

CHAPTER 55-30

NUTRITION ASSISTANCE PROGRAM

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Chapter Authority: 2 CMC § 5522(a).

Chapter History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000);* Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000);* Amdts Adopted 20 Com. Reg. 15952 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15870 (Mar. 16, 1998) (effective Mar. 5, 1998); Amdts Emergency and Proposed 19 Com. Reg. 15741 (Nov. 15, 1997) (effective for 120 days from Nov. 5, 1997); Amdts Adopted 16 Com. Reg. 12375 (Sept. 15, 1994);** Amdts Adopted 15 Com. Reg. 10823 (Sept. 15,

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1993);** Amdts Adopted 14 Com. Reg. 9598 (Sept. 15, 1992);** Amdts Adopted 14 Com. Reg. 9595 (Sept. 15, 1992);** Amdts Adopted 13 Com. Reg. 7856 (Sept. 15, 1991);** Amdts Adopted 13 Com. Reg. 7698 (May 15, 1991);** Amdts Proposed 13 Com. Reg. 7669 (Apr. 15, 1991);* Amdts Adopted 10 Com. Reg. 5734 (Nov. 15, 1988); Amdts Proposed 10 Com. Reg. 5722 (Oct. 15, 1988); Amdts Adopted 10 Com. Reg. 5429 (Jan. 18, 1988); Amdts Proposed 9 Com. Reg. 5252 (Oct. 15, 1987); Amdts Adopted 9 Com. Reg. 4904 (Feb. 17, 1987); Amdts Proposed 8 Com. Reg. 4831 (Dec. 16, 1986); Amdts Adopted 8 Com. Reg. 4166 (Jan. 17, 1986); Amdts Proposed 7 Com. Reg. 4163 (Dec. 17, 1985); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Amdts Adopted 7 Com. Reg. 3970 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3943 (Aug. 15, 1985); Amdts Adopted 7 Com. Reg. 3380 (Feb. 15, 1985); Amdts Proposed 7 Com. Reg. 3372 (Jan. 15, 1985); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

*Notices of adoption for the April 1991 proposed amendments and the two October 2000 emergency and proposed amendments were never published.

**Notices of proposed amendments for the May 1991, September 1991, September 1992, September 1993 and September 1994 amendments were not published.

Commission Comment: 1 CMC § 2351 creates the Department of Community and Cultural Affairs (DCCA). The Department has certain duties enumerated in 1 CMC § 2353, including responsibility for social services funded in whole or in part by federal funds. See 1 CMC § 2353(a). 1 CMC § 2354 directs DCCA to adopt rules and regulations regarding activities over which the Department has jurisdiction.

PL 2-14 (effective Feb. 20, 1981), codified at 2 CMC §§ 5521-5525, designates DCCA as the state agency responsible for implementing the federal food stamp program in the Commonwealth and authorizes DCCA to adopt the necessary rules and regulations to carry to the food stamp program. 2 CMC § 5522(a).

The Department promulgated an emergency amendment to this chapter in September of 2005 (27 Com. Reg. 24871 (Sept. 22, 2005)) and again in December of 2005 (27 Com. Reg. 25309 (Dec. 30, 2005)). Both amendments contained notices of intent to adopt them as permanent regulations, but a notice of adoption was never published.

For a complete history of the authority of DCCA, see the general comment to chapter 55-10.

Part 001 - General Provisions

§ 55-30-001 Introduction

(a) The procedures delineated throughout the manual [of operations] in this chapter are intended to serve as a guide in the administration of the program and are broadly written within the limits imposed by the Commonwealth of the Northern Mariana Islands Nutrition Assistance Program Regulations and the Memorandum of Understanding.

(b) The manual in this chapter is not all-inclusive in that it cannot cover every possible variation that specific cases may present. The provisions are brief, simple but workable and are consistent with regulations that allow for maximum program flexibility. Provisions set forth may be subject to revisions or amendments as may warrant necessary and upon approval by Food and Nutrition Service and/or state agency nutrition assistance program.

(c) The Commonwealth of the Northern Mariana Islands retains much of the decision-making power with regards to the applicability of Food and Nutrition Service standards and therefore certain provisions may or may not conform to federally imposed regulatory or other standard program requirements. Standard Food and Nutrition Service procedures will be

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used whenever deemed necessary or in situations not addressed herein.

(d) All nutrition assistance program personnel are encouraged to exercise reasonable and prudent judgment in the performance of their individual and respective duties and responsibilities.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) through (d).

The May 15, 1984 notice of proposed amendments did not include the text of the proposed amendments. See 6 Com. Reg. 2801 (May 15, 1984). The amendments were published in their entirety with the adoption notice. See 6 Com. Reg. 2877 (May 15, 1984).

The May 1984 and the June 1984 amendments readopted and republished the Nutrition Assistance Program Regulations in their entirety. The commission, therefore, cites the May 1984 and June 1984 regulations in the history sections throughout this chapter.

The 2002 amendments readopted and republished the Nutrition Assistance Program Regulations in their entirety. The commission, therefore, cites the 2002 regulations in the history sections throughout this chapter.

§ 55-30-005 Purpose

The manual in this chapter describes, at the least, the terms and conditions under which nutrition assistance program coupons may be issued to eligible households in the Commonwealth of the Northern Mariana Islands (CNMI). It also explains how these coupons may be used to purchase eligible foods, fishing equipment, and farming and gardening supplies, and redeemed by authorized retailers in the Commonwealth of the Northern Mariana Islands. Furthermore, this manual illustrates the individual functions of the state agency Department of Community and Cultural Affairs (DC&CA), Division of Nutrition Assistance Program (NAP), Nutrition Assistance Program Administrator, Certification Unit (CU), Issuance and Accountability Unit (I&AU), Retail and Redemption Unit (R&RU), and Management Evaluation Unit (MEU), respectively.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-010 State Agency Identification and Authority

The Department of Community and Cultural Affairs located in the Commonwealth of the Northern Mariana Islands is herein referred to as the state agency in general.* Department of

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Community and Cultural Affairs is charged with the responsibility for the administration of the program in the Commonwealth of the Northern Mariana Islands. The nutrition assistance program administrator shall have the responsibility for the day-to-day administration and operation of the nutrition assistance program. State agency may also reflect the Division of Nutrition Assistance Program or any of the established units within the Division (such as: Certification Unit, Issuance and Accountability Unit, Retail and Redemption Unit, and Management Evaluation Unit) as delineated according to applicable sections, subsections, parts, etc., respectively, in this chapter.

* So in original.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The Commission corrected the capitalization of “administrator” pursuant to 1 CMC § 3806(f).

§ 55-30-015 Definitions

- (a) “Adult” means an individual eighteen years or older, or a married individual if less than eighteen years old.
- (b) “Allotment” means the total value of coupons a household is authorized to receive during each month.
- (c) “Application form (APP)” means the application for nutrition assistance form (201C) which is completed by an eligibility worker (EW), or case worker, and verified and signed by an adult head of household (HD) or its designated authorized representative (AR), and which is used to determine the household’s eligibility and allotment level if the household is eligible.
- (d) “Authorization to participate (ATP) card” means a document or check which is issued by state agency nutrition assistance program to a certified household showing the allotment the household is authorized to receive upon presentation of such document to an appropriate issuance agent staff at issuance point.
- (e) “Bulk storage point” means a secure place for storage of negotiable nutrition assistance program coupons, the security of which is the responsibility of the Commonwealth of the Northern Mariana Islands government.
- (f) “Coupon” means nutrition assistance program coupon or food stamp provided under this chapter for the purchase of eligible items and local food products.
- (g) “Coupon issuer” means the agent of the state agency that has the assigned responsibility for issuance of food stamps to eligible households. It also refers to the nutrition assistance

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program issuance agent.

- (h) “Department” means the United States Department of Agriculture.
- (i) “Earmarked coupons” means those nutrition assistance program coupons identified as for use only in the purchase of locally produced foods. These nutrition assistance program coupons, also referred to as local coupons, may not be used to purchase imported food items nor are they to be used as change in a nutrition assistance program coupon transaction.
- (j) “Eligible items” means
 - (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, hot food prepared for immediate consumption, and restaurant or snack bar items;
 - (2) Fishing equipment, such as, nets, fish lines, fish hooks, fishing rods, fishing reels, harpoons, diving masks and goggles, or water resistant flashlights;
 - (3) Garden seeds and plants and fertilizer to grow food for the personal consumption of the eligible household; and
 - (4) Hand farm tools, such as, hoes, rakes, shovels, sickles, machetes, and garden (water) hoses, but not including clothing, gasoline, motor oil, land or mechanized, farm equipment.
- (k) “Fiscal year” means a period of twelve calendar months beginning with each October 1 and ending with September 30 of the following calendar year.
- (l) “Food stamp” means any coupon or stamp provided under this chapter for the purchase of eligible items and local food products.
- (m) “Food and Nutrition Service (FNS)” means the Food and Nutrition Service of the United States Department of Agriculture.
- (n) “Fraud” means an action taken by any person, authorized representative or household member to, knowingly, willfully and with deceitful intent, obtain funds or food stamp benefits to which the state agency employee, authorized representative or household member is not entitled.
- (o) “Good cause” means circumstances beyond the household member’s control, such as, illness, illness of another household member requiring the presence of the member, a household emergency that prevents the member from complying with a nutrition assistance program requirement.
- (p) “Household (HH)” means that unit, either an individual or a group of individuals residing together and considered Commonwealth of the Northern Mariana Islands residents, upon which determinations of eligibility and level of benefits are based.
- (q) “Identification (ID) card” means a card provided by the state agency nutrition assistance program which identifies the bearer(s) as eligible to re-certify their respective cases with assigned eligibility workers, pick up nutrition assistance program coupons at issuance agent location, and transact the nutrition assistance program coupons at authorized retailers.

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- (r) “Local foods” means those food items grown, caught, or processed in the Commonwealth of the Northern Mariana Islands. Examples are fruits and vegetables grown locally; fish caught locally; beef and dairy products, poultry and eggs, pork and other meats obtained from animals raised in the Commonwealth of the Northern Mariana Islands; as well as bread and bakery products processed in the Commonwealth of the Northern Mariana Islands.
- (s) “Nutrition Assistance Program (NAP)” means the Division of Nutrition Assistance Program that is responsible for the day-to-day administration and operation of the program to ensure strict compliance with established guidelines. It also refers to the food stamp program in the Commonwealth of the Northern Mariana Islands.
- (t) “Official food list” means a list of items that may be purchased with nutrition assistance program coupons.
- (u) “Over issuance” means the amount by which nutrition assistance program coupons issued to a household exceeds the amount the household was eligible to receive.
- (v) “Project area” means the administrative unit for program operations. In the Commonwealth of the Northern Mariana Islands, it is the Commonwealth as a whole, which includes Saipan, Rota, Tinian and the Northern Islands.
- (w) “Authorized retailer” means
- (1) A retail establishment or recognized retail department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than fifty percent staple food items with at least ten percent in local foods for home preparation and consumption;
 - (2) A farmer’s or fish market, or local bakery; or
 - (3) A store specializing in the sale of eligible non-food items, such as, vegetable and fruit gardening and fishing supplies.
- (x) “Secretary” means the Secretary of the United States Department of Agriculture.
- (y) “Signature” means a person’s name or witnessed thumb mark indicating the person’s name on the document.
- (z) “State” means the government of the Commonwealth of the Northern Mariana Islands.
- (aa) “State agency” means the Department of Community and Cultural Affairs in the Commonwealth of the Northern Mariana Islands in general, which has the responsibility for the administration of the nutrition assistance program. However, state agency may also reflect the Division of Nutrition Assistance Program or any of the established units within the Division (such as: Certification Unit, Issuance and Accountability Unit, Retail and Redemption Unit, and Management Evaluation Unit) as delineated according to applicable sections, subsections, parts, etc., respectively, in this chapter.
- (bb) “Supplemental Security Income (SSI)” means the monthly benefit or allotment made under the authority of Title XVI of the Social Security Act, as amended, to the aged, blind, and

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the disabled.

(cc) “Supplemental Security Income (SSI) household” means that all members of the household receive Supplemental Security Income benefits.

(dd) “Thrifty food plan” means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty-four, a child six through eight, and a child nine through eleven years of age in the Commonwealth of the Northern Mariana Islands, determined in accordance with the Secretary’s calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsection (a) and readopted and republished this entire section.

Commission Comment: The Commission inserted commas after the words “machetes” and “land” in subsection (j)(4) and after the word “caught” in subsection (r) pursuant to 1 CMC § 3806(g). The Commission corrected “hose” to “hoses” in subsection (j)(4) pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of “Supplemental Security Income” in subsections (bb) and (cc) pursuant to 1 CMC § 3806(f).

Part 100 - Eligibility of Households

§ 55-30-101 Household Concept

(a) Eligibility for participation in the program shall be determined on a household basis. A household is defined as an individual or group of individuals in cohabitation and permanently residing in the Commonwealth of the Northern Mariana Islands who commonly purchase food and prepare meals for home consumption. Members of a household who are fifty-five years or older and their spouses, or disabled and receiving Supplemental Security Income shall be treated as separate case from the household if there is an adult member of the household. Additional interpretation of household concept is delineated under household requirement in § 55-30-245(f) below.

(b) Residents of institutions, roomers, and boarders shall not be considered household members. Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household shall not be considered household members.

(c) Disqualified and ineligible individuals and aliens. Ineligible individuals and individuals disqualified shall not be considered household members when determining household size. Their prorated income and resources shall be included in the household’s income and resources for determination of eligibility and level of benefits.

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Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 7 Com. Reg. 3970 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3943 (Aug. 15, 1985); Amdts Adopted 7 Com. Reg. 3380 (Feb. 15, 1985); Amdts Proposed 7 Com. Reg. 3372 (Jan. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The February 1985 amendments and the September 1985 amendments amended subsection (a).

The 2002 amendments included an asterisk indicating "Amendment 2-85" after subsection (a). The September 1985 amendments were labeled "Amendment No. 2-85." The commission removed the reference.

In subsection (a), the commission changed "is" to "are" and "on" to "in" to correct manifest errors. The Commission corrected the capitalization of "Supplemental Security Income" in subsection (a) pursuant to 1 CMC § 3806(f).

§ 55-30-105 Authorized Representative (AR)

(a) The nutrition assistance program may permit, on a case by case basis, in Rota, Tinian and Saipan, the use of authorized representatives designated by the adult head of household or its authorized representative and approved by the Certification Unit personnel to act on behalf of the household in making application and recertification for food stamps assistance at Certification Unit, in obtaining nutrition assistance program coupons at the issuance agent location, serving as liaison between the nutrition assistance program and the household. The state agency nutrition assistance program shall permit the use of authorized representatives for recipients residing in the Northern Islands.

(b) The following shall not be permitted to act as authorized representatives: nutrition assistance program personnel, issuance agent employees directly involved with the issuance of coupons, retailers that are authorized to accept nutrition assistance program coupons, and all elected officials (except for the Mayor of the Northern Islands), and individuals disqualified from the program. This restriction may be waived by the Certification Unit Supervisor on a case by case basis for good cause and in the interest of the program.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-110 Residency

A household must be living in the Commonwealth of the Northern Mariana Islands when it files an application form for participation in the program. Residency shall not mean domicile nor shall nutrition assistance program impose any duration in the residency requirement. However, people in the Commonwealth of the Northern Mariana Islands solely for vacation purposes shall not be considered residents. No individual may participate as a member of more than one household

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case in any month.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-115 Citizenship and Alien Status

(a) In terms of citizenship, as specified in Public Law 84-241 implementing the Covenant, or the alien eligibility requirements specified in provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193, and as amended by the Omnibus Consolidated Appropriations Act and the Balanced Budget Act of 1997, participants shall be verified to be one of the following:

- (1) A United States citizen;
- (2) A United States national;
- (3) One born in the Commonwealth of the Northern Mariana Islands who was a citizen of the Trust Territory of the Pacific Islands (TTPI) on November 3, 1986, and who lived in the Commonwealth of the Northern Mariana Islands or the United States or any of its territories or possessions on that date;
- (4) A citizen of the Trust Territory of the Pacific Islands on November 3, 1986, who lived continuously in the Commonwealth of the Northern Mariana Islands since at least November 3, 1981 and who, unless under age, is registered to vote in elections for the Commonwealth of the Northern Mariana Islands District Legislature or for any municipal election in the Commonwealth of the Northern Mariana Islands prior to January 1, 1975;
- (5) Those living in the Commonwealth of the Northern Mariana Islands on November 3, 1986, who, although not citizens of the Trust Territory of the Pacific Islands, lived continuously in the Commonwealth of the Northern Mariana Islands beginning prior to January 1, 1974;
- (6) One born in the Commonwealth of the Northern Mariana Islands on or after November 4, 1986;
- (7) One who, within six months after November 4, 1986, or within six months after reaching the age of eighteen years, whichever date was later, chose to become a United States national;
- (8) An alien who is lawfully residing in any state (as defined in 8 USC § 1101(a)(36)), and:
 - (i) Is a veteran (as defined in 38 USC §§ 101, 1101, or 1301, or as described in 38 USC § 107), who was discharged honorably (not on account of alienage) and fulfills the minimum active-duty service requirements of 38 USC § 5303A(d), or is on active duty (other than active duty for training) in the United States Armed Forces, or
 - (ii) Is the spouse or unmarried dependent child of an individual described in subsection (a)(8)(i) or the unremarried surviving spouse of an individual described in subsection (a)(8)(i) who is deceased (if the marriage fulfills the requirements of 38 USC § 1304);
- (9) An alien granted asylum under section 208 of the Immigration and Nationality Act;
- (10) A refugee who is admitted to the United States under section 207 of such Act;
- (11) Certain aliens whose deportation is being withheld under section 243(h) of the such Act;
- (12) Certain Cuban or Haitian entrants defined in section 501(e) of the Refugee Education Assistance Act of 1980;

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- (13) Certain aliens admitted to the United States as an Amerasian immigrants; or
- (14) An alien who entered the United States on or after August 22, 1996, provided five years have elapsed since the alien's entry and the alien entered and is currently classified as:
- (i) Lawfully admitted for permanent residence under the Immigration and Nationality Act,
 - (ii) Being paroled into the United States under section 212(d)(5) of such Act (8 USC § 1182(d)(5)) for at least one year,
 - (iii) Granted conditional entry pursuant to section 203(a)(7) of such Act (8 USC § 1153(a)(7)) as in effect prior to April 1, 1980, or
 - (iv) Certain battered aliens and certain children of a battered alien parent as specified under 8 USC § 1641(c) and all applicable guidance (including 62 FR 65285 December 11, 1997) ("Guidance on standards and methods for determining whether a substantial connection exists between battery or extreme cruelty and need for specific public benefits"); 62 FR 61344, 61366 (November 17, 1997) (Exhibit B to attachment 5 of "Interim guidance on verification of citizenship, qualified alien status and eligibility under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act"); and 63 FR 41662 (August 4, 1998) ("Verification of Eligibility for Public Benefits") (aliens may be eligible under clause (n) even if their status changed since entry so long as they are currently, and were at entry, within one of the four classifications).
- (b) No aliens other than those specified above shall be eligible to participate in the program as members of any household. Among those excluded are alien visitors, tourists, laborers, and diplomats who enter the Commonwealth of the Northern Mariana Islands temporarily with no intention of abandoning their residences in a foreign country. A Micronesian living in the Commonwealth of the Northern Mariana Islands who is not United States citizen or national under the Covenant is ineligible unless meeting one of the provisions of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act, as amended by the Balanced Budget Act of 1997.
- (c) An individual shall be presumed to be permanently residing in the Commonwealth of the Northern Mariana Islands under the color of law upon presentation of satisfactory proof that he/she is a spouse or legal unmarried child under the age of eighteen of an individual who falls under any of the definitions listed in subsection (a) immediately above.

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 20 Com. Reg. 15952 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15870 (Mar. 16, 1998) (effective Mar. 5, 1998); Amdts Emergency and Proposed 19 Com. Reg. 15741 (Nov. 15, 1997) (effective for 120 days from Nov. 5, 1997); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments deleted original subsection (d). See 5 Com. Reg. at 2028 (May 27, 1983). The 1985 amendments amended subsections (a)(4) and (c).

The 1998 amendments readopted and republished this entire section with extensive amendments. Subsection (c) was deleted and then reinstated by the 2002 amendments.

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The 2002 amendments included an asterisk indicating "Amendment 1-86" after subsection (c). The December 1985 amendments were labeled "Amendment No. 1-86." The commission removed the reference.

§ 55-30-120 Work Registration (WR) Requirements

(a) People Required to Register for Employment at the Division of Employment Services (DES), Department of Labor and Immigration (DOLI). On the first work registration requirement, the eligibility worker shall determine which household member(s) are required to register for employment at the time when the household files an application form. Each household member who is not exempt by subsection (b) of this section shall register for employment at the time of application and comply with labor requirements, and once every three months after initial registration should employment status remain unchanged. Upon reaching a determination that a member is required to register, the eligibility worker shall explain to the adult head of household or its authorized representative both the work registration requirements and the consequences of failure to comply. The eligibility worker shall process and provide the work registration referral form (WR-01) to the adult head of household or its authorized representative for each household member who is required to register for employment and comply with labor requirement. Household members are registered when a completed work registration referral form is submitted at the Division of Employment Services and other requirements from labor are satisfied and complied with. The eligibility worker shall forward the work registration referral forms filed from nutrition assistance program to Division of Employment Services. The second requirement of work registration is submittal of a copy of a recent employment application acknowledged receipt by a potential employer either on the registration month or previous month to the eligibility worker for nutrition assistance program record. The work registrant must comply with both work registration requirements within thirty days following the initial month of work registration or risk disqualification. Employment application should be updated every three months or another employment application from another employer may be accepted, if unemployment status remained unchanged. The Certification Unit Supervisor sends work registration referral forms to the Division of Employment Services every Tuesday and Thursday, then on every 15th and end of each month the Division of Employment Services provides the Certification Unit Supervisor a report to identify the work registrants that comply with this requirement versus those that failed to comply. Work registrants that failed to comply with this requirement without good cause, based on the response from Division of Employment Services, are automatically disqualified from participation in the nutrition assistance program.

(b) Exemptions from Work Registration. The following individuals are exempt from the work registration requirements:

- (1) A person younger than eighteen years of age or a person fifty-five years of age or older.
- (2) A person considered physically or mentally unfit for employment. If a mental or physical disability is not evident to the eligibility worker, verification may consist of a supplemental security income statement of temporary or permanent disability benefits from the United States Social Security Administration Office or of a certification or statement from a licensed physician or a certified psychologist, or receipts of temporary or permanent disability benefits issued by governmental or private sources (workman compensation, liability insurance benefits, etc.). The nutrition assistance program medical verification of disability form (205C) may be issued for the certified physician or a certified psychologist to justify disability of the household member.

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- (3) One parent or other adult household member who is responsible for the care of a dependent child under twelve or an adult caretaker of a disabled person or a senior citizen aged fifty-five or older.
 - (4) A person who is employed or self-employed and earning less than the equivalent of the minimum hourly wage times (x) thirty each week.
 - (5) A student enrolled full-time in high school or general educational development classes, college, continuing education, and technical and vocational trade's courses. A school certification of enrollment for all 17-year-old students or older should be provided for each school year or semester to substantiate student status. Substantial documentation or certification should be submitted for college, continuing education, and technical and vocational trade's students to justify full-time status.
 - (6) A government retiree aged fifty-five or older.
 - (7) The expecting mother into her sixth month pregnancy stage, or earlier in the pregnancy if complications occur as a result of the pregnancy. A certification from a certified physician must be provided for the record. The nutrition assistance program medical verification of disability form (205C) may be used to serve as medical certification for this purpose. In addition, this exemption shall be extended up to three months following childbirth delivery date. Should the household member require additional time due to unforeseen complications on her and/or the newborn, another medical certification should be provided for justification.
 - (8) The ineligible or disqualified member in the household.
- (c) Additional Work Registration Requirements. Work registrants shall also:
- (1) Report for an interview upon request by Division of Employment Services;
 - (2) Respond to a request from Division of Employment Services for supplemental information regarding employment status or availability for work or job search;
 - (3) Report to an employer when referred by Division of Employment Services if a potential employment meets the suitability requirements described in subsection (f) of this section.
 - (4) Accept a bona fide offer of suitable employment as defined in subsection (f) of this section to which he was referred by Division of Employment Services; and
 - (5) Continue suitable employment to which Division of Employment Services referred him. Household members shall continue such employment until it is no longer considered suitable in accordance with subsection (f) of this section, or until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirements as provided in subsection (b) above.
- (d) Failure to Comply. If the eligibility worker determines that a household member has refused or failed without good cause to comply with work registration requirements, that member shall be subject to disqualification for at least one month and not be counted as part of the household in determining the household's level of benefits based on household size. Upon receipt of the notification of the failure to comply from Division of Employment Services, the eligibility worker shall provide the household with a notice of adverse action by mail within ten working days and issue the reduced benefits to the household, if it is still eligible at the next scheduled authorization to participate issuance and there's at least one month remaining on the certification period. Certification Unit shall enforce collection efforts against households receiving benefits when not in compliance with the work registration requirements. Each household has a right to a hearing to contest a reduction or termination of benefits due to failure

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to comply with the work registration requirements. If a hearing is scheduled, the eligibility worker shall provide Division of Employment Services with sufficient advance notice to permit the attendance of a Division of Employment Services representative, if such attendance is necessary.

(e) **Ending Disqualification.** A member disqualified because of failure to comply with work registration ends the disqualification by becoming exempt from work registration, or eventually complying with other work registration requirements, such as, once the affected household member becomes gainfully employed and reports to the eligibility worker within ten days or upon the household member's request for another referral after the month of disqualification and subsequent compliance thereafter.

(f) **Unsuitable Employment.** Employment shall be considered unsuitable for the registrant if:

- (1) It pays lower than minimum wage;
- (2) The job will risk the registrant's health or safety;
- (3) It forces the registrant to join or refrain from joining a labor organization;
- (4) The commuting time or cost is unreasonable; or
- (5) The working hours or type of work interferes with religious beliefs.

(g) **Determining Good Cause.** In determining if good cause existed for failure to comply with any work registration requirement, the eligibility worker shall consider the facts and circumstances, including information submitted by Division of Employment Services, the household member involved, and the employer. Good cause shall include circumstances beyond the member's control, such as, illness in the immediate family or another household member requiring the presence of the member, or a household emergency. If the eligibility worker determines that there was good cause for failure to comply, the eligibility worker shall include that member in the household in determining the benefit level for that household. The eligibility worker shall ensure that members failing to comply for good cause are rescheduled to complete the work registration requirement with Division of Employment Services before the next monthly issuance. For example, member "A" fails for good cause to comply with work registration requirement with Division of Employment Services in February. Member "A" shall be included in household composition in determining household's benefits for March. The eligibility worker shall ensure member "A" is rescheduled to comply with work registration requirement with Division of Employment Services prior to issuance to monthly benefits in April.

(h) **Voluntary Quit.** No applicant household whose wage earners voluntarily quit their most recent job or reduce their regular or normal working hours, without good cause, thirty days prior to the date the application is received by the Certification Unit or thirty days subsequent thereto shall be eligible for participation in the nutrition assistance program for a period of three months beginning with the effective date of the notice of ineligibility. Employment termination due to, but not limited to, absenteeism, theft, grand larceny, gross misconduct, falsification of information, forgery, fraud, sexual harassment, assault and battery, gross negligence, discriminatory activity, possession of deadly weapon, insubordination, and under the influence of alcohol and/or controlled substance shall be considered voluntary quit. This rule shall not apply to wage earners who voluntarily quit to retire or to work at another job which employs subject

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wage-earner thirty hours a week or more and which pays at least the equivalent of the Commonwealth minimum hourly wage times thirty each week, or to wage earners who are exempt from the work registration requirement as provided in subsection (b) of this section.

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Amdts Adopted 7 Com. Reg. 3970 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3943 (Aug. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsection (b)(6). The September 1985 amendments and the December 1985 amendments amended subsection (h).

The 2000 amendments proposed to amend subsection (a). A notice of adoption was never published for the 2000 emergency and proposed amendments and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments included an asterisk indicating "Amendment 1-86" after subsection (h). The December 1985 amendments were labeled "Amendment No. 1-86." The commission removed the reference.

In subsection (a), the commission changed "registering" to "to register" and "every Tuesdays and Thursdays" to "every Tuesday and Thursday" to correct manifest errors. The Commission corrected the spelling of "licensed" in subsection (b)(2) pursuant to 1 CMC § 3806(g).

In subsection (g), the commission inserted the final period. In subsection (h), the commission changed "reduces" to "reduce" to correct a manifest error.

§55-30-125 Resource Eligibility Standards

(a) Resource Eligibility Standards. First, pure Supplemental Security Income households shall automatically be eligible regardless of their resources. Pure Supplemental Security Income household means that the Supplemental Security Income recipient is receiving the maximum Supplemental Security Income benefit allotted to an individual each month. For food stamp purpose, resources basically applies to only "accessible" or "readily negotiable" liquid assets at the banks (such as: savings, checking accounts, time certificate of deposits, savings bonds, and other negotiable instruments) and cash on hand. Further, the cash value of a life insurance policy shall be regarded as resources only upon receipt of the benefit to the beneficiary who is either the eligible or ineligible household member. The eligibility worker shall apply the following resources eligibility standards to all households except in the case of pure supplemental security income household as defined in this chapter at the time of application to determine household eligibility:

- | | |
|--|------------|
| (1) All households | \$2,000.00 |
| (2) Except two or more persons, one of whom is fifty-five years or older | \$3,000.00 |

(b) Excluded Resources. In determining the resources of a household, only cash on hand, money in checking or savings accounts, savings certificates, stocks and bonds, or "accessible" or "readily negotiable" instruments shall be counted, except that the following resources shall be excluded:

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- (1) The cash value of life insurance policies and pension funds as long as the funds remain in the pension plans.
 - (2) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended.
 - (3) Resources, such as, those of self-employed people, which have been prorated as income.
 - (4) Resources which are excluded by express provision of federal statute.
 - (5) Those resources owned jointly with others that are not accessible to the household or, if accessible, are not considered part of the pro-rata share attributed to the household.
- (c) Resources of Ineligible Aliens and Disqualified Members. Resources of ineligible aliens and individuals disqualified from participation in the nutrition assistance program, for whatever reason, shall continue to count on a prorated basis as resources available to the remaining household members when determining the household's eligibility for the program.
- (d) Transfer of Resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for nutrition assistance program benefits shall be disqualified from participation in the program for up to one year from the date of the discovery of the transfer.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 9 Com. Reg. 4904 (Feb. 17, 1987); Amdts Proposed 8 Com. Reg. 4831 (Dec. 16, 1986); Amdts Adopted 8 Com. Reg. 4166 (Jan. 17, 1986); Amdts Proposed 7 Com. Reg. 4163 (Dec. 17, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1986 amendments amended subsection (a)(2). The 1987 amendments amended subsection (a)(1). The Commission corrected the capitalization of "Supplemental Security Income" in subsection (a) pursuant to 1 CMC § 3806(g).

§ 55-30-130 Income Eligibility Standards

- (a) Income Eligibility Standards. Except as otherwise provided in this chapter participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.
- (1) The income eligibility standards shall be uniform for all participating households of the same size in the Commonwealth of the Northern Mariana Islands. Current standards are delineated in exhibit A.
 - (2) The income eligibility standards shall be adjusted each October 1, if necessary, to reflect changes in the cost of living in the Commonwealth of the Northern Mariana Islands.
- (b) Definition of Income. Household income shall mean all income from whatever source.
- (1) Earned income shall include all wages and salaries of an employee; the total gross income from a self-employment enterprise (payments from a roomer and returns on rental property shall be considered self-employment income); and, training allowance from vocational and rehabilitative programs recognized by the federal and the Commonwealth governments.

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(2) Unearned income shall include, but not be limited to, assistance payment from public assistance programs; annuities; pensions; retirement, veteran's or disability benefits; old-age, survivor's or Social Security benefits; support or alimony payments; child-support payments; dividends, interests or royalties; monetary contributions; gambling winnings; lottery winnings; and, the income of an ineligible or disqualified household member from participation in the nutrition assistance program less the pro-rata share for the disqualified member. Relevant and supporting documentation, such as, notarized sworn affidavit declaring the biological father(s)/mother(s) and the child-support status for the minor child(ren), notarized sworn affidavit declaring provider(s) responsible for the basic needs for the zero income household or family, including average monthly monetary contribution, if applicable, must be submitted for inclusion. If the household is receiving social security benefits and/or supplemental security income, child-support payments, etc., and is considered the source for basic needs (such as: housing, auto transportation, utility and laundry expenses, etc.) then the household may instead furnish a notarized sworn affidavit declaring as such. Said affidavit must be signed under penalty of perjury.

(c) Income Exclusions. Income does not include the following items:

(1) Any gain or benefit which is not in the form of money payable directly to the household, including;

(i) In kind income. Non-monetary or in-kind benefits, such as, meals, clothing, household items, public housing, or produce from a garden.

(ii) Vendor payments. A payment made by a non-household member in money on behalf of a household directly to a third party shall be considered a vendor payment. This shall in no way be regarded as household income.

(2) Education or college grants, scholarships, loans, or deferred repayments of education loans.

(3) Reimbursements for past or future expenses to the extent they do not exceed actual expenses. For example, reimbursements for job or training related expenses, such as, travel and uniforms.

(4) Money received and used for care and maintenance of a third party beneficiary who is not a household member.

(5) Money received in the form of a non-recurring lump sum payment shall be counted as a resources in the month received unless specifically excluded from consideration as resources by other federal law.

(6) Any income that is specifically excluded by any other federal statute from consideration as income. For instance, the Administrative Notice 94-41, re. 94-41 Income and Resources Excluded by Other Federal Laws (Federal Emergency Management Agency, Title IV, Title V, Child-Care Program Payment, etc.).

(7) Cost of producing self-employment income. An amount equal to any monthly expense which the household can document as having been incurred to produce the self-employment income.

(8) Income earned by a household member who is a full-time student in high school or enrolled in general educational development classes from adult basic education and who has not attained his/her eighteenth birthday; and, nineteenth birthday for said household member engaged in the workforce investment agency (WIA), formerly the job training partnership act (JTPA), employment.

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(9) Assistance received from a governmental source that is earmarked for use as payments for utilities, for instance, Low Income Home Energy Assistance Program (LIHEAP) [NMIAC, title 55, chapter 20].

(10) All loans, including loans from private individuals.

(d) Income Deduction. Households with earned income shall be allowed a deduction of ten-percent of their earned income.

(e) Procedures for Determining Income Eligibility. The application form shall list all income received by the household in the calendar month preceding the date of application form and the eligibility worker must document any anticipated changes in income during the period of certification. The eligibility worker from the application form shall determine income eligibility.

(1) Monthly-reported income includes all income received in the report month except for self-employment income or contract income which is received on an established schedule. Households receiving self-employment income or contract income on other than a monthly basis shall have such income averaged over the number of months the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than the 12-month period. Adjustments to reported averaged income shall not result in payment of retroactive benefits but shall be the basis for recoupment of over issuance, if over issuance have occurred.

(2) To calculate income eligibility the state agency Certification Unit shall:

(i) Determine the monthly-reported income for the report month from the application to obtain the average gross monthly-reported income.

(ii) Determine the incomes from self-employment or contract then divide by the number of months the income should cover to obtain the average gross monthly income.

(iii) Obtain the average gross monthly income from the three most current earnings or check stubs, or the gross averaged income for the report month.

(iv) The total gross averaged income for the report month shall be compared to the income eligibility standards for the appropriate household size to determine the household's eligibility and level of benefit.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsections (c)(8) and (c)(9). The Commission corrected the capitalization of "Social Security" in subsection (b)(2) pursuant to 1 CMC § 3806(g).

§ 55-30-135 Voluntary Changes in Household Circumstances

(a) An applicant household which changes its household circumstances as described in the application form for the purpose of rendering it eligible in a subsequent application form submitted within thirty days following a state agency Certification Unit determination of ineligibility shall be penalized as follows:

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- (1) If new or reopen case, disqualification from participation in the program for one month beginning with the date of the notice of ineligibility.
 - (2) If recertification case, disqualification from participation in the program for three months begins with the date of the notice of ineligibility.
- (b) The changes in household circumstances which shall be construed as deliberate acts calculated to circumvent the initial determination of the household's ineligibility shall include but are not limited to:
- (1) Departure or removal of working members from the household in order to meet the income eligibility standards.
 - (2) Inclusion of grandchildren or other relatives in the household in order to meet the income eligibility standards.
 - (3) Transfer or conversion of liquid resources in order to meet the resources eligibility standards.
- (c) Application forms submitted after thirty days of the date of the notice of ineligibility shall be processed as any other new application form.
- (d) When households are disqualified from participation in the program as a result of this provision, the Certification Unit official shall indicate on the written notice, which is the notice of disposition (211C), the inclusive dates of the period of disqualification. The notice of disqualification shall be prepared and sent to the household the same day the subsequent application form submitted within thirty days following a Certification Unit determination of ineligibility is received by the eligibility worker.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 7 Com. Reg. 3380 (Feb. 15, 1985); Amdts Proposed 7 Com. Reg. 3372 (Jan. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) through (d).

The 1985 amendments readopted and republished this entire section.

The 2002 amendments included an asterisk indicating "Amendment 1-85" after subsections (a)(1), (a)(2) and (b)(1) through (b)(3). The February 1985 amendments were labeled "Amendment No. 1-85." The commission removed the reference.

Part 200 - Certification of Household

§ 55-30-201 Application Process

- (a) General Purpose. The application process includes completing, signing, and filing an application for nutrition assistance form (201C), being interviewed, submission of required documents, and having certain information verified if necessary.

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(b) Nutrition Assistance Program Application Form. Only a state agency nutrition assistance program approved application form may be used, which shall include all of the household members' names (including ineligible and disqualified members listed and highlighted following the names of eligible household members, for proper prorating income and record purposes, etc.), birth dates, Social Security numbers, and the disqualification penalties for willful misrepresentation in clear, prominent, boldface lettering, etc.

(c) Filing an Application Form. The adult head of household or its authorized representative shall file an application form for participation in the program by submitting the form to a Certification Unit official or a designated nutrition assistance program official. The Certification Unit official shall document the date an application form is received with required documents as applicable and process the application form no later than thirty days. The adult head of household or its authorized representative may file an incomplete application form as long as the application form contains (at the least) the head of household's name, address and telephone contact number and is signed by either the adult head of household or its authorized representative, or with certain pending required documentation. Subject application form shall be on pending status for no later than thirty days or until required information or documentation is made available to Certification Unit. At which time, Certification Unit shall take appropriate action in the determination of the household's eligibility or ineligibility. The Certification Unit official shall ensure that the adult head of household or its authorized representative understands each section of the application form before signing, particularly those sections dealing with reporting changes within ten days, willful misrepresentation, and penalties for violations.

(d) Birth Certificate. Certified copies of birth certificate (BC), either from the court or any church or religious institution must be provided for each household member (eligible and ineligible). As an alternate document, a copy of birth and baptismal certificate, certificate of identity, or passport may be accepted.

(e) Social Security Number. Each member of the household (eligible and ineligible) must have a copy of a United States Social Security number (SSN) card. As an alternate document, only an official document from the Social Security Administration Office may be accepted. Additionally, for a new applicant on Social Security number card, the recipient for application form bearing the new applicant's name from Social Security Administration may be accepted and the subject shall be included in the program right away; however, within thirty days following submission of the latter a copy of the actual Social Security number card must be filed at Certification Unit or the affected individual will risk disqualification. Disqualification may be waived for good cause.

(f) Notarized Sworn Affidavit.

(1) A household with no one gainfully employed is required to provide a notarized sworn affidavit from the provider(s) declaring they are responsible for the household's basic needs, for instance, housing, auto transportation, utility and laundry expenses, monetary contribution, etc., as applicable. Otherwise, if the household is routinely receiving on a continual monthly basis any type of unearned income, such as, Social Security benefits, Supplemental Security Income, child-support payment, etc., that is less likely to fluctuate in the months ahead, the household

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may declare on a notarized sworn affidavit that his/her or the family's basic needs are generally derived from such income. Said affidavit must be signed under penalty of perjury.

(2) A single parent with at least one minor dependent under eighteen years of age should submit a notarized sworn affidavit declaring the biological father or mother of the child and the current child-support status. Said affidavit must be signed under penalty of perjury. As an alternative, a copy of court order document or divorce decree, as applicable, certified by the clerk of court may be accepted for this purpose if the child-support matter is declared.

(3) A household claiming lack of child-support payment rightfully due, as opposed to a court order document or divorce decree certified by the clerk of court declaring that a named defendant is obligated to provide a disclosed amount in child-support in regular intervals (per biweekly, pay period, monthly, etc.), should furnish a notarized sworn affidavit declaring lack of compensation in order for Certification Unit to waive anticipated income ordered by the court momentarily. Said affidavit must be signed under penalty of perjury.

(4) A legally married household member separated from the spouse and claiming a minor dependent(s) should submit a notarized sworn affidavit declaring the separation and the present child-support status as applicable. Said affidavit must be signed under penalty of perjury.

(g) **Marital Status.** A legally married member or couple in the household must provide a copy of marriage certificate, marriage license, marriage contract, or certificate of matrimony.

(h) **Divorce Decree.** A legally divorced member or couple in the household should submit a copy of the divorce decree, especially if the household member is claiming a minor dependent(s) born from prior marriage.

(i) **Death Certificate.** A copy of death certificate should be provided for a deceased immediate family member in the household. At state agency nutrition assistance program discretion, this may be waived upon determination that it is not relevant. This will be on a case by case basis. Additionally, a copy of the funeral announcement reflecting the latter from the locally published newspaper or other newspaper publication may be accepted as alternate document.

(j) **Northern Marianas Housing Corporation (NMHC) Record.** A household occupying or residing at a housing unit from the Northern Marianas Housing Corporation or under the voucher program from Northern Marianas Housing Corporation must submit a copy of the lease contract agreement or other acceptable alternate housing record.

(k) **Labor and Immigration Documents.**

(1) A non-resident contract worker whose dependent child(ren) is in the program should submit the valid labor and immigration documents, such as, entry permit, foreign passport, employment contract, immigration identification card, labor case copy, temporary work authorization, administrative order from labor, etc., as applicable. If a certain document is under process at Labor or Immigration at the time of application, an official receipt may be temporarily accepted in lieu of the required document, as long as check stubs or employer certification to account for the three latest earnings is submitted and prorated for the determination of eligibility and level of benefit.

(2) A legal alien lawfully married with a United States citizen should provide a copy of the

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foreign passport and entry permit or green card, as applicable.

(l) Household Cooperation. To determine eligibility, the nutrition assistance program application form must be completed and properly signed, the adult head of household or its designated authorized representative must be interviewed, and certain information on the application form must be verified whenever it warrants necessary. If the interviewee refuses to cooperate with the Certification Unit official in completing this process, without good cause, the application form shall be denied for the month the household is applying for.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 7 Com. Reg. 3380 (Feb. 15, 1985); Amdts Proposed 7 Com. Reg. 3372 (Jan. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1985 amendments added a new subsection (d) (now subsection (e)) and redesignated the existing subsection (d) (now subsection (l), entitled "household cooperation").

The 2000 amendments proposed to amend subsections (d) and (e). A notice of adoption for the 2000 emergency and proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments added new subsections (d) and (f) through (k), redesignated and amended subsection (e), and redesignated and amended subsection (l). The 2002 amendments included an asterisk indicating "Amendment 1-85" after subsection (e). The February 1985 amendments were labeled "Amendment No. 1-85." The commission removed the reference.

In subsection (d), the commission changed "of" to "or" to correct a manifest error. The Commission corrected the capitalization of "Social Security" in subsections (b), (e), and (f)(1), and the capitalization of "Supplemental Security Income" in subsection (f)(1), pursuant to 1 CMC § 3806(f). The Commission inserted a comma after the word "contract" in subsection (g) pursuant to 1 CMC § 3806(g).

§ 55-30-205 Interviews

(a) An applicant household is required to attend in full session a mass orientation conducted by a nutrition assistance program official before being scheduled for the formal interview at Certification Unit; however, those that received their food stamp benefits, or, have previously attended an orientation, two months or less prior to application for eligibility shall not be obligated to attend another orientation. They should check with the Certification Unit Supervisor to schedule them for the formal interview. A mass orientation is conducted by a nutrition assistance program official in order to explain about critical program requirements, regulations, policies, and standard procedures, and is scheduled twice weekly, once in English version and the other in the local vernacular Chamorro version, at the Saipan main office. Following each orientation those in attendance are then prepared and scheduled for interview approximately two or more days thereafter. Subsequently, the adult head of household or its authorized representative shall have an interview with an eligibility worker prior to certification. Additional interviews may be required periodically by the Certification Unit to discuss household circumstances and program rights and responsibilities. When a face-to-face interview is not

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possible for residents of the islands north of Saipan because of transportation difficulties, or if the applicant objects to radio phone interview for reasons of privacy, the interview can be conducted by correspondence transmitted by an authorized representative. Additionally, one each semi-annual mass orientation is conducted by nutrition assistance program personnel in Tinian and Rota to properly educate active clients and potential applicants what the program is all about. However, at state agency nutrition assistance program discretion, nutrition assistance program personnel may conduct orientations for those island centers whenever it warrants necessary.

(b) The Program Administrator may postpone the interview for persons residing on the islands north of Saipan until after the household is certified if the household appears to be eligible.

(c) At program administrator's discretion, an adult head of household or its authorized representative may be interviewed in the home.

(d) On behalf of a household, the individual subject for interview may be the adult head of household or its authorized representative. The Certification Unit official shall explore and resolve unclear or incomplete information with the adult head of household or its authorized representative. The adult head of household or its authorized representative shall be advised of their rights, responsibilities, such as, reporting potential changes in household circumstances within ten days, and penalties for violations before the interview is concluded. Nutrition assistance program facilities shall be adequate to preserve the privacy and confidentiality of the formal interview.

(e) The nutrition assistance program authorization for release of information form, or waiver form, shall be signed by the adult head of household or its authorized representative if the head of household is a minor or disabled at the time of initial application for participation or subsequently thereafter; and, subject document shall remain in effect indefinitely, even if the subject case becomes inactive. The document may be used to officially obtain and verify information being reported to the program from appropriate agencies and institutions, etc.

Modified, 1 CMC §3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 2000 amendments proposed to amend subsection (d). A notice of adoption for the 2000 emergency and proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments added new subsection (e) and readopted and republished the entire section.

§ 55-30-210 Verification

Verification is the use of documentation, third party information, collateral contacts, or home visits, to establish the accuracy of statements on the application form in order to determine the

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eligibility or ineligibility of the household.

(a) Mandatory Verification.

(1) Average gross monthly income and resources shall be verified for all households prior to certification, except where all attempts to verify average gross monthly income and resources have been unsuccessful either because the person or organization responsible for the required information has failed to cooperate with the household and the Certification Unit or because other sources of verification are unavailable. In such cases, the certification unit personnel shall determine the average gross monthly income and resources amounts to be used for certification purposes based on the best available information.

(2) Household composition and citizenship status shall also be verified prior to certification of the household by requiring the household to submit birth certificate copies for each household member; notarized or court sealed affidavit of customary marriage; marriage certificate; 1040CM tax form; school records; notarized sworn affidavit or court sealed guardianship and custodial documents; valid labor and immigration documents; passport; certificate of naturalization; current Commonwealth of the Northern Mariana Islands voter registration card; certificate of identity; and, Northern Marianas Housing Corporation records, etc., at state agency nutrition assistance program discretion upon request and whenever it warrants necessary.

(3) Social Security numbers shall also be verified prior to certification of the household. At initial certification, the applicant shall be required to provide copies of Social Security number cards or acceptable alternate documentation from the Social Security Administration Office that would verify the Social Security number of each household member. Members added to the household during subsequent recertification shall be required to present copies of Social Security cards or acceptable alternate documentation from the Social Security Administration Office to verify their social security number.

(4) A minor who is not the biological or legally adopted child of a particular household shall be required a power of attorney or legal guardianship or custodial document from the biological/adoptive parent(s) or placement agreement from a recognized child welfare agency or entity in order to be included for determination of eligibility and level of benefit. At state agency nutrition assistance program discretion, applicable most recent 1040CM tax form filed at the Division of Revenue and Taxation may be required and/or school certification.

(b) Verification of Questionable Information. Eligibility criteria other than income, resources, household size, and citizenship status shall be verified prior to certification only if they are questionable. To be considered questionable, the information on the application form must be inconsistent with statements by the applicants or inconsistent with other information received by the state agency Certification Unit.

(c) Responsibility for Obtaining Verification. The adult head of household has primary responsibility for providing documentary evidence or an acceptable collateral contact to support its income statements and to resolve any questionable information. However, the eligibility worker may accept any reasonable evidence provided by the adult head of household and shall be primarily concerned with how adequate the verification proves the statements on the application form.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 7 Com. Reg. 3380 (Feb. 15, 1985); Amdts Proposed 7 Com. Reg. 3372 (Jan. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1985 amendments added new subsection (a)(3).

The 2000 amendments proposed to amend subsections (a)(2) and (a)(4). A notice of adoption for the 2000 emergency and proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments included an asterisk indicating "Amendment 1-85" after subsection (a)(3). The February 1985 amendments were labeled "Amendment No. 1-85." The commission removed the reference. The Commission corrected the capitalization of "Social Security" in subsection (a)(3) pursuant to 1 CMC § 3806(f).

§ 55-30-215 Documentation

Case files must be documented to support a determination of eligibility, withdrawal, termination, or denial. Documentation shall be in sufficient detail to permit a reviewer, such as the Certification Unit Supervisor, Management Evaluation Unit official, or other nutrition assistance program personnel, to determine the reasonableness and accuracy of the determination. With regards to Tinian and Rota cases, documented entries may be accepted behind subject application forms utilized during the interview process, or, other forms of documentation made on separate documents as to what transpired during the subject interviews with respective cases. The Certification Unit official shall make constant entries, as may deemed necessary, on the contact sheet in the case file to document communications on behalf of the household, whether by phone, correspondence, or face contact. Moreover, the Certification Unit official shall reference on pertinent documents submitted by the household for nutrition assistance program records, at a minimum, the case number, eligibility worker, date of receipt, and his/her acknowledged signature. Subsequently, the Certification Unit official shall properly file in appropriate case files or other nutrition assistance program record such documentary evidence accordingly.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-220 Application Processing (APP) Standards

(a) The Certification Unit personnel shall process all application forms so that eligibility is determined and appropriate benefits provided within thirty days following receipt of a signed application form. An application form is filed the day the Certification Unit official receives an application form which contains the head of household's name and address and which is signed by either the adult head of household or its authorized representative, at the least. Each application form processed by each eligibility worker shall be reviewed thoroughly by the Certification Unit Supervisor to ensure that, at the least, it is completed properly and signed,

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required documents are obtained, income is computed accordingly and accurately, and the benefit computation is correct.

(b) Expedited Service. The Program Administrator may at its discretion make provisions to expedite service to households in extreme need. However, mandatory verification and procedures shall not be waived in order to provide expedited service.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-225 Authorized Representatives (ARs)

Once an application form is filed, the Certification Unit official shall determine from the household's circumstances whether to allow an authorized representative for the household. The Certification Unit Supervisor shall allow authorized representatives for households not residing on Rota, Tinian, or Saipan. Households residing on Rota, Tinian, and Saipan may be allowed use of an authorized representative if the Certification Unit Supervisor determines that the use of an authorized representative is necessary to provide the household with an opportunity to participate in the program. If the household is allowed an authorized representative, the representative can act for the household in one or all of the following capacities:

(a) Representing the Household in Certification Interviews with the Certification Unit Official. Adults who are household and non-household members may be designated as authorized representatives if they are sufficiently aware of the relevant household circumstances. Certified authorized representatives may be allowed to perform initial interview and periodic recertification at Certification Unit on behalf of the household.

(b) Acting as Liaison between State Agency Nutrition Assistance Program and the Household. An authorized representative shall transmit documents concerning household participation to the household and to the state agency nutrition assistance program.

(c) Obtaining Food Stamps or Nutrition Assistance Program Coupons. An authorized representative of the household may be designated to obtain food stamp coupons from the issuance agent. Designation shall be made at the time the application form is completed and certified approved. State agency nutrition assistance program may issue food stamp coupons to either the adult head of household or its authorized representative in accordance with the issuance provisions of this chapter.

(d) Using Food Stamps or Nutrition Assistance Program Coupons. An authorized representative may be designated to conduct transactions with the food stamp coupons to purchase eligible items from authorized retailers for a participating household.

Modified, 1 CMC § 3806(d), (e), (f).

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History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The Commission inserted a comma after the word “Tinian” pursuant to 1 CMC § 3806(g).

§ 55-30-230 Certification Periods

(a) **Certification Periods.** The state agency Certification Unit shall establish one month periods of eligibility conforming to calendar months. A household is considered to be participating each month, after initial eligibility is established, if it utilizes its authorization to participate card to obtain food stamp coupons for that month. Applications which are received by the tenth of the month and no later than the twentieth of the month shall still be considered for participation during the month. However, with the exception of ongoing active cases, such applicants determined eligible shall be issued only half-a-month's allotment. Applications received after the twentieth of the month shall not be considered for participation during that month unless it is an extreme case of emergency. In such an emergency, applicants determined eligible shall be issued only half-a-month's allotment. Emergency issuance after the twentieth of the month shall require the written approval of the program Administrator and the written approval of the Department of Community and Cultural Affairs Secretary.

(b) **Initial Certification.** The certification period shall be based on the predictability of the household's circumstances, but it shall not exceed three months for all households except for households consisting entirely of elderly persons (55 or older), permanently disabled, and/or minors under the age of eighteen, which may be certified up to six months, or even one year, provided that required documents are submitted accordingly. Only Supplemental Security Income cases shall be certified longer than three months at state agency nutrition assistance program discretion. A 3-month certification period shall be granted to households where there is at least one member gainfully employed. Households which cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status may be certified for as short a certification period as one month. (Examples: part-time or commission employees, day laborers, etc., if income is uncertain and subject to large fluctuations during the work season due to the uncertainty of continuous employment, bad weather and other circumstances, and occasional sale of local fish and farm produce, etc.). Zero income households, or households with no wage earners, shall be certified initially for no longer than one month. However, if the only source of income is social security benefit, child-support payment, or monetary contribution, etc., and it remains consistent in consecutive months, the certification period may be extended to two months. Zero income household questionnaire (ZIQ) shall be processed by the eligibility worker to determine the providers responsible for the household's basic needs; and, it should be updated every six months thereafter for as long as the zero income status remains unchanged. Certification Unit shall designate a separate filing system for all zero income household cases for easy identification and monitoring of expiration dates. The Certification Unit Supervisor shall be responsible in ensuring that the timely processing of zero income household questionnaires and compliance with this procedure are performed accordingly by the eligibility workers. Once eligibility and level of benefits are determined, the Certification Unit shall prepare and process a

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notice of disposition (NOD) form and transmit it to the Issuance and Accountability Unit where the authorization to participate card shall be prepared for issuance during the first five working days of the month following the month of application, or as otherwise provided in this chapter.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1985 amendments amended subsection (a).

The 2000 amendments proposed to amend subsection (b). A notice of adoption was never published for the 2000 emergency and proposed amendments and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments included an asterisk indicating "Amendment 1-86" after subsection (a). The December 1985 amendments were labeled "Amendment No. 1-86." The commission removed the reference. The Commission corrected the capitalization of "Supplemental Security Income" in subsection (b) pursuant to 1 CMC § 3806(f).

§ 55-30-235 Certification Notices

(a) Notice of Eligibility. If determined eligible the household shall be provided a written notice of eligibility, or notice of disposition, from Certification Unit Office within the 30-day processing time. The notice of disposition shall inform the household of the initial allotment and the next scheduled date and time of the appointment for recertification at Certification Unit, at the least. The adult head of household or its authorized representative shall be provided with its food stamp or nutrition assistance program identification card at the same time it receives the initial notice of eligibility. The notice of disposition shall be provided to households to reflect any positive action by the Certification Unit official on a change in the household's circumstances during a certification period if there is at least one month remaining in the household's current certification period. The eligibility worker shall indicate on the notice the remaining period of certification, and the new household size and benefits, as appropriate. With regards to pending cases, these cases are centralized in a designated filing system at Certification Unit and are properly labeled by dates and monitored on a daily basis by respective eligibility workers and the Unit Supervisor. All pending cases must be constantly followed up to determine the status and take appropriate action prior to the expiration of or on the final day of the 30-day application processing period. After this period, the case file without action shall be deleted from the program immediately and processed withdrawal.

(b) Notice of Denial. If the application is denied, the eligibility worker shall provide the household with written notice of denial, via the notice of disposition, by mail or at the Certification Unit Office within the processing time. This notice of disposition shall explain the basis for denial, the adult head of household or authorized representative's right to request an agency conference or a fair hearing, and the name, telephone number and address of the person to contact for additional information.

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(c) Notice of Adverse Action (214C). A notice of adverse action shall be provided to the household any time the household's benefits are reduced or terminated and there is still at least one month remaining in the household's current certification period.

(1)(i) The Certification Unit shall provide the adult head of household or its authorized representative a notice of adverse action by mail within ten days of the date of discovery of a household circumstance which requires the household's benefits to be reduced or terminated. Examples of a change in household circumstance which could result in reduction or termination of benefits are:

(A) Increase in household income.

(B) Acquisition of liquid resource which exceeds nutrition assistance program allowable limits.

(C) Reduction in household size because of a household member's departure, death, or disqualification for fraud or failure to meet work registration requirements.

(ii) In such instances the state agency nutrition assistance program shall allow the adult head of household or its authorized representative at least ten days from the date of the notice until the effective date of the reduction or termination of benefits, to request an agency conference or a fair hearing if the adult head of household or its authorized representative disagrees with the adverse action. Upon receipt of a request for an agency conference or fair hearing from the affected household within the 10-day notice period, the state agency nutrition assistance program shall defer any adverse action until the agency conference or fair hearing is concluded and a decision is reached and rendered by the hearing officer. If no request is received from the affected household within the 10-day notice period, then the state agency nutrition assistance program shall effect the adverse action as scheduled even if a fair hearing request is subsequently received before the effective date of the adverse action.

(2) If a household's benefits must be reduced or terminated within the certification period because one of its members is or is being disqualified pursuant to the provisions of this chapter, the eligibility worker shall issue a notice of adverse action which informs the household that either the entire household or one or more of its members are being disqualified, the reason for the disqualification, and the eligibility and benefit level of the remaining members if only a member is disqualified.

(3) As a clarification, the following illustration may be helpful:

(i) Household "A" is certified from July 1 through September 30.

(ii) Household "A" either reports a change or the Certification Unit official discovers a household circumstance on August 15, which requires a reduction or termination of benefits.

(iii) The Certification Unit official must act on the reported or discovered change no later than August 25.

(iv) If Certification Unit official provides the household a notice of adverse action by August 21, benefits shall be reduced or terminated (as appropriate) on September 1, unless household "A" requests an agency conference or fair hearing which could not be scheduled before September 1.

(v) If Certification Unit official does not send a notice of adverse action by August 21, benefits may not be reduced or terminated for household "A" in September because adequate ten day notice cannot be sent to household "A" prior to the effective date of the adverse action, September 1.

(vi) If the Certification Unit official sends a notice of adverse action on August 16, household "A" has until August 26 to request an agency conference or fair hearing.

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(vii) If the agency conference or fair hearing request is not received by August 26, the adverse action takes effect on September 1, even if a request for agency conference or fair hearing is subsequently received prior to September 1.

(d) Other Written Adverse Notices.

(1) Notice of Claim Against the Household. A written notice of claim, which is the initial repayment notice (218C), shall be sent via certified mail with return receipt to the household at least ten days before the effective date of the collection action. At a minimum, the notice shall indicate the total amount of over issuance charge being discovered and an explanation of the over issuance charge (such as: fraud determination, non-compliance with work registration requirements, failure to report increases in income or reductions in household size, duplicate participation, etc.) including the Issuance and Accountability Unit Supervisor's signature.

(2) Notice of Disqualification. A written notice, which is the notice of disposition, shall be provided to the affected household at least ten days before the effective date of disqualification. At a minimum, the notice shall indicate the period of disqualification of the household from participation in the nutrition assistance program (minimum: three months, maximum: one year); the reason for the disqualification such as, administrative determination of fraud, voluntary quit or reduction of work hours, or transfer of resources in order to qualify for the program; and, a citation of any pertinent section of this chapter.

(e) Nutrition Assistance Program Newsletter and Issuance Schedule.

(1) Each month a new edition of the nutrition assistance program newsletter is issued to each household on issuance week, which is the first five working days of the month, or on another day otherwise specified (during over the counter issuance) when the benefit is picked up; also, the last batch over the counter issuance for the month shall be issued on the twenty-first of the month or on the next work day if it falls on a weekend or legal holiday. The publication contains valuable nutritional information and health tips, including announcements of vital interest to the household regarding the program.

(2) The newsletter also lists the issuance schedule for the succeeding month based on the alphabetical order of the head of household's last name. The schedules of distribution of benefits on issuance week are in the order of A-C, D-L, M-R, S-Y, and open day. Open day, which is on the fifth day, is generally reserved for those households that failed to pick up their benefits on their regular schedule during issuance week.

(f) Distribution of Tinian and Rota Benefits on Saipan. Tinian and Rota households that wish to pick up their benefits on Saipan must submit or fax in writing their request at least five working days prior to the scheduled monthly off-island trips. The adult head of household or its authorized representative must sign the request. At program administrator's discretion, requests under extenuating circumstances may be taken into serious consideration and approved on a case by case basis.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983);

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Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs of subsection (c)(1) were not designated. The commission designated subsections (c)(1)(i) and (c)(1)(ii).

The 1984 amendments added new subsection (d).

The first and second 2000 amendments proposed to amend subsection (a). Notices of adoption for the 2000 emergency and proposed amendments were never published and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments added new subsections (e) and (f) and readopted and republished this entire section. The Commission corrected the capitalization of “administrator” in subsection (f) pursuant to 1 CMC § 3806(f).

§ 55-30-240 Re-certification

At the expiration of each certification period, entitlement to nutrition assistance program benefits ends. The household is officially notified from the notice of disposition processed after each recertification is completed the next appointment date and time is required to re-certify at Certification Unit for the next certification period. Further eligibility shall be established only upon recertification based upon a newly completed and signed application form, an interview, and verification as required herein. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. At recertification, the eligibility worker shall verify changes in income, resources, and other household circumstances. All other changes reported at the time of recertification shall be subject to the same verification procedures used at the initial certification.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: A notice of adoption for the 2000 emergency and proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes. The Commission inserted a comma after the word “resources” pursuant to 1 CMC § 3806(g).

§ 55-30-245 Determining Household Eligibility and Benefit Level

(a) Month of Application.

(1) The eligibility and level of benefits for most households submitting an initial application form shall be based on circumstances for the entire calendar month in which the adult head of household or its authorized representative filed its application form. A household’s eligibility and benefit level shall be determined for the month of application by considering the household’s circumstances for the entire month.

(2) Eligibility and the level of benefits for re-certifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application form for recertification is not received until

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after the current certification period has expired, the month of application shall be the month in which the application form was filed, as for any initial application.

(3) Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household shall be entitled to benefits for the month of application even if the processing of its application form results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. To establish eligibility for the subsequent month, the adult head of household or its authorized representative must file a new application form upon expiration of the 30-day application processing period.

(b) **Determining Resources.** The household's resources at the time the application form is filed shall be used to determine the household's eligibility.

(c) **Determining Income.**

(1) **Anticipating Income.** For the purpose of determining the household's eligibility and level of benefits, the state agency Certification Unit shall take into account the averaged gross monthly income already received by the household during the certification period and any anticipated income the household and the Certification Unit official are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, the Certification Unit official shall not count that portion of the household's income that is uncertain. For example, job or recently applied-for public assistance benefits may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the Certification Unit official unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the Certification Unit official may elect to average the income.

(2) Income received during the past thirty days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the Certification Unit official shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the Certification Unit official and the household may use a longer prior period (at least two months but preferably three months) if it will provide a more accurate indication of anticipated fluctuations in future income. In such cases, the Certification Unit official shall use pay documents (pay stubs, check stubs, pay slips), or nutrition assistance program employer statement of earnings (ESE) to be completed by the employer, which indicate the actual income to the household from the three most recent pay periods prior to the household's application or recertification. The Certification Unit official shall average the actual gross amounts indicated on the pay documents and convert the averaged amount to a monthly gross income figure (if the pay periods documented are more frequent than monthly, i.e., weekly or biweekly). Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last thirty days, as one indicator of anticipated income. The Certification Unit official shall exercise particular caution in using income from a past season as an indicator of income for the certification period.

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In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the Certification Unit official automatically attribute to the household the amounts of any past income. Earnings with less than sixty hours per pay period, with or without overtime, shall be converted to the standard eighty hours base salary, unless, a valid justification is submitted (such as: an employer or doctor's certification attesting to the reduction in hours or a sick/death in the immediate family, respectively, that contributed to the shortage in payroll; a copy of death certificate should be provided for a household member that passed away). This also applies to refusal to work overtime without good cause. Income of ineligible Micronesians shall be prorated as is, and earned income of a person aged fifty-five and older and a legal alien lawfully married with a United States citizen shall be taken into account as is too. However, for the non-resident contract worker claiming lack of compensation for whatever reason, unless there is an official document from the Division of Labor (Department of Labor and Immigration) to substantiate, the salary indicated on the valid employment contract shall be honored and prorated for determination of eligibility and level of benefit.

(3) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the Certification Unit official shall convert the income to a monthly gross income by multiplying weekly gross amounts by 4.33 and biweekly gross amounts by 2.15, or use the exact gross monthly figure if it can be anticipated for each month of the certification period. Non-recurring lump sum payments shall not be counted as income.

(4) Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received only if reasonably anticipated as defined herein.

(5) Households receiving assistance payments, such as, Supplemental Security Income benefits, on a recurring, monthly basis, shall not have their monthly income from sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

(d) Income Averaging.

(1) The Certification Unit official shall have an applicant's income averaged. To average the gross monthly income, the Certification Unit official shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average gross monthly income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past thirty days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the gross income from the three known months may be averaged and projected over a certification period of longer than three months (such as Supplemental Security Income cases).

(2) Households which, by contract or self-employment, derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piece-work basis. Additionally, copies of the business license and the latest business gross revenue tax (BGRT) should be furnished at the time of application to determine the average gross monthly income. These households may include taxi operators, fishermen, farmers, and other self-employed

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households. Further, for those who are engaged in such activities without a business license and only on occasions, receipts declaring the customer's name, date, type of income (such as: house rental, local fish sale, betelnut sale, local vegetables and other farm produce sale, etc.), amount of sale, and the customer's acknowledged signature should be submitted on the next recertification.

(e) Calculating Income and Benefit Level.

(1) To determine a household's monthly gross income, the Certification Unit official shall add the monthly gross income earned by all household members and all unearned income from all sources. Round the product up if it ends in fifty cents through ninety cents (.99)* and down if it ends in 1 cent through forty-nine cents. To arrive at the average gross monthly income, weekly earnings shall be multiplied by 4.33, biweekly earnings by 2.15, semi-monthly earnings by 2, and monthly earnings by 1.

(2) The total average gross monthly income shall be compared to the maximum gross monthly income on the income eligibility standards for the appropriate household size to determine the household's eligibility.

(3) If eligible, the earned income deduction, ten-percent of the household's earned income if any, shall be subtracted from the household's average monthly gross income to obtain the household's monthly net income.

(4) The household's monthly net income shall be multiplied by thirty percent. The product shall be rounded down if it ends in one cent through forty-nine cents and rounded up if it ends in fifty cents through ninety cents (.99).*

(5) The product shall be subtracted from the maximum monthly coupon allotment for the appropriate household size to determine the household's monthly benefit level. Each eligible household shall receive a minimum monthly benefit of twenty dollars per household member.

*So in original; see the commission comment to this section.

(f) Housing Requirement. Under the housing requirement, the household should be residing independently from other family members or individuals, and equipped with a proper sanitary kitchen facility. Either indoors or outdoors, there should be a proper place to prepare, cook, and consume their meals. However, if the household is cohabiting with another family or individual that they do not wish to be included for the purpose of eligibility and benefit level, because they do not commonly purchase food and prepare meals for consumption with the subject household, an alternate cooking facility is recommended for the household, at the least. This consideration shall be extended on a case by case basis at state agency nutrition assistance program discretion. Additional interpretation of housing requirement is also reflected under household concept on section § 55-30-101(a), (b), and (c) above.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 13 Com. Reg. 7698 (May 15, 1991); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments deleted former subsection (a)(4).

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The 1991 amendments amended subsection (e)(5). The public notice stated:

“The last sentence of [Section VI.J.5.e (now § 55-30-245(e)(5))] is to be changed to read: Each eligible household shall receive a minimum monthly benefit of twenty (\$20) dollars per household member. The effective date for the change is May 1, 1991.”

See 13 Com. Reg. at 7698 (May 15, 1991). A notice of proposed amendments for the May 1991 amendments was not published.

The first 2000 amendments proposed to amend subsections (c) and (d). The second 2000 amendments proposed to amend subsection (c)(2). Notices of adoption for the 2000 emergency and proposed amendments were never published and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments deleted former subsection (d)(3), added new subsection (f), and republished and readopted this entire section.

In subsection (e)(4), the starred discrepancy between the written number “ninety” and the figure “.99” appeared in the original 2002 amendments. The figure is probably correct. Compare 6 Com. Reg. at 2657 (Mar. 15, 1984) and 24 Com. Reg. at 18472 (Oct. 19, 2001). The Commission corrected the phrase “these money” in subsection (c)(1) to “these moneys” pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of “Supplemental Security Income” in subsections (c)(5) and (d)(1) pursuant to 1 CMC § 3806(f).

§ 55-30-250 Reporting Changes

(a) Household Responsibility to Report Changes. The adult head of household or its authorized representative is required to report the following changes in circumstances to its assigned eligibility worker within ten days after effect:

- (1) Changes in the sources of income or in the amount of average gross monthly income;
- (2) All changes in household composition, such as, the addition or loss of a household member;
- (3) Changes in residence;
- (4) When cash on hand, stocks, bonds, money in a bank or savings institution, savings certificates, time certificate of deposit (tcd), and/or negotiable instruments reach or exceed a total of two thousand dollars, or, three thousand dollars as applicable.

(b) Reporting Changes. The state agency Certification Unit shall require the adult head of household or its authorized representative to report changes within ten days of the date the change becomes known to the household. Reports of changes may be done personally, by telephone contact or in writing addressed to the assigned eligibility worker of the household. In either case, the Certification Unit official shall document any reported changes on the contact sheet in the case file. If written, the document shall be filed with the current application form.

(c) Action on Changes. The Certification Unit official shall take prompt action, within three working days, on all changes to determine if the change affects the household's eligibility or allotment.

(1) Increase in Benefits.

(i) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household or due to a decrease in the household's gross income, the Certification Unit official shall make the change effective

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the month following the month in which the change is reported provided the required verification is completed prior to the start of the month following the month in which the change is reported.

(ii) Required verification may be obtained prior to the issuance of the monthly allotment after the change is reported. In such case, until the household provides verification, the household's benefits will remain at the original benefit level. In cases where the Certification Unit official has determined that an adult head of household or its authorized representative has refused to cooperate to verify reported changes, without good cause, the Certification Unit official shall terminate the household's eligibility for at least one month.

(2) Decreases in Benefits. If the household's benefit level decreases or the household becomes ineligible as a result of the change, the Certification Unit official shall issue a notice of adverse action within ten days of the date the change was reported. The notice of adverse action shall provide the household ten days to contest the adverse action. If the adult head of household or its authorized representative does not respond within the ten days notice given, the decrease in benefit level shall take effect at the next scheduled issuance of benefits.

(d) Failure to Report Changes. If the Certification Unit official discovers that the household failed to report a change as required, without good cause, and as a result received benefits to which it was not entitled, the Certification Unit official shall file a claim against the household. If the discovery is made within the certification period, the household is entitled to a ten days notice of adverse action if the household's benefits are to be reduced or terminated. Individuals shall not be disqualified for failing to report a change unless the individual is disqualified in accordance with the fraud disqualification procedures.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17561 (Oct. 20, 2000) (effective for 120 days from Sept. 29, 2000); Amdts Adopted 10 Com. Reg. 5429 (Jan. 18, 1988); Amdts Proposed 9 Com. Reg. 5252 (Oct. 15, 1987); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1988 amendments amended subsection (a)(4).

The 2000 amendments proposed to amend subsections (a) and (b). A notice of adoption for the 2000 emergency and proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments included an asterisk indicating "Amendment 1-87" after subsection (a)(4). The January 1988 amendments were labeled "Amendment No. 1-87." The commission removed the reference.

§ 55-30-255 Management Evaluation Unit Desk-reviewed Findings

The Certification Unit shall take the required initiative to respond to and impose corrective actions, as appropriate, within ten days upon receipt findings cited by the Management Evaluation Unit personnel on random (active) and negative (inactive) cases subjected to periodic desk-reviews. The Certification Unit Supervisor shall be responsible in monitoring the reports of findings addressed to all the respective eligibility workers to ensure adherence to the Management Evaluation Unit findings and strict compliance with program guidelines.

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Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001).

Commission Comment: The 2002 amendments added this new section and redesignated the remaining sections in this part accordingly.

§ 55-30-260 Mass Changes

Certain changes are initiated by the local or federal government which may affect the entire caseload or significant portions of the caseload. These changes include adjustments to the income eligibility standards and benefit levels, adjustments to the maximum coupon allotment and other changes in the eligibility criteria based on legislative or regulatory actions. In such an event, individual notices to each certified household will not be necessary but a public announcement shall be made regarding the change(s) through mass media.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-265 Treatment of Income and Resources of Disqualified Members and Aliens

Individual household members may be disqualified for fraud or for failure to meet the work registration requirement or the household may include ineligible member(s) such as aliens (but not to be construed as eligible household members). During the period of time a household member is disqualified or as long as an ineligible alien is included in the household the eligibility and benefit level of any remaining household members shall be determined as follows:

- (a) **Resources.** The prorated resources of the disqualified or ineligible alien member(s) shall continue to count as resources to the remaining household member(s);
- (b) **Income.** A pro-rata share of the income of the disqualified or ineligible alien member(s) shall be counted as unearned income to the remaining household member(s). This pro-rata share is calculated by dividing the unearned income evenly among the household members, including the disqualified or ineligible alien member(s). All but the disqualified or ineligible alien's share is counted as income to the remaining household members.
- (c) **Deductible Expenses.** The ten-percent earned income deduction shall not apply to the prorated income earned by the disqualified or ineligible alien member(s), which is attributed to the household.
- (d) **Eligibility and Benefit Level.** The disqualified or ineligible alien member(s) shall not be included when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's average gross monthly income with the

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income eligibility standards.

(e) Reduction or Termination of Benefits Within the Certification Period. Whenever an individual is disqualified within the household's certification period, the Certification Unit official shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file and provide appropriate notice of adverse action to the household.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-270 Agency Conference or Fair Hearing

(a) Notification of Right to Request an Agency Conference or Fair Hearing. At the time of application, each adult head of household or its authorized representative shall be informed of its right to request an agency conference or a fair hearing and the method by which they are requested on any action the state agency nutrition assistance program takes which affects the household's eligibility and level of benefits. The adult head of household or its authorized representative shall also be informed that program violations will be pursued by the state agency nutrition assistance program through its legal counsel at the Attorney General's Office and of the penalties for program violations. The adult head of household or its authorized representative shall be further advised that an agency conference or fair hearing does not preclude additional prosecutions in civil or criminal court.

(b) Time Period for Requesting an Agency Conference or Fair Hearing. An agency conference or a fair hearing may be requested on any action by the state agency nutrition assistance program which occurred in the prior sixty days and which affects the household's benefits.

(c) Request for Agency Conference or Fair Hearing. A request for an agency conference or fair hearing is any clear expression, oral or written, by an adult head of household or its authorized representative to the respective eligibility worker that it wishes to present its case to a higher authority in the nutrition assistance program. The lower section on the notice of disposition shall be completed and signed by either the adult head of household or its authorized representative and promptly submitted to the program administrator's office. The freedom to make such a request shall not be limited or interfered with in any way. Upon request, the program Administrator shall make available the rules for agency conference or fair hearing procedures and other materials necessary for an adult head of household or its authorized representative to determine whether an agency conference or fair hearing should be requested or to prepare for the agency conference or fair hearing.

(d) The nutrition assistance program administrator shall not deny or dismiss a request for an agency conference or fair hearing unless:

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- (1) The request is not received within the time period specified in subsection (b) above; or
- (2) The request is withdrawn in writing by the adult head of household or its authorized representative.

(e) **Timely Action on the Agency Conference or Fair Hearing.** Within sixty days of receipt of a request for an agency conference or fair hearing from an adult head of household or its authorized representative, the program administrator shall schedule an agency conference or fair hearing, inform the household in writing of the agency conference or fair hearing date, conduct an agency conference or fair hearing, and arrive at a decision and notify the household of the decision.

(f) **Postponement or Alternative Agency Conference or Fair Hearing Option.**

(1) The adult head of household or its authorized representative may request, for good cause, a postponement of a scheduled agency conference or fair hearing. The postponement shall not exceed thirty days, and the time limit for action on the decision may be extended for as many days as the conference or hearing is postponed.

(2) If the time standards cannot be met using normal procedures the state agency nutrition assistance program may suggest using a telephone or radio phone to conduct the conference or hearing. The adult head of household or its authorized representative has the option of having the conference or hearing held by telephone or radiophone. However, if the adult head of household or its authorized representative objects to the use of a telephone or radiophone on grounds of privacy, the state agency nutrition assistance program shall use some means of private communication, such as, correspondence to conduct the agency conference or fair hearing within the specified time.

(g) **Notification of Time, Date, and Place of Agency Conference or Fair Hearing.** The time, date, and place of the Agency conference or fair hearing shall be held on the island center where the adult head of household or its authorized representative filed its application. At least ten days prior to the conference or hearing, written notice shall be provided unless it is waived to all parties involved permitting adequate preparation of the case. The notice shall:

(1) State where and when the agency conference or fair hearing is scheduled;

(2) Advise the adult head of household or its authorized representative of the name and address of the office and the person to notify in the event it is not possible for the adult head of household or its authorized representative to attend the scheduled conference or hearing;

(3) Specify that the agency conference or fair hearing shall be held and the decision shall be made based solely on information provided by nutrition assistance program if the adult head of household or its authorized representative fails to appear at the conference or hearing without good cause; and

(4) Outline charges.

(h) **Hearing Official.** Hearings shall be conducted by an impartial official(s), designated by the Department of Community and Cultural Affairs Secretary, who does not have any personal interest or involvement in the case and who was not directly involved in the initial determination of the action which is being contested. The hearing official shall:

(1) Administer oaths or affirmations if deemed necessary by the state agency;

(2) Ensure that all relevant issues are considered;

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- (3) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;
- (4) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing; and
- (5) Render a hearing decision in the name of the state agency nutrition assistance program which will resolve the dispute based on a preponderance of the evidence.

(i) **Attendance at Hearing.** The hearing shall be attended by representatives of the state agency nutrition assistance program that initiated the action being contested, including the nutrition assistance program legal counsel if it warrants, and by the adult head of household and/or its authorized representative. Friends or relatives of the household may also attend the hearing if the household desires. If the adult head of household or its authorized representative cannot be located or fails to appear at the hearing without good cause, the hearing shall be conducted and a decision made without the household represented. If it is later determined that the adult head of household or its authorized representative had good cause for not appearing, the hearing shall be rescheduled if requested by the adult head of household or its authorized representative within five days from the date of the hearing decision. The hearing official who originally ruled on the case may conduct the new hearing.

(j) **Conduct of Hearing.** The adult head of household or its authorized representative may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a manner that makes the adult head of household or its authorized representative feel at ease. The adult head of household or its authorized representative shall be given an opportunity to:

(1) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing, as well as during the hearing. The contents of the case file, including the application forms and documents of verification used by the state agency nutrition assistance program shall be made available, provided that confidential information is protected from release. The state agency nutrition assistance program may provide a free copy of the relevant portions of the case file if requested by the adult head of household or its authorized representative. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

(2) Present the case or have it presented by the nutrition assistance program legal counsel or other person.

(3) Bring witnesses.

(4) Advance arguments without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(k) **Hearing Decisions.**

(1) Decisions of the hearing official shall comply with the Memorandum of Understanding and this chapter and shall be based on the hearing record. An official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the hearing official.

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(2) A decision by the hearing official shall summarize the facts of the case, respond to reasonable arguments made by the adult head of household or its authorized representative, specify the reasons for the decision and identify the supporting evidence and pertinent provisions of the nutrition assistance program regulations, Memorandum of Understanding, or the manual. The decision shall become a part of the record.

(3) The adult head of household or its authorized representative shall be advised of the decision of the hearing official in writing five working days of the receipt of the decision from the hearing official.

(4) The decision of the hearing official shall be final and binding on the state agency nutrition assistance program. The decisions that result in an increase or decrease in household benefits shall be reflected in the coupon allotment at the next scheduled authorization to participate issuance following receipt of the hearing decision.

(l) Participation While Awaiting a Hearing. A pending hearing shall stay an involuntary allotment reduction. It shall not affect the household's right to be certified and participate in the program. The Certification Unit personnel shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. The household must be informed however that if the hearing decision were adverse to the household, it would be required to pay nutrition assistance program the allotment received during the pendency of a hearing decision.

(m) Participation While Waiting Decision on a Hearing Appeal. The state agency nutrition assistance program shall comply with the terms of the fair hearing decision until it is overturned or modified by a court ruling. If there were no period of disqualification imposed, the state agency Certification Unit shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household.

(n) The state agency nutrition assistance program shall request a separate fraud hearing if in the course of the fair hearing evidence surfaced which strongly suggests that fraud had been committed. The hearing official shall not determine fraud in a fair hearing. The state agency nutrition assistance program as a result of a fraud hearing can only reach a determination of fraud.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 7 Com. Reg. 3380 (Feb. 15, 1985); Amdts Proposed 7 Com. Reg. 3372 (Jan. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsections (k)(4) and (m). The 1985 amendments deleted former subsection (d)(3), amended subsections (d), (i) and (l), and added new subsection (n).

The 2002 amendments included an asterisk indicating "Amendment 1-85" after subsections (i), (l) and (n). The February 1985 amendments were labeled "Amendment No. 1-85." The commission removed the reference.

The Commission corrected the capitalization of the word "administrator" in subsections (c), (d), and (e) pursuant to 1 CMC § 3806(f). The Commission inserted commas after the words "hearing" in subsection (e) and "date" in

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subsection (g) pursuant to 1 CMC § 3806(g).

§ 55-30-275 Fraud Disqualification

(a) Definition of Fraud. Fraud shall represent any action by an individual to knowingly, willfully and with deceitful intent, at a minimum:

- (1) Makes a false statement to the Certification Unit official, either orally or in writing, in order to become eligible for or obtain benefits to which the household is not entitled;
- (2) Conceals information in order to become eligible for or obtain benefits to which the household is not entitled;
- (3) Alters authorization to participate cards to obtain benefits to which the household is not entitled;
- (4) Uses nutrition assistance program coupons to purchase ineligible items, including but not limited to, alcoholic beverages, cigarettes or tobacco, household supplies, soap and detergent of any kind, readily prepared over the counter meals and other "fast foods," and the ingredients for betelnut chewing;
- (5) Uses or possesses improperly obtained coupons or authorization to participate cards;
- (6) Trades, exchanges, or sells nutrition assistance program coupons or authorization to participate cards with cash;
- (7) Uses nutrition assistance program earmarked coupons (otherwise known as local coupons) to purchase other than local foods and other eligible items;
- (8) Performs nutrition assistance program coupon transaction in any and all unauthorized retail outlets.

(b) Fraud Disqualification Penalties. Individuals found to have committed fraud by the nutrition assistance program office shall be ineligible to participate in the program for at least three months up to one year. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than six months and not more than twenty-four months as determined by the court.

(c) Notification to Households. The Certification Unit official shall inform the applicant household of the disqualification penalties for committing fraud each time it applies for program benefits. The penalties shall be written in clear, prominent, and boldface lettering on the application form.

(d) Administrative Disqualification.

- (1) An administrative review shall be initiated by the state agency nutrition assistance program whenever the state agency nutrition assistance program has documented evidence to substantiate that a currently certified household member has committed one or more acts of fraud as defined in subsection (a) above. Such cases may include those in which nutrition assistance program believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution but for which the appropriate legal authority declined prosecution.
- (2) The state agency nutrition assistance program will initiate an administrative review and make a determination regardless of the current eligibility of the individual. The disqualification period for non-participants at the time of the administrative decision shall be deferred until the individual applies for and is determined eligible for program benefits.

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(3) At its discretion, the state agency nutrition assistance program may not conduct fraud reviews and make a fraud determination if the amount state agency nutrition assistance program suspects has been fraudulently obtained is less than thirty-five dollars or if the value of the ineligible items that have been purchased with food stamps is under thirty-five dollars. The burden of proving fraud is on nutrition assistance program. The administrative fraud determination may still be conducted regardless of whether other legal action is planned against the household member.

(e) Fraud Hearing Procedures.

(1) The same hearing official(s) for fair hearings will be used to conduct fraud hearings.

(2) The provisions governing fair hearings are also applicable for fraud hearings.

(3) Within sixty days of the date the adult head of household or its authorized representative is notified in writing that a hearing initiated by the state agency nutrition assistance program has been scheduled, the state agency nutrition assistance program shall conduct the fraud hearing, arrive at a decision, and initiate administrative action which will make the decision effective. The adult head of household or its authorized representative is entitled to a postponement of up to thirty days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed. The state agency nutrition assistance program may not postpone a hearing for its own benefit.

(4) The state agency nutrition assistance program shall make available at no cost to affected households upon their request written rules of procedure for fraud hearings.

(f) Advance Notice of Hearing. The state agency nutrition assistance program shall provide written notice to the household suspected of fraud at least fifteen days in advance of the date a fraud hearing initiated by the state agency nutrition assistance program has been scheduled. The notice shall be hand-delivered or mailed and shall contain, at a minimum:

(1) The date, time, and place of the hearing;

(2) The charge(s) against the household or its member(s);

(3) A summary of the evidence, and how and where the evidence can be examined;

(4) A warning that the decision will be based solely on information provided by the Food Stamp Office if the adult head of household or its authorized representative fails to appear at the hearing;

(5) A warning that a determination of fraud will result in a 3-month disqualification at a minimum;

(6) A statement that the hearing does not preclude the state or federal government from prosecuting the household or its members for fraud in a civil or criminal court action, or from collecting the equivalent of the over issuance.

(g) Scheduling of Hearing.

(1) The time, date, and place of the hearing shall be arranged so that the hearing is accessible to the household or its member suspected of fraud.

(2) If the adult head of household or its authorized representative cannot be located or fails to appear at a hearing initiated by the state agency nutrition assistance program without good cause, the hearing shall be conducted without the adult head of household or its authorized representative represented.

(3) Even though the household member is not represented, the hearing official is required to

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carefully consider the evidence and determine if fraud was committed based on a preponderance of the evidence. If the household member is found to have committed fraud but the hearing official later determines that the household member or representative had good cause for not appearing, the previous decision may be set aside upon written request of the aggrieved party, and if the decision is set aside, the state agency nutrition assistance program shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has ten days from receipt of notice of the fraud decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision in the record. If the household member fails to contest the fraud decision within ten days; or the hearing official determines that the member's reason for failing to appear at the hearing is not good cause, the fraud decision shall stand.

(h) **Participation While Awaiting a Hearing.** A pending fraud hearing shall not affect the individual or the household's right to be certified and participate in the program. Since the state agency nutrition assistance program cannot disqualify a household member for fraud until the hearing official finds that the individual member or household has committed fraud, the Certification Unit shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the action for which the household member is suspected of fraud does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household fails to reapply. The Certification Unit official shall also reduce or terminate the household's benefits if the Certification Unit official has documentation which substantiate that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of fraud and the resulting fraud hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the Certification Unit official may have facts which substantiate that a household failed to report a significant change in its circumstances even though the Certification Unit official has not yet demonstrated that the failure to report involved a fraudulent act.

(i) **Criteria for Determining Fraud.** The hearing authority shall base the determination of fraud on a preponderance of the evidence that demonstrates that the household or its member knowingly, willfully, and with deceitful intent committed fraud as defined in subsection (a) of this section.

(j) **Decision Format.** The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent provisions of the Memorandum of Understanding, regulations, or this manual, and respond to reasoned arguments made by the adult head of household or its authorized representative.

(k) **Appeal Rights of the Household Member.** If the hearing authority rules that the household or its member has committed fraud, the household or its member may appeal the decision to the Commonwealth court. The appeal shall not operate as an automatic stay of the decision.

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(l) **Appeal after State Level Hearing.** After a household or its member has been found to have committed fraud by the hearing official, the household or its member shall be disqualified for a period of not less than three months up to one year beginning with the first month which follows the date the household or its member has received the nutrition assistance program's hearing notice. The disqualification period shall not be less than three months, regardless of the amount of coupons fraudulently obtained or the number of fraudulent acts the hearing finds the household or individual has committed. No further administrative appeal procedure exists after an adverse hearing. The determination of fraud made by a fraud hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to a stay or other injunctive remedy.

(m) **Notification of Hearing Decision.**

(1) If the hearing finds that the household or its member did not commit fraud, the Certification Unit Supervisor shall provide a written notice that informs the household or its member of the decision.

(2) If the administrative fraud hearing finds that the household or its member committed fraud, the Certification Unit Supervisor shall mail a written notice to the household or its member(s) prior to disqualification. The notice shall inform the household of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 55-30-265. The notice shall inform the household members of the date the disqualification will take effect.

(n) **Court Imposed Disqualifications.**

(1) A court of appropriate jurisdiction may order an individual disqualified from participation in the program for not less than six months and not more than twenty-four months if the court finds that individual guilty of civil or criminal fraud. Court ordered disqualification may be imposed separate and apart from any action taken by the State agency nutrition assistance program to disqualify the individual through an administrative fraud hearing.

(2) The state agency nutrition assistance program shall refer for prosecution under local fraud statutes those individuals suspected of committing fraud, particularly if large amounts of coupons are suspected of being fraudulently obtained or the individual is suspected of committing more than one fraudulent act. Nutrition assistance program shall confer with the Commonwealth Attorney General's Office to determine the types of cases which will be accepted for possible prosecution. Nutrition assistance program shall also encourage the Attorney General's Office to recommend to the courts that a disqualification penalty as provided above be imposed in addition to any other civil or criminal fraud penalties.

(3) The state agency nutrition assistance program shall disqualify an individual found guilty of fraud for the length of time specified by the court. If disqualification is ordered but a date for initiating the disqualification period is not specified, the Certification Unit Supervisor shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. If the court fails to address or specify a disqualification period, the Certification Unit Supervisor shall impose a 6-month disqualification period unless contrary to the court order. The court imposed disqualification shall begin the first

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month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. If the periods of disqualification imposed by a court and by an administrative fraud hearing coincide, the court ordered disqualification shall run concurrently with the disqualification period imposed through an administrative fraud hearing. The state agency nutrition assistance program shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(4) If the court finds that the household member committed fraud, the Issuance and Accountability Unit Supervisor shall mail a written notice to the household. The notice shall be sent within five working days of the receipt of the court order. The notice shall inform the household of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive if the household is still eligible, during the period of disqualification. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements in the manual. In addition, the Issuance and Accountability Unit Supervisor shall include the form letter of agreement for restitution.

(o) **Reversed Fraud Disqualification.** In cases where the determination of fraud is reversed by a court of appropriate jurisdiction, the Certification Unit Supervisor shall reinstate the individual in the program if the household is eligible and restore benefits that were lost as a result of the disqualification, subject to availability of funds earmarked for program benefits.

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs of subsection (d) were not designated. The commission designated subsections (d)(1) through (d)(3).

The 1984 amendments switched the order of subsections (a) and (b) and deleted former subsection (m)(3). The 1985 amendments amended subsection (b). The 2002 amendments added new subsection (a)(8) and readopted and republished the entire section. The 2002 amendments included an asterisk indicating "Amendment 1-86" after subsection (b). The December 1985 amendments were labeled "Amendment No. 1-86." The commission removed the reference.

In subsection (a)(4), the commission moved the comma after "fast foods" inside of the closing quotation mark. In subsection (i), the original cross-reference to "paragraph 2" (now subsection (b)) was incorrect. The 1984 amendments moved the definition of fraud to subsection (a). The commission corrected the cross-reference. The Commission inserted a comma after the word "decision" in subsection (e)(3) pursuant to 1 CMC § 3806(g). The Commission corrected the phrase "more that one" in subsection (n)(2) to "more than one" pursuant to 1 CMC § 3806(g).

§ 55-30-280 Restoration of Lost Benefits

(a) **Entitlement.** The Certification Unit shall restore to the household benefits which were

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lost whenever the state agency nutrition assistance program caused the loss by an error, or a fraud disqualification was subsequently reversed. With the exception of benefits which are restored as a result of a reversal of a fraud disqualification penalty, benefits shall not be restored if lost more than two months prior to the most recent of the following:

- (1) The month the Certification Unit was notified by the adult head of household or its authorized representative in writing or orally of the possible loss to its household;
- (2) The month the Certification Unit discovers in the normal course of business that a loss to a specific household has occurred; or
- (3) The date the adult head of household or its authorized representative requested a fair hearing to contest the adverse action that resulted in the loss.

(b) **Error Discovered by State Agency Nutrition Assistance Program.** If the Certification Unit Supervisor determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, the Certification Unit Supervisor shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored if the benefits were lost more than two months prior to the month the loss was discovered by the nutrition assistance program personnel in the normal course of business, or were lost more than two months prior to the month the Certification Unit official was notified in writing or orally of a possible loss to a specific household. The Certification Unit Supervisor shall notify the household of its entitlement, the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

(c) **Disputed Benefits.**

(1) If the Certification Unit Supervisor determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the Certification Unit official or any other action taken by the Certification Unit official to restore lost benefits, the household may request a fair hearing within sixty days of the date the household is notified of its entitlement to restoration of lost benefits. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the Certification Unit Supervisor pending the results of the fair hearing. If the fair hearing decision is favorable to the household, the Certification Unit Supervisor shall restore the lost benefits in accordance with that decision.

(2) If a household believes it is entitled to restoration of lost benefits but the Certification Unit Supervisor, after reviewing the case file, does not agree, the household has sixty days from the date of the Certification Unit Supervisor determination to request a fair hearing. Nutrition assistance program shall restore lost benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than two months prior to the date the Certification Unit was initially informed of the household's possible entitlement to lost benefits shall not be restored.

(d) **Computing the Amount to Be Restored.** After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 2-month time limit described in this section, the Certification Unit Supervisor shall calculate the amount to be restored as follows:

- (1) If the household was eligible but received an incorrect allotment, the loss of benefits shall

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be calculated only for those months the household participated.

(2) If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month following the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.

(3) If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.

(4) After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

(5) For each month affected by the loss, the Certification Unit Supervisor shall determine if the household was actually eligible. In cases when there is no information in the household's case file to document that the household was actually eligible, the Certification Unit Supervisor shall advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household shall be considered ineligible.

(6) For the months the household was eligible, the Certification Unit Supervisor shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

(7) If a claim against a household is unpaid or held in suspense, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household.

(e) **Lost Benefits to Individuals Disqualified for Fraud.** Individuals disqualified for fraud are entitled to restoration of any benefits lost during the months they were disqualified only if the decision that resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the 3-month period it was disqualified based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the 3-month disqualification in a separate court action. For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Benefits shall be restored regardless of the length of time that has elapsed since the household member was disqualified.

(f) **Method of Restoration.** Regardless of whether a household is currently eligible or ineligible, state agency Certification Unit shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive. The Certification Unit Supervisor shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be stolen, or that the amount to be restored is more than it can use in a reasonable period of time.

(g) **Accounting Procedures.** Certification Unit shall maintain two sets of ledgers: One for documenting a household's entitlement to restoration of lost benefits and for recording the

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balance of lost benefits that must be restored to the household; and, the other is to account for outstanding claim. The case file contact sheet shall document how the amount to be restored was calculated and the reason lost benefits must be restored. The Certification Unit official will check the outstanding claim ledger to identify those situations where a claim against a household can be used to offset the amount to be restored prior to establishing a restoration account for any household.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-285 Claims Against Households

(a) Establishing Claim Against the Household. Notwithstanding the fraud disqualification provisions of this chapter, claim may be established against any household that has received more food stamp benefits than it is entitled to receive. These include, but are not limited to, the following:

- (1) The adult head of household or its authorized representative failed to provide the Certification Unit official with correct or complete information.
- (2) The adult head of household or its authorized representative failed to provide the Certification Unit official changes in its household circumstances.
- (3) The adult head of household or its authorized representative altered its authorization to participate card.
- (4) The adult head of household or its authorized representative transacted both the original and its replacement authorization to participate card.
- (5) The Certification Unit official failed to take prompt action on a change reported by the adult head of household or its authorized representative.
- (6) The Certification Unit official incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
- (7) The Issuance and Accountability Unit official incorrectly issued duplicate authorization to participate card to a household which were subsequently transacted.
- (8) The household was found to be ineligible or eligible for fewer benefits that it received pending a fair hearing decision.

(b) Non-fraud Claim. Non-fraud claims are those claims established against households for over issuance which were not caused by fraud, such as, but not limited to, over issuance caused by administrative error on the part of the Certification Unit official or a misunderstanding or inadvertent error on the part of the household.

(1) Criteria for Establishing a Non-fraud Claim. If less than twelve months have elapsed between the month a non-fraud over issuance occurred and the month the Certification Unit official discovered a specific case involving an over issuance, the Certification Unit official shall take action to establish a claim against the household which received the over issuance. A non-fraud claim shall not be established if an over issuance occurred as a direct result of the following errors:

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(i) Certification Unit official failed to ensure that an adult head of household or its authorized representative signed the application form, completed a current work registration referral form, or was certified in the correct island center.

(ii) A household continued to receive food stamp allotments after its certification period has expired without benefit of a reapplication determination, regardless of a subsequent determination of eligibility or ineligibility.

(iii) A household transacted an expired authorization to participate card, unless the household altered its authorization to participate card in which case the household would be subject to fraud procedures.

(2) Calculating the Amount of the Non-fraud Claim.

(i) After excluding those months that are more than twelve months prior to the date the over issuance was discovered, the Certification Unit official shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the over issuance is in effect. The Certification Unit official shall complete the CL-01 claim determination report. In cases involving reported changes, the Certification Unit official shall determine the month the over issuance initially occurred as follows:

(A) If the adult head of household or its authorized representative failed to report a change in its household circumstances within ten days of the date the change became known to the household, the first month affected by the adult head of household or its authorized representative's failure to report shall be the month in which the change occurred. The 10-day notice of adverse action requirement shall not apply in this instance.

(B) If the adult head of household or its authorized representative timely reported a change, but the Certification Unit official did not timely act on the change, the first month affected by the Certification Unit official's failure to act shall be the first month the Certification Unit official should have made the change effective, subject to the 10-day notice of adverse action requirement.

(C) For example, a change that rendered a participating household ineligible occurred on April 20. The household continued participating through June 30. If the adult head of household or its authorized representative had reported the change within ten days as required and had not waived 10-day notice of adverse action, the first month of over issuance would be June.

Change occurred on	4/20
Plus ten days to report	4/30
Plus ten days notice of adverse action	5/10
The first issuance which could be affected by the notice of adverse action is	6/1.

In another example, if the adult head of household or its authorized representative had reported the change which had occurred from April 10 to April 19, the first month of over issuance would be May..

Change occurred on	4/10
Plus ten days to report	4/20
Actually reported on	4/19
Plus ten days notice of adverse action	4/29
The first issuance which could be affected by the notice of adverse action is	5/1

However, if the adult head of household or its authorized representative fails to report a change which occurred in April within ten days of the change, the first month of over issuance would be

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April.

(ii) If the household received a larger allotment than it was entitled to receive, the Certification Unit official shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) After calculating the amount of the non-fraud claim, the Certification Unit official shall offset the amount of the claim against the following months allotment or initiate collection action.

(3) Collecting Non-fraud Claim.

(i) The Certification Unit Supervisor shall initiate collection action on all non-fraud claims unless the total amount of the non-fraud claim is less than twenty dollars or the eligibility worker has documentation which shows that the adult head of household or its authorized representative cannot be located. The collection action shall subsequently be referred to the Issuance and Accountability Unit Supervisor to execute the written demand letter, which is the initial repayment notice (218C), to affected household as soon as possible.

(ii) The Issuance and Accountability Unit Supervisor shall expedite collection action by sending the household a written demand letter, which is the initial repayment notice, via certified mail with return receipt, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the adult head of household or its authorized representative may pay the claim, and the household's right to a fair hearing if the adult head of household or its authorized representative disagrees with the Certification Unit's determination. If the household pays the claim, the payments shall be accepted by the Issuance and Accountability Unit Official for proper program claim records and control, then refers payments to the nutrition assistance program accountant where the nutrition assistance program accountant shall subsequently submit all payments to the nutrition assistance program account at the Department of Finance.

(iii) If the adult head of household or its authorized representative does not respond to the first demand letter, which is the initial repayment notice, within fifteen days of the date of the mailing of the first demand letter, the Issuance and Accountability Unit Supervisor shall send a second demand letter, which is the final repayment notice (219C), also via certified mail with return receipt by the close of the next work day. If the adult head of household or its authorized representative does not respond to the second demand letter within fifteen days of the date of the mailing of the second demand letter, the Issuance and Accountability Unit Supervisor shall either file a claim action in the small claims court if the outstanding is in the amount of three thousand dollars or less, or, at state agency nutrition assistance program discretion, formally refer the case to the nutrition assistance program's legal counsel at the Attorney General's Office for its disposition when the amount outstanding exceeds the criterion for small claim. The Issuance and Accountability Unit Supervisor shall complete the appropriate action by the close of the next week day unless the adult head of household or its authorized representative responded by paying or agreeing to pay the claim, or until one of the criteria for suspending collection action is met.

(iv) If the household fails, without good cause, to abide by the terms of a repayment agreement, the Issuance and Accountability Unit Supervisor shall send the household one warning letter. If the adult head of household or its authorized representative does not respond to the warning letter within fifteen days, without good cause, the Issuance and Accountability Unit Supervisor shall either file a claim action in the small claims court or refer the case to the

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nutrition assistance program legal counsel at the Attorney General's Office for its disposition, as appropriate, by the close of the next work day.

(v) The Issuance and Accountability Unit Supervisor shall effectively control, monitor, and maintain a complete record of all nutrition assistance program claim cases of inactive participants, including those subject for small claims court and the Attorney General's Office, and coordinate on a monthly basis with the Commonwealth court in scheduling hearings on subject claim cases as appropriate. For Tinian and Rota claim cases subject for small claims hearings, the Issuance and Accountability Unit Supervisor shall coordinate with the Commonwealth courts scheduled hearings to coincide with nutrition assistance program claim hearings on a quarterly basis, or on a frequent monthly basis should it warrant necessary at the discretion of the nutrition assistance program administrator. The nutrition assistance program has designed a system or program to effectively monitor/track all claim cases on a monthly basis in order to ensure that program procedures are administered to successfully recoup all program losses. The Issuance and Accountability Unit Supervisor shall take the required initiative to effectively control and monitor this system in order to ensure that recoupment process on all claim cases is acted in accordance with established guidelines.

(4) Criteria for Suspending Collection Action of a Non-fraud Claim. A claim shall be suspended if no collection action was initiated because of conditions specified in subsection (b)(3)(i) above. If collection action was initiated, and at least one demand letter has been sent, further collection action shall be suspended when:

- (i) The household is financially unable to pay the claim;
- (ii) There is little likelihood that the household will pay the claim;
- (iii) The adult head of household or its authorized representative, or other adult household members cannot be located; or
- (iv) The cost of further collection is likely to exceed the amount that can be recovered.

(5) Terminating Collection Action of a Non-fraud Claim. A claim shall be determined uncollectible after it is held in suspense for three years, or when the sole household member is deceased.

(c) Fraud Claim. A claim shall be handled as a fraud claim only if an administrative fraud hearing (agency conference or fair hearing) or a court of appropriate jurisdiction has found a household member guilty of fraud. Prior to the determination of fraud, the claim against the household shall be handled as a non-fraud claim.

(1) Establishing a Fraud Claim. For each month that a household member fraudulently participated, the eligibility worker shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred, regardless of the length of time that elapsed until the determination of fraud was made. If the household member is determined to have committed fraud knowingly, willfully, and with deceitful intent by failing to report a change in its household's circumstances, the first month that benefits were over issued shall be the month in which the change occurred. Once the amount of the fraud claim is established, the eligibility worker shall offset the claim against all subsequent allotments or restoration of lost benefits if the household is still eligible after the disqualification period of either the household member(s) or the entire household.

(2) Collecting Fraud Claim.

- (i) If a household member is found to have committed fraud (through an administrative

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determination or by a court of appropriate jurisdiction) the Issuance and Accountability Unit Supervisor shall expedite collection action by sending the household a written demand letter, which is the initial repayment notice, via certified mail with return receipt. The adult head of household or its authorized representative shall be given the opportunity to settle the claim or sign a formal letter of agreement for restitution. In cases where a court found a household member guilty of fraud, the Issuance and Accountability Unit Supervisor shall request that the matter of restitution be brought before the court.

(ii) If the adult head of household or its authorized representative does not respond to the first demand letter, which is the initial repayment notice, within fifteen days of the mailing of the first demand letter, the Issuance and Accountability Unit Supervisor shall send a second demand letter, which is the final repayment notice, also via certified mail with return receipt by the close of the next work day. If the adult head of household or its authorized representative does not respond to the second demand letter, or final repayment notice, within fifteen days of the date of the mailing of the second demand letter, the Issuance and Accountability Unit Supervisor shall formally refer the case to the nutrition assistance program's legal counsel at the Attorney General's Office for its disposition.

(iii) One month prior to the end of the specified period of disqualification, if the household member found guilty of fraud has not responded to the agreement letter, the Issuance and Accountability Unit Supervisor shall advise the individual that he/she will remain disqualified until such time as an agreement to repay is executed in accordance with the procedures established in subsection (f)(1) below. The disqualified member shall not be considered a household member until a repayment agreement is reached. The income and resources of this disqualified member shall be counted as part of the household's income and resources in determining eligibility and benefit levels. A demand letter for an unpaid or partially paid claim shall be sent even if the household has previously received a non-fraud demand letter because the time period covered by the claim and the method of collection is different from fraud and non-fraud claim.

(iv) The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification imposed by nutrition assistance program or a court of law. The Issuance and Accountability Unit personnel shall follow the procedures for collecting and submitting payments as well as the applicable accounting procedures in subsections (f) and (g) below.

(v) If the household executes a repayment agreement, the Issuance and Accountability Unit personnel shall follow the procedures prescribed in subsections (f) and (g) below for collecting and submitting payments or the procedures for reducing the food stamp allotment of the fraudulent individual's household.

(vi) If the Issuance and Accountability Unit personnel can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectible after it is held in suspense for three years, or when the sole household member is deceased.

(d) Change in Household Composition.

(1) Non-fraud Claims. The Certification Unit Supervisor shall initiate collection action against the head of household or against the individual who was the head of household at the time of the non-fraud claim. If the head of household is no longer living or cannot be located, the Certification Unit Supervisor shall initiate collection action against the household containing a

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majority of the individuals who were household members at the time the claim was imposed. Otherwise, collection action shall be imposed against the household containing at least one of the subject individuals who is a household member at the time of claim.

(2) **Fraud Claim.** If the household member found guilty of fraud moves, resulting in a change in household membership, the Certification Unit Supervisor shall initiate collection action against the household currently containing the fraudulent individual.

(e) **Methods of Collecting Payments - Non-fraud Claim.**

(1) The Issuance and Accountability Unit Supervisor shall collect payments for non-fraud claim in one of the following ways:

(i) **Lump Sum.** The Issuance and Accountability Unit Official shall collect payments in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment. Amounts collected shall be deposited into the program income account as illustrated in subsection (i) below.

(ii) **Repayment in Installments in the Form of Cash, Money Order and Payroll Allotment.** If the household agrees to a repayment in cash but has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, a repayment schedule shall be negotiated with the household. Payments shall be accepted by the Issuance and Accountability Unit official in regular monthly installments, at the least, and may be in the form of cash, money order or through payroll allotment. The household shall not be required to liquidate all of its resources to make this repayment. However, the Issuance and Accountability Unit Supervisor should attempt to recover the full amount within a year of the establishment of the claim. If the full amount of claim cannot be liquidated in three years, the Issuance and Accountability Unit Supervisor shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in three years. The Issuance and Accountability Unit Supervisor will use the full amount of the claim (including any amount compromised) to offset benefits as provided herein. The state agency nutrition assistance program may, at its discretion, accept a minimum monthly repayment in the amount of twenty-five dollars based on the household's income and other payment obligations. Amounts collected shall be deposited into the program income account as illustrated in subsection (i) below.

(iii) **Reduction in Food Stamp Allotment.** Prior to reduction, the Issuance and Accountability Unit official shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be twenty-five percent of the household's monthly allotment or the disqualified individual's pro rata share of the entitlement, whichever is greater. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year. If the full amount of the claim cannot be liquidated by recovering twenty-five percent of the monthly allotment each month for three years, the Issuance and Accountability Unit Supervisor shall compromise the claim by reducing it to an amount that will allow the household to make restitution within three years. Amounts collected shall be deposited into the program benefits account.

(2) If the household member fails to make a payment in accordance with the established cash repayment schedule (either a lesser amount or no payment), the Issuance and Accountability Unit Supervisor shall send the individual a warning letter explaining that no payment or an insufficient payment was received and requiring a response within fifteen days. The Issuance and

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Accountability Unit Supervisor shall take one of the following actions depending on the household's response:

- (i) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, the household shall be permitted to do so;
- (ii) If the household requests renegotiation, and if the Issuance and Accountability Unit Supervisor concurs with the request, the Issuance and Accountability Unit Supervisor shall negotiate a new payment schedule and execute a new written agreement with the household. If during the renegotiation it becomes clear to the Issuance and Accountability Unit Supervisor that the full amount cannot be liquidated in one year, he shall recommend that the Issuance and Accountability Unit Supervisor compromise the claim, if necessary, to an amount that will allow the household to make restitution in three years or less.
- (iii) If the household fails to respond within fifteen days the Issuance and Accountability Unit Supervisor shall either file a claim action in the small claims court or refer the case to the nutrition assistance program's legal counsel at Attorney General's Office for its disposition, as appropriate, by the close of the next work day.

(f) Methods of Collecting Payments - Fraud Claim.

(1) The Issuance and Accountability Unit Supervisor shall collect payments for fraud claim in one of the following ways:

(i) Lump Sum. The Issuance and Accountability Unit official shall collect payments in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment. Amounts collected shall be deposited into the program income account as illustrated in subsection (i) below. (ii) Repayment in Installments in the Form of Cash, Money Order, and Payroll Allotment. If the household member found guilty of fraud agrees to a repayment in cash, but the household has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular monthly installments, at the least, and may be in the form of cash, money order or through payroll allotment. The household shall not be required to liquidate all of its resources to make this repayment. However, the Issuance and Accountability Unit Supervisor should attempt to recover the full amount within a year of the establishment of the claim or as soon as possible thereafter. The state agency nutrition assistance program shall not compromise the fraud claim. The balance outstanding after three years shall be referred to the small claims court for collection. The Issuance and Accountability Unit Supervisor will use the full amount of the claim to offset benefits as provided herein. The state agency nutrition assistance program may, at its discretion, accept a minimum monthly repayment in the amount of twenty-five dollars based on the household's income and other payment obligations. Amounts collected shall be deposited into the program income account as illustrated in subsection (i) below.

(iii) Reduction in Food Stamp Allotment. Prior to reduction, the Issuance and Accountability Unit official shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be twenty-five percent of the household's monthly allotment. Recovery of less than these amounts shall be accepted if it results in equal increments and if the full amount of the claim can be recovered within one year. If the full amount of the claim cannot be liquidated by recovering twenty-five percent of the monthly allotment each month for three years, the Issuance and Accountability Unit Supervisor shall increase the percentage of the monthly allotment for recovering the claim as necessary in

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order to liquidate the claim within three years. Amounts collected shall be deposited into the program benefits account.

(2) If the household member fails to make a payment in accordance with the established cash repayment schedule (either a lesser amount or no payment), the Issuance and Accountability Unit Supervisor shall send the individual a warning letter explaining that no payment or an insufficient payment was received and requiring a response within fifteen days. The Issuance and Accountability Unit Supervisor shall take one of the following actions depending on the household's response:

(i) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, the household shall be permitted to do so;

(ii) If the household requests renegotiation, and if the Issuance and Accountability Unit Supervisor concurs with the request, the Issuance and Accountability Unit Supervisor shall negotiate a new payment schedule and execute a new written agreement with the household. If during the renegotiation it becomes clear to the Issuance and Accountability Unit Supervisor that the full amount cannot be liquidated in one year, he shall recommend that the state agency nutrition assistance program compromise the claim, if necessary, to an amount that will allow the household to make restitution in three years or less.

(iii) If the household fails to respond within fifteen days the Issuance and Accountability Unit Supervisor shall either file a claim action in the small claims court or refer the case to the nutrition assistance program's legal counsel at Attorney General's Office for its disposition, as appropriate, by the close of the next work day.

(g) Accounting.

(1) The Issuance and Accountability Unit Supervisor shall maintain a ledger to account for outstanding claims. At a minimum, the ledgers shall contain the following information for each case: case number; case name; original amount of claim; monthly repayments; outstanding balance, if any; and, entry dates. The Issuance and Accountability Unit Supervisor shall check the ledger for any outstanding balances prior to processing benefit restoration for any household by Certification Unit.

(2) Monthly Summary Report. A summary report shall be submitted by the program Administrator to the Secretary's Office, Department of Community and Cultural Affairs, each month no later than the fifth of the month following the report month. At a minimum, the report shall contain the following information for each claim category:

(i) Total amount collected during the report month (offset and cash);

(ii) Total amount of new claims established during the report month (offset and cash);

(iii) Total amount of non-fraud claim suspended during the report month;

(iv) Total amount compromised;

(v) Year to date balances for each of the previous headings; and

(vi) Total claims outstanding at the end of the report month.

(h) Small Claim.

(1) Establishment. The Issuance and Accountability Unit Supervisor shall file a small claim against recipient households for amounts outstanding which meets the Commonwealth of the Northern Mariana Islands criterion for small claims in accordance with procedures described in subsections (b), (c), (e), and (f) of this section. Once the date and time for the small claims hearing is established by the court, the Issuance and Accountability Unit Supervisor shall provide

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the client written notice at least ten days in advance of the court hearing date.

(2) Postponement. The adult head of household or its authorized representative may request, for good cause, a postponement of a scheduled small claims hearing up to thirty days. The Issuance and Accountability Unit Supervisor shall signify approval of the request for postponement by providing the recipient with a written stipulation stating the new date and time of the court hearing established by the court.

(3) Court Decision. The state agency nutrition assistance program shall comply with the small claims court order unless an appeal is initiated. The claim repayment schedule will be modified, if necessary, in accordance with the court order.

(i) Program Income Account. The program income account is established as a new business unit account that is completely separate from the administrative/operational and program benefits accounts. The nutrition assistance program accountant shall timely transmit all over issuance payments, penalty fines and civil money penalties to Division of Treasury, then Division of Treasury credits and deposits said payments into the program income account. The Federal Grant Supervisor from Division of Finance and Accounting shall provide a detail expenditure report to nutrition assistance program accountant on a monthly basis for reconciliation on all over issuance payments, penalty fines and civil money penalties. Funds from this special account shall be for proper expenditures on continued improvements in program operations and personnel enhancement. Nutrition assistance program shall timely monitor and maintain proper expenditure control of the program income account.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Amdts Adopted 7 Com. Reg. 3970 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3943 (Aug. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsections (b)(2)(i)(C), (f)(2) and (g). The September 1985 amendments amended subsections (b)(3), (c)(2), (e)(2) and (f)(2) and added new subsection (h). The December 1985 amendments amended subsections (h)(1) through (h)(3).

The 2000 amendments proposed to amend subsection (b)(3)(v). A notice of adoption was never published for the 2000 emergency and proposed amendments and, therefore, the commission has not incorporated the proposed changes.

The 2002 amendments added new subsections (b)(3)(v) and (i). The 2002 amendments included an asterisk indicating "Amendment 2-85" after subsections (b)(3), (c)(2), (e)(2) and (f)(2). The September 1985 amendments were labeled "Amendment No. 2-85." The commission removed the reference. The 2002 amendments also included an asterisk indicating "Amendment 1-86" after subsection (h). The December 1985 amendments were labeled "Amendment No. 1-86." The commission removed the reference.

In the opening paragraph of subsection (b) and in subsections (b)(3)(i), (b)(3)(v) and (g)(1), the commission changed "claim" to "claims" to correct manifest errors. The commission also changed "procedure" to "procedures" in subsection (b)(3)(v). The Commission converted the example in subsection (b)(2)(i)(C) to a table for ease of reading. The Commission inserted commas after the words "monitor" in subsection (b)(3)(v), "willfully" in subsection (c)(1), and "order" in subsection (f)(1)(ii) pursuant to 1 CMC § 3806(g). The Commission corrected the

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phrase “months allotment” in subsection (b)(2)(iii) to “months§ allotment” pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of “administrator” in subsection (b)(3)(v) pursuant to 1 CMC § 3806(f).

Part 300 - Food Stamps for Local Use Only

§ 55-30-301 Local Food Coupons Issued

The state agency nutrition assistance program shall issue nutrition assistance program food stamp coupons designated for purchase of local foods only. These coupons shall be easily distinguishable from the nutrition assistance program general purpose coupons, or United States regular coupons, which may be used to purchase any eligible food or non-food item (such as farming and fishing implements). The earmarked coupon, or local coupon, shall bear on its face the statement “LOCAL FOOD ONLY.”

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The commission created the section titles in part 300.

The commission moved the final period inside of the closing quotation mark.

§ 55-30-305 Limits on Use of Local Food Coupons

“LOCAL FOOD ONLY” coupons may be used to purchase only food or food products grown, raised, caught, or processed into a finished food product in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-310 Percentage of Allotment

An amount equal to thirty percent of the eligible household’s total monthly coupon allotment shall be issued to the household in “LOCAL FOOD ONLY” coupons during each monthly issuance.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

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§ 55-30-315 Percentage Set for Each Fiscal Year

The percentage of program benefits allocated to local foods to take effect in the coming fiscal year (October 1) shall be determined by the nutrition assistance program administrator no later than July 31 of the current fiscal year. The nutrition assistance program administrator shall base its determination on the amount of local foods forecast for the coming fiscal year. The state agency nutrition assistance program may waive or modify the restriction on the use of earmarked coupons as necessary in response to unexpected shortages in the available local food supply.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The Commission corrected the capitalization of the word “administrator” pursuant to 1 CMC § 3806(f).

§ 55-30-320 Use for Change Prohibited

Earmarked coupons shall be printed only in one-dollar denominations and shall not be used for change in a nutrition assistance program coupon transaction.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-325 Authorized Retailers

To encourage and promote the sale of local foods, the state agency Retail & Redemption Unit shall authorize food stores to accept nutrition assistance program food stamp coupons only if they carry ten percent of their declared food sales in local foods. The Retail and Redemption Unit official shall conduct periodic onsite inspections of authorized retailers and subsequently file written reports of findings to the nutrition assistance program Administrator to ensure compliance with this requirement. The Retail and Redemption Officer shall provide a written warning to participating authorized retailers who are out of compliance that their authorization may be withdrawn unless they meet the ten percent local food requirement within thirty days. The Retail and Redemption Officer shall withdraw the authorization from authorized retailers that fail to comply the day after the 30-day warning period.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983);

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Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-330 Misuse of Local Food Coupons

Persons using or accepting earmarked, or local coupons for anything other than local foods shall be subject to prosecution under pertinent local fraud statutes and the pertinent sections of this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Part 400 - Issuance and Use of Food Stamp Coupons

§ 55-30-401 Basic Issuance Requirements

The state agency Issuance and Accountability Unit is responsible for the timely and accurate issuance of nutrition assistance program food stamp coupons to eligible households in accordance with the provisions of this chapter. The Issuance and Accountability Unit Supervisor shall establish an issuance and accountability system which will ensure that only certified households receive benefits; nutrition assistance program coupons are accepted, stored, and protected after delivery to receiving points within the Commonwealth of the Northern Mariana Islands; program benefits are timely distributed in the correct amounts; and, coupon issuance and reconciliation activities are properly conducted.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-405 Contracting or Delegating Issuance Responsibilities

The state agency nutrition assistance program may assign to other parties, such as, banks, savings and loan associations, or other responsible corporate entities the responsibility for issuance and storage of coupons.

(a) Any assignment of issuance functions shall clearly delineate the responsibilities of both parties. The Issuance and Accountability Unit Supervisor remains responsible, regardless of any agreements to the contrary, for ensuring that those assigned duties are carried out in accordance with this chapter.

(b) All issuance agent contracts shall follow procurement standards set forth by Office of Management and Budget. The state agency nutrition assistance program shall contract only with responsible contractor* who submitted the lowest bid amount per authorization to participate in

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accordance with invitation to bid (ITB) and who possess the ability to perform successfully under the terms and conditions of the proposed procurement. In making its selection, the state agency nutrition assistance program shall consider contractor integrity, the record of past performance, financial and technical resources, and the availability of other necessary resources.

(c) The state agency nutrition assistance program shall not assign the issuance of coupons to any retail grocery store authorized to redeem coupons from participant households.

* So in original.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-410 State Monitoring of Coupon Issuers

(a) The state agency Issuance and Accountability Unit accountability system shall include procedures for monitoring coupon issuers or issuance agents to assure that the day-to-day operations of all coupon issuers or issuance agents comply with these provisions and to identify and correct deficiencies.

(b) The Issuance and Accountability Unit shall conduct an onsite review of each coupon issuer and bulk storage point at least once every three months. All offices or units of a coupon issuer or issuance agent are subject to this review requirement. The Issuance and Accountability Unit shall base each review on the specific activities performed by each coupon issuer or bulk storage point. A physical inventory of coupons shall be taken at each location and that count compared with perpetual inventory records and the monthly reports of the coupon issuer or bulk storage point.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-415 Issuance Systems

(a) System Classification. Nutrition assistance program Issuance and Accountability Unit personnel will issue nutrition assistance program coupons through an authorization to participate (ATP) system in which an authorizing document is distributed on a monthly basis to eligible households and surrendered by the adult head of household or its authorized representative to the coupon issuer or issuance agent to obtain coupons.

(b) Certification Documentation. The state agency nutrition assistance program shall use a notice of change document, otherwise referred to as a turnaround document (TAD), and transmit

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information on household eligibility or participation from the Certification Unit to the Issuance and Accountability Unit of the state agency nutrition assistance program.

(c) Household Issuance Record Master File.

(1) The Issuance and Accountability Unit Supervisor shall establish a household issuance record (HIR) master file that is a composite of the issuance records of all certified food stamp households. The Issuance and Accountability Unit Supervisor shall establish the household issuance record master file in a manner compatible with the system used for maintaining case records and divide the household issuance record master file into active and inactive household issuance records. The household issuance record master file shall contain all the information needed to identify certified households, issue authorization to participate cards, record the participation activity for each household, and supply all information necessary to fulfill the reporting requirements of the state agency Issuance and Accountability Unit.

(2) The household issuance record master file shall be kept current and accurate. Household issuance records will be updated, or terminated, based upon notices of change and controls for expired certification periods.

(3) Before establishing a household issuance record for a participant household, the Issuance and Accountability Unit personnel shall check the household issuance record master file to ensure that the household is not currently participating or disqualified.

(4) The Issuance and Accountability Unit Supervisor must test all automatic data processing system changes upgrades and modifications prior to full implementation on an as needed basis. Testing shall include pre-authorization to participate run (initial authorization to participate*) and over the counter (OTC) and also manually produced authorization to participate, coupon distribution table, case number, household size, authorization to participate validity, island center, address, and renewal date.

(d) Authorization to Participate Card Issuance.

(1) Authorization to participate cards issued by the Issuance and Accountability Unit official shall contain, at a minimum:

(i) Serial numbers;

(ii) Case name, address, and food stamp case number;

(iii) The coupon allotment for the household;

(iv) Expiration date;

(v) Project area for which the authorization to participate card is issued;

(vi) Space for the signature of the adult head of household or its authorized representative; and

(vii) Household size.

(2) The state agency Issuance and Accountability Unit shall clearly mark each authorization to participate card with an expiration date. The authorization to participate card shall be valid for the entire month of issuance.

(3) The Issuance and Accountability Unit Supervisor shall void all authorization to participate cards mutilated or otherwise rejected during the preparation process. The voided authorization to participate cards shall either be filed for audit purposes or destroyed. Destruction shall be witnessed by at least two Issuance and Accountability Unit personnel and the Issuance and Accountability Unit Supervisor shall maintain a record of all destroyed authorization to participate cards.

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- (4) Participating households shall sign for their authorization to participate cards when they obtain their authorization to participate cards from the Issuance and Accountability Unit official.
- (5) An adult head of household or its authorized representative may designate an emergency authorized representative to obtain the household's allotment with a particular authorization to participate card. The emergency authorized representative must present the household's identification card and a statement signed by the representative and the adult head of household or its authorized representative already named on the identification card authorizing the representative to obtain the household's coupons and attesting to the signature of the emergency authorized representative. The adult head of household or its authorized representative shall not be required to travel to the food stamp office to execute the designation. Control comparable to that of normal issuance transaction is achieved by the comparison of the signatures of the adult head of household or its authorized representative named on the identification card with the signature designating the emergency authorized representative, the signature on the authorization to participate card at the issuance point with the emergency authorized representative's signature attested to by the adult head of household or its authorized representative, and any form of photo identification of the representative upon request. A separate written designation is needed each time an emergency authorized representative is used.
- (6) Prior to coupon issuance, the cashier or issuance agent staff shall ask the person requesting food stamps for proper identification as the certified adult head of household, authorized representative, or emergency authorized representative. This person shall present to the cashier both the food stamp identification card and the authorization to participate card, and any form of photo identification upon request. The cashier shall examine the authorization to participate card for authenticity, alteration, and date of expiration. If the authorization to participate card is valid, the person requesting food stamps shall sign the authorization to participate card in the presence of the cashier. The cashier shall compare the signature on the authorization to participate card with the signature on the identification card. In cases where an emergency authorized representative obtains the coupons, the signature and identification check shall be governed by the policy discussed in subsection (d)(5) immediately preceding. If the person requesting coupons has already signed the authorization to participate card, the person shall be required to sign a separate piece of paper for signature comparison. If the signatures agree, coupons shall be issued.
- (7) The Issuance and Accountability Unit Supervisor shall clearly differentiate between initial and replacement authorization to participate card issuance.
- (8) The coupon issuer or issuance agent shall reconcile its issuance on a daily basis.
- (9) The Issuance and Accountability Unit Supervisor shall provide for the issuance of coupon replacements due to improper manufacture or mutilation.
 - (i) The Issuance and Accountability Unit Supervisor shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.
 - (ii) If the Issuance and Accountability Unit Supervisor can determine the value of the improperly manufactured or mutilated coupons, the Issuance and Accountability Unit Supervisor shall replace the unusable coupons on a dollar-for-dollar exchange. If the unusable coupons are those earmarked for purchase of local foods only, the Issuance and Accountability Unit Supervisor shall replace them with similarly identified coupons. After exchange, the state agency Issuance and Accountability Unit shall destroy the coupons in accordance with procedures contained in this chapter.

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(iii) If the Issuance and Accountability Unit Supervisor cannot determine the value of the improperly manufactured or mutilated coupons, the Issuance and Accountability Unit Supervisor shall cancel the coupons by writing or stamping "CANCELLED" across the face of the coupons and check with the issuance agent to determine the amount issued to the client.

(e) Manually Prepared Authorization to Participate Cards.

(1) The state agency Issuance and Accountability Unit shall manually prepare and issue authorization to participate cards at the local level if necessary to provide an opportunity to participate to households certified on an expedited basis, to comply with processing standards for initial certifications and re-certifications and for action on reported changes, and to replace lost or stolen authorization to participate cards or allotments. To minimize the possibility of misuse of manually prepared authorization to participate cards, the Issuance and Accountability Unit Supervisor shall:

(i) Divide responsibility for the issuance of the authorization to participate card between at least two people to prevent a single individual from having complete control over both the documents which authorize the issuance of authorization to participate cards and the authorization to participate cards themselves;

(ii) Record immediately on the household issuance record master file the serial number and other issuance information from the authorization to participate card; and

(iii) Require the nutrition assistance program administrator to review all over the counter authorization to participate cards prepared after the cut-off date for machine-generated authorization to participate cards. Manually prepared authorization to participate cards may be issued to initial applicant or re-opened households (who miss the machine-generated cut-off date but are determined eligible) up to the twentieth of the month. Under no circumstances, however, will a household be issued an over the counter authorization to participate card after the twentieth of the month unless the Department of Community and Cultural Affairs Secretary determines that there is an emergent need and approves the issuance in writing.

(2) For initial certifications, the Issuance and Accountability Unit Supervisor shall prevent duplicate or unauthorized participation by checking its records prior to issuing the manual authorization to participate card to assure that the household is not currently certified for that month or is not disqualified from participation.

(3) The state agency Issuance and Accountability Unit shall issue an emergency replacement authorization to participate card only if the original authorization to participate card is reported lost or stolen in the period for which it was intended.

(i) Prior to authorizing the issuance of a replacement authorization to participate card, the Issuance and Accountability Unit Supervisor shall determine if the household is currently certified and if the lost or stolen authorization to participate card was valid for the current month.

(ii) The participant must sign a notarized sworn affidavit stating that the original authorization to participate card will be returned to the Issuance and Accountability Unit Supervisor if recovered by the household. The notarized sworn affidavit shall be filed in the case file. Said affidavit must be signed under penalty of perjury. The Issuance and Accountability Unit Supervisor shall compile a list of authorization to participate cards reported lost during the month and check the authorization to participate reconciliation report at the end of the month to determine if lost authorization to participate cards were used to obtain coupons. The state agency Management Evaluation Unit shall investigate incidences of lost authorization to participate cards that were transacted and based on its findings, take appropriate action.

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(f) Issuance of Coupons to Households. The issuance agent shall issue coupon books in accordance with the table for coupon book issuance provided by the state agency Issuance and Accountability Unit. The issuance agent may deviate from the table if the specified coupon books are unavailable. Exceptions from the table are authorized for blind and visually handicapped participants who request that all coupons be of one denomination. The Issuance and Accountability Unit official shall issue the coupon books in consecutive serial number order whenever possible, starting with the lowest serial number of each coupon book denomination. The adult head of household or its authorized representative whose name appears on the nutrition assistance program identification card shall sign the coupon books prior to pick-up.

* So in original.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 7 Com. Reg. 3970 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3943 (Aug. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1985 amendments added new subsection (d)(1)(vii) and amended subsections (b) and (e)(3)(ii).

The 2002 amendments added new subsection (c)(4). The 2002 amendments included an asterisk indicating "Amendment 2-85" after subsections (b), (d)(1)(vii) and (e)(3)(ii). The September 1985 amendments were labeled "Amendment No. 2-85." The commission removed the reference.

The Commission corrected the capitalization of "Administrator" in subsection (c)(1)(iii) pursuant to 1 CMC § 3806(f). In subsection (d)(1), the commission deleted the repeated word "card" and in subsection (d)(6), the commission corrected the spelling of "preceding."

§ 55-30-420 Distribution of Coupons

(a) Coupon Inventory Management. The Issuance and Accountability Unit Supervisor shall establish a coupon inventory management system that ensures that coupons are requisitioned and inventories are maintained in accordance with the requirements of this chapter.

(1) The Issuance and Accountability Unit Supervisor shall monitor the coupon inventories of the coupon issuer and bulk storage point to ensure inventories are at proper levels and are not in excess of the reasonable needs of the coupon issuer or issuance agent. The Issuance and Accountability Unit Supervisor shall consider, among other things, in determining the reasonable inventory needs, the ease and feasibility of resupplying such inventories from the manufacturer or printing agent. The inventory levels at each of the coupon issuer sites and bulk storage point shall not exceed a 3-month supply.

(2) The Issuance and Accountability Unit Supervisor shall establish an accounting system for monitoring the inventory activities of the issuance agent. The Issuance and Accountability Unit Supervisor shall review periodic reports from the issuance agent to determine the propriety and reasonableness of the inventories at least once a month. Reports of improperly manufactured or mutilated coupons, reports of shortages or overages of nutrition assistance program coupon books and physical inventory controls shall be used by the Issuance and Accountability Unit

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Supervisor to assure the accuracy of monthly reports and the issuance agent's compliance with required inventory levels and the accuracy and reasonableness of coupon orders.

(b) Coupon Controls.

(1) The state agency Issuance and Accountability Unit shall establish control and security procedures to safeguard coupons similar to those used to protect currency. The state agency nutrition assistance program and all people in organizations acting on its behalf, shall take the necessary precautions to:

- (i) Safeguard coupons from theft, embezzlement, loss, damage, or destruction;
- (ii) Avoid unauthorized transfer, negotiation, or use of coupons; and,
- (iii) Avoid issuance and transfer of altered or counterfeit coupons.

(2) The exact nature of security arrangements will depend on state agency nutrition assistance program evaluation of local coupon issuance and storage facilities. These arrangements will permit the timely issuance of coupons while affording a reasonable degree of coupon security.

(c) State Coupon Requisitioning. The Issuance and Accountability Unit Supervisor shall arrange for the ordering of coupons and the prompt verification and written acceptance of the contents of each coupon shipment. The Issuance and Accountability Unit Supervisor shall maintain on file copies of appropriate delivery acknowledgments.

(d) Transporting Coupons. In every instance when coupons are transported, the person(s) transporting the coupons shall:

- (1) Acknowledge their receipt in writing;
- (2) Accord the coupons as much protection as is reasonable; and,
- (3) Advise the Issuance and Accountability Unit Supervisor of the routes to be taken, the shipment departure time, and the estimated arrival time.

(e) Specimen Coupons. The Issuance and Accountability Unit Supervisor will provide non-negotiable specimen coupons to authorized retailers upon written request for the purpose of educating and training employees on program operations.

(1) Authorized retailers shall store specimen coupons in secure storage with access limited to authorized personnel.

(2) Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall be destroyed by the state agency Issuance and Accountability Unit. Such destruction shall be witnessed by two nutrition assistance program personnel from the Issuance and Accountability Unit and noted on the file.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs of subsection (b) were not designated. The commission designated subsections (b)(1) and (b)(2).

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§ 55-30-425 Responsibilities of Coupon Issuers or Issuance Agents

- (a) Receipt of Coupons. Coupon issuers or issuance agents shall promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control, and storage of coupons.
- (b) Inventory Level. Issuance agents shall maintain a proper level of coupon inventory not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. Such inventory levels shall not exceed a 3-month supply.
- (c) Reporting. Issuance agents shall report weekly to the Issuance and Accountability Unit Supervisor. These reports shall be signed by the issuance agent or appropriate corporate official, certifying that the information is true and correct to the best of that person's knowledge and belief. At a minimum, the weekly report shall indicate by book size the number of coupons received, and the number of coupons issued, the number of authorization to participate cards transacted, and the number of coupons on hand (by book size).
- (d) Supporting Documentation. Coupon issuance points shall submit to the Issuance and Accountability Unit Supervisor supporting documentation that will allow verification of the weekly report. At a minimum, such documentation shall include documents supporting coupon shipments, transfers and issuance. The coupon issuer or issuance agent shall submit transacted authorization to participate card batches according to each week's activity, in accordance with the schedule prescribed by the state agency Issuance and Accountability Unit.
- (e) Improperly Manufactured or Mutilated Coupons. Issuance agents shall cancel improperly manufactured or mutilated coupons or coupon books by writing or stamping "CANCELLED" across the face of the coupon(s) and coupon book(s). The coupon issuer or issuance agent shall hold the coupons in secure storage for examination and destruction by the state agency Issuance and Accountability Unit.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-430 Reconciliation

- (a) Verification of Authorization to Participate Card Issuance.
- (1) The state agency Issuance and Accountability Unit shall verify the number of transacted authorization to participate cards received from the issuance agent and the total value of authorized coupon issuances. The reconciliation process will be completed and a reconciliation report issued no later than two working days after the end of the month in which the transacted authorization to participate card were in effect.
- (2) Authorization to participate card batches not reconciled shall be maintained intact by the Issuance and Accountability Unit Supervisor until the discrepancy is resolved with the issuance

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agent.

(3) Following receipt and verification of the final batch of authorization to participate cards for the month, the Issuance and Accountability Unit Supervisor shall determine the total value of authorized issuance for each coupon issuer. Any expired authorization to participate cards shall be handled as issuance agent errors and shall not be reported as authorized issuance on the reconciliation report. The issuance agent shall reimburse the state agency nutrition assistance program for any unauthorized issuance of coupons within thirty days of the over issuance.

(b) Reconciliation of Authorization to Participate Cards with the Household Issuance Record Master File.

(1) The Issuance and Accountability Unit Supervisor shall post and reconcile all transacted authorization to participate cards against the household issuance record master file. The reconciliation of authorization to participate cards shall be accomplished at the level in the state agency nutrition assistance program where the household issuance record was created from the notices of change. This posting and reconciliation shall, at a minimum, include for each authorization to participate card a comparison of the total coupon allotment. The Issuance and Accountability Unit Supervisor shall merge the records of the manually prepared initial and replacement authorization to participate card issuance with the household issuance record master file prior to posting and reconciling the transacted authorization to participate cards. Authorization to participate cards issued to replace authorization to participate cards reported lost or stolen shall be separately identifiable, as the transaction of both the original and replacement authorization to participate cards represents a duplicate issuance which must be reported on a reconciliation report.

(2) Identification of Unreconciled Authorization to Participate Cards. The Issuance and Accountability Unit Supervisor shall identify all transacted authorization to participate cards that are not reconciled with the household issuance record master file as expired, duplicate, altered, stolen, or counterfeit. Unreconciled authorization to participate cards shall be recorded on a reconciliation report. This identification shall be used to establish the liabilities of the issuance agent and for determination of corrective or claim action.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 7 Com. Reg. 3970 (Sept. 16, 1985); Amdts Proposed 7 Com. Reg. 3943 (Aug. 15, 1985); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1985 amendments amended subsection (a)(1).

The 2002 amendments included an asterisk indicating "Amendment 2-85" after subsection (a)(1). The September 1985 amendments were labeled "Amendment No. 2-85." The commission removed the reference.

§ 55-30-435 Issuance Record Retention and Security

(a) Availability of Issuance Records. The state agency Issuance and Accountability Unit and the issuance agent shall maintain issuance records for a period of three years from the month of origin.

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(1) Issuance records shall include, at a minimum: notices of change, inventory records, transacted authorization to participate cards, issuance agent's weekly reports and substantiating documents, daily coupons issued log sheet, and the household issuance record master file.

(2) In lieu of the records themselves, microfilm, microfiche, or computer tapes may be maintained, as long as they are easily retrievable for audit review purposes.

(b) Control of Issuance Documents. The Issuance and Accountability Unit Supervisor shall control all issuance documents that establish household eligibility while the documents are transferred and processed within the state agency nutrition assistance program. The Issuance and Accountability Unit Supervisor shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process. The Issuance and Accountability Unit Supervisor shall also ensure the security and control of authorization to participate cards in transit from the manufacturer or printing agent to the state agency Issuance and Accountability Unit Office.

(c) Authorization to Participate Cards as Accountable Documents. Authorization to participate cards shall be considered accountable documents. The Issuance and Accountability Unit Supervisor shall provide the following minimum security and control procedures for these documents:

(1) Preprinted serial numbers;

(2) Secure storage;

(3) Access limited to authorized personnel;

(4) Bulk inventory control records;

(5) Subsequent control records maintained through the point of issuance or use; and

(6) Periodic review and validation of inventory controls and records by parties not otherwise involved in maintaining control records. At a minimum, these reviews shall be conducted once a month.

(d) Notice of Change, Otherwise Referred to as Turnaround Document, and Nutrition Assistance Program Identification Card Security. For blank nutrition assistance program identification cards and notices of change which initiate, update, or terminate the household issuance record, the Issuance and Accountability Unit Supervisor shall at a minimum, provide secure storage and limit access to authorized personnel.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-440 State Agency Issuance and Accountability Unit Reporting Destruction of Unusable Coupons

(a) State Agency Issuance and Accountability Unit Reporting.

(1) The Issuance and Accountability Unit Supervisor shall review periodic reports from coupon issuers or issuance agents for accuracy, completeness, and reasonableness.

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(2) The Issuance and Accountability Unit Supervisor shall compile figures after the end of the issuance month based on household issuance record card data or transacted authorization to participate cards. These figures shall include all issuances supported by issuance documents including expired, altered, stolen, counterfeit, and duplicate issuances which occurred during the report month.

(3) The Issuance and Accountability Unit Supervisor shall prepare a monthly summary report containing the data enumerated in subsection (a)(2) immediately above.

(b) Destruction of Unusable Coupons.

(1) The Issuance and Accountability Unit Supervisor shall require the issuance agent and the coupon manufacturer or printing agent to hold the unusable coupons in secure storage pending examination and destruction by the Issuance and Accountability Unit personnel. After verification of the reports from those points, the Issuance and Accountability Unit official shall destroy improperly manufactured or mutilated coupons or coupon books received from the issuance agent and printing agent, and unusable coupons or coupon books returned by households.

(2) The Issuance and Accountability Unit official shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so they are not negotiable. The Issuance and Accountability Unit Supervisor shall witness and certify the destruction. Such certification shall be kept on file with the monthly summary report discussed in subsection (a)(3) above.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsection (a)(3). The Commission inserted a comma after the word "completeness" in subsection (a)(1) pursuant to 1 CMC § 3806(g).

§ 55-30-445 Closeout of a Coupon Issuer or Issuance Agent

(a) Definition of Responsibilities. Whenever the services of a coupon issuer or bulk storage point are terminated, the state agency Issuance and Accountability Unit shall perform the responsibilities described below. If an issuance agent has more than one functioning unit and one of these facilities is terminated, the issuance agent shall notify the Issuance and Accountability Unit Supervisor at least thirty days in advance of the pending termination of any of its services prior to the actual termination.

(b) Close Out Accountability. The Issuance and Accountability Unit Supervisor shall perform a close out audit of a coupon issuer or issuance agent within thirty days of termination of the issuance.

(c) Transfer of Coupon Inventory.

(1) Prior to the transfer of coupon inventory to another issuance agent, the Issuance and Accountability Unit personnel shall perform an actual physical count of coupons on hand.

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(2) The Issuance and Accountability Unit Supervisor shall transfer the inventory to another issuer. The transfer of coupons shall be properly reported and documented by both the point being terminated and the point receiving the inventory.

(d) Maintenance of Participant Service.

(1) At least thirty days before actual termination of a coupon issuer or issuance agent, the Issuance and Accountability Unit Supervisor shall notify affected participants of the impending closure. Notification shall include identification of alternate issuance locations. The state agency Issuance and Accountability Unit shall post notices at the office(s) of the issuance agent of the impending closure and may use mass media, authorization to participate staffer, or the monthly nutrition assistance program food stamps newsletter to advise participants about the expected closure of the issuance agent office.

(2) If closure of the issuer will affect a substantial portion of the caseload or a specific geographic area, the state agency nutrition assistance program shall take whatever action is necessary to maintain participant service without interruption.

(3) If an issuance agent is to be closed for noncompliance with contractual requirements and alternate issuance facilities or systems are not readily available, the state agency nutrition assistance program may continue to use the coupon issuer or issuance agent for a limited time. In these situations, the Issuance and Accountability Unit personnel shall perform weekly onsite reconciliation of coupon issuance. The state agency nutrition assistance program shall continue to actively seek other issuance alternatives.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-450 Use of Coupons by Eligible Households

(a) Eligible Food. An adult head of household or its authorized representative must sign each coupon book issued to the household. The coupons may be used only by the adult head of household or its authorized representative to purchase eligible food for the household and basic farming and fishing equipment and livestock. Nutrition assistance program coupons identified as for purchase of local foods only shall not be used to purchase food imported from outside the Commonwealth of the Northern Mariana Islands nor shall they be used as change. Uncancelled and unendorsed coupons of one-dollar denomination and five-dollar denomination, returned as change by authorized retailers, may be presented as payment for eligible food and other eligible items. All other detached coupons may be accepted only if accompanied by the coupon book that bears the same serial number as the detached coupons. It is the right of the adult head of household or its authorized representative to detach the coupons from the book.

(b) Livestock. Eligible households may use all or any part of the coupons issued to them to purchase livestock. Nutrition assistance program coupons identified as for purchase of local foods only, specifically the local coupons, shall be used to purchase livestock. However, in the absence of local coupons, the U.S. regular coupons may also be used for the same purchase.

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(c) Farming/Fishing Equipment. Eligible households may use all or any part of the coupons issued to them except for nutrition assistance program coupons identified as for purchase of local foods only, specifically the local coupons, to purchase basic farming equipment, such as, rakes, hoes, sickles, shovels, fruit or vegetable seeds and seedlings, garden (water) hose, and fertilizer, etc.; and, fishing equipment, such as, hooks, rods, harpoons, knives, lines, nets, spears, reels, diving masks and goggles, and water resistant (underwater) flashlights, etc.

(d) Use of Identification Cards. The adult head of household or its authorized representative shall present his nutrition assistance program identification card, at a minimum, to the authorized retailers when exchanging nutrition assistance program coupons for eligible food and other eligible items enumerated on subsections (b) and (c) above, performing re-certifications at Certification Unit, and picking up benefits at the designated issuance agent location. Additionally, any form of photo identification should be presented upon request for proof of identity.

(e) Prior Payment Prohibition. Coupons shall not be used to pay for any eligible food and other eligible items enumerated on subsections (b) and (c) above purchased prior to the time at which the coupons are presented to authorized retailers. Neither shall coupons be used to pay for any eligible food nor other eligible items enumerated on subsections (b) and (c) above in advance of the receipt of food, except when prior payment is for eligible food and other eligible item enumerated in subsections (b) and (c) above purchased for Northern Islands recipients.

(f) Cash Change. When change in an amount less than one dollar is required in a coupon transaction, the adult head of household or its authorized representative shall receive the change in cash not to exceed ninety-nine cents.

(g) Change Making. Only unendorsed uncanceled one-dollar coupons and five dollar coupons may be used as change in nutrition assistance program coupon transactions. One-dollar coupons earmarked for local foods only shall not be used for change making.

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2800 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2635 (Mar. 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: In subsection (g), the commission changed “dollars” to “dollar” to correct a manifest error. The Department promulgated an emergency amendment to this section in September of 2005 (27 Com. Reg. 24871 (Sept. 22, 2005)) and again in December of 2005 (27 Com. Reg. 25309 (Dec. 30, 2005)). Both amendments contained notices of intent to adopt them as permanent regulations, but a notice of adoption was never published.

Part 500 - Management Evaluation System

§ 55-30-501 State Agency Management Evaluation Unit Responsibilities

(a) The state agency secretary (Department of Community and Cultural Affairs Secretary) in

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compliance with sections 17(j) and (k) and 18(j) of the Memorandum of Understanding shall establish a continuing management evaluation system to review performances by the state agency nutrition assistance program in its administration of the program in the Commonwealth of the Northern Mariana Islands. The components of the state agency's management evaluation system shall, at the least, include:

(1) Data collection through ongoing quality control (QC) reviews throughout the fiscal year, including but not limited to, monitoring reviews to evaluate program operations and certification actions;

(2) Analysis and evaluation of data from all sources which shall be distributed in a formal report of findings as follow: the management evaluation unit fiscal year report of findings shall be addressed to the nutrition assistance program Administrator once a year within thirty days of the end of the fiscal year; an interim report of findings of random cases reviewed to date shall be submitted to the state agency secretary, with a courtesy copy furnished to the nutrition assistance program Administrator, after six months; a comprehensive calendar year report of findings of random cases reviewed shall be submitted to the state agency secretary, with a courtesy copy furnished to the nutrition assistance program Administrator, within thirty days of the end of the calendar year; an interim report of findings of random cases reviewed shall be submitted to state agency secretary, with a courtesy copy furnished to the nutrition assistance program Administrator, within thirty days following the foregoing period; the Management Evaluation Unit calendar year annual report shall be submitted to the nutrition assistance program Administrator, the estimated report thirty days prior to the end of the calendar year and the final report within thirty days of the end of the calendar year, for the Governor's report on the state of Commonwealth address;

(3) Formulation of a comprehensive corrective action plan (CAP) which shall respond to the formal report of findings and which shall be updated and modified as more current data are received from the different sources of analysis and evaluation;

(4) Implementation of corrective actions and monitoring of the corrective actions until completion or modification.

(b) The Department of Community and Cultural Affairs Secretary shall designate a unit separate from the nutrition assistance program to coordinate and perform the necessary activities of the management evaluation system. This unit shall be referred to as the Management Evaluation Unit and shall remain organizationally distinct from the nutrition assistance program and under the direct supervision and authority of the Secretary of the Department of Community and Cultural Affairs.

(c) The state agency nutrition assistance program shall employ sufficient personnel to perform all aspects of the management evaluation system as required by this section.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments deleted former subsection (a)(5).

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§ 55-30-505 Food and Nutrition Service Responsibilities

Food and Nutrition Service shall review its information copy of the management evaluation unit corrective action plan and may suggest improvements to the plan. Food and Nutrition Service may comment on all functions performed at the state agency level in the administration/operation of the program, such as, but not limited to: certification and issuance procedures; security and control procedures; accountability; reconciliation; record keeping and reporting procedures; training; outreach; redemption procedures; retailer monitoring procedures; fraud; fair hearings; work registration; disaster preparedness; and, program monitoring. Food and Nutrition Service shall monitor corrective actions by whatever means or from whatever source is available to it to determine that compliance with the federal regulations and Memorandum of Understanding have been met.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-510 Evaluation System

The Management Evaluation Unit Supervisor shall prepare a management evaluation unit handbook that will describe the policies and procedures governing the activities of the state agency Management Evaluation Unit.

(a) Modified Quality Control Review.

(1) The Management Evaluation Unit shall review five-percent of the active (certified or eligible) cases, or random cases, and one hundred percent of the inactive (denied, withdrawn and terminated) cases, or negative cases, each month.

(2) Case files shall be desk reviewed to determine proper application of policy, verification (as it may warrant necessary), documentation, and computation for each review element. The Management Evaluation Unit shall conduct a full field review, or random home visitation, of five active cases selected at random from the random listing of five percent of active household cases drawn from the household issuance record master file by the computer each month. Cases with over issuance which were not selected for full field review shall be subject to field investigation. Additionally, the Management Evaluation Unit shall conduct field investigations on questionable cases requested by the Certification Unit and other concerned citizens, but these cases shall not be included as part of the random listing for the month. Questionable Saipan cases are treated with high priority and action should be expedited as soon as possible upon receipt of request for investigation. With Tinian and Rota cases, action is expedited on the scheduled quarterly trips or on a monthly basis should it warrant necessary. Moreover, the Management Evaluation Unit shall conduct field investigations on retail outlets suspected of fraud. Subsequently, Management Evaluation Unit official responsible for any random home visitation or field investigation case shall submit a complete report of findings with recommendations to the appropriate unit (certification unit or retail and redemption unit), through the program Administrator for his disposition, in a timely manner or within five days of the following month, as appropriate, for the

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record and for affected unit to expedite any appropriate corrective action as may deemed necessary. At state agency nutrition assistance program discretion, severe cases subject for extreme penalties and charges based on solid evidence and determination of program violation(s) fraudulently committed may be referred to the nutrition assistance program's legal counsel at the Attorney General's Office for further investigation and/or prosecution.

(3) All nutrition assistance program personnel shall cooperate fully with the state agency Management Evaluation Unit in providing all information necessary to facilitate completion of the review and investigation.

(4) The Management Evaluation Unit shall provide the state agency Certification Unit in a timely manner a review action form (Management Evaluation Unit random case review disposition record or Management Evaluation Unit negative case review disposition record) for each quality control review completed. These review forms must be returned with comments to the Management Evaluation Unit within ten days after receipt with corrective actions imposed accordingly as applicable. To effectively control and monitor the review forms forwarded to Certification Unit, Management Evaluation Unit shall follow up with the Certification Unit Supervisor within five days after receipt.

(5) The Management Evaluation Unit shall provide monthly reports of findings of the random and negative cases, respectively, reviewed to the nutrition assistance program Administrator for his disposition no later than ten working days after the end of the month following the review month, with a courtesy copy to the Department of Community and Cultural Affairs Secretary. These reports shall include an analysis of the findings (both numerical and narrative) and recommendations for corrective actions.

(6) The Management Evaluation Unit shall also provide a quarterly report of findings of the random cases reviewed to the nutrition assistance program administrator for his disposition. This report shall include an analysis of the findings (both numerical and narrative) and recommendations for corrective actions. This report shall be submitted to the nutrition assistance program Administrator no later than fifteen working days after the end of the month following the review quarter, with a courtesy copy to the Department of Community and Cultural Affairs Secretary.

(7) The state agency nutrition assistance program shall initiate action to correct individual cases as soon as possible and formulate plans to reduce pervasive deficiencies reported by the Management Evaluation Unit.

(b) Review of Compliance with Nutrition Assistance Program Administrative Requirements.

(1)(i) The Management Evaluation Unit shall examine procedures to determine if controls are provided through division of responsibilities for eligibility determinations and issuance among Certification and Issuance and Accountability Units.

(ii) In order to review this requirement, the quality control reviewer shall, at the least, determine if:

(A) The Certification Unit responsibilities include the determination of household eligibility and the creation of records and documents to authorize; and

(B) The Issuance and Accountability Unit responsibilities include the creation and maintenance of the household issuance record master file; and provide certified households with authorized allotments.

(2) The Management Evaluation Unit shall determine if the nutrition assistance program Administrator has approved all nutrition assistance program forms needed in the certification and

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issuance process as well as all notices sent to households.

(3) The Management Evaluation Unit shall determine if the Division of Nutrition Assistance Program maintains program records for a period of three years from the month of origin.

(i) Certification Unit records include, but are not limited to, the following:

(A) Case files including application forms, application worksheets and notices (notice of disposition, notice of adverse action, etc.);

(B) Restoration of lost benefits documentation;

(C) Claims (authorization to participate adjustment, collection breakdown, etc.);

(D) Fair hearing records; and

(E) Fraud hearing records.

(ii) Issuance and Accountability Unit records include, but are not limited to, the following:

(A) Notices of change;

(B) Household issuance record master files;

(C) Transacted coupons; and

(D) Cashier's weekly reports.

(4) The Management Evaluation Unit shall determine if the state agency nutrition assistance program implement program changes within the required time frames.

(5) The Management Evaluation Unit shall determine if the following materials are available for public inspection during regular hours of regular work days:

(i) The federal (national) Food Stamp Regulations;

(ii) The nutrition assistance program Memorandum of Understanding;

(iii) The Nutrition Assistance Program Manual of Operations [NMIAC, title 55, chapter 30]; and

(iv) Any other state agency nutrition assistance program procedures affecting the public with regards to the program.

(c) Review of Compliance with Nutrition Assistance Program Personnel Requirements.

(1) The Management Evaluation Unit shall assess the adequacy of the number of staff and qualifications for the nutrition assistance program administration (with the exceptions of the administrator and administrative officer III), Certification Unit, Issuance and Accountability Unit, and Retail and Redemption Unit.

(2) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that only merit personnel are used in the certification process. In addition, Management Evaluation Unit shall conduct on a quarterly basis, or as it may warrant necessary, internal training programs and incentives for Certification Unit personnel to ensure strict compliance with the application certification process and recertification.

(3) The Management Evaluation Unit shall determine if the hearing officials presiding over hearings meet one of the following:

(i) An employee of the state agency;

(ii) An individual under contract with the state agency;

(iii) An employee of another public agency designated by the state agency to conduct hearings;

(iv) A member or official of a statutory board or other legal entity designated by the state agency;

(v) An executive officer of the state agency; or

(vi) A person expressly appointed to conduct state level hearings or to review state hearing

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decisions.

(4) The Management Evaluation Unit shall determine if the state agency nutrition assistance program has instituted a continuing training program for all nutrition assistance program personnel through the various private sectors and government agencies for professional enhancement. This includes, but is not limited to, sanctioned workshops from the Office of Personnel Management, local and off-island work related seminars, disaster training from Guam, fraud investigative training, etc.

(d) Review of Compliance with Certification Unit Requirements.

(1) Application Processing.

(i) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that application forms are readily accessible to potentially eligible households or anyone else requesting the form. In addition, all signed application forms processed by the eligibility workers must be reviewed thoroughly by the Certification Unit Supervisor to ensure strict compliance with application processing procedure and accurate income and benefit computation.

(ii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that applications are given on the day of request and are accepted when submitted so long as they have at least the name of head of household, mailing and residential address, and signature of the adult head of household or its authorized representative.

(iii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that all new applicant households and those with reopen cases first attend a mass orientation then undergo face-to-face interviews at the Certification Unit Office prior to initial certification unless a telephone interview or home visit is requested and warranted. The same applies to recertification of ongoing active cases, except with the mass orientation requirement.

(iv) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that all eligibility workers follow processing procedures with regards to authorized representatives.

(v) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that eligible households that complete the initial application process are given an opportunity to participate no later than thirty calendar days after the application is filed with critical and required documents submitted timely.

(vi) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that all eligibility workers provide households, which timely reapply, program benefits within the required time limits, as long as required documents are submitted.

(vii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that all eligibility workers assign certification periods based on individual household circumstances.

(2) Work Registration.

(i) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that: all household members exempted from work registration requirements are properly exempt; all exemptions are adequately documented; and work registration has been accomplished for non-exempt members within the past three months.

(ii) The Management Evaluation Unit shall determine if Certification Unit Supervisor forwards work registration referral forms to the Division of Employment Services (Department of Labor, Immigration and Employment Services) in a timely manner.

(iii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor

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ensures that all eligibility workers take appropriate action on information received from the Division of Employment Services with regards to work registration referrals and compliance, and subsequent adverse action if it warrants necessary.

(3) Notification to Households.

(i) The Management Evaluation Unit shall determine if Certification Unit provides applicants or active households with either a notice of eligibility, denial, termination, or pending status by the notice of disposition form within thirty days after the date of initial application or recertification. Additionally, that Certification Unit also provides applicants or active households a notice of disposition reflecting withdrawal action subsequently after the 30-day period.

(ii) The Management Evaluation Unit shall determine if state agency Certification Unit sends a notice of withdrawal (through a notice of disposition) subsequently after the thirtieth day to applicant households when documentation and/or verification is warranted but lacking.

(iii) The Management Evaluation Unit shall determine if state agency Certification Unit provides households with a notice of adverse action before any action is taken to reduce or to terminate benefits within a certification period.

(iv) The Management Evaluation Unit shall determine if State agency Issuance and Accountability Unit, through request from Certification Unit, issues nutrition assistance program identification cards to each eligible household only at the time of initial certification unless a replacement is necessary. Replacement identification cards shall be issued seven calendar days after receipt of request from Certification Unit.

(4) Action upon Changes.

(i) The Management Evaluation Unit shall determine if state agency Certification Unit imposes requirements on households to report changes other than those required by the Memorandum of Understanding or this chapter.

(ii) The Management Evaluation Unit shall determine if state nutrition assistance program mass changes (such as, adjustments in the income eligibility standards, the earned income deduction, etc.) are publicized and implemented on the effective date(s) of the change(s).

(iii) The Management Evaluation Unit shall determine if state agency Certification Unit handles mass adjustment in supplemental security income as mass changes and if the benefits are recomputed effective in the same month as the mass adjustment.

(iv) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that the notice of change (turnaround document) is accurate, contains all required information, and is transmitted to the state agency Issuance and Accountability Unit in time to meet processing requirements.

(5) Restoration of Lost Benefits.

(i) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that benefits are restored as required, but not for losses incurred more than two months from the date the losses were discovered (except for reversed fraud disqualifications).

(ii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that amount of benefits to be restored is offset against any claim owed by the household.

(iii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that an accounting system is maintained for documenting a household's entitlement for and current balance of restored benefits.

(iv) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that households are notified of their entitlement to restoration of lost benefits. The notices must include the amount of benefits to be restored, the method of restoration, any

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offsetting against claim, and the right to appeal through the fair hearing system.

(6) Claim Against Household.

(i) The Management Evaluation Unit shall determine if state agency Certification Unit establishes a claim against any household that has received more food stamps than it was entitled to receive.

(ii) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that established claim is offset against lost benefits.

(iii) The Management Evaluation Unit shall determine if state agency Certification Unit initiates collection action then transmits to Issuance and Accountability Unit Supervisor to eventually send written demand letters (initial and final repayment notices) which contain all required information.

(iv) The Management Evaluation Unit shall determine if the Certification Unit Supervisor ensures that fraud claims that are not repaid in cash are recouped from allotments in accordance with required procedures.

(v) The Management Evaluation Unit shall determine if state agency Issuance and Accountability Unit follows procedures for suspension and termination of claim.

(vi) The Management Evaluation Unit shall determine if state agency Issuance and Accountability Unit maintains an accounting system for monitoring claim against households.

(vii) The Management Evaluation Unit shall review from the state agency Issuance and Accountability Unit records the pertinent case files of twenty percent of current claim during the month of quality control review or twenty cases, whichever number is greater; and twenty percent of closed claim during the month of quality control review or twenty cases, whichever number is greater to determine the accuracy of claims determinations, whether the method and amount of repayment was negotiated with the client, and whether the case file contains all appropriate documentation of the claim determination and client notices.

(7) Fair Hearings.

(i) The Management Evaluation Unit shall determine if the state agency nutrition assistance program provides fair hearing to households aggrieved by any action affecting their current benefits which occurred in the prior sixty days.

(ii) The Management Evaluation Unit shall determine if the state agency nutrition assistance program provides advance written notice to all parties at least ten days before the scheduled hearing.

(iii) The Management Evaluation Unit shall determine if households who request a fair hearing within the 10-day period provided by the notice of adverse action and who have not specifically waived continuation of benefits continue to participate on the basis authorized prior to the adverse action notice.

(iv) The Management Evaluation Unit shall determine if within sixty days of receipt of a request for a fair hearing, the hearing is conducted, a decision is reached, the household and the Division of Nutrition Assistance Program are notified of the decision, and the decision is reflected in the coupon allotment.

(v) The Management Evaluation Unit shall determine if fair hearing decisions are reflected in the coupon allotment for the month of issuance following the month the decision was rendered.

(vi) The Management Evaluation Unit shall determine if the notice of the fair hearing decision includes the reason for the decision, the right to appeal the decision to a court of law, and the effect of the decision on the household's benefits.

(vii) The Management Evaluation Unit shall review the pertinent case files of all fair hearings

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on record during the month of the quality control review for compliance with the foregoing and to determine whether the separate fair hearing and fraud disqualification procedures described in this chapter are being met.

(8) Fraud Disqualification.

(i) The Management Evaluation Unit shall determine if administrative fraud hearings or agency conferences are initiated when required and households are notified at least fifteen days in advance of the scheduled hearing or conference.

(ii) The Management Evaluation Unit shall determine if within sixty days of the notification date, hearings or conferences are conducted, decisions reached, and actions taken.

(iii) The Management Evaluation Unit shall determine if individuals found guilty of fraud through an administrative fraud hearing or agency conference is disqualified for a period of at least three months, not to exceed one year.

(iv) The Management Evaluation Unit shall review the pertinent case files of all fraud hearings on record during the month of quality control review for compliance with the foregoing and to determine whether the separate fair hearing and fraud disqualification procedures described in this chapter are being met.

(e) Review of Compliance with Issuance and Accountability Unit Requirements.

(1) Household Issuance Record Master File.

(i) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit maintains a household issuance record master file which comprise the issuance records of all certified food stamp households.

(ii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that the household issuance record master file is divided into active and inactive household issuance records.

(iii) The Management Evaluation Unit shall determine if the household issuance record master file contains all required information for each household and if the Issuance and Accountability Unit Supervisor updates the household issuance records as required based upon receipt of a notice of change (or turnaround document) or other authorizing document, with controls for expired certification periods.

(iv) The Management Evaluation Unit shall determine if the Issuance and Accounting Unit Supervisor checks the household issuance record master file to ensure that the household is not currently participating or disqualified before establishing a household issuance record.

(v) The Management Evaluation Unit shall determine if the state agency Issuance and Accounting Unit checks the household issuance record master file prior to issuance of an authorization to participate under expedited service.

(2) Coupon Issuers or Issuance Agents.

(i) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that an Issuance and Accounting Unit personnel conducts an onsite review of each coupon issuer and bulk storage point or issuance agent at least once every three months.

(ii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that the physical inventory of each coupon issuer or issuance agent agrees with its perpetual inventory records and monthly report.

(iii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit ensures that coupon issuers or issuance agents check each person's nutrition assistance program identification card and authorization to participate card and perform signature

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comparison before coupon issuance.

(iv) The Management Evaluation Unit shall determine if the Issuance and Accounting Unit Supervisor ensures that replacement allotments are provided when coupons are mutilated or improperly manufactured.

(v) The Management Evaluation Unit shall determine if the state agency nutrition assistance program has a system that allows issuance of coupons to emergency representatives.

(vi) The Management Evaluation Unit personnel shall conduct an onsite review or observation of the coupon issuer or issuance agent during the issuance process to determine compliance with issuance procedures described in this chapter.

(3) Authorization to Participate Card Issuance.

(i) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that authorization to participate cards contain all required information.

(ii) The Management Evaluation Unit shall determine if state agency Issuance and Accountability Unit follows required actions to maintain control over manually prepared authorization to participate cards, such as: at least two persons are responsible for the issuance of the authorization to participate card; information from the authorization to participate card is immediately recorded in the household issuance record master file; and, cross-checks are made prior to issuing the authorization to participate card to ensure the household is not currently certified or disqualified.

(iii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that replacement authorization to participate cards are provided as required following established procedures.

(iv) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor maintains a control log for undelivered or unclaimed authorization to participate cards.

(4) Reconciliation.

(i) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that the coupon issuer or issuance agent reconciles its issuance on a daily basis.

(ii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit posts all transacted authorization to participate cards and reconciles them against the household issuance record master file following required procedures.

(iii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit verify the number of transacted authorization to participate cards received from the coupon issuer or issuance agent and the total value of authorized coupon issuance at least on a weekly basis.

(iv) The Management Evaluation Unit shall fully reconcile the total issuance during the month of review against the source document (notice of change or turnaround document, over the counter, authorization, etc.) authorizing the issuance.

(5) Distribution of Coupons.

(i) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor established a coupon inventory management system that ensures that coupons are requisitioned and that required inventories are maintained.

(ii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that the coupon issuer or issuance agent and bulk coupon supplier or printing agent comply with established procedures when issuing, delivering and receiving coupons.

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(iii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor ensures that the coupon issuer or issuance agent and bulk coupon supplier or printing agent cancel improperly manufactured or mutilated coupons and follow state agency nutrition assistance program procedures for disposition of such coupons.

(6) Reporting/Record Keeping.

(i) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor correctly prepares the weekly accountability report.

(ii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor correctly prepares the monthly report of participation and coupon issuance (food and nutrition service-256).

(iii) The Management Evaluation Unit shall determine if the Issuance and Accountability Unit Supervisor retains issuance records at least three years from the date of origin.

(7) Security/Control.

(i) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit provides the required security and control for the authorization to participate cards.

(ii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit provides secure storage and limited access to blank identification cards and notices of change (turnaround documents).

(iii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit establishes control and security procedures to safeguard coupons.

(iv) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit has adequate procedures to handle any loss, theft or embezzlement of coupons.

(f) Review of Compliance with Retailer Operations Requirements - Retail and Redemption Unit.

(1) Approval of Retail Food Stores.

(i) The Management Evaluation Unit shall determine if the retail and redemption officer requires firms to submit an application prescribed by the state agency nutrition assistance program in order to participate as an authorized retailer.

(ii) The Management Evaluation Unit shall determine if the retail and redemption officer considers the factors delineated in § 55-30-601(b) of this chapter prior to authorizing or denying a retailer's application.

(iii) The Management Evaluation Unit shall determine if the retail and redemption officer ensures that all authorized retailers have opened an account with the redemption agent within ten days of authorization for redemption record tracking purposes.

(iv) The Management Evaluation Unit shall determine if the retail and redemption officer issues a non-transferable authorization card which automatically terminates at the end of the calendar year to each authorized retailer.

(v) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit complies with procedures to handle nutrition assistance program coupons received by a retail store prior to authorization.

(2) Adverse Action against Applicant Retailers.

(i) The Management Evaluation Unit shall determine if the retail and redemption officer follows state agency nutrition assistance program procedures in denying the application of any

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firm.

(ii) The Management Evaluation Unit shall determine if the retail and redemption officer issues a notice of denial or a notice of withdrawal to subject firm(s) and allows the firm(s) ten days from the date of notice to request an administrative review of the state agency nutrition assistance program decision.

(3) Adverse Action against Authorized Retailers.

(i) The Management Evaluation Unit shall determine if the retail and redemption officer takes action against any authorized retailer violating the nutrition assistance program rules, regulations, and/or procedures.

(ii) The Management Evaluation Unit shall determine if the retail and redemption officer maintains records to document adverse action against authorized retailers.

(iii) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit follows proper notification procedures when handling firms charged with violations.

(iv) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit retrieves authorization cards from authorized retailers whose authorization has been withdrawn and if adequate notice of such withdrawals is given to the redemption agent and the nutrition assistance program recipients.

(v) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit has a system of processing civil money penalties paid by authorized retailers charged with violations.

(4) Administrative Review.

(i) The Management Evaluation Unit shall determine if the retail and redemption officer has a system of administrative review of actions against retailers.

(ii) The Management Evaluation Unit shall determine if the retail and redemption officer schedules and conducts administrative reviews and renders a decision no later than thirty days after the date of a request for administrative review.

(5) Participating Retail Stores.

(i) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit has a current listing of all authorized retailers in the Commonwealth of the Northern Mariana Islands.

(ii) The Management Evaluation Unit shall determine if the Retail and Redemption Unit personnel conducts random authorization visits or onsite inspections and follow-up educational visits on at least five authorized retailers on a monthly basis according to established procedures. The report of findings shall be submitted to the nutrition assistance program Administrator for his disposition prior to any appropriate action to be taken by Retail and Redemption Unit as warranted, with a courtesy copy to the Management Evaluation Unit Supervisor.

(iii) The Management Evaluation Unit shall determine if the retail and redemption officer maintains redemption records on each authorized retailer and conducts an analysis of redemption to food sales ratio at least on a monthly basis.

(iv) The Management Evaluation Unit shall determine if the retail and redemption officer maintains a high redeemer list and conducts compliance visits of all the top twenty stores which appear on the high redeemer list on a quarterly basis within thirty days after the quarter. The report of findings shall be submitted to the nutrition assistance program Administrator for his disposition, with a courtesy copy furnished to the Management Evaluation Unit Supervisor.

(v) The Management Evaluation Unit shall determine if the Retail and Redemption Unit

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personnel periodically explain components of the nutrition assistance program coupon transaction (eligible food, eligible fishing and farming items, identification check, change making, endorsement, redemption, etc.) to authorized retailers.

(vi) The Management Evaluation Unit shall determine if the retail and redemption officer provides timely notice to participating retailers and local banks regarding changes in food stamp coupon series.

(vii) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit has procedures regarding handling of old series coupons accepted by authorized retailers after the cut-off date.

(viii) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit has procedures regarding the disposition of damaged or mutilated coupons accepted by authorized retailers.

(ix) The Management Evaluation Unit shall determine if the retail and redemption officer provides updated information regarding authorized retailers to the redemption agent in a timely manner.

(x) The Management Evaluation Unit shall determine if the retail and redemption officer follows procedures to safeguard the confidentiality of authorized retailer information obtained by the Retail and Redemption Unit officials or other nutrition assistance program personnel.

(g) Review of Compliance with Redemption Procedures - Retail and Redemption Unit.

(1) Procedures for Redeeming Nutrition Assistance Program Coupons.

(i) The Management Evaluation Unit shall determine if the Retail and Redemption Officer requires authorized retailers to endorse food stamp coupons before it is presented for redemption.

(ii) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit requires the use of redemption certificates.

(iii) The Management Evaluation Unit shall determine if the Retail and Redemption Officer has established policies and procedures for redeeming burned or mutilated nutrition assistance program coupons.

(2) Participation of the Redemption Agent.

(i) The Management Evaluation Unit shall determine if the state agency Department of Community and Cultural Affairs has a valid contract with the redemption agent.

(ii) The Management Evaluation Unit shall determine if the retail and redemption officer ensures that the redemption agent has a complete and current listing of all authorized retailers.

(iii) The Management Evaluation Unit shall determine if the retail and redemption officer ensures that the redemption agent timely adds or deletes retailers from its authorized retailers list.

(iv) The Management Evaluation Unit shall determine if the retail and redemption officer ensures that the redemption agent has established policies and procedures for redeeming nutrition assistance program coupons from other local banks.

(v) The Management Evaluation Unit shall determine if the retail and redemption officer ensures that the redemption agent retains redeemed coupons in secure storage and maintains accountability as required prior to the destruction of the redeemed coupons.

(vi) The Management Evaluation Unit shall determine if the retail and redemption officer and the redemption agent reconcile the redeemed coupons with deposit slips and transmittal reports prior to the destruction of the redeemed coupons.

(vii) The Management Evaluation Unit shall determine if the state agency Retail and Redemption Unit reconciles redeemed coupons within thirty days after the end of the month of

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issuance and destroys redeemed coupons within ninety days after the end of the month of issuance.

(viii) The Management Evaluation Unit shall determine if the retail and redemption officer ensures that the redemption agent timely applies effective dates when coupon series are changed.

(3) Redemption Monitoring.

(i) The Management Evaluation Unit shall determine if the redemption agent submits reports to the retail and redemption officer as required.

(ii) The Management Evaluation Unit shall determine if the Retail and Redemption Unit official conducts an actual physical inventories of the designated sample (authorized retailers) once a month as required.

(iii) The Management Evaluation Unit shall determine if the state agency nutrition assistance program timely deposits funds to the nutrition assistance program account.

(iv) The Management Evaluation Unit shall determine if the state agency nutrition assistance program timely provides the quarterly payments to the redemption agent for its services as stipulated in the contract.

(v) The Management Evaluation Unit shall determine if the redemption agent provides the retail and redemption officer a comprehensive redemption report for all authorized retailers on a monthly basis.

(4) Retention of Records/Confidentiality.

(i) The Management Evaluation Unit shall determine if the redemption agent and the state agency Retail and Redemption Unit retains redemption records for a minimum of three years from date of origin.

(ii) The Management Evaluation Unit shall determine if the redemption agent and the state agency Retail and Redemption Unit have established policies and procedures to safeguard the confidentiality of redemption information.

(h) Review of Compliance with Coupon Production Procedures.

(1) Contract.

(i) The Management Evaluation Unit shall determine if the state agency Department of Community and Cultural Affairs has a valid contract with the coupon supplier or printing agent.

(ii) The Management Evaluation Unit shall determine if the state agency nutrition assistance program has established policies and procedures to ensure that contractual arrangements are completed prior to the start of the fiscal year.

(2) Participation of Coupon Supplier or Printing Agent.

(i) The Management Evaluation Unit shall determine if the coupon supplier or printing agent has established appropriate accountability procedures and controls to protect the bulk supply of coupons.

(ii) The Management Evaluation Unit shall determine if the coupon supplier or printing agent has taken adequate measures to protect nutrition assistance program coupons from counterfeiting.

(iii) The Management Evaluation Unit shall determine if the coupon supplier or printing agent maintains bulk supply inventories of nutrition assistance program coupons at appropriate levels.

(iv) The Management Evaluation Unit shall determine if the coupon supplier or printing agent provides the bulk supply of nutrition assistance program coupons to the state agency Issuance and Accountability Unit in a timely manner.

(v) The Management Evaluation Unit shall determine if the state agency Issuance and

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Accountability Unit conducts periodic physical inventory of the coupon supplier or printing agent as required.

(vi) The Management Evaluation Unit shall determine if the coupon supplier or printing agent changes the coupon series at the end of the fiscal year of the expiration of the contract award.

(3) Reports and Accountability.

(i) The Management Evaluation Unit shall determine if the coupon supplier or printing agent provides the inventory reports to the Issuance and Accountability Unit Supervisor as required.

(ii) The Management Evaluation Unit shall determine if the coupon supplier or printing agent provides the master plates to the Issuance and Accountability Unit Supervisor after their use as required.

(iii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit has established policies and procedures regarding the receipt and proper safeguard of bulk supply of coupons.

(iv) The Management Evaluation Unit shall determine if the state agency nutrition assistance program timely remits payments to the coupon supplier or printing agent for its services as stipulated in the contract.

(4) Retention of Records/Confidentiality of Information.

(i) The Management Evaluation Unit shall determine if the coupon supplier or printing agent retains pertinent program records for a minimum of three years from date of origin.

(ii) The Management Evaluation Unit shall determine if the state agency Issuance and Accountability Unit and coupon supplier or printing agent have established policies and procedures to safeguard the confidentiality of bulk coupon supply information.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs of subsections (b)(1), (b)(3)(i) and (b)(3)(ii) were not designated. The commission designated subsections (b)(1)(i) and (b)(1)(ii), (b)(3)(i)(A) through (b)(3)(i)(E) and (b)(3)(ii)(A) through (b)(3)(ii)(D).

The 1984 amendments added new subsections (a)(3) through (a)(7) and (b) through (h).

The 2000 amendments proposed to amend subsections (a)(4), (a)(6) and (c)(2). A notice of adoption was never published for the 2000 emergency and proposed amendments and, therefore, the commission has not incorporated the proposed changes.

Executive Order 03-01 (effective May 9, 2003), the "Department of Labor and Immigration Reorganization Plan of 2003," renamed the Department of Labor, Immigration and Employment Services, referenced in subsection (d)(2)(ii), to the Department of Labor.

In subsection (a)(2), the commission changed "warrents" to "warrant" to correct a manifest error. The Commission corrected the phrase "This includes but are not limited to" to "This includes but is not limited to" pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of "state" in subsection (d)(6)(i) pursuant to 1 CMC § 3806(f). In subsection (d)(6)(ii), the commission changed "claim" to "claims." In subsection (f)(1)(iii), the commission changed "factor" to "factors" and in subsections (f)(1)(iii) and (g)(4)(ii), the commission changed "has" to "have" to correct manifest errors.

§ 55-30-515 Documenting Findings

The Management Evaluation Unit shall record program deficiencies and the numerical extent of the deficiency where applicable in accordance with the Management Evaluation Unit handbook. A comprehensive report of findings consolidating the Management Evaluation Unit's findings on random (active) cases during the foregoing fiscal year, with recommendations for corrective actions, shall be submitted to the Department of Community and Cultural Affairs Secretary, with a courtesy copy furnished to the nutrition assistance program Administrator, no later than thirty days after the end of the foregoing fiscal year.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

Commission Comment: The 1984 amendments added new sections E and F (now §§ 55-30-515 and 55-30-520) to this part and redesignated the remaining sections accordingly.

§ 55-30-520 Determining Causal Factors

To the extent possible, the Management Evaluation Unit program reviewer shall determine the causes of deficiencies cited during the quality control review. In ascribing causal factors, the program reviewers must be aware of the relationships between requirements and corresponding deficiencies. Management Evaluation Unit reviewers shall consider information derived from previous reviews or audits of the nutrition assistance program and any corrective actions taken. At a minimum, Management Evaluation Unit reviewers shall examine previous Food and Nutrition Service/nutrition assistance program reviews and determine whether adequate actions were taken to correct problems identified by the Food and Nutrition Service reviews.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

§ 55-30-525 Corrective Action Plan

(a)(1) The Management Evaluation Unit Supervisor shall prepare a corrective action plan (CAP) addressing those deficiencies found by its reviewers in the course of its monthly case reviews and the ongoing evaluation of nutrition assistance program operations as reflected in the Management Evaluation Unit's calendar year report.

(2) This corrective action plan is an open-ended plan and shall remain in effect until all deficiencies in program operations have been reduced substantially or eliminated. Any deficiencies, detected through any source, not previously included shall be incorporated into the state corrective action plan within sixty days of identification. As deficiencies are reduced substantially or eliminated, the Management Evaluation Unit Supervisor shall be responsible for documenting why each deficiency is being removed from the plan.

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(b) State corrective action plan shall contain, but not necessarily be limited to the following, based on the most recent information available:

- (1) Specific description and identification of each deficiency;
- (2) Source(s) through which the deficiency was detected;
- (3) Identification of causal factor(s) contributing to the occurrence of each deficiency;
- (4) Identification of any action already completed to eliminate the deficiency;
- (5) An outline of actions to be taken, the expected outcome of each action, and the target date for each action, and the date by which each deficiency will have been eliminated; and
- (6) A description of the manner in which the state agency will monitor and evaluate the effectiveness of the corrective action in eliminating the deficiency.

(c) Initial Corrective Action Plan. The Management Evaluation Unit Supervisor shall develop a comprehensive corrective action plan within sixty days of the submittal of the initial report to nutrition assistance program management on the Management Evaluation Unit review findings.

(d) Assessment of Corrective Action.

(1) The nutrition assistance program management will conduct a comprehensive annual assessment of the Management Evaluation Unit corrective action process by compiling all information relative to the Management Evaluation Unit corrective action efforts, including the management evaluation unit system for data analysis and evaluation. The purpose of this assessment and review is to determine if identified deficiencies are analyzed in terms of causes and magnitude and are properly included in the state corrective action plan, if the Management Evaluation Unit is implementing corrective actions according to the appropriate plan, if target completion dates for reduction or elimination of deficiencies are being met, and if corrective actions are effective.

(2) In addition, the state agency Management Evaluation Unit will conduct onsite reviews of selected correction actions at least annually or as frequently as considered necessary to ensure that proposed corrective actions are completed within the time frames specified in the state corrective action plan and to determine the effect of the corrective action on deficiencies. The onsite reviews will provide the state agency Management Evaluation Unit with a mechanism for early detection of problems in the corrective action process to minimize losses to the program, participants, or potential participants.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The original paragraphs of subsection (a) were not designated. The commission designated subsections (a)(1) and (a)(2).

§ 55-30-530 Monitoring and Evaluation

(a) The Management Evaluation Unit Supervisor shall establish a system for monitoring and

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evaluating corrective action. Monitoring and evaluation shall be an ongoing process to determine that deficiencies are being substantially reduced or eliminated in an efficient manner and that the program provides responsive service to eligible households.

(b) The Management Evaluation Unit Supervisor shall ensure that corrective action on all deficiencies identified in the state corrective action plan is implemented and achieves the anticipated results within the specified time frames. The Management Evaluation Unit Supervisor shall monitor and evaluate corrective action through a combination of reports, field reviews and examination of current data available through program management tools and other sources.

(c) In instances where the Management Evaluation Unit Supervisor determines that the proposed corrective action is not effective in substantially reducing or eliminating deficiencies, the Management Evaluation Unit Supervisor shall promptly reevaluate the deficiency, causes, and the corrective action taken, and develop and implement new corrective actions.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-535 Submittal of Corrective Action Plan to Secretary, Department of Community and Cultural Affairs

(a) Proposed corrective action for all deficiencies identified as requiring state agency nutrition assistance program action shall be submitted to the Department of Community and Cultural Affairs Secretary's office for approval within sixty days after identification.

(b) The Division of Nutrition Assistance Program shall advise the Secretary's office immediately upon becoming aware that previously reported corrective actions will not be effective in eliminating a deficiency or that a projected target date will not be met. At that time, revisions to corrective actions or time frames for completion shall be negotiated with and approved by the Secretary of the Department of Community and Cultural Affairs.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-540 Record Retention

(a) The Management Evaluation Unit Supervisor shall maintain management evaluation system records to permit ready access to, and use of, these records for a minimum of three years from date of origin. Management evaluation system records include information used in data

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analysis and evaluation, corrective action plans, corrective action monitoring records and Management Evaluation Unit quality control review records. To be readily accessible, system records shall be retained and filed in an orderly fashion. Precautions should be taken to ensure that these records are retained without loss or destruction during the 3-year period required by Food and Nutrition Service Regulations. Information obtained on individual households for performance reporting system purposes shall be safeguarded in accordance with rules on disclosure of information for the nutrition assistance program.

(b) Management Evaluation Unit quality control review records consist of documentation of review findings, sources from which information was obtained, procedures used to review program requirements including sampling techniques and lists, and Management Evaluation Unit review plans. The state agency may submit documented evidence of review findings to the Food and Nutrition Service regional office upon its request for purposes of evaluating state agency corrective action plans.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-545 Determination of State Agency Program Performance

(a) Food and Nutrition Service may comment on the efficiency and effectiveness of the state agency's administration of the nutrition assistance program by measuring state agency compliance with the standards contained in the Food Stamp Act, regulations, the Memorandum of Understanding, this chapter, and state agency's efforts to improve program operations through corrective action. This determination may be made based on:

- (1) Reports submitted to Food and Nutrition Service by the state agency nutrition assistance program;
- (2) Food and Nutrition Service reviews of state agency nutrition assistance program operations;
- (3) State agency management evaluation system reports and corrective action efforts; and
- (4) Other available information such as federal audits and investigations, administrative cost data, complaints, and any pending litigation.

(b) Food and Nutrition Service shall submit comments to the state agency nutrition assistance program within ninety days of the conclusion of a Food and Nutrition Service review, receipt of a nutrition assistance program Management Evaluation Unit report or receipt of and audit report.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

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§ 55-30-550 Random Home Visitation

(a) Purpose. The purpose of random home visitation is to verify all relevant information about the household's actual circumstances at their place of residency which relate to the household's eligibility and benefit level for the sample month's issuance and to verify and document the information. At least five active household cases participating in the program are home-visited each month by the Management Evaluation Unit personnel for this purpose. At the same time, the kitchen facilities are also inspected to ensure proper sanitary condition in order to prevent food contamination or food poisoning that may endanger the lives of the nutrition assistance program recipients. The Management Evaluation Unit home visit report of findings form shall be utilized for this purpose.

(b) Northern Islands.

(1) Random home visitation is not required for household cases sampled in isolated areas of the Northern Islands which are not reasonably accessible considering regularly scheduled commercial air service, available lodging and automobile or public transportation.

(2) For example, the area could be considered not reasonably accessible if the Management Evaluation Unit official has to stay overnight because of airline schedules and there is no suitable lodging. The area could also be considered not reasonably accessible if the Management Evaluation Unit official could not leave an area within a reasonable period of time after conducting the home visitation. For example, the home visitation(s) may take several hours but the Management Evaluation Unit official would not be able to fly out for several days. An area could also be considered not reasonably accessible if there is no available ground transportation such as rental cars or public transportation which would be needed to conduct a face-to-face interview at the nutrition assistance program recipient's place of residency.

(3) In such cases, at least one attempt to contact the household, by radio and correspondence for example must be made and documented. The home visitation of such cases can then be completed by means of a review, of the case file and by collateral contacts.

(c) Planning the Random Home Visitation. Prior to conducting the random home visitation, the Management Evaluation Unit official should review the case file thoroughly to identify areas where particular attention is warranted, e.g., conflicts in information or gaps in coverage. The Management Evaluation Unit Official should also identify which elements were adequately verified and documented in the case file and need no further attention during the home visitation. The Management Evaluation Unit official must arrange for a personal interview with the adult head of household or its authorized representative and arrange for obtaining verification from collateral contacts as may deemed necessary.

(d) Household Interview. The Management Evaluation Unit official shall conduct a face-to-face interview for randomly selected active household cases subject to home visitation to determine the identity of the head of household and whether the household did exist and to explore household circumstances affecting the issuance month's eligibility and allotment. During the interview, the Management Evaluation Unit official shall review documentary evidence and may obtain names, telephone numbers and addresses for collateral contacts. At the same time, the household kitchen facility shall be inspected to ensure that it is in proper sanitary condition. A kitchen facility found to be unsanitary and therefore poses a health hazard to the nutrition

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assistance program recipient(s) may be subject to suspension; however, the suspension shall be lifted at such time the problem(s) cited is rectified accordingly. Failure to cooperate with the home visitation process, without good cause, shall be grounds for disqualification or suspension for at least one month. Suspension shall be subsequently terminated at such time the household is in compliance with the home visitation process.

(e) **Arranging Household Interview.** The Management Evaluation Unit official may or may not notify the household prior to conducting a home visitation that it has been selected as part of an ongoing review process and that a home visitation will be made in the near future. The Management Evaluation Unit official may inform the household of the type of information that the Household will need to have available for the home visitation. Occasionally, the Management Evaluation Unit official as it may warrant necessary exercise the element of surprise.

(f) **Individuals Who Can Be Interviewed.** The Management Evaluation Unit official shall interview either the adult head of household or its authorized representative designated by the subject household and approved by the program's Certification Unit.

(g) **Conducting the Random Home Visitation.** The following are procedures for conducting the random home visitation.

(1) **Opening the Interview.** The Management Evaluation Unit official must show proper identification (such as the nutrition assistance program employment photo identification) and explain the purpose of the home visitation.

(2) **Observation During the Home Visitation.** At the minimum, observation should be made of such things as personal belongings and evidence about household composition. For example, no toys or other evidence of young children when the household has stated there are some in the household and/or when the case file includes the existence of children in the household could warrant further inquiry.

(3) **Verification.** The Management Evaluation Unit official must verify each appropriate element on household information during the home visitation if the verification was not adequately documented in the case file.

(4) **Obtaining Collateral Contacts.** The Management Evaluation Unit official should try to find collateral contacts as may warrant necessary. In addition, the Management Evaluation Unit official is free to gather information from collateral contacts. The nutrition assistance program release of information or waiver form may be utilized to contact third parties to obtain information pertinent to the household's food stamp case. Should the adult head of household or its authorized representative refuses to sign the latter, the Management Evaluation Unit official shall explain to the household that this refusal may result in the household disqualification or suspension for at least one month.

(5) **Collateral Contacts.** Collateral contacts are needed when verification is not present in the case file or from the household. Most of the time what information should be sought from the collateral contact will be evident. For example, information about rent would generally be obtained from landlords. The Management Evaluation Unit official should also keep in mind that one collateral contact can sometimes verify several elements. Landlords can sometimes also verify household composition. The Management Evaluation Unit official should plan collateral contacts to make maximum use of third party information. To minimize demands on the time of

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collateral contacts and help make the home visit case efficient, the Management Evaluation Unit official should try to obtain all the information they need from a particular collateral contact at one time.

(6) **Obtaining Information from Collateral Contacts.** When contacting collateral information sources, the Management Evaluation Unit official must identify himself, describe his purpose, and state what information he needs. Discussion with collateral contacts must focus on information pertinent to the subject home visit case yet may include factors other than those the Management Evaluation Unit official planned to verify. For example, a landlord who was contacted about rent may not mention the presence of a household member which neither the case file nor the household indicated. If so, the Management Evaluation Unit official should obtain any relevant information about the person that the landlord may know and recontact the household to resolve any inconsistencies.

(7) **Collateral Contact Refusal to Cooperate.** A third party may refuse to provide information that is needed to verify an element of eligibility or basis of issuance. The program has no authority to require third party cooperation. If verification cannot be obtained from other known sources, the household may (on a case by case basis) be recontacted to obtain another source. A collateral contact's refusal to cooperate should not be interpreted as the household's refusal to cooperate.

(8) **Documentary Verification.** The Management Evaluation Unit official shall properly document verification obtained from collateral contacts.

(9) **Completion of the Random Home Visitation.** Random home visitations may be completed to the point where either ineligibility or the correct coupon allotment is determined, verified and documented and/or upon completion of the questionnaire on the Management Evaluation Unit home visit report of findings form. The Management Evaluation Unit official shall include on the official report his recommendation(s) based on his findings and corrective actions for Certification Unit to impose in order to ensure strict compliance with program guidelines. The home visit report of findings, according to the consolidated monthly batch of selected household cases, shall be submitted to the nutrition assistance program Administrator for his disposition prior to the Certification Unit for appropriate action.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001).

Commission Comment: The first paragraph was not designated. The commission designated it subsection (a) and redesignated subsections (b) through (g) accordingly. The original paragraphs of subsection (b) were not designated. The commission designated subsections (b)(1) through (b)(3). The Commission corrected the capitalization of the word "household" in subsection (g)(6) pursuant to 1 CMC § 3806(f).

§ 55-30-555 Field Investigation

(a) **Purpose.** A field investigation is conducted by the Management Evaluation Unit personnel on cases involving both the nutrition assistance program recipients and authorized retailers suspected of fraud. Cases found not in accordance with program regulations and standard operating procedures may be subject to over issuance charges, civil money penalties, immediate suspension, or termination, depending on the violation(s) committed as applicable. Penalties for violations may range up to ten thousand dollars and/or up to five years prison term,

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or less, depending on the severity of the investigation case.

(b) Verification and Documentation. The Management Evaluation Unit personnel must verify from information in the Certification Unit or Retail and Redemption Unit records or collateral contacts each element of the household's eligibility for the point in time dictated by the eligibility rules governing the household's participation and benefit calculation for the household's monthly benefits or the authorized retailer's authorization and to transact eligible items with the nutrition assistance program coupons appropriately, respectively.

(1) Sources of Verification. The Management Evaluation Unit official shall obtain sufficient evidence to establish the factual information for each negative allegation under investigation.

(2) Evaluating Evidence. As the Management Evaluation Unit official obtains evidence, he must evaluate it to ensure that: it meets the verification requirements for the negative allegation; it does not conflict with other evidence, or that the conflicts are resolved and documented; it proves (either by itself or in combination with other evidence) the facts being verified; it pertains to the household member(s) or other individuals to whom it is supposed to apply; and, it establishes the element of household composition for the appropriate issuance and/or benefit month. For authorized retailers, the Management Evaluation Unit official shall exercise prudent judgment in applying only applicable elements immediately above.

(3) Reliability of Evidence. In judging the reliability of evidence, if the information obtained from the household or authorized retailer or collateral contacts raise doubts, the Management Evaluation Unit official shall resolve these doubts and/or attempt to obtain other types of evidence.

(4) Documentation. Verification must be documented by recording information on the field investigation report of findings and, whenever possible, by attaching copies of documentary evidence. Documentation must clearly show the basis for the Management Evaluation Unit official's findings for each individual negative allegation. It is the basis for determining if a variance exists in a negative allegation.

(5) Documentation with Attachments.

(i) Whenever verification is documented by attaching a copy of some official document or correspondence to the report of findings, the Management Evaluation Unit official should make a note on the report for the appropriate element referring to the document and stating the fact that it verifies.

(ii) For example: Tun Juan Taga stated his apartment rent was three hundred dollars per month which did not include utilities. Verified as three hundred dollars per month for April 2000 in the rental agreement from the landlord. See attached copy.

(6) Documentation by Recording a Document.

(i) When a copy of the document is not obtainable, the Management Evaluation Unit official must record the information on the report of findings. For documentation of documentary evidence from official sources and correspondence and written statements from collateral contacts to be considered adequate, it must contain the following: the source and type of document, its date, reference number, and the page number if applicable; where the document is located, if appropriate, such as a government office; the pertinent information from the document; and, how the information from the document applies to the specific period of time.

(ii) For example: Tun Juan Taga stated his apartment rent was three hundred dollars a month which includes utilities. Verified as three hundred dollars for April 2000 from rent records viewed at Chamolinian Apartments rental office, Talafofo.

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(7) Documentation of Verbal Statement by a Collateral Contact. When documentary evidence cannot be attached to the field investigation report of findings, information may be obtained verbally from collateral contacts and must contain the following information to be considered adequate: the name of the contact, title and organization (if appropriate), telephone number (if none, so state), address (if no telephone number or if the information was obtained in person), and significance to the subject investigation case; and, date or dates of contacts and pertinent information obtained. However, should the collateral contact elect to remain anonymous, his identity shall not be revealed. In addition, discussions with collateral contacts must focus on information pertinent to the subject investigation case yet may include factors other than those subject for verification.

(8) Verification and Documentation of Negative Allegations. A household or authorized retailer's negative allegation(s) must be verified. Verification of negative allegations shall be properly documented on the field investigation report of findings.

(9) Management Evaluation Unit Official Action when Verification is Unobtainable or Inadequate. When the Management Evaluation Unit official cannot obtain verification or it is inadequate, the household's statement shall be used in response to the negative allegation(s) brought against the household. The same shall apply to an authorized retailer under investigation for suspicion of fraud.

(10) Completion of the Field Investigation. If during the field investigation the Management Evaluation Unit official determines and verifies the household's ineligibility based on field findings and household information, the investigation case shall be terminated at that point. In the same respect, if within reasonable means the Management Evaluation Unit official is unable to obtain verification or it is inadequate, then the household's statement, along with available field information, shall be used in response to the negative allegation(s) brought against the subject household. The same shall apply to an authorized retailer under investigation for suspicion of fraud.

(c) The state agency Management Evaluation Unit shall provide a field investigation report of findings with recommendations addressing appropriate corrective actions that the state agency Certification Unit or Retail and Redemption Unit, as applicable, must impose to ensure strict compliance with program guidelines. The official report shall be submitted to the nutrition assistance program administrator for his disposition prior to the respective Certification Unit Supervisor or Retail and Redemption Unit officer for appropriate action. At state agency nutrition assistance program discretion, severe cases shall be referred to the nutrition assistance program's legal counsel at the Attorney General's Office for drastic legal action, possibly prosecution.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001).

Commission Comment: The first paragraph was not designated. The commission designated it subsection (a) and redesignated subsections (b) and (c) accordingly. The original paragraphs of subsections (b)(5) and (b)(6) were not designated. The commission designated subsections (b)(5)(i) and (b)(5)(ii), and (b)(6)(i) and (b)(6)(ii). The Commission inserted a comma after the word "suspension" in subsection (a) pursuant to 1 CMC § 3806(g). The Commission corrected the phrase "contact elects" to "contact elect" in subsection (b)(7) pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of the word "administrator" in subsection (c) pursuant to 1

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CMC § 3806(f).

Part 600 - Participation of Retail Food Stores and Redemption Agent

§ 55-30-601 Approval of Retail Food Stores

(a) **Application.** Any firm desiring to participate in the program shall file an application as prescribed by the state agency nutrition assistance program. The retail and redemption officer shall deny or approve authorization, or request more information, within thirty calendar days of receipt of the application.

(b) **Determination of Authorization.** An applicant firm shall provide sufficient data on the nature and scope of the firm's business in order for the retail and redemption officer to determine whether the applicant firm's participation will further the purposes of the program. In making this determination, the retail and redemption officer shall consider all of the following:

(1) The nature and extent of the food business conducted by the applicant firm. The retail food store should be of sufficient size to effect economies that result in lower prices and wider varieties of food for the food stamps recipients.

(i) An applicant firm with annual gross sales of less than one hundred thousand dollars shall be authorized to participate in the program only if the retail and redemption officer determines that the applicant firm's participation is critical in effecting the purposes of the program. Retail outlets selling a significant amount of local fish or local agricultural commodities (fresh produce) or local bakery products are exempt from this requirement.

(ii) Retail food stores which sell primarily food for home preparation and consumption and in which one or more staple food items make up more than 50 percent of eligible food sales shall normally be considered to have food business of a nature and extent which will further the purposes of the program. "Staple food" means those food items intended for home preparation and consumption, which include meat, poultry, fish, bread, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products such as cheese and butter, etc. These stores shall include: full-line grocery stores; convenience stores; stores which sell meat, poultry, or fish; stands which sell agricultural commodities; farmers' markets; bakeries which sell bread; and, nonprofit cooperative food purchasing ventures which are properly licensed to sell food in the Commonwealth of the Northern Mariana Islands. In addition, retail outlets selling a significant amount of fishing and/or farming equipments that are listed on the official food list may be authorized. Retail stores must have a valid business license issued by the Commonwealth of the Northern Mariana Islands Department of Commerce and a current health permit issued by the Department of Public Health before it is authorized.

(iii) Retail food stores must also carry a sufficient amount of local foods before they are authorized to accept nutrition assistance program coupons. The dollar value of local foods (as previously defined) carded by a retail store must equal or exceed ten percent of the store's gross sales. Retail outlets selling a significant amount of local fish or local agricultural commodities (fresh produce) or local bakery products are exempt from this requirement. At state agency nutrition assistance program discretion, the ten percent requirement may be waived if necessary for good cause.

(iv) Newly opened retail food stores must be in operation at least ninety days after issuance of the business license by Department of Commerce before the retail and redemption officer may consider it for authorization.

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(2) The volume of nutrition assistance program coupon business which the state agency nutrition assistance program may reasonably expect the applicant firm to do. The retail and redemption officer shall consider such factors as the location of a store, previous food sales volumes, and the availability of other authorized retailers in the area in evaluating the ability of an applicant firm to attract nutrition assistance program coupon business.

(3) The business integrity and reputation of the applicant firm. In considering these factors, the retail and redemption officer shall examine the following items:

(i) Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;

(ii) Official records of removal from other federal or local programs;

(iii) Judicial determinations in civil litigation adversely reflecting on the integrity of officers or managers of the applicant firm;

(iv) Evidence of an attempt to circumvent a period of disqualification from the program or a civil money penalty imposed for violations of the provisions of this section;

(v) Evidence of prior fraudulent behavior of officers, managers or employees of the applicant firm; and

(vi) Any other evidence reflecting on the business integrity and reputation of the applicant firm.

(4) Other factors. Any other factors which the retail and redemption officer considers pertinent to the application shall be under consideration.

(c) Account with Redemption Agent. Each authorized retailer may open an account with the redemption agent within ten days of authorization for redemption record tracking purposes. However, as an option, each authorized retailer may redeem nutrition assistance program coupons at any of its local banking institutions to eventually be credited for cash or cash credit from the redemption agent accordingly.

(d) Retailer Nutrition Assistance Program Coupon Transaction Agreement. Each approved retailer shall execute a retailer nutrition assistance program coupon transaction agreement with the state agency retail and redemption unit prior to the authorization of the retailer.

(e) Authorization Card. Upon approval, the retail and redemption unit personnel shall issue a nontransferable authorization card to the firm. The authorization card shall be retained by the authorized retailer until superseded, surrendered, suspended or revoked as provided for in this section. Authorization cards shall automatically terminate at the end of the calendar year. The authorization card shall be in prominent display at the authorized retailer at all times.

(f) Denying Authorization. The retail and redemption officer shall deny the application of any firm if it determines that:

(1) The firm does not qualify for participation in the program as specified in this section; or

(2) The firm has failed to pay in full any fiscal claim assessed against the firm. The retail and redemption officer shall issue a notice to the firm by mail or personal service of any authorization denial, and shall advise the firm that it may request an administrative review of that determination.

(g) Withdrawing Authorization. The retail and redemption officer shall withdraw the

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authorization of any firm authorized to participate in the program if it determines that the firm's continued participation will not further the purposes of the program. The retail and redemption officer shall issue a notice to the firm by mail or personal service to inform the firm of the termination at least ten days if for cause, and at least thirty days if not for cause, prior to the effective date of termination.

(h) **Updating Information.** The state agency Retail and Redemption Unit may require, from time to time, an authorized retailer to update any or all of the information on the authorized retailer's application form. Failure to provide this information may result in the withdrawal of the firm's approval to participate in the program. At a minimum, the retail and redemption officer shall require a new application from each authorized retailer prior to the start of each calendar year for the upcoming calendar year.

(i) **Applications Containing False Information.** The filing of any application containing false or misleading information may result in the denial or withdrawal of approval to participate in the program and may subject the firm and persons responsible to civil or criminal action.

(j) **Administrative Review.** A denial of authorization to participate in the nutrition assistance program and a termination of authorization for cause shall be subject to administrative review.

(k) **Safeguarding Privacy.** The contents of applications or other information furnished by firms, including information on their gross sales, food sales volumes and their redemption of food stamps, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the nutrition assistance program regulations or this chapter.

(l) **Annual Authorized Retailer Orientation.** The state agency Retail and Redemption Unit shall conduct an authorized retailer orientation annually around December or January for all authorized retailers actively participating in the program, as well new applicant retailers, to better educate retailers about program operations and retailer requirements. Retailers granted authorization prior to or after the annual orientation schedule shall be oriented on a one-to-one basis. For authorized retailers and new applicant retailers on the islands of Tinian and Rota, the annual orientation schedule shall take effect on those island centers as well. However, as an alternative, the regularly scheduled quarterly trips are performed for those that are granted authorization prior to or after the annual authorized retailer orientation schedule, among other Retail and Redemption Unit personnel related activities at those island centers.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsection (d) and redesignated subsections (e) through (k) accordingly. The 2002 amendments added new subsection (l). The Commission corrected the phrase "farmers markets" in subsection (b)(1)(ii) to "farmers§ markets" and corrected the phrase "stores must... before it is" in subsection (b)(1)(iii) to "stores must... before they are" pursuant to 1 CMC § 3806(g).

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§ 55-30-605 Participation of Authorized Retailers

(a) Use of Nutrition Assistance Program Coupons. An authorized retailer only in exchange for eligible items shall accept nutrition assistance program coupons. The state agency Retail and Redemption Unit shall provide each authorized retailer an official eligible food list poster and other relative nutrition assistance program posters which must be in prominent display at the authorized retailer at all times. Additionally, the authorized retailers should also post the sign "FOOD STAMPS ACCEPTED" outside their business establishments for the benefit of the nutrition assistance program recipients. Nutrition assistance program coupons identified as restricted to purchase of local foods shall only be accepted in exchange for local foods. Nutrition assistance program coupons may not be accepted in exchange for cash except when cash is returned as change in a transaction in which coupons were accepted in payment for eligible food at authorized retailers. Nutrition assistance program coupons may not be accepted in payment of interest on loans, or for any unauthorized use.

(b) Equal Treatment for Nutrition Assistance Program or Food Stamps Customers. Nutrition assistance program coupons shall be accepted for eligible items at the same prices and on the same terms and conditions applicable to cash purchases of the same foods at the same authorized retailers. However, nothing in this part may be construed as authorizing the state agency nutrition assistance program to specify the prices at which authorized retailers may sell food. No authorized retailer may single out food stamps users for special treatment in any way.

(c) Accepting Nutrition Assistance Program Coupons. No authorized retailer may accept nutrition assistance program coupons marked "PAID" or "CANCELLED." Nor may an authorized retailer accept nutrition assistance program coupons bearing any cancellation or endorsement, or nutrition assistance program coupons of other than the 1-dollar or 5-dollar denomination which have been detached from the coupon books prior to the time of purchase of delivery of eligible food and other items unless the detached nutrition assistance program coupons are accompanied by the coupon books which bear the same serial number that appears on the detached nutrition assistance program coupons. Except as noted above, nutrition assistance program coupons may only be detached in the presence of the cashier at authorized retailers. Finally, no authorized retailer may accept coupons that are no longer valid because of a change in coupon series.

(d) Making Change. An authorized retailer shall use, for the purpose of making change, uncancelled and unearmarked 1-dollar and 5-dollar nutrition assistance program coupons that were previously accepted for eligible items. The 1-dollar coupon earmarked for local foods only shall not be used for making change. If change in an amount of less than one-dollar is required, the eligible household may receive the change in cash. At no time may cash change in excess of ninety-nine cents be returned in a coupon transaction. An authorized retailer may not engage in a series of coupon transactions of less than one-dollar, the purpose of which is to provide the same food stamps customer an amount of cash change greater than the maximum ninety-nine cents cash change allowed in one transaction.

(e) Accepting Nutrition Assistance Program Coupons before Delivery. Authorized retailers shall not accept nutrition assistance program coupons before delivering the eligible items, retain

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custody of any unspent coupons, or in any way prevent an eligible household from using nutrition assistance program coupons in making purchases from other authorized retailers. However, an authorized retailer billing an order for a recipient living on an island without authorized retailers may accept nutrition assistance program coupons at the time the member places a nutrition assistance program coupon order for eligible items.

(f) **Paying Credit Accounts.** Nutrition assistance program coupons shall not be accepted by an authorized retailer in payment for any eligible or ineligible items sold to a household on credit.

(g) **Exchanging Coupons to Cash.** Under no circumstance are authorized retailers allowed to accept nutrition assistance program coupons in exchange for cash.

(h) **Redeeming Nutrition Assistance Program Coupons.** Authorized retailers may exchange nutrition assistance program coupons in accordance with this part for face value, upon presentation to a local bank willing to accept the coupons at face value or to the redemption agent designated by the state agency to accept coupons from authorized retailers.

(i) **Identifying Nutrition Assistance Program Coupon Users.** Nutrition assistance program coupons shall not be accepted from persons who have no right to possession of nutrition assistance program coupons. The authorized retailer shall require all persons presenting coupons to show the nutrition assistance program identification card, and any form of photo identification upon request, of the household to establish the right of that person to use the nutrition assistance program coupons. Only the adult head of household and its authorized representative(s) are authorized to transact with nutrition assistance program coupons at authorized retailers.

(j) **Expiration of Nutrition Assistance Program or Food Stamps Authorization.** Deadline to deposit nutrition assistance program coupons in authorized retailer's possession to the local banks shall be five working days following the expiration of their food stamps authorization.

(k) **Change in Ownership, Store Location, or Closure of Business.** Prior to expiration of authorization, authorized retailers must inform the state agency Retail and Redemption Unit immediately regarding change in ownership, store location, or closure of business, and all nutrition assistance program coupons in their possession must be deposited to their respective banks within five working days from the effective date of change. Otherwise, request for extension may be granted at retail and redemption officer's discretion for good cause. Change in ownership requires the new management to file a new application and accompanied by supporting documentation pursuant to the application processing standards and established guidelines.

(l) **Failure to Submit Required Documents in a Timely Manner.** Authorized retailers that fail to submit required documents, such as, monthly local purchase report, quarterly business gross revenue tax, etc., in a timely manner shall be subject to disqualification for at least one month. The retail and redemption officer shall take the required initiative to send a written notice to the affected firm informing of the disqualification in effect and alert the redemption agent not to redeem or accept deposits of nutrition assistance program coupons from the disqualified firm for

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the specified month under no circumstances. However, upon submission of the required documents once the disqualification is in effect, the retail and redemption officer shall send a written notice to the affected firm notifying that such disqualification has been lifted, but only after serving the one month disqualification at the least; and, the redemption agent shall also be notified to begin accepting nutrition assistance program coupon deposits for redemption from the subject firm beginning on the month specified on the notice.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 2002 amendments added new subsection (g), redesignated subsections (h) and (i) and added new subsections (j), (k) and (l).

In subsection (c), the commission moved the period after "CANCELLED" inside of the closing quotation mark to correct a manifest error.

§ 55-30-610 Procedure for Redeeming Nutrition Assistance Program Coupons

(a) **Endorsing Nutrition Assistance Program Coupons.** Each authorized retailer shall mark its authorization number or name on each nutrition assistance program coupon and bundle the coupons by denomination before it presents the nutrition assistance program coupons for redemption. The earmarked coupons (local coupons) shall be bundled separately from the one-dollar general purpose coupons (United States or regular coupons).

(b) **Using Redemption Certificates.** Retail and Redemption Unit will provide all authorized retailers with redemption certificates. Authorized retailers shall use the redemption certificates to present nutrition assistance program coupons to the redemption agent for cash credit or for cash. An authorized retailer using redemption certificates to redeem nutrition assistance program coupons shall fill out the redemption certificate to show the business name of the authorized retailer, the value of the nutrition assistance program coupons redeemed, the date, and the signature and title of the official of the firm redeeming the nutrition assistance program coupons.

(c) **Nutrition Assistance Program Coupons Accepted without Authorization.** Nutrition assistance program coupons accepted by a retail store before the receipt by the firm of an authorization card from the state agency Retail and Redemption Unit may not be presented for redemption unless the retail and redemption officer has approved the redemption. Approval may be granted by the retail and redemption officer at its discretion under the following conditions:

(1) The firm presents a written application for approval to the state agency Retail and Redemption Unit. This application shall be accompanied by a written statement signed by the firm of all facts about the acceptance of the nutrition assistance program coupons. The statement shall also include a certification that the nutrition assistance program coupons were accepted in good faith, and without any intent to circumvent the provisions of this part;

(2) The nutrition assistance program coupons were received in accordance with the requirements of this part governing acceptance of nutrition assistance program coupons except

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the requirement that the firm be authorized before acceptance; and

(3) The firm receives authorization to participate in the program.

(d) Burned and Mutilated Nutrition Assistance Program Coupons. The state agency Retail and Redemption Unit may redeem burned or mutilated nutrition assistance program coupons only to the extent that the Retail and Redemption Unit personnel can determine the value of the nutrition assistance program coupons. The authorized retailer presenting burned or mutilated nutrition assistance program coupons for redemption shall submit the nutrition assistance program coupons to the state agency Retail and Redemption Unit with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of nutrition assistance program coupons to be redeemed, an estimate of the value of the burned or mutilated nutrition assistance program coupons submitted for redemption shall be entered if the exact value of the nutrition assistance program coupons is unknown.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments deleted former subsection (e). See 5 Com. Reg. at 2090 (May 27, 1983).

In subsection (a), the commission changed "coupon" to "coupons" to correct a manifest error.

§ 55-30-615 Participation of the Redemption Agent

(a) Accepting Nutrition Assistance Program Coupons. The redemption agent may redeem nutrition assistance program coupons only from authorized retailers or other local banks accepting coupons and in accordance with the provisions of this part and the instructions from the state agency Retail and Redemption Unit. Nutrition assistance program coupons submitted to the redemption agent for credit or for cash must be properly endorsed and shall be accompanied by a properly filled-out and signed redemption certificate. The redemption agent may require persons presenting nutrition assistance program coupons for redemption to show their authorization cards. Copies of the redemption certificates accepted by the redemption agent shall be delivered with the weekly redemption agent's report to the Retail and Redemption Unit Office once per week. Nutrition assistance program coupons redeemed must be cancelled by the redemption agent by indelibly marking "PAID" or "CANCELLED" on each nutrition assistance program coupon. A portion of a nutrition assistance program coupon consisting of less than three-fifths of a whole nutrition assistance program coupon may not be redeemed by the redemption agent.

(b) Loss of Nutrition Assistance Program Coupons by Burglary or Robbery. The retail and redemption officer will consider claims from the redemption agent for cancelled nutrition assistance program coupons lost as a result of burglary or robbery. Stolen nutrition assistance program coupons, later recovered, for which the redemption agent was compensated by a claim payment from the state agency nutrition assistance program shall be returned to the retail and

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redemption officer and shall not be redeemed. To be compensated for such losses, the redemption agent must provide the retail and redemption officer with:

- (1) Documentation showing that the stolen cancelled nutrition assistance program coupons were in the possession of the redemption agent at the time of the burglary or robbery;
- (2) Evidence that the amount of nutrition assistance program coupons recovered will not be compensated for by the redemption agent's insurer;
- (3) An investigation report detailing the facts of the robbery or burglary;
- (4) Evidence that negligence on the part of the redemption agent did not contribute to the loss; and
- (5) Evidence that credit equal to the amount of the coupons stolen was given to authorized retailer(s) and has not been previously claimed from the state agency nutrition assistance program by the redemption agent.

(c) **Current List of Authorized Retailers.** The redemption agent shall maintain a current list of authorized retailers and shall maintain a record of redemption for each. The retail and redemption officer shall inform the redemption agent of any additions or deletions to the list of authorized retailers within one working day of the retail and redemption officer's action.

(d) **Accountability.** The redemption agent shall retain redeemed coupons in their original bundles (when they were initially deposited with the redemption agent) and kept in separate stacks by authorized retailer in a secure storage area.

(e) **Reconciliation.** The retail and redemption officer and redemption agent shall reconcile the redeemed coupons with deposit slips and transmittal reports from other banks on a monthly basis. The Nutrition Assistance Program Office will provide the Bank Reconciliation Section at Finance and Accounting with the original monthly bank statement each month and a copy of the bank statement to the Federal Grants Section for recording of food stamp coupon redemptions for the program's special fund account. The Bank Reconciliation Section will then reconcile the program's bank account statements with the financial management system balance on a monthly basis. A copy of the reconciliation for the subject month will then be provided to the Nutrition Assistance Program Office. Nutrition assistance program will request finance and accounting to make any necessary adjustment entries if needed. This procedure should provide for timely entry of any necessary adjustments and will also result in minimal adjustments at the end of the fiscal year.

(f) **Retention.** The state agency Retail and Redemption Unit shall retain redeemed coupons for three months after redemption or before actual destruction. The Retail and Redemption Unit personnel shall destroy redeemed coupons only after they have been reconciled but no earlier than three months after the redemption agent has redeemed the coupons. The destruction shall be witnessed and certified by at least two Retail and Redemption Unit personnel, or as an alternate, with one Management Evaluation Unit official.

(g) **Reporting.** The redemption agent shall provide the retail and redemption officer a comprehensive redemption report for all authorized retailers no later than the fifth of the month for the previous month.

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(h) Changes in Coupon Series. The redemption agent shall enforce effective dates of nutrition assistance program coupon series in accordance with written instructions from the retail and redemption officer. The state agency nutrition assistance program shall not reimburse the redemption agent after the coupon series' effective termination date without a written waiver of this prohibition from the retail and redemption officer.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Emergency and Proposed 22 Com. Reg. 17573 (Oct. 20, 2000) (effective for 120 days from Sept. 26, 2000); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsections (c) through (h).

The 2000 amendment proposed to amend subsection (e). A notice of adoption for the 2000 emergency and proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes.

In subsection (b), the commission changed "claim" to "claims" to correct a manifest error.

§ 55-30-620 Disqualification of Authorized Retailers

(a) Authority to Disqualify or Subject Authorized Retailers to a Civil Money Penalty. The retail and redemption officer may disqualify any authorized retailer from further participation in the program for a reasonable period of time, not to exceed three years, as the retail and redemption officer may determine, if the firm fails to comply with applicable rules, regulations, policies, or the provisions of this section. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification or at any later time shall file a new application so that the retail and redemption officer may determine whether reinstatement is appropriate. The retail and redemption officer may, in lieu of disqualification, subject the firm to a civil money penalty of up to five thousand dollars for each violation if the retail and redemption officer determines that a disqualification would cause hardship to participating households. For purposes of this section, unless otherwise noted, "firm" means the ownership or management of any authorized retailer or any person acting on behalf of the ownership or management.

(b) Charge Letter. Any authorized retailer considered for disqualification under § 55-30-620, or imposition of a civil money penalty under § 55-30-625 shall have full opportunity to submit to the state agency retail and redemption unit information, explanation, or evidence concerning any instances of noncompliance before the retail and redemption officer makes a final administrative determination. The charge letter shall specify the violation(s) or action which the retail and redemption officer believes constitute a basis for disqualification or imposition of civil money penalty. The charge letter shall inform the authorized retailer that it shall respond in writing to the charge(s) contained in the letter within ten days of the date of the letter. The firm's response shall set forth a statement of evidence, information, or explanation concerning the specified violation(s) or act(s).

(c) Review of Evidence. The charge letter, the response, and any other information available

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to the retail and redemption officer shall be reviewed and considered by an administrative review officer appointed by the nutrition assistance program Administrator who shall then issue the determination.

(d) Basis for Determination. In making a determination the administrative review officer shall consider:

- (1) The nature and scope of the violation(s) committed by personnel of the firm;
- (2) Any prior action taken by the retail and redemption officer to warn the firm about the possibility that violation(s) were occurring; and
- (3) Any other evidence that shows the firm's intent to violate the regulations, rules, policies, or the provisions of this part.

(e) Penalties. The retail and redemption officer shall take action against any authorized retailer determined to have violated the regulations, roles, policies, or the provisions of this section as follows:

(1) Disqualify the authorized retailer for three years if the firm has committed flagrant violations of program regulations and/or trafficked in authorization to participate cards and/or nutrition assistance program coupons, which have resulted in major diversions of nutrition assistance program coupons from their intended purpose. The retail and redemption officer must determine that the flagrant violations cited resulted in the diversion of at least five thousand dollars worth of nutrition assistance program coupons from their intended purpose in order to impose a 3-year disqualification.

(2) Disqualify the authorized retailer for one year if the evidence shows one or more of the following and the amount involved total less than five thousand dollars:

(i) It is the firm's policy to sell expensive or conspicuous nonfood items, cartons of cigarettes, alcoholic beverages or gasoline, in exchange for nutrition assistance program coupons, and the firm has engaged in such practices, or

(ii) The firm bought nutrition assistance program coupons at discount, and

(iii) The firm was warned about the possibility that such violations were occurring and of the possible consequences of violating nutrition assistance program regulations. The retail and redemption officer may disqualify a firm for one year, even though the firm was not warned about the possibility that violations were occurring, if the retail and redemption officer finds that the firm has committed unusually serious violations of the kind described in subsection (e)(2)(i) or (e)(2)(ii) of this section.

(iv) The firm's nutrition assistance program coupon redemption for a specified period of time exceed its sales of eligible items for the same period of time.

(v) The firm accepted local coupons identified as restricted to purchase of local foods only for any eligible food.

(vi) It is the firm's policy to commit violations, such as, the sale of common ineligible nonfood items in amounts normally found in a shopping basket, etc., and the firm was warned about the possibility that violations were occurring and of the possible consequences of violating nutrition assistance program regulations.

(3) Disqualify the firm for six months if the evidence shows one or more of the items enumerated in subsection (e)(2) above except the amount involved total less than one thousand dollars.

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- (f) **Warning Letter.** The retail and redemption officer shall send the firm a warning letter if violations are too limited to warrant a disqualification.
- (g) **Previous Penalties.** The retail and redemption officer may assign a penalty that is more severe than the penalty normally warranted by the evidence of violations if the same firm has been previously disqualified or has been previously charged with a civil money penalty.
- (h) **Claim Against Violators.** The retail and redemption officer may establish a claim against an authorized retailer that has accepted nutrition assistance program coupons in violation of applicable rules, regulations, policies, or the provisions of this part. If a firm fails to pay the claim, the retail and redemption officer may collect the claim by offset against the amount due the firm on redemption of other nutrition assistance program coupons, or deny the application for re-authorization by a firm that has been disqualified and failed to pay a claim.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments moved former subsection (a) to subsection (h), redesignated subsections (b) through (g) accordingly and added new subsection (e)(3).

§ 55-30-625 Civil Money Penalty in Lieu of Disqualification

- (a) **Criteria for Civil Money Penalty.** The retail and redemption officer may impose a civil money penalty in lieu of disqualification only when a firm subject to a disqualification is selling a substantial variety of staple food or other eligible items, and the firm's disqualification would cause hardship to nutrition assistance program recipients because there is no other authorized retailer in the area selling as large a variety of items at comparable prices and the firm requests payment of civil money penalty in lieu of disqualification.
- (b) **Amount of Civil Money Penalty.** The civil money penalty may not exceed five thousand dollars for each violation. The retail and redemption officer shall determine the amount of the civil money penalty as follows:
 - (1) Determine the firm's average monthly redemption of food stamps for the 12-month period ending at the time the firm was charged with violations or the average monthly redemption at the time the firm was charged with violations.
 - (2) Multiply the average monthly redemption figure by ten-percent to represent the loss of profits that would result from the loss of nutrition assistance program coupon business and related cash business. The retail and redemption officer may double the ten-percent multiplier in cases in which the firm has been disqualified or subjected to a civil money penalty previously.
 - (3) Multiply the product arrived at in subsection (b)(2) immediately above by the number of months for which the firm would have been disqualified under § 55-30-620(e).
- (c) **Notifying the Firm of Civil Money Penalty.** The retail and redemption officer shall inform the firm in writing that it has ten days in which to pay the fine or notify the nutrition

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assistance program Administrator in writing of its intent to pay in installments as specified by the retail and redemption officer. In any event, the fine must be paid in full by the end of the period for which the firm would have been disqualified. The retail and redemption officer shall disqualify the firm for:

(1) The period determined to be appropriate under § 55-30-620(e) if the firm refuses to pay the fine; or

(2) A period corresponding to the unpaid part of the fine, if the firm does not pay the fine in full or in installments as specified by the retail and redemption officer.

(d) **Delivery of Notice.** The delivery by mail or personal service of any notice required of the state agency Retail and Redemption Unit by this part will constitute notice to the addressee of its contents. The notice shall advise the firm that it may request review in accordance with procedures outlined in § 55-30-630 below.

(e) **Review of Determination.** The determination of the retail and redemption officer shall be final and not subject to further review unless a written request for review is filed within ten days of the date of the notice.

(f) **Imposition of Claim.** The retail and redemption officer may impose a claim against a firm caught violating the program who opted for civil money penalty in lieu of disqualification if the firm does not pay the amount in full or in installments as specified by the retail and redemption officer.

(g) **Imposition of Civil Money Penalty on Unauthorized Retailers.** Any transaction involving nutrition assistance program coupons with retail outlets other than the nutrition assistance program's certified authorized retailers should be considered an illegal transaction. Penalties for unauthorized retailers accepting any and all nutrition assistance program coupon transactions shall be subject to civil money penalty in reasonable amount to be determined at state agency nutrition assistance program discretion. Moreover, authorized retailers determined to be actively involved with said illegal transactions should be subject to penalties and charges for violations in accordance with the provisions delineated in this chapter.

(h) **Program Income Account.** The program income account is established as a new business account that is completely separate from the administrative/operational and program benefits accounts. The nutrition assistance program accountant shall timely transmit all over issuance payments, penalty fine and civil money penalties to Division of Treasury, then Division of Treasury credits and deposits said payments into the program income account. The Federal Grant Supervisor from Division of Finance and Accounting shall provide a detail expenditure report to nutrition assistance program accountant on a monthly basis for reconciliation on all over issuance payments, penalty fines and civil money penalties. Funds from this special account shall be for proper expenditures on continued improvements in program operations and personnel enhancement. Nutrition assistance program shall timely monitor and maintain proper expenditure control of the program income account.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg.

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18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments created a new section X(F) (now § 55-30-625) and moved former subsections X(E)(9) through X(E)(12) into this section (now § 55-30-625(a) through (e)). See 5 Com. Reg. at 2093-94 (May 27, 1983). The 1984 amendments also added new subsection (f).

The 2002 amendments added new subsections (g) and (h) and readopted and republished this entire section.

§ 55-30-630 Requesting Administrative Review; Authorized Retailers

(a) An authorized retailer aggrieved by an administrative action under this section may, within ten days of the date of the adverse notice, file a written request for review of the administrative action with the Secretary of the Department of Community and Cultural Affairs. Upon receipt of the request for review, the questioned administrative action may be stayed by the retail and redemption officer at the request of the aggrieved retailer pending disposition of the request for review by the Secretary of the Department of Community and Cultural Affairs or his duly authorized designee.

(b) The request for review shall be filed with the Department of Community and Cultural Affairs, Office of the Secretary, Caller Box 10007, Saipan, MP 96950.

(c) An administrative review will be scheduled, conducted and a decision rendered no later than thirty days after the date the request for administrative review was filed with the state agency Department of Community and Cultural Affairs. The Secretary of the Department of Community and Cultural Affairs may, at his discretion, preside over an administrative review hearing or designate an administrative review officer to hear the case. The decision of the hearing officer shall be final and binding on all parties.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-635 Judicial Review

(a) A firm aggrieved by an order of the state agency Department of Community and Cultural Affairs may appeal the order to the commonwealth court within ten days following the date of the order.

(b) The commencement of any appeal proceedings in any court shall not operate as a stay of compliance with the order.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June

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15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-640 Other Penalties and Remedies

In addition to any other penalties prescribed by this part, the Attorney General's Office may bring this action in any court of competent jurisdiction to enjoin violations of the provisions of this section, the Commonwealth of the Northern Mariana Islands Food Stamp Fraud Statute, or any other applicable nutrition assistance program rules, regulations, or policies and to assess damages for such violations.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: In the first sentence, the commission replaced the period after "by this part" with a comma to correct a manifest error.

§ 55-30-645 Retail and Redemption Unit Monitoring of Retailer Compliance

(a) List of Authorized Retailers. The state agency Retail and Redemption Unit shall maintain a current listing of all authorized retailers in the Commonwealth of the Northern Mariana Islands. The state agency Retail and Redemption Unit shall maintain a file for each authorized retailer. At a minimum, this file shall include:

- (1) A contact sheet;
- (2) An application form;
- (3) Current quarterly business gross revenue tax (BGRT);
- (4) A record of monthly redemption; and
- (5) Copies of current business license and health permit.

(b) High Redeemer List. The retail and redemption officer shall determine the redemption ratio for each authorized retailer each month. The redemption ratio shall be obtained by dividing the store's monthly coupon redemption by its reported monthly gross sales. The stores showing a redemption ratio of twenty percent or more with monthly redemption exceeding one thousand dollars shall be placed on a high redeemer list.

(c) Compliance Activity Based on Redemption Ratio Analysis. On a quarterly basis, a Retail and Redemption Unit personnel shall conduct a compliance visit on each of the top twenty stores appearing on the high redeemer list within thirty days following each ending quarter.

(d) Follow-up on Compliance Visits. The Retail and Redemption Unit personnel shall make one of three determinations as a result of the compliance visit based on an analysis of the store's size, location, nearest competitors, hours of operation, comparative prices proximity to low income areas, and any other relevant factor(s).

- (1) The firm's redemption records are unreasonable and are likely the result of program

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violations. The retail and redemption officer shall request field investigations on all authorized retailers suspected of fraud through the Management Evaluation Unit in a timely manner. The state agency Retail and Redemption Unit shall take appropriate corrective actions based on the recommendations of the Management Evaluation Unit field investigation report of findings (see subsection (f) below).

(2) The firm's redemption records are high but reasonable based on pertinent factors. The Retail and Redemption Unit official shall document the compliance visit and the determination of high but reasonable redemption ratio. The Retail and Redemption Unit official need not conduct another compliance visit to the same firm following a determination of reasonable though high redemption for a period of six months. Firms found to be high but reasonable redeemers after two consecutive compliance visits shall be subject to subsequent compliance visit no more frequently than once a year.

(3) The Retail and Redemption official conducting the compliance visit cannot make a determination and recommends further monitoring. The Retail and Redemption official shall monitor the firm's redemption record for three consecutive months and at the end of that period shall either make a determination of high but reasonable redemption or request a field investigation from Management Evaluation Unit if the firm remains on the high redeemer list during the monitoring period.

(e) Compliance Visit. The Retail and Redemption Unit official conducting the compliance visit shall inform the firm's proprietor or manager of the reason for the visit. He shall provide the firm a copy of the firm's redemption record (at least the last three months, if appropriate) and allow the firm's owner or manager the opportunity to explain the reason(s) for the high redemption(s). The Retail and Redemption Unit official shall conduct a collateral visit to the Office of the Division of Revenue & Taxation (if sales figures are updated) and to two nearby competitors (authorized retailers) to confirm or corroborate the subject store owner or manager's statements, and to inquire about rumors of program violations or complaints against the subject firm prior to completing his written determination. A letter confirming the compliance visit shall be sent to the firm within ten days of the store visit.

(f) Store Investigations. The retail and redemption officer shall request investigations on authorized retailers suspected of fraud to the Management Evaluation Unit Supervisor to expedite investigation action. With investigation cases considered more severe, the Management Evaluation Unit official shall attempt to confirm suspected violations by actual purchase of ineligible items or exchange of food stamps coupons for cash, etc., at the subject firm through agents by means of sting operation under the direction and assistance of the investigation office from the Attorney General's Office. The state agency's agents shall conduct three attempts and document each attempt immediately after. The document shall include, at a minimum: time and place of buy; items bought; and the name and/or description of firm personnel committing the violation. Otherwise, with less severe cases, Management Evaluation Unit shall apply standard field investigation procedures prescribed in this chapter. The retail and redemption officer shall disqualify authorized retailers found guilty of violations as a result of sting operations and field investigations in accordance with § 55-30-620.

(g) Onsite Inspections on Authorized Retailers. Retail and Redemption Unit official shall conduct onsite inspections on at least five authorized retailers each month to, at a minimum,

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instruct the firms' personnel in the proper procedures required in the acceptance and redemption of nutrition assistance program coupons. When properly informed, onsite inspections establish the best possible contact between the state agency Retail and Redemption Unit and the authorized retailers, and present Retail and Redemption Unit official the opportunity to clarify possible misunderstandings about program regulations before compliance action becomes necessary. Onsite inspections are especially desirable in certain instances, such as, when a firm has not been redeeming regularly despite being located in a high-volume food stamp coupon area. However, onsite inspections on Tinian and Rota shall be conducted on a quarterly basis or as required. If time and/or travel limitations do not permit onsite inspections on the island centers of Tinian and Rota, contacts may be made by telephone at state agency nutrition assistance program discretion.

(h) Conducting Authorized Retailers Onsite Inspections. The Retail and Redemption Unit official shall conduct at least five onsite inspections on authorized retailers each month according to the following:

(1) Prepare for an onsite inspection by reviewing the firm's individual case file, the most recent redemption of the firm, and the firm's redemption and compliance history.

(2) Schedule the onsite inspection, if possible, at a time that affords the least interference with the conduct of business by the firm. At its discretion, the Retail and Redemption Unit official may notify the subject firms ahead of time about the visitation. Otherwise, the element of surprise shall be exercised by the Retail and Redemption Unit official on occasions as it may warrant necessary.

(3) Conduct the onsite inspection, if possible, with a management official, for instance, the owner, manager or supervisor who is responsible for the day-to-day store operations.

(4) Stress to the firm's owner, manager and employees the necessity for fully understanding program regulations and being aware of the penalties for violations. In the absence of the owner or manager, the Retail and Redemption Unit official conducting the onsite inspection shall discuss about the program standard policies and procedures with the store clerks and shall determine if they have any questions concerning the program. Even if the owner or manager is present, the Retail and Redemption Unit official should still request permission to visit with the store clerks unless conditions in the firm, such as long lines of shoppers, prevent it. The responses of the store clerks will be a good indication of the general state of program knowledge and supervision in the firm.

(5) Stress to the owner or manager that they are responsible for keeping their employees fully informed on program regulations and operations. Examples of program regulations and pertinent matters which should be reviewed during the onsite inspection are:

(i) Recent changes or revisions in program regulations, policies and procedures;

(ii) Eligible and ineligible items;

(iii) Change-making;

(iv) Requesting proper identification from food stamp recipients;

(v) Back-bill or credit account policies;

(vi) Completing redemption certificates;

(vii) Depositing food stamp coupons at regular intervals;

(viii) Problems with handling food stamp coupons;

(ix) Information on violations in the surrounding area (other firms or food stamp recipients);

(x) Acceptance of loose coupons;

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- (xi) Reporting stolen and counterfeit coupons;
 - (xii) Courtesy towards food stamp recipients; and
 - (xiii) Recent changes, if any, in the design of the food stamp coupon series, food stamp recipient's identification card, etc.
- (6) Verify or review the following information:
- (i) Changes in ownership or managerial personnel;
 - (ii) Changes in the nature of business; and
 - (iii) Changes in gross and food sales figures since the last update, and the percentage of food sales in staple food items.
- (7) Make authorized retailers aware that they are an important part of the program. Encourage firm personnel to contact the Retail and Redemption Unit Office whenever they have questions or any information to offer in connection with the operation of the program, particularly instances or rumors of program violations. Suspected program violations should be reported to the Management Evaluation Unit Supervisor to expedite investigation action.
- (8) Make an evaluation of the firm's present eligibility to participate, and determine whether the firm's participation furthers the purpose of the nutrition assistance program; and
- (9) If violations are observed, reclassify the onsite inspection visit as a compliance visit and handle accordingly.
- (i) **Recording and Reporting Authorized Retailer Onsite Inspection.** It is important that the Retail and Redemption Unit official making an authorized retailer onsite inspection fully documents everything that transpired during the store visit. This will provide an important permanent record of the type of visit, the persons contacted, the educational materials provided and the relative level of understanding of store personnel. This documentary report will be especially important if it becomes necessary to initiate compliance action against the firm. The information must be available to allow a determination as to whether or not every reasonable attempt has been made to eliminate any misunderstanding of the regulations by a firm's owner or manager. It will also provide a record of program compliance promotion efforts in order to support any potential adverse action taken against the firm. Monitoring contacts made by telephone should be clearly identified as such.
- (j) **Report of Findings.** Upon completion of the five authorized retailers onsite inspection reports each month, the Retail and Redemption Unit personnel shall submit the consolidated report of findings to the nutrition assistance program Administrator for his disposition within fifteen working days following the subject month, with a courtesy copy furnished to the Management Evaluation Unit Supervisor, prior to filing each copy of the narrative report in respective authorized retailers' case files. The retail and redemption officer on subject authorized retailers as warranted shall impose appropriate corrective actions.
- (k) **Other Compliance Action.** Nothing in this section shall preclude the state agency Retail and Redemption Unit from performing additional compliance actions not required herein.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

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Commission Comment: The 2002 amendments added new subsections (a)(5) and (g) through (j), and redesignated subsection (k). In the original 2002 amendments, subsection (i) was not designated in error. The commission redesignated subsections (j) and (k) to accommodate subsection (i).

In subsection (h)(7), the commission changed “part of program” to “part of the program” to correct a manifest error. The Commission corrected the phrase “retailers case files” in subsection (j) to “retailers§ case files” pursuant to 1 CMC § 3806(g).

Part 700 - Emergency Food Assistance for Victims of Disasters

§ 55-30-701 General

The state agency shall be responsible for the administration of temporary emergency provisions within the Commonwealth of the Northern Mariana Islands, as authorized by Food and Nutrition Service, including certification of households, publicity activities, evaluation of disaster operations, and preparation of accurate and timely reports of emergency food assistance. The Commonwealth of the Northern Mariana Islands Food Service Office shall be directly responsible for the distribution, accountability, and reporting of commodities utilized during emergency operations.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The Commission inserted a comma after the word “accounting” pursuant to 1 CMC § 3806(g).

§ 55-30-705 Definitions

- (a) Disasters.
 - (1) Natural disasters such as typhoons, storms, floods, high water, wind-driven water, tidal waves, earthquakes, drought, and fires; and
 - (2) Man-made disasters such as explosions, fires, riots, nuclear and chemical contamination.
- (b) Other Emergencies. These include special situations of distress in which food assistance needs warrant group feeding. For example, defense related crisis relocation.
- (c) Disaster Victims. Disaster victims include those persons who because of acts of God or man-made disasters and emergencies, are in need of emergency food assistance.
- (d) Disaster Relief Agency. Disaster relief agencies include all recognized institutions or associations of persons engaged in charitable activities.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg.

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18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

Commission Comment: The Commission inserted a comma after the word “drought” in subsection (a)(1) pursuant to 1 CMC § 3806(g).

§ 55-30-710 Coordination

The state agency Department of Community and Cultural Affairs Secretary or his designee shall coordinate disaster operations with the Governor’s Chief Administrative Officer, the Commonwealth of the Northern Mariana Islands Disaster Control Officer, the Commonwealth of the Northern Mariana Islands Food Service Office and corresponding individuals in the Federal Emergency Management Agency, Civil Defense, the American Red Cross and other disaster relief agencies.

(a) The state agency shall ensure that it is on the Commonwealth of the Northern Mariana Islands Disaster Control Office’s notification list so it can be alerted to any potential disaster as quickly as possible.

(b) The state agency shall request those disaster relief agencies to provide information on disaster eligibility standards to potentially eligible households in a disaster and to refer these households to the nutrition assistance program disaster assistance.

(c) If the disaster is limited in nature (not meeting the criteria to be designated a disaster by Food and Nutrition Service), the state agency shall request disaster relief agencies which are providing assistance to affected households to provide information on and refer potentially eligible households to the ongoing nutrition assistance program.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-715 Disaster Declaration Procedures

Food and Nutrition Service shall determine the need for temporary food assistance for households which are victims of a disaster when the conditions are severe enough and affected households in such a way that the regular nutrition assistance program cannot respond to their temporary food needs. Emergency food assistance is appropriate when, for example, a quick response is needed to meet a sudden heavy demand at the state agency which the regular nutrition assistance program is not capable of timely processing. Food and Nutrition Service shall authorize the area for emergency food assistance as a result of a disaster. This area may or may not have boundaries congruent with areas designated as a major disaster by the United States President. The state agency shall obtain from Food and Nutrition Service a formal disaster declaration in writing.

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Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments deleted former section XI(C), entitled "Disaster Plan." See 5 Com. Reg. at 2096 (May 27, 1983).

§ 55-30-720 Disaster Designation

Conditions which may require a disaster designation by Food and Nutrition Service include, but are not limited to:

- (a) Damage has been caused of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act of 1974.
- (b) Federal emergency assistance is needed to supplement Commonwealth of the Northern Mariana Islands efforts to save lives and protect property, public health and safety.
- (c) Alternative certification procedures, and/or physical facilities are needed on a mass scale to supplement or replace normal certification procedures, and/or physical facilities.
- (d) Additional certification staff are needed to timely handle the volume of applicants.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: Sections 55-30-720 through 55-30-730 were originally sections XI(D)(2) through XI(D)(4). See 5 Com. Reg. at 2097-99 (May 27, 1983).

§ 55-30-725 Application to Conduct Emergency Operations

- (a) When all or part of the Commonwealth of the Northern Mariana Islands has been struck by a disaster and the ongoing nutrition assistance program cannot respond to the temporary food needs of affected households, the state agency shall apply to Food and Nutrition Service for authorization to implement emergency food assistance procedures. The application shall be made as quickly as possible by telephone or other means to the Food and Nutrition Service, Western Regional Office, as soon as the need has been established. However, the written application with substantiating facts will be submitted to Western Regional Office as soon after the informal application as possible.
- (b) The written application must include the following:
 - (1) The date the disaster began.

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- (2) The islands in the Commonwealth of the Northern Mariana Islands in need of emergency food assistance.
- (3) A determination with substantiation those households residing within the disaster area are in need of emergency food assistance.
- (4) A determination with substantiation that the food needs of those households cannot be met by the ongoing nutrition assistance program.
- (5) An estimate of the numbers of eligible households in need of assistance.
- (6) An assessment of the availability and accessibility of nutrition assistance program certification sites in the disaster area.
- (7) A determination that temporary certification arrangements are or are not necessary and a description of any such proposed arrangement.
- (8) An assessment of the availability and accessibility of authorized retailers in the affected area.
- (9) An estimate of the period of emergency food assistance need of the affected households and an estimate of the period needed for processing disaster applications from affected households. The state agency shall recommend emergency food assistance period of either one-half month or one month, whichever is appropriate, to meet the needs of the affected households. The application processing period shall not exceed the anticipated emergency food assistance period.
- (10) Identification of disaster relief agency(ies), if any, which will assist the state agency in administering emergency food assistance. The disaster relief agency designated by the state agency to perform specified functions in connection with certification or distribution of emergency food assistance must be authorized by Food and Nutrition Service. The state agency shall also specify the island(s) in which the disaster relief agency will perform such functions.
- (11) Indication of type of emergency food distribution (household distribution, group feeding, or both) and the quantity and types of food needed. This information shall be obtained from the Commonwealth of the Northern Mariana Islands Food Service Office.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsection (b)(11); see also the commission comment to § 55-30-720.

§ 55-30-730 Food and Nutrition Service Authorization

- (a) Approval. The state agency shall use the Commonwealth of the Northern Mariana Islands emergency food assistance procedures set out in exhibit D, specifying the areas where such procedures are authorized, only after the application for disaster designation is approved. This authorization will be made by telephone if possible, followed by written confirmation.
- (b) Denial. If the application is denied, Food and Nutrition Service shall notify the state agency immediately by telephone if possible, followed by written confirmation. The state agency shall request a review of the decision if additional information is available to substantiate the

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request for authorization.

(c) **Period of Authorization.** Food and Nutrition Service shall specify the period of emergency food assistance need and the corresponding anticipated food distribution period. This period shall be for either a one-half month or one month. Such an extension may be authorized if Food and Nutrition Service determines that emergency food assistance is necessary beyond the original period.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: See the comment to § 55-30-720.

§ 55-30-735 Reporting

Within thirty days following termination of the emergency food assistance period, the state agency shall provide a summary report to the Western Regional Office, Food and Nutrition Service, using form food and nutrition service-292, report of coupon issuance and commodity distribution for disaster relief.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-740 Monitoring

The state agency shall implement and maintain controls over the certification of disaster victims for emergency assistance while disaster procedures are in effect.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-745 Post Audits

(a) The state agency Management Evaluation Unit shall conduct a post review of disaster certification activities by selecting and reviewing five-percent of all cases certified for disaster assistance within sixty days after the end of the disaster assistance period.

(b) The state agency Management Evaluation Unit shall prepare and complete a report of

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findings based on the above review within ten working days after the completion of the review.

(c) The state agency Management Evaluation Unit shall formulate corrective actions responding to the report of findings within ten working days after the completion of the report of findings and implement those corrective actions to improve future disaster certification.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments created this new section and moved original sections XI(F)(2) and (3) (now § 55-30-745(a) and (c)) into this section. See 5 Com. Reg. at 2099-2100 (May 27, 1983). The 1984 amendments added new subsection (b).

§ 55-30-750 Record Retention

The state agency shall retain all emergency food assistance records to include certification and food distribution records a minimum of three years from the date of origin.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

§ 55-30-755 Household Disaster

The state agency shall provide replacement benefits to households affected by personal calamity outside the scope of disaster assistance that was covered above in this part.

(a) **Coupons Destroyed after Receipt.** A household may request a replacement for that portion of its allotment, not to exceed one month's food stamp allotment, which it had received but which was destroyed in a household disaster such as fire or flood. To qualify for a replacement, the household shall report the destruction to the Food Stamp Office within ten days of the incident and sign a statement:

- (1) Attesting to the destruction of the household's food stamps;
- (2) Indicating the amount of food stamps destroyed; and
- (3) Stating that the household is aware of the penalties for intentional misrepresentation of the fact. The statement shall be retained in the case file.

(b) **Replacement of Coupons.** Replacement coupons, if warranted, shall be issued within ten days of receipt of the request for replacement. Replacement of coupons reported as destroyed subsequent to receipt shall be made only once in a 6-month period. If in the previous five months the household has been issued a replacement for coupons reported as destroyed subsequent to receipt, then the request for replacement shall be denied.

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(c) Authorization to Participate Cards Stolen or Destroyed after Receipt. A household may request replacement for an authorization to participate card which it had received but which was subsequently destroyed in a household disaster such as a fire or flood, or stolen. To qualify for a replacement the household shall report the theft or destruction within ten days of the incident and sign a statement:

- (1) Attesting to the theft or destruction of the household's authorization to participate card;
- (2) Stating that the original authorization to participate card will be returned to the state agency if recovered by the household; and
- (3) Stating that the household is aware of the penalties for intentional misrepresentation of the facts. The statement shall be retained in the case file.

(d) Replacement of Authorization to Participate Cards. Replacement authorization to participate cards, if warranted, shall be issued within ten days of receipt of the request for replacement. Replacement of authorization to participate card reported as stolen or destroyed subsequent to receipt shall be made only once in a 6-month period. If in the previous five months the household has been issued a replacement for an authorization to participate card reported as stolen or destroyed subsequent to receipt, then the request for replacement shall be denied. Authorization to participate cards stolen or destroyed after the valid period of the authorization to participate shall not be replaced.

(e) Lost or Misplaced Authorization to Participate Cards, Coupons. The state agency shall not issue a replacement authorization to participate card or coupons to a household which reports that its authorization to participate card or coupons were lost or misplaced after being received.

(f) Replacement of Food Destroyed in a Disaster. In cases where food purchased with food stamps is destroyed in a disaster affecting a participating household, the state agency may replace the actual value of loss not to exceed one month's food allotment, if the loss is reported within ten days and the household's disaster is verified within ten days.

(g) Prohibition of Duplicate Benefits. Where Food and Nutrition Service has issued a disaster declaration and the household is eligible for emergency food stamp benefits, the household shall not receive both the disaster allotment and a replacement allotment under this provision.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 1984 amendments added new subsection (a)(2) and redesignated subsection (a)(3).

Part 800 - Benefit Reduction Procedures

§ 55-30-801 General Purpose

This part sets forth the procedures to be followed if unanticipated high program participation or other reasons make it necessary to reduce program benefits in order not to exceed the authorized

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grant amount.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-805 Procedures

Should it be determined that a reduction in benefits is needed, the following procedure shall be used to effect the reduction:

- (a) Calculate the total estimated amount of benefits to be used for the month using the established certification process.
- (b) Determine the amount of funds available for distribution. This is the total grant amount pro-rated monthly less authorized administrative expenses.
- (c) Determine the percentage of total available funds for distribution in relation to the total funds required by certification.
- (d) Apply the calculated percentage to each case in order to distribute the pro-rata share.
- (e) Round cents down to the nearest dollar to determine benefits to be issued to the household. All households shall be guaranteed a minimum benefit of twenty-dollars a month.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-810 Notification of Eligible Households

The state agency shall notify households of reductions through mass media at least ten days before the reductions take effect. Reductions shall be made effective on the first day of the month. Individual notices of adverse action shall not be provided to households.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-815 Restoration of Benefits

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Households whose allotments are reduced as a result of the enactment of these procedures are not entitled to the restoration of the lost benefits at a future date. The only exception is if it is determined that the household's benefits were reduced by more than the appropriate amount computed by following the procedures above.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

§ 55-30-820 Effects of Reduction on Certification

(a) Determinations of the eligibility of applicant households shall not be affected by a reduction in benefits. The state agency shall accept and process applications in accordance with the provisions of part 200. If an applicant is found eligible, the amount of benefits shall be computed using the calculated percentage for reduction.

(b) The reduction shall also have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which benefits were reduced shall be recertified in accordance with the provisions of part 200. Households found eligible to participate during the month in which benefits were reduced shall be assigned certification periods in accordance with the provisions of part 200.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

Commission Comment: The 1984 amendments deleted original section XIII, entitled "Amendments." See 5 Com. Reg. at 2103 (May 27, 1983). Section XIII, "Amendments" appeared again in the December 1985 amendments. See 7 Com. Reg. at 4148-49 (Oct. 17, 1985). It was deleted by the 2002 amendments.

Part 900 - Exhibits

§ 55-30-901 Exhibits

- (a) Income Eligibility Guidelines.
- (b) Benefit Levels.
- (c) Agency Hearing Procedures.
- (d) Disaster Procedures.
- (e) Emergency Food Assistance (Distribution Guide Rate).

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(f) Eligibility/Benefit Level Determination Illustration.

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The 2002 amendments did not include former exhibit G, entitled "Nutrition Assistance Program Official Food List" and exhibit H, entitled "Certification Regarding Drug-Free Workplace." The DCCA added these exhibits to the Nutrition Assistance Program Regulations by amendments published on September 15, 1992 and September 15, 1993, respectively. See 14 Com. Reg. 9598 (Sept. 15, 1992); 15 Com. Reg. 10823 (Sept. 15, 1993).

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**Exhibit A
Maximum Income Guidelines
Effective October 1, 1997**

Household Size	Maximum Gross Monthly Income
1	\$541
2	672
3	805
4	933
5	1,065
6	1,197
7	1,332
8	1,458
9	1,588
10	1,719
11	1,848
12	1,980
13	2,108
14	2,237
15	2,371
16	2,501
17	2,628
18	2,759
19	2,892
20	3,022
21	3,151
22	3,282

For households with more than twenty-two members, add one hundred twenty-nine dollars (\$129) for each additional member.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 20 Com. Reg. 15952 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15870 (Mar. 16, 1998) (effective Mar. 5, 1998); Amdts Emergency and Proposed 19 Com. Reg. 15741 (Nov. 15, 1997) (effective for 120 days from Nov. 5, 1997); Amdts Adopted 16 Com. Reg. 12375 (Sept. 15, 1994); Amdts Adopted 15 Com. Reg. 10823 (Sept. 15, 1993); Amdts Adopted 14 Com. Reg. 9595 (Sept. 15, 1992); Amdts Adopted 13 Com. Reg. 7856 (Sept. 15, 1991); Amdts Proposed 13 Com. Reg. 7669 (Apr. 15, 1991); Amdts Adopted 10 Com. Reg. 5734 (Nov. 15, 1988); Amdts Proposed 10 Com. Reg. 5722 (Oct. 15, 1988); Amdts Adopted 10 Com. Reg. 5429 (Jan. 18, 1988); Amdts Proposed 9 Com. Reg. 5252 (Oct. 15, 1987); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The December 1985 amendments stated: "Exhibit A Gross Income Eligibility Guidelines is changed effective October 1, 1985." 7 Com. Reg. at 4149 (Oct. 17, 1985). The January 1988 amendments stated: "Exhibit A - Gross Income Eligibility Guidelines is changed effective October 1, 1987." 10 Com. Reg. at 5431 (Jan. 18, 1988).

The November 1988 amendments adopted new Maximum Gross Monthly Income Guidelines (Exhibit A) and new

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Maximum Monthly Allotment Guidelines (Exhibit B). The amended guidelines were not published with the notice of proposal or adoption. See 10 Com. Reg. at 5722 (Oct. 15, 1988); 10 Com. Reg. at 5734 (Nov. 15, 1988).

The April 1991 amendments proposed new Maximum Gross Monthly Income Guidelines (Exhibit A) and Maximum Monthly Allotment Guidelines (Exhibit B). The proposed amended guidelines were not published with the public notice. A notice of adoption for the April 1991 proposed amendments was never published.

The September 1991 amendments stated: "The effective date for the change is October 1, 1991." See 13 Com. Reg. at 7856 (Sept. 15, 1991). A notice of proposed amendments for the September 1991 amendments was not published. The amended guidelines were not published with the notice of adoption.

The September 1992 amendments erroneously referred to the Maximum Income Guidelines as exhibit C. The amendments stated: "The effective date for the change is October 1, 1992." See 14 Com. Reg. at 9595 (Sept. 15, 1992). A notice of proposed amendments for the September 1992 amendments was not published.

The September 1993 amendments erroneously referred to the Maximum Income Guidelines as exhibit C. The amendments stated: "The effective date for the change is October 1, 1993." See 15 Com. Reg. at 10823 (Sept. 15, 1993). A notice of proposed amendments for the September 1993 amendments was not published.

The September 1994 amendments erroneously referred to the Maximum Income Guidelines as exhibit C. The notice of adoption stated: "The effective date for the change is October 1, 1994." See 16 Com. Reg. at 12375 (Sept. 15, 1994). A notice of proposed amendments for the September 1994 amendments was not published.

The June 1998 amendments stated as follows: "Exhibits A and B of the existing regulations and manual governing the Nutrition Assistance Program, previously published in the Commonwealth Register on September 15, 1994 in Volume 16, Issue No. 9 at pages 12,377 and 12,378, respectively, (although previously labeled incorrectly as Exhibits C and D), shall be replaced with the attached Exhibits." See 20 Com. Reg. at 15874 (Mar. 16, 1998). However, the replacement exhibits were not published with the emergency and proposed amendments nor with the adoption notice.

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Exhibit B Maximum Benefit Levels Effective October 1, 1997

Household Size	Maximum Allotment
1	\$133
2	243
3	348
4	444
5	525
6	596
7	698
8	794
9	895
10	995
11	1,093
12	1,194
13	1,292
14	1,389
15	1,490
16	1,586
17	1,685
18	1,785
19	1,884
20	1,985
21	2,082
22	2,181

For households with more than twenty-two (22) members, add ninety-eight dollars (\$98) for each additional member.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 20 Com. Reg. 15952 (June 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15870 (Mar. 16, 1998) (effective Mar. 5, 1998); Amdts Emergency and Proposed 19 Com. Reg. 15741 (Nov. 15, 1997) (effective for 120 days from Nov. 5, 1997); Amdts Adopted 16 Com. Reg. 12375 (Sept. 15, 1994); Amdts Adopted 15 Com. Reg. 10823 (Sept. 15, 1993); Amdts Adopted 13 Com. Reg. 7856 (Sept. 15, 1991); Amdts Proposed 13 Com. Reg. 7669 (Apr. 15, 1991); Amdts Adopted 10 Com. Reg. 5734 (Nov. 15, 1988); Amdts Proposed 10 Com. Reg. 5722 (Oct. 15, 1988); Amdts Adopted 10 Com. Reg. 5429 (Jan. 18, 1988); Amdts Proposed 9 Com. Reg. 5252 (Oct. 15, 1987); Amdts Adopted 7 Com. Reg. 4161 (Dec. 17, 1985); Amdts Proposed 7 Com. Reg. 4145 (Oct. 17, 1985); Adopted 5 Com. Reg. 2256 (July 29, 1983); Proposed 5 Com. Reg. 2021 (May 27, 1983).

Commission Comment: The December 1985 amendments stated: "Exhibit B Maximum Benefit Levels is changed effective October 1, 1985... ." 7 Com. Reg. at 4150 (Oct. 17, 1985). The January 1988 amendments stated: "Exhibit B - Maximum Benefit Levels is change[d] effective October 1, 1987... ." 10 Com. Reg. at 5432 (Jan. 18, 1988).

The November 1988 amendments adopted a new Maximum Gross Monthly Income Guideline (Exhibit A) and a new Maximum Monthly Allotment Guideline (Exhibit B). The amended guidelines were not published with the

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notice of proposal or adoption. See 10 Com. Reg. at 5722 (Oct. 15, 1988); 10 Com. Reg. at 5734 (Nov. 15, 1988).

The April 1991 amendments proposed new Maximum Gross Monthly Income Guidelines (Exhibit A) and Maximum Monthly Allotment Guidelines (Exhibit B). The proposed amended guidelines were not published with the public notice. A notice of adoption for the April 1991 proposed amendments was never published.

The September 1991 amendments stated: "The effective date for the change is October 1, 1991." See 13 Com. Reg. at 7856 (Sept. 15, 1991). A notice of proposed amendments for the September 1991 amendments was not published. The amended guidelines were not published with the notice of adoption.

The September 1993 amendments erroneously referred to the Maximum Benefit Levels Guidelines as exhibit D. The amendments stated: "The effective date for the change is October 1, 1993." See 15 Com. Reg. at 10823 (Sept. 15, 1993). A notice of proposed amendments for the September 1993 amendments was not published.

The September 1994 amendments erroneously referred to the Maximum Benefit Levels Guidelines as exhibit D. The notice of adoption stated: "The effective date for the change is October 1, 1994." See 16 Com. Reg. at 12375 (Sept. 15, 1994). A notice of proposed amendments for the September 1994 amendments was not published.

The June 1998 amendments stated as follows: "Exhibits A and B of the existing regulations and manual governing the Nutrition Assistance Program, previously published in the Commonwealth Register on September 15, 1994 in Volume 16, Issue No. 9 at pages 12,377 and 12,378, respectively, (although previously labeled incorrectly as Exhibits C and D), shall be replaced with the attached Exhibits." See 20 Com. Reg. at 15874 (Mar. 16, 1998). However, the replacement exhibits were not published with the emergency and proposed amendments nor with the adoption notice.

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Exhibit C Agency Hearing Procedures

I. SCOPE. These rules govern the Proceedings before the hearing officer under the nutrition assistance program manual of operation [NMIAC, title 55, chapter 30], regulations, or Memorandum of Understanding.

II. CONSTRUCTION OF RULES. The rules shall be liberally construed to effectuate the purposes of the program and to secure the just and speedy determination of every proceeding.

III. DEFINITIONS. As used in these rules, except as otherwise required by the context:

- Program. The term “Program” shall mean the nutrition assistance program.

- Department Secretary. The term “Department Secretary” shall mean the Secretary of the Department of Community and Cultural Affairs.

- Party. The term “Party” shall mean any person, household or organization filing a complaint, petition, request or application under these rules and any person, organization named as a party in the complaint, request or petition filed under these rules.

- Hearing Officer. The term “Hearing Officer” shall mean any person designated and authorized by the Department Secretary pursuant to the Manual of Operations [NMIAC, title 55, chapter 30] to hold a hearing for the purpose of taking evidence and to make findings of facts, conclusions of law and recommendations to the Department Secretary upon matters involved in a proceeding before the Department Secretary.

- Administrator. The term “Administrator” shall mean the Administrator of the Commonwealth of the Northern Mariana Islands nutrition assistance program.

- State Agency. The term “State Agency” shall mean the Department of Community and Cultural Affairs and as appropriate, the Division of Nutrition Assistance Program within the Department of Community and Cultural Affairs.

IV. APPEARANCE AND PRACTICE BEFORE THE HEARING OFFICER.

A. Appearance before the Hearing Officer.

A person may appear in his own behalf; a household or an organization may be represented by a person or persons duly designated and authorized by the household or an organization; and the program may be represented by the Administrator or person duly designated and authorized by the Administrator at its legal counsel from the Attorney General’s Office.

B. Representation.

In any proceeding under these rules, any person, household, organization or the program may be represented by counsel or any other authorized representative.

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C. Personal Appearance Constitutes Representation.

When a person acting in a representative capacity appears in person or signs a paper in practice before the Hearing Officer, his personal appearance or signature shall constitute a representation to the hearing officer that under the provisions of these rules and the law he is authorized and qualified to represent the particular person on whose behalf he acts. The hearing officer may at any time require any person transacting business before the hearing officer in a representative capacity to show his authority and qualifications to act in such capacity.

V. PROCEEDING BEFORE THE STATE AGENCY.

A. Filing of Documents.

1. **Place of Filing Documents.** All complaints, pleadings, submittals, petitions, reports, exceptions, briefs, memoranda, and other papers required to be filed with the state agency in any proceeding shall be filed with the hearing officer.

2. **Service of Documents.** Such papers may be sent by mail or hand carried to the Department of Community and Cultural Affairs, Office of the Secretary, Caller Box 10007, Saipan MP, 96950 within the time limit, if any, for such filing.

3. **Date of Filing Documents.** The date on which the papers are actually received by the state agency shall be deemed to be the date of filing.

4. **Signing of Documents.** The party signing the same or his duly authorized representative must sign all papers in ink. The signature of the person signing the document constitutes a certification that he has read the document; that to the best of his knowledge, information, and belief every statement contained in the instrument is true and correct and no such statements are misleading; and that it is not interposed for delay.

B. Investigation by the State Agency.

1. **Initiation of Investigation.** The state agency may at any time institute investigations on its own motion particularly in cases of potential fraud.

2. **Notice of Investigation.** The Department Secretary shall serve its notice of investigation upon the person or organization being investigated or having a direct interest or concern in the matter under investigation and shall designate the time and place for the investigation.

C. Record of Proceedings.

1. **Official Record.** The state agency shall make the only official recording of such proceeding.

2. **Copies shall be provided.** The state agency upon request shall provide copies of the official recording.

D. Hearings.

1. **Who Shall Conduct.** The hearing for the purpose of taking evidence shall be conducted by the Department Secretary's designated hearing officer.

2. **Nature of Hearing.** The hearing shall be open to the public, unless requested by the parties to the proceedings or otherwise provided by the rules or ordered, for good cause, by the Department Secretary or hearing officer.

3. **Duty of Hearing Officer.** It shall be the duty of the hearing officer to inquire fully into all matters at issue to obtain a full and complete record and issue a ruling disposing of the matter

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before him.

4. Powers of Hearing Officer. The hearing officer shall have the authority, subject to the rules, to:

- a. Give notice concerning the hearing.
- b. Administer oaths or affirmations.
- c. Take or cause depositions to be taken whenever the ends of justice would be served thereby.
- d. Rule upon offers of proof and receive relevant evidence.
- e. Call, examine and cross-examine witnesses and introduce into the record documentary or other evidence.
- f. Limit lines of questioning or testimony which are repetitive or irrelevant.
- g. Hold conferences for the settlement or simplification of the issues.
- h. Dispose of procedural requests, motions or similar matters which shall be made part of the record of the proceedings, and issue a written ruling or order disposing of the matter.
- i. Request the parties at anytime during the hearing to state their respective positions concerning any issue in the proceedings or theory in support thereof.
- j. Dispose of any other matter that normally and properly arises in the course of any proceedings, and to take any other action authorized by the rules or by any other statute.

5. Termination of Hearing Officer's Authority. The hearing officer's authority in each case will terminate either upon the submission of his findings, conclusions and recommendations to the Department Secretary, or upon the certification of the record in the proceeding to the Department Secretary, or when he shall have withdrawn from the proceeding upon considering himself disqualified, or when he has been withdrawn by the Department Secretary for good cause shown.

6. Disqualification of Hearing Officer. Upon approval of the Department Secretary, a hearing officer assigned by the Department Secretary to hold a hearing and to make recommendations shall withdraw from a proceeding at any time he deems himself disqualified, or he may be withdrawn by the Department Secretary, for good cause found, after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Department Secretary.

7. Substitution. A hearing officer may be substituted at any time for the hearing officer previously presiding.

8. Unavailability of Hearing Officer. In the event the hearing officer designated to conduct the hearing becomes unavailable, the Department Secretary may designate another hearing officer for the purpose of further hearing or issuance of a report and a recommendation on the record as made, or both.

9. Motions.

a. During Hearing. All motions made during a hearing shall be made a part of the record of the proceedings.

b. Before or After Hearing.

i. Form; Contents. All motions other than those made during a hearing shall be made in writing to the Department Secretary or hearing officer, and shall briefly state the relief sought and shall be accompanied by affidavits setting forth the grounds upon which they are based.

ii. Service of Motions. The moving party shall serve a copy of all motion papers on all other parties and shall, within three (3) working days thereafter, file with the state agency the original with proof of service.

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- iii. Answering Affidavits. Answering affidavits, if any, shall be served on all parties and the original thereof, together with proof of service, shall be filed with the state agency within five (5) working days after service of the motion papers.
- iv. Ruling. The Department Secretary may rule upon motions filed with the Department Secretary or it may refer the ruling of the motions to the hearing officer.
- v. Argument; Testimony. The hearing officer may decide to hear oral argument or testimony thereon, in which case the Department Secretary shall notify the parties of such fact and of the time and place of such argument or for the taking of such testimony.
- vi. Review. Unless expressly authorized by the Department Secretary, rulings of a hearing officer on motions shall not be appealed directly to the Department Secretary, but shall be considered by the Department Secretary when it considers such exceptions to the report and recommendations of the hearing officer as may be filed.
10. Witness. All witnesses shall appear in person and shall be examined under oath or affirmation.
11. Depositions.
 - a. Written Application. Upon application and for good cause shown, the Department Secretary or hearing officer may permit the parties to take deposition upon oral examination or written interrogatories in the manner consistent with the Commonwealth Court's Rules of Civil Procedure.
 - b. Filing of Copy. A copy of the deposition or interrogatories shall be filed with the Department Secretary or hearing officer.
12. Rules of Evidence.
 - a. Technical Rules. In any proceeding, the Department Secretary or hearing officer shall be guided by, but need not conform to technical Rules of Evidence.
 - b. Irrelevant, Immaterial, Repetitious Evidence. All irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - c. Documentary Evidence. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request the parties shall be given an opportunity to compare the copy with the original.
 - d. Cross Examination. Each party shall have the right to conduct such cross examination as may be required for a full and true disclosure of the facts and shall have the right to submit rebuttal evidence.
13. Contemptuous Conduct.
 - a. Grounds for Exclusion. Contemptuous conduct at any hearing shall be grounds for exclusion from the hearing.
 - b. Refusal of Witness to Answer. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper may, in the discretion of the Department Secretary or hearing officer, be grounds for striking all testimony previously given by such witness on related matters.
14. Retention of Documents by the State Agency. All documents filed with or presented to the hearing officer shall be retained in the files of the state agency.
15. Substitution of Parties. Upon motion and for good cause shown, the state agency may order substitution of parties, except that in the case of death of a party, substitution may be ordered without the filing of a motion.
16. Consolidation of Proceedings. The state agency, upon its own initiative or upon motion, may consolidate for hearing or for other purposes, or may contemporaneously consider two (2)

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or more proceedings which involve substantially the same parties or issues if it finds that such consolidation of proceedings or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.

17. Stipulation of Fact.

a. Agreed Statement of Facts. In any proceeding, an agreed statement of facts may be introduced into the record with respect to any issue.

b. Acceptance of Agreed Statement of Facts. The Department Secretary or hearing officer without a hearing may accept an agreed statement of facts.

c. Waiver of Hearing. The parties to an agreed statement of facts may agree to a waiver of a hearing.

18. Burden of Proof. The charging party, in asserting a violation of the manual of operations, the nutrition assistance program rules and regulations, the Memorandum of Understanding, or other applicable statutes, shall have the burden of proving the allegations by a preponderance of the evidence.

19. Argument; Briefs; Proposed Findings.

a. Oral Argument. Any party shall be entitled, upon request made before the close of the hearing, to present oral argument.

b. Briefs; Proposed Findings. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of facts and conclusions of law, or both, with the hearing officer, but not in excess of ten (10) working days from the close of the hearing.

c. Direction of Argument; Briefs; Proposed Findings. The hearing officer may direct oral argument or the filing of briefs or proposed findings of facts, conclusion of law, or both, when he deems the submission of briefs or proposed findings, or both, is warranted by the nature of the proceeding or the particular issues therein.

20. Decision of Hearing Officer.

a. Submission of Recommendations. The hearing officer shall prepare a report setting forth his findings of facts, conclusions, and the reasons therefor, and a tentative or proposed order and submit the same to the Department Secretary. The hearing officer shall have five (5) workdays from the final adjournment of the hearing to issue a tentative or proposed order. Such tentative or proposed order shall be in force and effect until modified, reversed, or remanded by the Department Secretary who shall have five (5) workdays to review the order. Unless modified, overruled, or remanded, the order shall become final at the expiration of the 5-day review period.

b. Service of Hearing Officer's Order. The hearing officer shall cause a copy of his order to be served upon all parties to the proceedings within five days of the date the hearing officer's order becomes final.

21. Decisions and Recommendations of the Department Secretary.

a. Service. All opinions or recommendations entered by the Department Secretary in a proceeding shall be served upon the parties or persons participating in the proceeding by regular mail or personal delivery by the Department Secretary and may be released for general publication.

b. Inspections; Copies. Copies of such published material shall be available for public inspection at the Office of the Secretary, Department of Community and Cultural Affairs.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June

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15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

Commission Comment: The original regulation attached this information as an Exhibit. It is unclear whether the Department intended this Exhibit to be codified like an ordinary code section, or to be left as is. The Commission let the regulation stand as written. The Commission inserted commas after the words “memoranda” in subsection V.A.1, “information “ in subsection V.A.4, and “immaterial” in subsection V.D.12.b pursuant to 1 CMC § 3806(g).

**Exhibit D
Disaster Procedures**

I. DISASTER DESIGNATION

A. **Assessing Geographical Limits.** The state agency shall coordinate with the Commonwealth of the Northern Mariana Islands Disaster Control Office in identifying areas damaged and affected by the disaster as quickly as possible.

B. **Governor's Concurrence.** The state agency shall then request concurrence from the Governor's Office with regard to the island(s) in the Commonwealth of the Northern Mariana Islands designated as a disaster area.

C. **Request to Food and Nutrition Service.** Upon obtaining the Governor's concurrence as to the islands affected by the disaster, the state agency shall prepare the request for Food and Nutrition Service approval with assistance from the Commonwealth of the Northern Mariana Islands Food Service Office, which shall be conveyed by telephone to Western Regional Office and later confirmed in writing. The request shall cite the following information:

1. Household distribution.
 - a. The type of disaster or emergency situation.
 - b. The number of households affected.
 - c. The anticipated distribution period.
 - d. The method of distribution available; and
 - e. The quantity and types of foods needed for distribution. The state agency shall work closely with the Commonwealth of the Northern Mariana Islands Food Service Office in preparing this portion of the application.
2. Group Feeding.
 - a. The type of situation requiring emergency group feeding;
 - b. The number of persons requiring meals;
 - c. The anticipated distribution period;
 - d. The quantity and types of foods needed for group feeding;
 - e. The method of feeding (organization and facility); and
 - f. The disaster relief agency involved.

D. **Food and Nutrition Service Approval or Denial.** If Food and Nutrition Service denies the request, the state agency shall resubmit the request if it has additional information to substantiate the request and obtain a more favorable decision. If the request for disaster designation is approved by Food and Nutrition Service, the state agency shall apply the disaster certification procedures described below.

II. DISASTER CERTIFICATION PROCEDURES

A. **State Agency Instructions to Certification Unit Personnel.** The state agency shall instruct its Certification Unit personnel of the following:

1. Period of Emergency Food Assistance when Disaster Certification Procedures Will Be in

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Effect. This period shall be for either a one-half (½) month or one (1) month. The authorization for an initial disaster assistance period shall not exceed one (1) month.

2. Period for Processing Disaster Applications. This period may be less than the disaster assistance period but it may not exceed the disaster assistance period. The state agency may apply for an extension of either or both of these periods.

3. Disaster Relief Agency. The state agency will identify the Food and Nutrition Service authorized disaster relief agency(ies) and specify the functions which it will perform in connection with certification or food distribution.

B. Liaison. If the affected area is declared a major disaster by the President, the State Agency shall cooperate with the Federal Coordinating Officer (FCO) of the Federal Emergency Management Agency (FEMA) and the Commonwealth of the Northern Mariana Islands Disaster Control Officer. Initial planning shall include the location of certification services at any Federal Emergency Management Agency one step centers that are established.

C. Eligibility for Temporary Food Assistance.

1. Gross Income Limits. A household with an annual gross income equal to or more than four (4) times the nutrition assistance program gross income eligibility standards for households its size will not be eligible for temporary food assistance. The gross annual income will be based on either its past or current tax year.

2. Shared Living Accommodations. Because of the effect a disaster may have on living accommodations, it is common that more than one (1) food stamp household share the same shelter. Applicant groups or individuals sharing common living quarters but applying separately shall be certified as separate households under these procedures when:

a. The household resided at the time of the disaster within the geographical limits of the area authorized for disaster procedures. A household residing in a shelter that is providing all its meals will not be eligible for temporary food assistance.

b. The household is responsible for the purchasing of food to prepare meals for home consumption and is not being provided all of its meals from a disaster relief organization or a shelter.

3. Income Eligibility. A household whose monthly income after a reduction, termination, or diversion of income as a result of the disaster is less than or equal to the monthly gross income limit for the household's size shall meet the income eligibility requirement of the program. Reduction in or termination of income means an interruption of earnings or other income as a direct result of the disaster. For example, the disaster has caused the place of employment to close, a reduction of workdays, an inaccessibility to work location, or a loss of or destruction of paychecks or other income negotiable instruments. Diversion of income means money spent for unusual expenses incurred as a result of a disaster, such as money spent to replace or repair property damaged in a disaster or for medical or funeral expenses or temporary housing expenses.

4. Resources Eligibility. A household whose accessible liquid resources is less than or equal to the nutrition assistance program resources limit for the household's size and circumstances shall meet the resource eligibility requirement of the program. Examples of inaccessible liquid resources include, but are not limited to, savings accounts in financial institutions which have been closed due to disaster conditions or other liquid resources that the household is unable to reach.

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5. Non-financial Eligibility Requirements. Non-financial eligibility requirements are suspended during the period when disaster procedures are in effect.

D. Application Processing.

1. Certifying Agency. The state agency shall determine the eligibility of each applicant for emergency food assistance during a disaster. Nutrition assistance program Certification Unit personnel designated by the state agency may determine eligibility of affected households. A disaster relief agency may determine the eligibility of applicant households. Any such disaster relief agency must be designated by the state agency and approved by Food and Nutrition Service.

2. General Standards.

a. The application process includes completing and filing a short form self- declaration application form, being interviewed, and providing limited verification as specified in paragraph 7 below.

b. The state agency shall act promptly on all applications. The state agency shall provide eligible households that complete the emergency assistance application process an opportunity to participate the same day unless restrictions such as curfews make it impossible for the state agency to meet this standard. In those situations, households determined eligible shall be provided an opportunity to participate no later than the close of the business of the day following the date the application was filed.

3. Application Form for Emergency Food Assistance.

a. The application for emergency food assistance shall include:

i. The name of the head of household and the members of the household and the permanent and temporary address of the household.

ii. The total gross income of all household members received or anticipated to be received during the period which coincides with the period authorized by Food and Nutrition Service for emergency food assistance and which is or will be accessible to the household.

iii. The total actual or estimated disaster related expenses, provided the expense occurs or is expected to occur during the period authorized by Food and Nutrition Service for emergency food assistance.

iv. The total amount of liquid resources accessible to the household at the time of application.

v. A description in understandable terms and in prominent and boldface lettering of the civil and criminal provisions and penalties for violations, and informing the household of post disaster reviews which will determine the correctness of disaster certifications.

vi. The signature of an adult head of household or its authorized representative attesting to the fact that the household does reside in the disaster area, the household is in need of immediate food assistance, the information on the application form is correct, and that this constitutes a general release of information authorization for post disaster reviews. An authorized representative shall be designated in writing by the adult head of household or its authorized representative to act on behalf of the household in making application for emergency food assistance.

vii. An authorization section for state agency use showing the disposition of the application. If approved, the application shall indicate the beginning and ending dates of the certification period.

b. The state agency shall ensure that a supply of application forms for emergency food

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assistance is available at all times.

4. Filing an Application. Households must file an application for emergency food assistance by submitting the completed form to a certification site in person or through an authorized representative. The state agency shall document the date the application is received. Each household has the right to file an application form the same day it contacts the disaster certification site during the site's operating hours. In order to be processed under disaster procedures, the household must file the application during the period authorized by Food and Nutrition Service for emergency food assistance.

5. Household Cooperation. To determine eligibility, the application must be completed and signed, the adult head of household or its authorized representative must be interviewed, and certain information must be verified as required in paragraph 7 below. If the household refuses to cooperate with the state agency in completing this process, without good cause, the application shall be denied at the time of refusal.

6. Interviews. All applications shall have an interview; the interview shall be conducted as an official discussion of household circumstances. However, it shall be designed to quickly process the application and not impede disaster operations. The interview may be conducted by nutrition assistance program Certification Unit personnel, as well as volunteers and other non-state agency personnel designated by the state agency. An authorized disaster relief agency representative may conduct the interview. The individual interviewed may be the adult head of household or its authorized representative. The household, if it wishes, may be accompanied to the interview by anyone of its choice. The interviewer shall review the information that appears on the application and resolve with the household unclear or incomplete information. The interviewer shall advise the household of the disposition of its application, its rights and responsibilities, when its certification period for emergency assistance ends, as well as advise the household of the ongoing nutrition assistance program. If the household also wishes to file an application for the ongoing nutrition assistance program, the interviewer shall advise the household of the address and telephone number of the nutrition assistance program office.

7. Verification.

a. To expedite the certification for emergency food assistance, the state agency shall waive the verification required by the ongoing nutrition assistance program and use the procedures specified herein. The household's identity and residence at the time of the disaster shall be verified. Examples of acceptable verification which the household may provide include, but are not limited to, a driver's license, employment or school identification card, Commonwealth voter registration card, birth certificate or passport, and United States social security number card. In addition, rent receipts and utility bills may verify residence in the disaster area. The state agency recognizes that some applicants may have lost all of their personal papers and it may be necessary to check sources such as telephone books, village homestead subdivision records or village directories to determine residence.

b. The household has the primary responsibility to provide documentary evidence to verify its identity and residency. The state agency may use a collateral contact as a source of verification only if the household identity and residence cannot be verified in accordance with (a) above. Benefits, however, shall not be delayed beyond the delivery standards described in this section if the required verification cannot be obtained in a timely manner.

III. DETERMINING HOUSEHOLD ELIGIBILITY

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A. **Accounting Period.** The eligibility of households submitting an application for emergency food assistance shall be based on household circumstances for a period coinciding with the length of time Food and Nutrition Service has authorized as the food distribution period to meet the emergency food needs of affected households. For example, if Food and Nutrition Service authorizes the period beginning on the 5th of February and ending the 5th of March for disaster food distribution and a household files an application for emergency food assistance on the 10th of February, the household's eligibility shall be determined by considering the household's circumstances from the 5th of February to the 5th of March.

B. **Determining Resources.** Households applying for temporary emergency assistance shall have their eligibility determined by considering only liquid resources which are accessible to the household at the time of application.

C. **Determining Income.**

1. **Anticipating Income.** The state agency shall take into account the actual income received or anticipated to be received by the household during the disaster assistance period authorized by Food and Nutrition Service. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the state agency. Household income shall mean all accessible income from whatever source as specified in the ongoing nutrition assistance program.

2. **Diversion of Income.** The state agency shall also allow households a deduction for diversion of income for disaster-caused expenses, provided the household's loss or diversion of income occurs or is expected to occur during the period authorized by Food and Nutrition Service for emergency food assistance. A diversion of income is money spent or anticipated to be spent by the household for disaster-related expenses incurred as a result of the disaster. These types of expenses are those essentials to the household's immediate welfare. The amount allowed must be paid or anticipated to be paid by the household during the authorized period. Unusual expenses resulting from a disaster shall include:

a. The cost of replacing or repairing household goods, clothing, and food which has been damaged or destroyed;

b. The cost of replacing or repairing property which is essential to the employment or self-employment of a household member;

c. The cost of temporary shelter when a household is forced to leave its normal residence as a result of the natural disaster; and

d. The cost of medical or funeral expenses for an individual who was a household member at the time the disaster occurred.

3. **Reimbursements.** Reimbursements from a person or organization outside of the household to cover those expenses in paragraph 2 above shall be excluded as income and counted as resources in the calendar month received unless specifically excluded from consideration as a resource by other federal laws.

4. **Benefits.** Households who meet the eligibility criteria shall be provided one (1) month or one-half (½) month of the food distribution guide rate for its household size, depending on the period authorized by Food and Nutrition Service for emergency food assistance and food items available. The Commonwealth of the Northern Mariana Islands Food Service Office shall be directly responsible for the distribution, accountability and reporting of commodities utilized during emergency operations.

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D. Certification Period.

The state agency shall establish a definite period of time within which households shall be eligible to receive emergency food assistance. This period shall conform to the period authorized by Food and Nutrition Service for emergency food assistance, either a one-half (1/2) or full month. For example, if Food and Nutrition Service declares the disaster assistance period to be from the 2nd of November to the 16th of November and a household applies for temporary emergency assistance on the 10th of November, the household's certification period shall begin November 2nd and end November 16th. Emergency food assistance would be issued for a 1/2-month period.

2.* No emergency foods shall be authorized or issued after the expiration of the certification period for which Food and Nutrition Service authorized such emergency food assistance. However, if an authorization period is extended by Food and Nutrition Service beyond the original designation, certified households who have already received emergency foods shall be provided additional foods corresponding to the extended period if they still meet the disaster eligibility criteria. A household applying for recertification must again submit an application and be interviewed. At recertification, the state agency shall follow the same verification procedures specified in paragraph c.7 above. If an extension is granted, the state agency shall issue a press release notifying households that the emergency food assistance period has been extended. The press release shall advise households of where they may apply for additional emergency foods and the date by which a household must file an application to receive extended benefits.

E. Certification Notices.

1. The written notification requirements of the ongoing nutrition assistance program shall be waived. The state agency shall orally advise applicant households of the disposition of the application. If an application is approved, the household shall be advised of their food distribution guide rate and the period the food benefits that are extended to cover. If the application is denied, the state agency shall explain the basis for the denial.

2. The state agency shall issue eligible households an identification card marked with the wording "DISASTER" as proof of eligibility. The state agency shall issue a new "DISASTER" card during each separate occurrence of a disaster.

IV. OTHER RELATED ACTIVITIES

A. Transition to the Ongoing Nutrition Assistance Program. Households provided emergency food assistance and which are subsequently determined eligible for the ongoing nutrition assistance program shall have their nutrition assistance program benefits adjusted. The state agency shall calculate the benefits to be issued under the ongoing nutrition assistance program as follows:

1. The number of days that overlap the disaster certification period and the certification period for the ongoing nutrition assistance program shall be determined.

2. The number of days determined in number 1 above shall be subtracted from the number of days in the month in which the disaster certification period and the regular certification period overlap.

3. The amount of the coupon allotment to be issued under the ongoing nutrition assistance

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program shall be pro-rated over the number of days in the month of overlap to determine daily benefits.

4. The daily benefits determined in number 3 above shall be multiplied by the number of days determined in number 2 above. This amount shall be the nutrition assistance program benefits under the ongoing nutrition assistance program during the month of overlap.

5. For example, a household is certified for emergency food assistance from April 26 through May 10. The same household is eligible for the ongoing nutrition assistance program in May. May has thirty-one (31) days. There are ten (10) days of overlap between emergency food assistance period and ongoing nutrition assistance program certification period. The nutrition assistance program coupon benefits for May, the month of overlap, for the household shall be computed as followed:

a. Amount of monthly nutrition assistance program coupon benefits to the household divided by 31 (days in May).

b. Daily benefit determined in step a above multiplied by 21 ($31 - 10 = 21$ days).

c. The product derived in step b above shall be the household's regular nutrition assistance program benefits for May.

B. Current Nutrition Assistance Program Participants.

1. Households currently certified in the ongoing nutrition assistance program shall be automatically eligible for emergency food assistance if they live within the designated disaster area but they shall be required to complete a disaster application form for record-keeping purposes.

2. Households certified under the ongoing nutrition assistance program who report changes as required during the application process for emergency food assistance shall be referred to the ongoing nutrition assistance program.

C. Controls to Minimize Duplicate Participation during Disasters. The state agency shall incorporate the same system of identifying duplicate participants in the ongoing nutrition assistance program in its disaster certification process.

D. Reporting.

1. The state agency shall report on form food and nutrition service 292, report of commodity distribution for disaster relief the total number of persons certified for emergency food assistance and the Commonwealth of the Northern Mariana Islands Food Service Office shall report on form food and nutrition service 155, the amounts of commodities distributed for disaster relief. Both reports shall be submitted by the state agency to Western Regional Office as soon as possible but no later than the forty-fifth (45th) day following the designated disaster period.

2. In addition, the Federal Coordinating Officer of the Federal Emergency Management Agency shall be provided a report, on an as needed basis, which includes the estimated emergency food assistance cost, number of applicants received and number of applications approved.

3. Additional information on emergency food assistance and participation shall be provided to Western Regional Office upon request.

E. Monitoring and Post Audits.

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1. The state agency shall implement and maintain proper controls over the certification of disaster victims for emergency food assistance while disaster operations are in effect.
 - a. Household information shall be maintained in an orderly fashion clearly documenting the certification and food distribution actions by the state agency and the Commonwealth of the Northern Mariana Islands Food Service Office.
 - b. State agency management shall closely monitor the disaster program, identifying problem areas for immediate corrective action. These include, but are not limited to, problems with crowd control, work flow, physical facilities, media information, and prevention of duplicate benefits.
2. The state agency Management Evaluation Unit shall conduct a post review of disaster certification activities, selecting and reviewing ten-percent (10%) of positive case actions and all negative cases.
 - a. The universe for active cases shall include all households who received emergency food assistance. The review of active cases shall include a case record review, an interview with the participant, verification of information and a determination of eligibility for disaster assistance.
 - b. Negative cases shall include all households whose application for disaster assistance was denied. The review shall include a case record review, a field investigation if required, and an analysis of errors.
 - c. The state agency's Management Evaluation Unit shall conduct the described reviews.
3. The state agency shall utilize the case review information to formulate and implement corrective actions to improve disaster certification procedures. The state agency shall establish claims against any household that received more emergency food assistance or ongoing nutrition assistance program benefits during a month of overlap than it was entitled to receive.

* So in original.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

Commission Comment: The original regulation attached this information as an Exhibit. It is unclear whether the Department intended this Exhibit to be codified like an ordinary code section, or to be left as is. The Commission let the regulation stand as written.

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**Exhibit E
Emergency Food Assistance
Distribution Guide Rate**

Item	Commodities*	Per Person Monthly
1.	Rice	10.0lbs.
2.	Flour	2.0 lbs.
3.	Macaroni	1.0 lbs.
4.	Milk, Evap.	8.4 lbs. (10 cans)
5.	Butter	1.0 lb.
6.	Cheese	1.0 lb.
7.	Shortening	1.0 lb.
8.	Corn Syrup	1.0 lb. (1 bottle)
9.	Peanut Butter	1.0 lb.
10.	Egg Mix	1.1 lbs. (3 pkgs.)
11.	Meat	3.6 lbs. (2 cans)
12.	Vegetables	2.0 lbs. (2 cans)
13.	Fruits	3.6 lbs. (2 cans)
14.	Juice	6.2 lbs. (2 cans)

* AS AVAILABLE

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Amdts Adopted 6 Com. Reg. 2877 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2801 (May 15, 1984).

**Exhibit F
Eligibility/Benefit Level
Determination Illustration**

To determine eligibility for participation in the program, the eligibility worker shall:

1. Add the gross earned and unearned income of the household.
2. Compare the total gross income from 1 above with the income guideline for the appropriate household size.
3. If eligible, deduct ten-percent (10%) from the gross earned income of the household to obtain the adjusted earned income.
4. Add the unearned income with the adjusted earned income of the household to obtain the net income.
5. Multiply the net income by thirty percent (30%) and subtract the product from the amount for the appropriate household size to obtain the household monthly nutrition assistance program benefits.

Example:

Juan Malimanga is a Supplemental Security Income recipient (\$284 a month) and he heads a house of five (5). His wife Maria takes care of their sons Martin, 14, and Jose, 10. And they have a daughter, Dolores, 19, who works for Duty Free Shoppers-Saipan earning three hundred dollars (\$300) a month. There is no other income to the household.

Household Income

Juan's Supplemental Security Income	\$284
Dolores's Duty Free Shoppers Income	\$300
Household Gross Income	\$584

Maximum Income Limit for 5 Eligible Household Members is \$1,065

Earned Income (Dolores)	\$300
Less 10% Earned Income Deduction	-\$30
Adjusted Earned Income	\$270
Plus Unearned Income	\$284
Household's Net Income	\$554
x 30%	x 30%
Purchase Requirement	\$166
Allotment for 5 Eligible Household Members	\$525
Less Purchase Requirement	\$166
Monthly Benefits to Juan Malimanga's Household	\$137

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19400 (July 29, 2002); Amdts Emergency and Proposed 23 Com. Reg. 18426 (Oct. 19, 2001) (effective for 120 days from September 25, 2001); Adopted 5 Com. Reg. 2256 (July 29, 1983) (labeled Exhibit E); Proposed 5 Com. Reg. 2021 (May 27, 1983).

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Commission Comment: This exhibit was not included in the 1984 readoption of the Nutrition Assistance Program Regulations. However, it was reinstated in the 2002 readoption and republication.