting requirement at recertification effective June 14, 2019. This applies to all existing households with recertification notices sent on or after June 14, 2019.