

ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date 7/7/01 Code Number 016.20.01--007

Name of Agency Arkansas Department of Human Services
Department County Operations Department of Human Services
Contact Person Sandra Miller Phone 682-8250
Statutory Authority for Promulgating Rules P.L. 104-193, The Food Stamp Act of 1977

Intended Effective Date _____ Legal Notice Published _____
☐ Emergency Final Date for Public Comment _____
☒ 10 Days After Filing Filed With Legislative Council _____
☐ Other Reviewed by Legislative Council _____
Adopted by State Agency _____ July 01, 2001

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Beth Whitney II
Signature
Director
Title
5/21/01
Date

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF COUNTY OPERATIONS
AMENDING LEGISLATIVE REGULATION
ARKANSAS LEGISLATIVE COUNCIL**

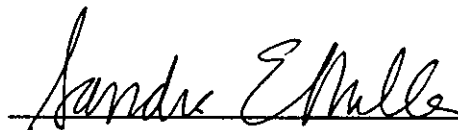
NUMBER AND TITLE: FSC 01-04, Vehicle Exclusion.

PROPOSED EFFECTIVE DATE: July 1, 2001

STATUTORY AUTHORITY: The Food Stamp Act of 1977 as amended by
The Agriculture Rural Development, Food and Drug Administration, and Related
Appropriations Act 2001

NECESSITY AND FUNCTION: This rule changes the policy for determining the countable resource value of a vehicle in the Food Stamp Program. Under the new policy, one vehicle per household will be excluded as a resource.

PAGES FILED: A total of pages were filed.



**Sandra Miller
Assistant Director
Office of Program Planning and Development**

PROMULGATION DATE: July 1, 2001

CONTACT PERSON: Sandra Miller
Assistant Director
Office of Program Planning and Development
P.O. Box 1437, Slot 1220
Little Rock, AR 72203-1437

(501) 682-8251

NOTICE OF RULE MAKING

Pursuant to the Food Stamp Act of 1977, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, vehicle exclusion as a resource. This proposed rule will change the policy for determining the countable resource value of a vehicle in the Food Stamp Program. Under the new policy, one vehicle per household will be excluded as a resource.

Copies of the revised policy may be obtained by writing to the Division of County Operations, Attention: Food Stamp Policy Section, P. O. Box 1437, Slot 1241, Little Rock, AR 72203-1437. All comments must be submitted within 30 days of the date of publication of this notice. If you need any material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 682-8920 (Voice) or 682-8933 (TDD). The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to political affiliation, religion, disability, age, veteran status, sex, race, color or national origin.

A handwritten signature in black ink, appearing to read "Ruth Whitney", is positioned above a horizontal line.

Ruth Whitney
Director
Division of County Operations

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

July 28, 1995

DEPARTMENT HUMAN SERVICES

DIVISION COUNTY OPERATIONS

PERSON COMPLETING THIS STATEMENT Betty Helmbeck

TELEPHONE NO. 682-8284 FAX NO. 682-1469

FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE FSC 01-04

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? YES XX NO
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

2000-2001 Fiscal Year		2001-2002 Fiscal Year	
General Revenue	\$ 0%	General Revenue	\$ 0%
Federal Funds	\$ 100%-	Federal Funds	\$ 100%
Cash Funds	\$ -0-	Cash Funds	\$ -0-
Special Revenue	\$ -0-	Special Revenue	\$ -0-
Other	\$ -0-	Other	\$ -0-
Total	\$ -0-	Total	\$ -0-

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

2001-2002 Fiscal Year \$ -0- 2002-2003 Fiscal Year \$ -0-

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

2001-2002 Fiscal Year \$ -0- 2002-2003 Fiscal Year \$ -0-

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY HUMAN SERVICES

DIVISION COUNTY OPERATIONS

DIVISION DIRECTOR Ruth Whitney

CONTACT PERSON Sandra Miller

ADDRESS Donaghey Plaza South, P.O. Box 1437, Slot 1220, Little Rock, AR 72203-1437

PHONE NO. (501) 682-8251

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule?
FSC 01-04
2. What is the subject of the proposed rule? *This rule changes the policy for determining the countable resource value of a vehicle in the Food Stamp Program. Under the new policy, one vehicle per household will be excluded as a resource in the Food Stamp Program. Also, mandatory regulatory changes have been incorporated into the policy.*
3. Is this rule required to comply with federal statute or regulations? XX YES NO

If yes, please provide the federal regulation and/or the statute citation. *The Food Stamp Act of 1977, as amended (Pub.L. 95-113) This rule implements regulatory changes issued in the Federal Register, Vol. 65, No.225, Tuesday, November 21, 2000. The vehicle exclusion is allowed under P.L. 106-387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001.*

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? YES XX NO

If yes, what is the effective date of the emergency rule? _____

When does the rule expire? _____

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? YES NO

5. Is this a new rule? _____ YES XX NO

Does this repeal an existing rule? _____ YES XX NO

Is this an amendment to an existing rule? XX YES _____ NO

Is this an amendment to an existing rule? If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes.

6. What state law grants the authority for this proposed rule? If codified, please give Arkansas Code citation. *N/A*

7. What is the purpose of this proposed rule? Why is it necessary? *This rule changes the policy for determining the countable resource value of a vehicle in the Food Stamp Program. The policy change comes as the result of regulatory changes and the enactment of a law, P.L. 106-387.*

8. Will a public hearing be held on this proposed rule? _____ YES XX NO

9. When does the public comment period end?

6-21-01

10. What is the proposed effective date of this proposed rule

July 1, 2001

11. Do you expect this rule to be controversial?

_____ YES XX NO

If yes, please explain.

12. Please give the names of persons, groups, or organizations which you expect to comment on these rules. Please provide their position (for or against) if known.

NAME	GROUP/ORGANIZATION	ADDRESS
<i>David Manley Attorney at Law</i>	<i>Legal Services of Arkansas</i>	<i>209 West Capitol, Suite 36 Little Rock, AR 72203</i>

MANUAL TRANSMITTAL

Arkansas Department of Human Services

Division of County Operations



☒ Policy ☐ Form ☐ Policy
Directive

Issuance Number FSC 01-04

Food Stamp Certification Manual

Issuance Date 07-01-01

From: Ruth Whitney
Director

Expiration Date Until
Superseded

Subj: Revised Vehicle Policy

FSC 4000 RESOURCES

Please delete the existing FSC 4000 Section and insert the new FSC 4000 Section.

SUMMARY OF CHANGES

The entire section has been updated. Each policy change is numbered. You may review the change by going to the corresponding number in the margin of the policy.

1. FSC 4400 – Policy references were added to the list of excluded resources.
2. FSC 4430 – This section formerly provided information about excluded vehicles. The information about excluded vehicles was moved to FSC 4840. The information formerly in FSC 4431 about property related to the use of excluded vehicles was moved to this section.
3. FSC 4451 – This section was updated to reflect the current definition of a categorically eligible household.
4. FSC 4500 – Policy references were added to the list of excluded resources.
5. FSC 4580 – This section was revised to redefine a significant return as one of \$1,500 or less and to state that this policy does now applies to vehicles.
6. FSC 4610 – Information has been added about a web site that may be used in the process of verifying savings bonds.

7. FSC 4640 – A sentence has been added to clarify that a KEOGH plan is inaccessible to a food stamp household if it involves a contractual agreement with non-household members.
8. FSC 4650 – A money market account has been added as a type of checking account.
9. FSC 4660 – A money market account has been removed as a type of savings certificate.
10. FSC 4670 – Information was added about using the internet to verify current stock prices.
11. FSC 4800 – Information was added about the process of evaluating vehicles to determine the resource value.
12. FSC 4810 – This section now contains information about establishing ownership of vehicles.
13. FSC 4820 – This section now contains information about the treatment of leased vehicles.
14. FSC 4830 – This section now provides instructions for excluding vehicles owned by categorically eligible households as a resource.
15. FSC 4840 – This section now provides instructions for applying resource exclusions to vehicles owned by members of food stamp households. This includes one exclusion per household and additional exclusions based on use.
16. FSC 4850 – This section now provides instructions for determining the countable resource value of any vehicle not excluded under the policy in FSC 4840.
17. FSC 4851 – This section now provides instructions for determining the fair market value of vehicles. Internet web sites rather than NADA books will be used to establish the fair market value of vehicles.
18. FSC 4860 – This section now provides instructions for determining the accessibility of any vehicle if the value of the vehicle will make the household ineligible to receive food stamp benefits.
19. FSC 4870 – This section now contains the Vehicle Desk Guide. This guide has been revised to reflect the new provisions.
20. FSC 4974 – This section has been updated and the example, which described the transfer of a vehicle, has been revised.

**FSC 16000
HEARINGS**

Please delete the existing FSC 16000 Section and insert the new FSC 16000 Section.

SUMMARY OF CHANGES

The entire section had to reissued due to printing errors.

INQUIRIES TO: **Betty Helmbeck, Food Stamp Section, (501) 682-8284**
e-mail address: Betty.Helmbeck@mail.state.ar.us

4100 Summary

08-01-98

For the purpose of determining eligibility for the Food Stamp Program, resources are defined as assets available to the household such as money in bank accounts, certificates of deposit, stocks, bonds, land or houses that the household could sell. Vehicles are also considered to be resources.

Some assets are totally excluded from consideration as resources. Other assets are considered inaccessible if the household can demonstrate that the asset is not available and will not likely become available.

Households may not transfer resources to become eligible or remain eligible for food stamp benefits.

4200 When Resources are Determined

08-01-98

At initial application and at application for recertification, resources are determined at the time of the interview. If the household's countable resources exceed the limits at the time of the interview, the application will be denied. The household may reapply at any time. When the household reapplies, resources will be re-determined at the time of the next interview. See FSC 12230 for handling reported changes in resources.

4300 Resource Eligibility Standards

08-01-98

A household's eligibility will be denied or terminated when the value of the household's countable resources (both liquid and non-liquid assets) exceed the following:

- \$3,000 for all households with an aged member regardless of household size
OR
- \$2,000 for all other households

Exception: Households that are categorically eligible as defined in the *Glossary* do not have to meet the resource limits as provided in this section.

4310 Uniform Resource Standards

08-01-98

Resource standards are uniformly applied to all households except those in which all members are recipients of TEA and/or SSI. Except for categorically eligible households, all resources currently held by the household and all resources anticipated to be received during the certification period must be reported at the time of the interview.

4400 Excluded Resources

07-01-01

1

A general list of excluded resources is provided below. Each excluded resource is explained in detail in the sections of policy immediately following.

- The household's home and lot (FSC 4410)
- Household and personal goods (FSC 4420)
- Life Insurance policies and pension funds (FSC 4420)
- Certain vehicles (FSC 4840)
- Property essential for the maintenance or use of certain excluded vehicles (FSC 4430)
- Income producing property(FSC 4440)
- Payments that are excluded as a resource by law (FSC 4450)
- Resources owned by a SSI recipient in a mixed household (FSC 4451)
- Resources owned by the members of a categorically eligible household (FSC 4451)
- Earmarked resources (FSC 4460)
- Indian lands and certain payments to Indians (FSC 4460)
- Burial lots, limited to one per household member (FSC 4460)
- Prepaid burial plans to the extent that the funds in such a plan are inaccessible (FSC 4602)
- Inaccessible resources (FSC 4500)

The resource exclusions in FSC 4410-4580 apply to all eligible household members, ineligible aliens, and disqualified household members:

4410 Home and Lot

10-01-91

The home and lot is the household's residence and any surrounding property not separated from the residence by intervening property owned by others. Rights-of-way, such as roads that run through the property surrounding the home, do not affect the exemption. Other structures on the homestead will be evaluated to determine if they can be excluded as described here.

If the other structure is a house (or mobile home) that is habitable (has indoor plumbing facilities, running water and is livable), then the house (not the land on which it sits) will be counted as a resource provided it is not income producing. If the utility company has turned off the water, the house will be considered as having "running water".

If the other structure is a building that is not a traditional house, it will be considered as an excluded resource - i.e., tool-sheds, corncribs, woodsheds, barns, etc.

If these structures produce income (i.e. rental payments), this income is not excluded, and is treated in accordance with FSC 5715.

The residence and surrounding property remain excluded when temporarily unoccupied for the following reasons:

- Employment
- Training for future employment
- Illness of a household member
- Inhabitability caused by casualty or natural disaster, if the household plans to return to the residence

A household that does not currently own a home receives an exclusion if: a) the household owns or is purchasing a lot on which they intend to build or are building a home, and b) they plan to reside in the home. The exclusion applies to the value of the lot and home if partially completed. There is no limit to the partial completion of the home. There is no limit to the size of the lot if the lot is not separated by intervening property owned by others, nor are there any limits to the period of time in the future when the household plans to build the home.

Verification of the value of the home and lot must be obtained if the information given by the household about the home and lot affects eligibility and is questionable. All circumstances surrounding this decision must be documented.

4420 Household and Personal Goods/Life Insurance/Pension Funds 01-01-99

The following items will be excluded when determining countable resources:

1. Household goods such as, but not limited to, appliances, microwaves, lawn mowers, garden tractors, furniture and TV satellite dishes.
2. Personal effects such as, but not limited to, tools, jewelry and clothing.
3. The cash value of life insurance policies and prepaid burial policies and plans to the extent the funds in such a plan are inaccessible.

NOTE: Any amount that can be withdrawn (less a \$1,500 per person disregard) from prepaid burial plans without a contractual obligation to repay will be counted as a resource for food stamp purposes. See FSC 4602.

4. Livestock.
5. The cash value of pension plans. Under a salary reduction retirement plan, employees have their employer withhold payment of a specified portion of current salary for investment in a retirement savings plan. The employer often contributes to the plan as well. The plans that may be excluded as a resource and are authorized by Federal law are:

Household and Personal Goods/Property Related to use of Excluded Vehicles

- 401(k) Plans including cash or deferred payment arrangements;
- The Federal Employees' Retirement Thrift Savings Plan;
- 403(b) Plans and other tax-sheltered annuities;
- 501(c) (18) Plans which are trusts created before June 1959;
- 457 Plans for state, local governments, other tax-exempt organizations; and
- Simplified Employer Pension (SEP) plans that are IRA plans completely funded by the employer.

Note: Individual Retirement Accounts and Keogh Plans are counted as resources. See FSC 4630 - 4640.

2**4430 Property Related To the Use of Excluded Vehicles****07-01-01**

Real or personal property that is directly related to the maintenance or use of a vehicle will be excluded as a resource if that vehicle is excluded as a resource because it is:

1. Annually producing income consistent with its fair market value; or
2. Used primarily (over 50 percent of the time that the vehicle is used) for income producing purposes such as, but not limited to taxis, trucks, or fishing boats; or
3. Used to transport a physically disabled household member.

Only that portion of real property actually involved in the maintenance or use of an excludable vehicle is to be excluded under these provisions.

Example 1 A household owns a one-acre field but only uses 1/4 of that acre to park and maintain equipment for a self-employment enterprise. Only the 1/4-acre actually in use will be excluded. If the one-acre tract is worth \$1,000, 1/4 of the value is \$250. \$250 would be excluded as a resource. \$750 would be counted as a resource.

This method of determining the amount of resource exclusion is not affected by state or local zoning laws or by the household's ability to convert the property to a cash resource.

Example 2 The household in example 1 above declares that the one-acre tract they own is in an incorporated industrial area. They state that local laws prevent them from selling anything less than the full one-acre tract. In spite of this, only the \$250 amount for the 1/4-acre actually used will be excluded as a resource. \$750 will be counted as a resource.

4440 Income Producing Property**04-01-90**

Income producing property is one of the following.

1. Property that annually produces income consistent with its fair market value, even if only used on a seasonal basis. (For example, farmland that is rented only during the crop season would be excluded for the entire year.) See FSC 4441 for instructions on determining fair market value.
2. Property that is essential to the employment or self-employment of a household member. (For example, farmland that is used by a household member to produce a crop of tomatoes that is sold to a cannery would be excluded as essential to self-employment.)
3. Rental homes used by households for vacation purposes at some time during the year so long as the property annually produces income consistent with its fair market value.
4. Work related equipment such as, but not limited to, the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member.

NOTE: Tools are excluded either as personal property or income producing property.

Property essential to the self-employment of a household member engaged in a farm operation may be excluded as a resource for one year from the date the farm operation is terminated. The exclusion extends to vehicles used in the farming operation (FSC 4430) as well as land and machinery used in the operation.

5. Installment contracts payable to the household. See FSC 4570 for instructions on excluding installment contracts when the purchaser has defaulted on the agreement.

4441 Determining if Income is Consistent with Fair Market Value**07-01-01**

When a county office worker must determine if property is producing income consistent with its fair market value, the property's fair market value will be based on the prevailing rate of return in the area where the property is located or used.

Example A house rented for \$200 a month is considered to be producing income consistent with fair market value if similar houses in the same area rent for about the same amount.

When the worker cannot determine whether property is producing income at the prevailing rate of return based upon information furnished by the household, a knowledgeable source may be contacted. A knowledgeable source should, by virtue of his or her professional experience, be able to determine if the property is producing income consistent with fair market value. (For real property located in Arkansas, the assessed value times 5 will be used as the fair market value. See FSC 4712 for additional information.) Local realtors, local FHA or Small Business Administration Offices or the tax assessor should be knowledgeable of the value of real property located outside Arkansas. Local car dealers should know the value of vehicles.

Determining if Income is Consistent with Fair Market Value

The knowledgeable source will be provided with the appropriate information and asked to determine if the property is producing income at the prevailing rate of return. Households that disagree with the assigned fair market value or prevailing rate of return may provide verification of these items.

NOTE Property excluded as a resource because it is essential to employment does not have to produce income consistent with fair market value. For example, land used by a farmer does not have to produce any countable income to be excluded.

4450 Resources Excluded by Law

06-01-98

The current list of resources excluded by Federal statute includes the following items.

1. Payments or allowances made under Federal law for the purpose of energy assistance.
Examples of Federal payments that are excluded are energy assistance payments provided through the Department of Health and Human Services, Low-Income Energy Assistance Program (HEAP), the Community Services Administration's Energy Crisis Assistance, and Crisis Intervention Programs (CIP). Refer to FSC 5722 for treatment of HUD Utility Assistance payments.
2. Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC) under P.L. 92-443, Sec. 9 and P.L. 100-435, which amended Section 77(m)(7) of the Child Nutrition Act of 1966.
3. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, Sec. 216).
4. Payments to farmers under the Disaster Assistance Act of 1988 (P.L. 100-387). When the Secretary of Agriculture determines that a farm emergency exists due to a natural disaster, any payments made pursuant to such determination will be excluded as a resource. Refer to FSC 5405 for income exclusions and FSC 5640.2 for special payments to farmers.
5. Payments to Indian tribes as specified below:
 - Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from Indian Claims Commission as designated under P.L. 95-433, Sec. 2
 - Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420, Sec. 5)
 - Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540)
 - Payments received under the Alaska Native Claims Settlement Act (P.L. 92-203, Sec. 21(a) or the Sac and Fox Indian Claims Agreement (P.L. 94-189)
 - Payments received by certain Indian tribal members under P.L. 94-114, Sec. 6, regarding submarginal land held in trust by the United States
 - Payments of relocation assistance to members of the Navajo and Hopi Tribes under P.L. 95-531

-
- Payments to the Turtle Mountain Band of Chippewas, Arizona (P.L. 97-403)
 - Payments to the Blackfeet, Grosventre, and Assiniboiné tribes (Montana) and the Papago (Arizona) (P.L. 97-408)
 - Per capita and interest payments made to the Assiniboiné Tribe of the Fort Belknap Indian Community and the Assiniboiné Tribe of the Fort Beck Indian Reservation (Montana) (P.L. 98-124, Section 5)
 - Per capita and interest payments made to the Red Lake Band of Chippewas (P.L. 98-123, Section 3, 10/13/83)
 - Payments to the Saginaw Chippewa Indian Tribe of Michigan (P.L. 99-346, Section 6(b) (2))
 - Per capita payments to the Chippewas of Mississippi (P.L. 99-377, Section 4(b), 8/8/86)
 - Payments to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act except for per capita shares in excess of \$2,000 (P.L. 98-500, Section 8, 10/17/84)
 - Payments to the Puyallup Tribe of the State of Washington (P.L. 101-41, 6-21-89)
 - Payments under the White Earth Reservation Land Settlement Act of 1985 to the White Earth Band of Chippewa Indians in Minnesota (P.L. 99-264)
 - Payments under the Seneca Nation Settlement Act of 1990 to members of the Seneca Nation (P.L. 101-503)
 - Funds appropriated in satisfaction of judgements awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission
 - Funds distributed or held in trust for members of the Chippewas of Lake Superior (P.L. 99-146)
 - Assistance paid under P.L. 95-608, the Indian Child Welfare Act of 1978
 - Payments to the Confederated Tribes of the Colville Reservation under the Grand Coulee Dam Settlement Act (P.L. 103-436)
 - Financial assistance available to any Navajo or Hopi Indian pursuant to 25 USCS 460d - 460d.31

-
6. Per capita payments of \$2,000 and less made under Public Law 98-64 to Native Americans from judgment awards and funds held in trust by the Secretary of the Interior and purchases made with certain per capita payments to specific tribes or bands of Indians.

This exclusion applies on a per person and not a per household basis. It applies individually to each payment regardless of how frequently the payments are made and regardless of the number of months for which the payment is made. When such payments are deposited in a bank or financial institution, the funds remain excluded. The length of the exclusion period will be determined by the type of funds in the account. See FSC 4960.

The purchase exclusion extends only to purchases of property with funds distributed to Native Americans after December 31, 1981, but before January 12, 1983, under a plan approved by Congress. The exclusion applies to initial purchase only and not to subsequent purchases. Property remains excluded only as long as the person who originally received the exclusion holds the property. Since more than one per capita payment may have been received during the period from December 31, 1981 to January 12, 1983, the total exclusion allowed for the property may exceed \$2,000.

7. Payments made to Vietnam veterans under the Agent Orange Veteran Payment Program as authorized by P.L. 101-201. This includes:
- Payments authorized under P.L. 101-239, the Omnibus Reconciliation Act of 1989, Section 10405, the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation, M.D.L. No 381 (E.D.N.Y.)
 - Monthly allowances paid under P.L. 104-102, Section 1805(d), to a child of a Vietnam Veteran for any disability resulting from spina bifida suffered by such child.
8. Payments of \$20,000 made to U.S. citizens and permanent resident aliens of Japanese Ancestry who were confined, held in custody, relocated, or otherwise deprived of liberty or property during the period December 7, 1941 through June 30, 1946. In order to receive a payment, the individual must have been living on August 10, 1988, the date of enactment of the Wartime Relocation Act. If an eligible individual is deceased at time of payment, such payment may be made to a spouse, to children (equal shares), or to parents, if such persons are living at time of payment. Exclusion of these payments is mandated by the Civil Liberties Act of 1988 (P.L. 100-383).
9. Payments of \$12,000 made to any Aleut Indian who, as a civilian, was relocated by authority of the United States from his home village on the Pribilof Islands or certain Aleutian Island to an internment camp or other temporary location during World War II. Payments of \$12,000 will also be made to any Aleut born while his or her mother was interned or relocated during World War II. Exclusion of these payments is mandated by the Civil Liberties Act of 1988 (P.L. 100-383).

-
10. Payments received from the Federal Emergency Management Assistance (FEMA) under P.L. 93-288, Sec. 312 (d) as amended by P.O. 100-707, Sec. 105 (i) the Disaster Relief and Emergency Assistance Amendments of 1988. Funds distributed by FEMA under a disaster or emergency would be excluded as a resource. Not all payments from FEMA are for disaster or emergency assistance. For payments to be excluded, the disaster or emergency would have to be declared by the President. Refer to FSC 5405 for income exclusions. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments and disaster assistance organizations.
 11. Payments received through the Radiation Exposure Compensation Act, P.L. 101-426, Sec. 6 (h) (2), 10/15/90. This law establishes a program to compensate individuals for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining in Arizona, Nevada and Utah.
 12. Income amounts necessary for the fulfillment of a PASS (Plans for Achieving Self-Support) under Title XVI of the Social Security Act.
 13. The value of assistance to children under P.L. 89-642, Section 11(b) of the Child Nutrition Act of 1966 and P.L. 79-396, the National School Lunch Act.
 14. Payments under P.L. 102-235, the Higher Education Act Amendments of 1992, student financial assistance received under Title IV of the Higher Education or under Bureau of Indian Affairs student assistance programs. See FSC 1622.3 for additional information.
 15. Payments made to individuals because of their status as victims of Nazi persecution under P.L. 103-286.
 16. Earned Income Credits (EIC) payments received as a lump sum or as payments under Section 3507 of the Internal Revenue Code by any household member. These payments will be excluded for 12 months, provided the household was participating at the time of receipt of the earned income tax credit and provided the household participates continuously during that 12-month period. Breaks of one month or less due to administrative reasons, such as delayed recertification or missing or late monthly reports, will not be considered as nonparticipation in determining the 12-month exclusion.
 17. Under P.L. 103-22, compensation made to crime victims as authorized by the Crime Act of 1984.

4451 Resource Eligibility Standards for TEA and SSI Recipients

07-01-01

3

A household where at least one member receives a TEA benefit as specified in FSC 1920 is categorically eligible and the Food Stamp Program's resource limits will not apply to that household.

If no household member receives TEA benefits, the household is classified as categorically eligible only if all household members receive SSI benefits. If at least one (but not all), household members receives SSI benefits, the entire household is not categorically eligible. However, the individual household members who receive SSI benefits are categorically eligible. This means that any resources solely owned by an SSI recipient are not to be counted when the household's total resources are determined, but all resources owned by the other household members are to be counted. If the resources owned by household members who do not receive SSI exceed the resource limit, the entire household (including the SSI recipient) is ineligible to participate in the Food Stamp Program. Co-owned resources will not automatically be excluded under this policy. Instead, the resource will be handled in the same manner as any other jointly owned resource. See FSC 4910 and FSC 4601 for instructions.

4460 Other Excluded Resources

08-01-98

Earmarked Resources

Earmarked resources are governmental payments such as those made by the Department of Housing and Urban Development through the Individual and Family Grant Program or disaster loans or grants made by the Small Business Administration. Earmarked resources must be designated for the restoration of a home damaged in a disaster, and the household must be subject to a legal sanction if the funds are not used as intended.

Prorated Student Income and Self-employment Income

Monies that have been prorated and considered as income are excluded as a resource. Examples of these will include student grants and loans, and self-employment income. Refer to FSC 1622.3 for the procedure for handling student's income. Refer to FSC 5630 for the procedures for handling self-employment income.

Burial Lots

One burial lot per household member will be excluded as a resource.

Indian Lands

Lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs are considered Indian Lands. Indian Lands are excluded as a resource.

Cash and Counseling Demonstration

Money received from the Cash and Counseling Demonstration for Medicaid recipients is excluded as a resource. This program provides cash to certain Medicaid recipients so that they can purchase personal care services.

4470 Verification of Excluded Resources**08-01-98**

Excluded resources will be verified when questionable. Acceptable verification includes documentation or collateral contacts that establish that the resource is excludable.

4480 Documentation of Excluded Resources**08-01-98**

The county office worker must document:

- The type of resource
- The status of the resource as excluded
- The reason for the exclusion

4500 Inaccessible Resources**07-01-01**

Inaccessible resources are resources with a cash value not accessible to the household. Inaccessible resources include the following:

4

1. Irrevocable trust funds (FSC 4510)
2. Property in probate (FSC 4520)
3. Real property for sale (FSC 4530)
4. Resources of residents of shelter for battered women (FSC 4540)
5. Security deposits (FSC 4550)
6. Non-liquid resources against which a lien was placed to obtain a business loan (FSC 4560)
7. Installment contracts that are not producing any income (FSC 4570)
8. Resources unlikely to produce any significant amount of funds if sold (FSC 4580)

4510 Irrevocable Trust Funds**09-01-92**

Any funds in or transferred to a trust and the income produced by that trust are considered inaccessible if all of the following conditions exist:

1. The funds held in irrevocable trust are either established from the household's own funds and used by the trustee solely to make investments on behalf of the trust or to pay the educational or medical expenses of the beneficiary or established from non-household funds by a non-household member, and totally unavailable to the household.

NOTE If the household can petition the court to obtain money from a trust for reasons such as purchasing personal items or paying living expenses, the fund is not considered an irrevocable trust.

Irrevocable Trust Funds/Property in Probate

2. The trust arrangement will not likely cease during the certification period, and no household member has the power to revoke the trust arrangement or to change the name of the beneficiary.
3. The trustee administering the funds is a court, institution, corporation, or organization not under the direction or ownership of any household member or an individual appointed by the court that has court imposed limitations placed upon the use of the funds.
4. The trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member.

The status of the trust account must be verified if questionable. Acceptable verification of inaccessible trust accounts include statements from the financial institution managing the trust describing the terms of the trust; or court orders or letters from the court describing the terms of the trust.

The county office worker must document:

- The amount of the trust fund
- The name of the person for whom the account is held in trust
- The name of the trustee, and the name of the financial institution handling the trust
- The reasons for the decision to consider the trust accessible or inaccessible

4520 Property in Probate**10-01-86**

Property that household members expect to inherit following a decision of the court is considered an inaccessible resource.

Property that is in probate must be verified if questionable. Acceptable verification includes:

- A statement from an attorney; or
- A legal document, such as a court order.

The county office worker must document:

- A description of the property the household expects to inherit;
- When the household expects to receive the property; and
- If verification is required, why the inaccessible resources were considered questionable, and the verification obtained.

Real Property for Sale/Resources of Residents of Shelters

4530 Real Property for Sale**10-01-86**

Real property that the household is making a good faith effort to sell at a reasonable price is considered an inaccessible resource.

Verification of real property for sale must be supplied if the status of the property is questionable. The worker will accept as proof of a good faith effort to sell real property at a reasonable price any of the following:

- Collateral statements,
- Listings from real estate brokers, or
- Advertisements in local newspapers.

The worker must document:

- Information about the property for sale - i.e. number of acres of land, location of house, etc.; and
- The information used to establish a good faith effort to sell the property at a reasonable price.

4540 Resources of Residents of Shelters for Battered Women and Children**10-01-86**

Resources are considered inaccessible to residents of shelters for battered women and children if the resources are jointly owned by the residents and any members of their former household and the resident's access to the value of the resources is dependent upon the agreement of a joint owner who still resides in the former household.

The county office worker must verify that resources of shelter residents are inaccessible only when questionable. In no instance will the worker request verification if such verification will jeopardize the safety of the resident.

Acceptable verification includes:

- Bank statements, pass books or correspondence indicating that an account is jointly owned;
- Car payment books or loan agreements indicating that vehicles are jointly owned; or
- Payment books, loan agreements or correspondence indicating that property is jointly owned.

Collateral contacts may be used as verification only if the resident has designated the collateral; and contact with the collateral will not jeopardize the safety of the resident.

The worker must document why the resources of the resident are inaccessible. If inaccessibility is questionable, documentation must include why the inaccessibility is questionable and how the questionable information was resolved. Due to the resident's special circumstances, questionable resources will be resolved through available sources. The co-owner of the resources must not be contacted.

Security Deposits/Non-Liquid Resources (Lien)/Installment Contracts

4550 Security Deposits**10-01-87**

Deposits paid by the household to secure rental property or utilities are considered inaccessible resources.

NOTE: Security deposits become accessible resources when they are refunded to the household.

If questionable, the county office worker must accept as verification of security deposits receipts or statements from the holder of the deposit.

The county office worker will document:

- The nature of the questionable information;
- How the questionable circumstances were resolved; and
- The method/document used to verify the deposits.

4560 Non-Liquid Resources Against Which a Lien is Placed**10-01-87**

Non-liquid resources such as land, crops, buildings, timber, farm equipment or machinery will be considered an inaccessible resource if all the following conditions are met:

- A lien has been placed against the property.
- The lien results from a member of the household having obtained a business loan.
- The owner of the business has agreed not to sell the property until the note is paid. (This insures that the creditor's collateral interest is protected.)

This exclusion will not apply if the property owner could sell the mortgaged property and use the proceeds to pay off the loan. It applies only when the household is prohibited by the agreement from selling the mortgaged property.

4570 Installment Contracts as Inaccessible Resources**10-01-87**

Installment contracts are agreements under which an individual receives a monthly payment on property that has been sold. See FSC 5710 for instructions on determining the amount of income received under an installment contract that is to be counted as income in the food stamp budgeting process.

When installment contracts are not producing any income because the purchaser is defaulting on the payments, the contract is considered an inaccessible resource. This is true until the property legally reverts back to the seller.

Resources Unlikely to Produce Significant Return

4580 Resources Unlikely to Produce Significant Return**07-01-01****5**

A resource is considered inaccessible if, as a practical matter, the household is unable to sell the resource for any significant return. A significant return is any return estimated to be more than \$1,500 after estimated costs of sale or disposition and taking into account the ownership interest of the household.

Example A household member owns a lot jointly with three siblings who are not household members. The lot is valued at \$4,000. Costs of selling the lot are estimated at \$500.
 $\$4,000 - \$500 = \$3,500 \div 4 = \875 . \$875 is less than \$1,501.

This policy does not apply to stocks or bonds or to other negotiable financial instruments. It does apply to vehicles. See FSC \$4,860.

Verification of the value of a resource to be excluded will be required only if the information provided by the household is questionable.

4600 Determining and Verifying Countable Resources

02-01-97

To determine a household's total countable resources, the county office worker must consider the resources available to all eligible household members and the resources available to any household member disqualified for one of the following reasons:

- Intentional Program Violation
- Failure to comply with the SSN requirement
- Failure to comply with the Food Stamp E&T Program or Workfare.

The countable resources of ineligible aliens are also considered if the alien would otherwise be considered a household member.

Listed below are examples of liquid resources:

1. Earned Income Tax Credits (EITC)
2. Bonds
3. Cash on hand
4. Funds held in individual retirement accounts (IRA's)
5. Funds held in Keogh Plans (when held solely by the household members)
6. Money in checking or savings accounts including Christmas clubs and children's accounts (*See FSC 4601 for information about ownership of bank accounts.*)
7. Mutual Funds
8. Savings certificates (*See FSC 4601 for information about ownership.*)
9. Stocks
10. Funds that may be withdrawn (less a \$1,500 per-person disregard) from prepaid burial plans without a contractual obligation to repay (*See FSC 4602.*)

Liquid resources must be verified at initial application and thereafter when a new liquid resource is reported or when information about previously reported resources is incomplete, inaccurate, inconsistent or outdated. See the Glossary, definition of "Verification" for additional information. A full description of each type of resource, acceptable verification, and documentation is contained in FSC 4601 - 4670.

4601 Ownership of Liquid Bank Accounts

01-01-99

When a food stamp household member holds a joint bank account or certificate of deposit with a member of another household and this ownership will make the household ineligible to receive food stamp benefits, the county office worker must determine how much, if any, of the funds will be counted a resource to the household. This determination will generally be based upon ownership of the funds.

Ownership is defined as to have or to hold as property or to possess. Normally, a person is considered as the owner of funds in a bank account if that person earned, received, or was given the funds that were deposited into the account. For example, a food stamp household is not considered to be the owner of the funds in an account when no household member earned, received or was given any of the funds in the account.

The owner of the bank account is usually the one who deposits the money into the account or for whom deposits are made.

Example An elderly client deposits her social security checks into a checking account each month. Her daughter's name has been added to the account. None of the daughter's funds have been deposited into the account. The client is the sole owner of the account.

There are exceptions.

Example A legally married husband and wife are considered joint owners of the funds in a bank account as long as both names appear on the account. This is true regardless of which spouse deposits money to the account.

Ownership of funds in jointly owned bank accounts will be established through written statements from each of the joint owners. In the event that at least one of the joint owners cannot be located or refuses to cooperate, the worker will attempt to establish ownership of the funds in the account through collateral contact. Suggested sources of collateral contact include bank officers, attorneys, accountants or friends or relatives familiar with the arrangements of the co-owners of the bank account.

If no collateral contact familiar with the arrangement can be located or will cooperate, the household may be certified based only upon the written statements of any co-owner who is a household member. However, all efforts to obtain verification must be fully documented in the case record. Such documentation must contain a statement of why any collateral contact received could not be used.

If none of the money is owned by the food stamp household but the owner states the household is permitted to use some or all of the money in the account, then the amount that the household has been given permission to use will be counted as a resource. In this situation, ownership is transferred to the food stamp household.

4602 Prepaid Burial Plans

01-01-99

NOTE This policy does not apply to burial insurance. Insurance policies, including burial insurance, are totally excluded as a resource. See FSC 4420.

Prepaid burial plans purchased from funeral homes, insurance companies, etc. are totally excluded to the extent the money in the prepaid account is inaccessible to the household. A prepaid burial fund is inaccessible when the household is not allowed to withdraw money from the account or is only allowed to withdraw funds with a written agreement to repay the missing funds. Even if funds are never withdrawn from a prepaid burial plan, the ability to make withdrawals is sufficient to qualify the funds in these plans as a resource.

Funds which may be withdrawn from prepaid burial plans without a written agreement to repay the funds are considered to be an accessible resource; however, a disregard of \$1,500 per individual applies to accessible prepaid burial plans.

Example A household consists of a man age 75 and his wife age 75. Both the man and his wife have prepaid burial plans in the amount of \$2,500. The funds in both accounts are accessible. To calculate the amount of countable resources, the worker will subtract \$1,500 from each account. [$\$2,500 - \$1,500 = \$1,000$. $\$1,000 \times 2 = \$2,000$.] The amount of countable resources in the prepaid burial plans is \$2,000.

4610 Bonds

07-01-01

The total current surrender value of all bonds held by the household will be considered a countable resource. Cash surrender value of bonds is determined by use of a schedule. Schedules may be obtained from the household or from a bank, savings and loan, or broker. Information about the redemption value of U. S. Savings Bonds may be obtained from most banks or through the inter-net at www.publicdebt.treas.gov/sav/savcalc.htm. Information is also available from:

Federal Reserve Bank
325 W. Capitol
Little Rock, AR 72201

Acceptable forms of verification include:

- The bonds and verification of redemption value; or
- Collateral contact with the broker, attorney or bank handling the bonds. The collateral must specify the number of bonds held by the household and the current redemption value.

Documentation must include:

- The type of bond
- The number of bonds held by the household
- The current cash surrender value of each bond
- The figures used to determine the total value of the bonds
- The verification obtained.

Cash on Hand/Individual Retirement Accounts

4620 Cash on Hand**02-01-95**

The current amount of cash on hand (less any current income) will be considered a countable resource.

The household's statement will be accepted as verification of cash on hand.

Documentation must include:

- The total amount of cash on hand available
- The amount of cash on hand which is current income
- The figures used to determine cash on hand less current income

4630 Individual Retirement Accounts (IRAs)**02-01-95**

An IRA is a tax-deferred retirement account. IRAs are authorized for all employed persons and their spouses. IRAs are not true salary reduction plans since they are available to workers without any involvement of the employer and they do not directly reduce the salary received by the worker.

The current value of the IRA less the amount of any penalty for early withdrawal will be considered a countable resource.

NOTE: Interest paid on IRA's will be considered income and handled as specified in FSC 5711.

Acceptable verification includes a current statement (usually received quarterly); or a collateral contact with the financial institution specifying the current amount in the account, the date and amount of the most recent interest payment, and the penalty for early withdrawal.

Documentation must include:

- The current amount in the IRA account
- The penalty for early withdrawal
- The figures used to calculate the countable resource amount
- The verification obtained

Keogh Plans/Money in Checking and Savings Accounts

4640 Keogh Plans**07-01-01**

A Keogh Plan is a tax-deferred retirement account. Keogh Plans are not income-reducing retirement accounts. They are limited to self-employed persons.

- 7** Keogh Plans that involve only household members are considered a countable resource. Those Keogh Plans that involve a household member in a contractual agreement with individuals who are not household members are considered to be an inaccessible resource.

The current amount of non-excluded Keogh Plans (less any penalty that would be extracted for early withdrawal) will be considered as a countable resource. Interest on non-excluded Keogh Plans will be considered income and handled as specified in FSC 5711.

Acceptable verification includes a current account statement or a collateral contact with the financial institution describing the terms of the account, the current amount in the account, the date and amount of the most recent interest payment and the penalty for early withdrawal.

To establish that a Keogh Plan is inaccessible due to a contractual agreement with non-household members, the household may provide:

- A copy of the contract; or
- Collateral contact with the attorney or financial institution that established the agreement. The collateral contact must specify the terms of the contract.

Document must include:

- Whether the Keogh Plan is accessible to the household;
- The penalty for early withdrawal;
- The figures used to calculate the countable resource amount; and
- The verification obtained.

4650 Money in Checking and Savings Accounts**07-01-01**

- 8** The current amount in any checking account, savings account, money market account, or credit union account (less any current income) will be considered a countable resource. This includes accounts established for minor children (except trust funds as specified in FSC 4510) and special accounts such as Christmas clubs. Also included are accounts belonging to non-household members when a household member has access to such accounts. See FSC 4601 for instructions on determining ownership of and access to such accounts.

NOTE: Interest paid on checking and savings accounts will be considered income and handled as specified in FSC 5711.

Money in Checking and Savings Accounts/Mutual Funds

Acceptable verification includes updated passbooks; current bank statements; or collateral contact with the bank that specifies the household's current balance and recent withdrawals or deposits. The period of time for which withdrawals or deposits must be indicated may be specified by the caseworker. The caseworker will consider the balance declared by the household, the current income, and any large amounts of income recently available to the household.

Documentation must include:

- The current amount in each checking and/or savings account;
- Any current income included in the accounts;
- The figures used to calculate the countable resource amount; and
- The verification obtained.

4651 Mutual Funds**10-01-87**

The total amount currently invested by a household in a mutual fund will be considered a countable resource unless the mutual fund is a retirement account set up by an employer that is inaccessible to the household.

Mutual funds are accounts set up with money deposited by a group of individuals. Usually, a minimum deposit is required and the depositor is said to "own" so many "shares" of the mutual fund. The money in the fund is used by a manager/broker to make a variety of investments on behalf of the investor. For example, the funds may be placed in CD's or used to purchase stocks or bonds. In return, each investor receives a pro-rata share of any profits from the investment.

NOTE The income received as profits from the fund will be considered unearned income in the month received or will be prorated over the period of intended use.

Normally, the money invested in a mutual fund is accessible to the household. Although there may be a 6 to 7 day delay in the receipt of the money; usually, there is not a penalty for withdrawal. When a household has funds in a mutual fund set up as a retirement account by a member's employer, the household may not have access to the funds or may only have limited access. Such situations will be evaluated on a case by case basis.

Acceptable verification of the amount invested in a mutual fund includes a current statement from the fund; or collateral contact with the financial institution handling the fund. In the case of mutual funds set up as a retirement fund, a statement from the employer. This statement should also verify the household's accessibility to money invested in the fund.

Documentation must include:

- The name of the financial institution, broker etc. managing the fund;
- The amount the household currently has invested in the fund; and
- If the fund is a retirement fund, the terms under which the household may gain access to the money in the fund.

4660 Savings Certificates

10-01-87

9

The total current amount of money held in savings certificates (i.e. - certificates of deposits) will be considered a countable resource. Penalties that might be extracted for early withdrawal will not be deducted. Any certificates owned by a non-household member are a countable resource when a household member is a co-owner and the certificate is accessible to the household member. To determine if the certificate is available to the household member, the worker must review the terms of the contract. For example, if the certificate specifies that the certificate would be payable to the household member only upon the death of the owner, the funds are considered inaccessible. See FSC 4601 for instructions on determining ownership of and access to such accounts.

NOTE: Interest paid on savings certificates will be considered income and handled as specified in FSC 5711.

Acceptable verification includes current statements of account or collateral contact with the financial institution. The collateral must specify the current value of the savings certificate and the most recent interest payment. The certificate itself will be acceptable only if it reflects the current amount in the account.

The worker must verify accessibility to jointly owned certificates when questionable. Acceptable verification includes the certificate if it establishes the terms of the co-ownership or collateral contact with an attorney or lending institution if the contact establishes the terms of the co-ownership.

Documentation must include:

- The kind of savings certificate;
- The terms of the certificate (i.e., when it will come to maturity);
- The owner or owners of the certificate; and
- The current amount of the certificate.

When establishing accessibility to jointly owned accounts, the worker must document:

- The terms of the co-ownership;
- Whether or not the terms of the co-ownership were considered questionable; and
- If co-ownership was considered questionable, how the terms were verified.

4670 Stocks

07-01-01

10

The current per-share value multiplied by the total number of shares held by the household will be considered a countable resource. Anticipated sale costs like broker's fees are not deductible. To determine the current per-share value of stocks, the county office worker may refer to the stock exchange report in the current daily newspaper. For stocks not listed in the newspaper, the worker may obtain the information from an internet site, may contact a stockbroker, local financial institution, or the company that issued the stock.

Acceptable verification of the number of stocks held includes the stock certificates or collateral contact with the broker, local financial institution or the company issuing the stock. The contact must verify the name of the stock and the number of shares held by the household.

Acceptable verification of per-share amount includes an original or copy of the most recent stock exchange report from a daily newspaper or documentation of the contact with a stockbroker, financial institution, or the company that issued the stock. If the value of the stock was verified via the internet, the internet page must be printed and filed in the case record as documentation.

Document must include:

- The name of the stock;
- The number of the stocks held by the household;
- The per-share value;
- The figures used to calculate the total value of the stock; and
- The verification obtained.

When stock is sold the household is converting a resource from one form to another. The net amount received will be considered a liquid resource.

4700 Non-Liquid Resources

06-01-90

Non-liquid resources are non-excluded, accessible assets such as land or vehicles that may be converted to cash such as, but not limited to, the non-liquid resources listed below:

1. Buildings/houses/mobile homes not used as the household's residence
2. Burial lots in excess of one per household member
3. Vacation homes, time-share condominiums, RV park shares
4. Vehicles (licensed and unlicensed) including cars, trucks, vans, recreational vehicles, motorcycles, all terrain vehicles, golf carts, go-carts, mopeds, campers, and boats/boat motors/boat trailers.
5. Any personal property not specifically excluded in FSC 4420
6. Land not excluded in FSC 4410

4712 Countable Resource Value of Non-Liquid Resources

06-01-90

For all non-liquid resources except vehicles, the equity value will be considered a countable resource. (See FSC 4850 for instructions for determining the countable resource value of vehicles.) The equity value is the fair market value of the resource less encumbrances.

Generally, fair market value is the price that a willing seller could obtain for a property from a willing buyer. Fair market value is usually dependent upon several factors including the condition of the property and the rate at which similar property is being sold.

For food stamp purposes, the fair market value of real property located in Arkansas will be the current assessed value times 5. (The current assessed value represents 20% of the fair market value. By multiplying the assessed value X 5, the current fair market value will be obtained.) For example, if the assessed value is \$250, the caseworker must multiply \$250 X 5 to obtain fair market value. $\$250 \times 5 = \$1,250$. \$1,250 is the fair market value.

NOTE To establish the fair market value of real property located outside Arkansas or of personal property, the caseworker is not required to use the assessed value.

Encumbrances are defined as the balance of the debt owned on the property excluding interest payments and other fees.

4713 Verification of Non-Liquid Resources (Excluding Vehicles)

06-01-90

Non-liquid resources will be verified when the household makes application for food stamps for the first time, the household declares the resource for the first time; or information about the resource becomes incomplete, inaccurate, inconsistent or outdated. See the Glossary definition of "Verification" for additional information.

NOTE: If the declared equity value of the resource makes the household ineligible, no verification will be requested.

Acceptable verification of fair market value of real property located in Arkansas is a statement from the assessor in the county in which the property is located. This includes the household's notice of reappraisal and/or a tax bill if it reflects the assessed value of the property after the reappraisal.

Acceptable verification of fair market value of real property located outside Arkansas is a statement from a source knowledgeable of the fair market value of the property. Examples of such sources include local realtors, local Farmer's Home employees, or local tax assessors.

Acceptable verification of an encumbrance may include payment books, bank schedules, or a statement from the lender specifying the total principle amount of the indebtedness. Any verification of an encumbrance must specify the amount of the principle owed.

4714 Documentation of Non-Liquid Resources

10-01-87

Documentation of non-liquid resources must include:

- A complete description of the non-liquid resource. (*This includes the legal description of real property if it is available.*)
- The household's statements regarding the fair market value of the non-liquid resource and any encumbrances.
- A statement of whether the declared value of the non-liquid resource is questionable.

If the declared value of the resource is questionable, the documentation must provide the following information:

- Why the value of the non-liquid resource is questionable; and
- The verification obtained.

Also, the worker must document the figures used to determine the equity value of a non-liquid resource.

11

4800 Vehicles

07-01-01

All vehicles, licensed and unlicensed, must be evaluated to determine how much, if any resource value will be counted in the food stamp budget. The term vehicle includes cars, trucks, vans, recreational vehicles, motorcycles, all terrain vehicles, golf carts, go-carts, mopeds, campers, and boats/boat motors/boat trailers. "Junked" cars must be evaluated as well.

A licensed vehicle is a vehicle currently licensed by a state to operate on public roads and highways. Vehicles that bear a temporary dealer's permit are considered licensed.

An unlicensed vehicle is one that is not currently licensed by a state to operate on public roads and highways. This includes expired licenses. Unlicensed vehicles will be evaluated even if they are not running.

Resource value is determined for each vehicle individually.

12

4810 Ownership of Vehicles

07-01-01

Questions about the ownership of a vehicle arise when:

The title to a vehicle is held jointly in the name of two people but only one person has possession of the vehicle;

OR

The title is held solely by one person, but the vehicle is considered to belong to someone else because that person is paying for the vehicle and drives and maintains the vehicle.

Example A parent allows his child to purchase a vehicle in his name because the child cannot get the necessary credit approval.

Under Arkansas law, when one person buys property using the money or assets of another person, that property actually belongs to the person who furnished the money or assets to purchase the property. Therefore, when the title to an automobile is held by a member of a food stamp household, yet he or she verifies that he or she has no access to the vehicle and is not paying for the vehicle, the vehicle should not be counted as a resource to his or her household. *(The vehicle will be considered a resource to household of the person who furnished the money to purchase the vehicle and who drives and maintains the vehicle.)*

In these instances, the household will be asked to provide verification that someone other than a household member is making payments on the vehicle and is driving and maintaining the vehicle. Verification of non-accessibility must be in the form of canceled checks or money order receipts that show the name of the person who actually makes the car payments and other documents (gas tickets, repair bills, etc.) that show this vehicle is being used and maintained by a person who is not a household member. In the absence of any of these documents, the household may provide collateral statements to verify the vehicle is inaccessible.

NOTE This policy will not be applied to those situations where one person owns a vehicle but allows another person to drive it. The policy will only apply when the person who has possession of the vehicle is making payments on the vehicle and is using his own funds to maintain the vehicle.

13

4820 Leased Vehicles

07-01-01

Generally, a leased vehicle will not be considered a resource unless the title to the vehicle is registered in the customer's name and the lease stipulates that the payments are credited towards ownership of the vehicle. Each lease must be evaluated individually to determine if the payments can be credited towards ownership of the vehicle.

- A "Smart Buy" lease leads to ownership of the vehicle. The person who purchases a vehicle under the "Smart Buy" plan is considered to be the vehicle's owner immediately at the time of purchase. Vehicles purchased under a "Smart Buy" plan will be considered a resource to the household.
- An open-ended lease provides the customer an option to buy at the end of the lease period. Each open-ended lease must be evaluated individually. Generally, open-ended leases with the car title in the dealership's name are not considered a resource to the household and open-ended leases with the car title in the customer's name are considered a resource to the household.
- A close-ended lease does not provide the customer with an option to buy at the end of the lease period. A vehicle listed under a close-ended lease will not be counted as a resource to the household.

14

4830 Vehicles Owned by Categorically Eligible Households

07-01-01

If a household is categorically eligible under the definition in FSC 1920, all resources, including any vehicles, licensed or unlicensed, owned by household members, will be excluded.

15

4840 Excluded Vehicles

07-01-01

Effective with any application (initial or recertification) received July 1, 2001 or later, if a household owns only one vehicle, licensed or unlicensed, that vehicle will be excluded as resource regardless of its value. (Under law, the vehicle exclusion can apply only to certification periods beginning after July 1, 2001.)

If a household owns more than one vehicle, any vehicle, licensed or unlicensed, owned by the household will be excluded as a resource if:

- The vehicle is necessary for the employment of a household member. Vehicles necessary for employment include only those used for job-related travel other than travel back and forth to the job site. This includes vehicles such as, but not limited to, vehicles used by traveling salespeople or migrant farm workers following the job stream or home health aids traveling from home to home. This exclusion applies during temporary periods of unemployment when the vehicle is in use.

-
- The vehicle is classified as an income producing vehicles. Income producing vehicles are those vehicles used primarily (over 50% of the time) for income producing purposes or those vehicles annually producing income consistent with their fair market value even if used only on a seasonal basis. See FSC 4870 for instructions on determining fair market value. This exclusion applies during temporary periods of unemployment when the vehicle is not in use. For example, a taxi retains its exclusion while the driver is ill and unable to work, or a migrant's vehicle retains its exclusion if the migrant temporarily leaves the job stream. A vehicle essential to the self-employment of a household member engaged in a farming operation may continue to be excluded as a resource for one year from the date the farm operation was terminated. See FSC 4440 for additional information.
 - The vehicle is used as the household's residence. This includes boats, campers, travel trailers and travel homes when used as the household's principal residence
 - The vehicle is used to transport a physically disabled household member. (*This exclusion will not apply to disabilities based strictly on a mental condition.*) Any vehicle may be excluded under these provisions as long as the vehicle issued to transport a physically disabled household member. There is no requirement that the vehicle be either a special type of vehicle or be specially equipped. There is a limit of one vehicle per physically disabled member.

Disabled, as it relates to the exclusion of a vehicle to transport a physically disabled member, means either a permanent or a temporary disability. Permanent disabilities are those that entitle an individual to receive a disability check from a source such as Social Security, SSI or VA. Temporary disabilities are conditions such as, but not limited to, a broken leg, the recovery period following major surgery or conditions that require ongoing treatment such as dialysis or chemotherapy. (Vehicles owned solely by a SSI recipient are excluded under the provisions in FSC 4451.)

If the disabling condition is not obvious to the county office worker, the household will be asked to furnish verification. Acceptable verification includes receipt of a check based on the disabling condition or a statement from a physician or other health professional such as a physical therapist. The worker must document the cause of the disability and the period of time during which the disabling condition is expected to continue.

- The vehicle is necessary to carry the primary source of fuel for heating or water for home use. Households without either heating fuel or water piped into their homes may exclude one vehicle without meeting further tests about the capability or actual use of the vehicle. For the purpose of applying this exclusion, all-electric homes will be considered to have fuel "piped in" if the household has electric heating devices in the home. The exclusion will apply for the entire year so long as the household expects to use the vehicle to haul fuel and/or water at some time during the year.

Example 1 A household uses a four-wheel drive vehicle to haul firewood. The firewood is used in a wood furnace that is the household's primary source of heat. The vehicle is totally excluded as a resource.

Excluded Vehicles/Determining the Countable Resource Value of Licensed Vehicles

Example 2 A household must haul its water from a neighbor's house. Since they use their only vehicle to haul the water, this vehicle will be totally excluded as a resource.

Example 3 A home is equipped with an electric heat pump. However, the household actually uses a wood heater as its primary source of heat. The household uses one of its vehicles to cut and haul the wood off of its property. The vehicle will be excluded as a resource.

Verification that the household does not have either water or heating fuel piped into its home may be requested if the household's statements are questionable. Households (including all electric homes) which have both fuel and water piped into the home must verify that the excluded vehicle is used to transport the household's primary source of heating fuel or water. Verification may be obtained through utility companies, collateral contacts, or through documentary evidence such as receipts for the purchase of wood.

If, at initial application or recertification there are licensed or unlicensed vehicles remaining after these exclusions have been applied, one remaining vehicle will be excluded. Normally, this will be the most expensive vehicle unless it would be more advantageous to the household to exclude another vehicle. (Under law, the vehicle exclusion can apply only to certification periods beginning after July 1, 2001.)

16

4850 Determining the Countable Resource Value of Licensed Vehicles 07-01-01

The new provisions for determining the countable resource value of licensed vehicles apply to vehicles reported at initial application or recertification. Also, the new provisions for determining the countable resource value of licensed vehicles apply to changes reported after 7-01-01. This includes changes reported on quarterly reports, on Change Report Forms or by any other method.

Example: A household reports on a quarterly report submitted 7-05-01 that a household member has purchased a 2000 Ford Escort with a fair market value of \$8,000. They traded in their old vehicle on the Escort. Since the household is currently certified, the vehicle cannot be excluded as a resource under the provisions in FSC 4840. The county determines the countable resource value as explained in FSC 4850. They find that the fair market value (\$8,000) less \$4,650 will still make the household ineligible. However, the county goes to the next step and determines the accessibility of the vehicle as explained in FSC 4860. Since the household owes \$7,500 on the vehicle, the expected return on the vehicle is less than \$1,500. Therefore the vehicle may be excluded as an inaccessible resource at the time of the reported change.

The resource value assigned to all non-excluded vehicles for purposes of determining food stamp eligibility will be either:

- The fair market value less a \$4,650 limit; or
- The equity value (fair market value less encumbrances).

See FSC 4851 for instructions on determining fair market value.

Determining Fair Market Value of Vehicles

Fair market value less \$4,650 will be assigned to:

- One licensed vehicle per adult (age 18 or older) household member.
- Any additional licensed vehicles driven by a household under age 18 to commute to work or school or to look for work.

When a vehicle has a fair market value of less than \$4,650, no resource value is counted when food stamp eligibility is determined. When the fair market value exceeds \$4,650, only the amount that exceeds the \$4,650 benchmark is counted as a resource.

For all other non-excluded vehicles both licensed and unlicensed, the GREATER OF the vehicle's fair market value less \$4,650 OR the vehicle's equity value will be counted as a resource.

Example 1 A household owns a licensed 1996 Plymouth Neon that is not excluded. The current fair market value of the vehicle is \$4,575. $\$4,575 - \$4,650 = 0$. No resource value is counted.

Example 2 A household owns a 1998 Escort GT that is not excluded. The current fair market value of the vehicle is \$7,050. Only \$1,925 is counted as a resource. ($\$7,050$ fair market value – $\$4,650$ benchmark = $\$1,925$.)

Example 3 A household owns an all terrain vehicle (ATV) that is not licensed. The fair market value, according to the dealer is \$5,000. The household owes \$4,000 on the ATV. The fair market value less \$4,650 is \$350. The equity value is \$1,000. \$1,000 will be counted as a resource to the household. (See FSC 4860 for instructions on determining accessibility.)

Example 4 A household owns a boat, motor and trailer with a fair market value of \$1,000. The household owes nothing on the rig. The household values the trailer at \$500. The fair market value less \$4,650 is zero. Since the trailer is licensed, an equity test is not applied. The household values the boat and motor at \$500. The fair market value less \$4,650 is zero. The equity value is \$500. \$500 will be counted as a resource to the household. (See FSC 4860 for instructions on determining accessibility.)

Fair market value will be based on the wholesale value as verified by one of following free web sites:

- CarPrices.com
- Autopricing.com
- Intellichoice.com
- Edmunds.com
- Kelley Blue Book (kbb.com).

No other web sites will be considered acceptable. When the wholesale value is not available, a comparable value (i.e., trade-in or loan value) must be used. A copy of the web page showing the vehicle value must be printed and filed in the case record.

Determining Fair Market Value of Vehicles

Fair market value is the average trade-in value of the vehicle as listed on the selected web site unless the household disputes the value and presents conclusive proof that the information obtained from the web site is inaccurate.

NOTE: The value of special or optional equipment or low mileage will not be considered when determining the average trade-in value of a vehicle.

When the vehicle is too new to appear on the web sites, the current average trade-in value can be determined by contacting a local car dealer. Information such as contracts for purchase may be inaccurate because vehicles decrease in value substantially once they become "used."

When the vehicle is too old to appear on the web sites, the household's statement of value may be accepted if the statement is not questionable. To determine if the statement is questionable, consider the age and make of the vehicle. For example, luxury cars such as Cadillacs, Mercedes, and Porsches do not lose value as quickly as other cars. A four-wheel drive vehicle will usually retain a high value also. Antique vehicles may have a high resale value if such vehicles have been properly maintained or have been restored.

A household may indicate that for some reason such as body damage, inoperability due to motor failure or other major malfunction, or high mileage, a vehicle is in less than average condition. Households are allowed to contest the web sites value of a vehicle when its depreciated condition, in comparison with the average condition of the same make, model and year of vehicle, makes its value "less than average."

The fair market value of unlicensed vehicles is determined in the same manner as the fair market value of licensed vehicles. See FSC 4821 above.

Example A household owns a 1968 Ford Thunderbird that is currently being restored. It is unlicensed. The household estimates that the current fair market value of the Thunderbird is \$1,000. The household owes nothing on the car. \$1,000 will be added to the household's other resources.

Normally, the fair market value of a "junked" vehicle will be the price the household anticipates it could receive if the vehicle were sold for scrap. Antique car and truck bodies may sell for more if they are in a condition to be restored. The household's statement of the value of a "junked" vehicle will be accepted unless questionable. It is the household's responsibility to provide conclusive proof of the vehicle's current fair market value. For vehicles that do not appear on the web sites, the vehicle's current value may be substantiated by statements from dealers or newspaper ads.

Statements from reputable repair shops may be accepted to verify high mileage motor failures or other major malfunctions. Police reports or insurance documents may be accepted as proof of the current condition if a vehicle has been wrecked. Other proof may be accepted if it is conclusive in the worker's judgment.

Fair Market Value and Accessibility of Vehicles

If the documentation submitted by the household is inconclusive or questionable, additional documentation may be requested. Also, the worker may contact collateral sources such as dealers to determine how the value was assigned to the vehicle. Before contacting the dealer, the worker may wish to consult publications similar to the "NADA Book" or may check newspaper ads to determine the value of similar vehicles.

The worker must document:

1. Why the documentation provided is considered questionable or inconclusive - e.g. was the value stated by a dealer substantially less than the web site value? Was any reason given by the dealer for this difference in value? Is the reason plausible?
2. What the household was instructed to do to clear up the questionable documentation. The household must be issued a DCO-206 with this information. A copy of the DCO-206 may serve as documentation.
3. How the worker finally arrived at the fair market value of the vehicle which is the subject of the dispute. Include all contacts made by the worker or information obtained by the worker as well as any information provided by the household. When a newspaper ad is used to establish the fair market value of a vehicle, either a dated copy of the ad or a dated original must be attached to the case record.

The fair market value of boats, motors, campers, motorcycles, recreational vehicles, etc. not listed in on the web sites will be determined through current newspaper advertising or a dealer's statement. The worker may accept the household's statement about the value of older model vehicles, "junked" vehicles and vehicles that are generally known to be inexpensive.

18

4860

Accessibility of Vehicles

07-01-01

If resource value of any non-excluded vehicle makes the household ineligible to receive food stamp benefits due entirely or in part to the countable value of a vehicle, the county office worker must determine if that vehicle is an inaccessible resource. A vehicle is considered to be inaccessible if, as a practical matter, the household would be unable to sell the vehicle for a significant return. This means that unless the household would receive more than \$1,500 for the sale of the vehicle, the vehicle would not produce a significant return and would be considered an inaccessible resource. If the estimated return (equity value) assigned to the vehicle is \$1,500 or less, the vehicle will not be considered an available resource. None of the vehicle's value will be counted as a resource.

To determine the equity value, the worker will subtract the amount owed by the household on the vehicle from the fair market value of the vehicle. See FSC 4851 for instructions on establishing fair market value. The amount owed on the vehicle will be verified if the information provided by the household is questionable.

Example A household owns a 1999 Honda Civic with a fair market value of \$9,450. The countable resource value is calculated as $\$9,450 - \$4,650 = \$4,800$. The worker must determine if the vehicle is accessible by subtracting the amount owed on the vehicle from the fair market value - $\$9,450$ fair market value - $\$9,000$ amount owed on vehicle = $\$450$ estimated return. The countable resource value is \$0.

If the estimated return on the vehicle is \$1,501 or more, the estimated return (equity value) would be counted as a resource.

Example A household owns a 1999 Honda Civic with a fair market value of \$9,450. The countable resource value is calculated as $\$9,450 - \$4,650 = \$4,800$. The worker must determine if the vehicle is accessible by subtracting the amount owed on the vehicle from the fair market value - $\$9,450$ fair market value - $\$7,500$ amount owed on vehicle = $\$1,950$ estimated return. The vehicle is an accessible resource.

Accessibility will be determined whenever a vehicle is first reported. Thereafter, accessibility will be re-determined only at application, initial and recertification. Accessibility will be determined only so long as the value of the vehicle makes the household ineligible to participate in the Food Stamp Program.

Actions Needed to Assess Vehicles	Vehicles to be Considered	Amount to be Excluded from Resources	Amount Considered toward Resource Level
<u>Step 1 - Determine Which Vehicles Are Excluded by Policy</u>	<u>Licensed or Unlicensed Vehicles which are:</u> <ul style="list-style-type: none"> Used primarily for income producing purposes (over 50% of vehicle's use). Annually producing income consistent with fair market value. Necessary for long distance travel (other than daily commuting) essential to employment. Used as the household's home. Necessary to transport a physically disabled household member. Necessary to carry primary source of fuel (heating or water home use). 	Totally Excluded <i>NOTE: This applies at application and at reported change.</i>	-0- Resource Value
<u>Step 2 - Exclude One Vehicle Per Household</u>	Most expensive licensed or unlicensed vehicle not already excluded. (<i>Exclude most expensive vehicle unless it is more advantageous to the household to exclude another vehicle.</i>)	Totally Excluded <i>NOTE: This applies only at initial application and recertification.</i>	-0- Resource Value
<u>Step 3 - Determine Countable Resource Value of Non-Excluded Vehicles</u>	<u>Licensed vehicles:</u> One per adult household member <u>and</u> any additional vehicles used by a household member under age 18 to commute to work or school or to look for work.	Count as a resource. <i>NOTE: This applies at application and at reported change</i>	Count the fair market value of vehicle minus \$4,650 disregard. If the remainder is above -0-, count the remainder as a resource.
<u>Step 4 - Determine Resource Value of Remaining Vehicles</u>	Remaining licensed and unlicensed vehicles.	Count as a resource. <i>NOTE: This applies at application and at reported change</i>	Count <u>the greater of</u> the fair market value less \$4,650 <u>or</u> the equity value as a resource.
<u>Step 5 - If household is ineligible, determine accessibility.</u>	Determine the accessibility of any vehicle with a value great enough to make the household ineligible to participate in the Food Stamp Program. Any vehicle with an equity value of \$1,500 or less is inaccessible.	Exclude inaccessible vehicles. <i>NOTE: This applies at application and at reported change</i>	Count the equity value of accessible vehicles as a resource.

4900 Special Resource Situations**09-01-88****4910 Jointly Owned Resources****09-01-88**

See FSC 4601 for instructions on handling jointly owned bank accounts. Other resources owned jointly by two or more households are considered totally available to the household unless it can be demonstrated that the resource is inaccessible. A jointly owned resource is considered inaccessible if it cannot be practically subdivided, and the household's access to the resource is dependent upon the agreement of the joint owner who refuses to comply.

If a household only has access to a portion of a resource, only the accessible portion is counted. If a resource is totally inaccessible because the joint owner refuses to cooperate, the entire value of the resource is disregarded.

NOTE: When determining accessibility to jointly owned resources, ineligible aliens and disqualified individuals residing with the household are considered household members.

4920 Court Litigation/Pending Divorce**09-01-88**

Resources owned jointly by individuals who are awaiting a decision of the court to determine ownership will not be considered when determining the resource value for either individual.

When property is awarded by the court to one or the other of the individuals, it becomes a resource to the individual who was awarded the property.

4930 Resources of Disqualified Members or Ineligible Members**09-01-88**

The total value of resources belonging to disqualified or ineligible household members will be considered totally available to the household if:

- The individual is disqualified from the program for intentional program violation per FSC 1623.2;
- The individual is an ineligible alien per FSC 1621 who would otherwise be considered a household member; or
- The individual is disqualified for failure to comply with the SSN requirements or work registration requirements. See FSC 1623.1.

The same resource exclusions that apply to eligible household members will apply to resources claimed by ineligible aliens or disqualified persons when determining a household's total resources.

Example - Work related equipment essential to the employment of an ineligible alien or disqualified person will be excluded per FSC 4440.

One burial lot per ineligible alien or disqualified person will be excluded per FSC 4460.

4940 Resources of Sponsored Aliens**10-01-91**

See FSC 1621.6 for the procedures for handling the resources of sponsored aliens when a portion of the sponsor's resources has been deemed to the household.

4950 Non-recurring Lump Sum Payments**10-01-91**

Non-recurring lump sum payments are considered a resource in the month received unless otherwise excluded. Examples of lump sum payments include, but are not limited to the following payments:

1. Federal and state income tax refunds, rebates, or credits.
2. Child support when received as the result of the interception of a State or Federal income tax refund. Other child support payments that cover a prior period of time will be handled as explained in FSC 5704. (*Child support for a prior period that is paid in a lump sum to catch up on payments is not considered to be a non-recurring lump sum payment.*)
3. Refunds of security deposits on rent or utilities.
4. Lump sum insurance payments such as, but not limited to, settlements for damages to a household member's property, life insurance payoffs, crop insurance payments and lump sum Worker's Compensation settlements.
5. Loans with the exception of deferred payment student loans. See FSC 1622.4 for instructions on handling student loans.
6. One-time payments for damages received through a court or through an out of court settlement.
7. Cash gifts, awards, or prizes when received on a one-time basis. See FSC 5709 for instructions on handling recurring payments.
8. The proceeds (net) from the sale of personal property when payment is received on a one-time basis. See FSC 5710 when payments are received in installments.
9. Work incentive payments received upon the completion of the program.
10. Retroactive Social Security, or Railroad Retirement payments or any other retroactive benefit payment. TEA and SSI lump sum payments will be excluded as a resource so long as the recipient continues to be eligible for the benefit. See FSC 4451 for instructions. If the recipient is no longer eligible for SSI or TEA, the lump sum payment will be considered a resource.
11. Retroactive wages (net) paid on a one-time basis to correct a previous underpayment or to otherwise adjust wages.
12. Vacation pay (net) when received as a one-time payment after termination or layoff.

Non-Recurring Lump-Sum Payments/Handling

13. Severance pay (net) when received as a one-time payment. See FSC 5716 for instructions on handling severance pay received in installments.
14. Salary bonuses (net)-which cannot be considered to be annual bonuses. See FSC 5502 for additional information.

4951 Handling**12-01-93**

Only the amount of the lump sum payment available to the household will be considered a resource. For applicant households, the county office worker must consider the amount of the payment available as of the day of the interview to be a countable resource. For active households, the county office worker must consider the amount of the payment available as of the date of change or the end of the applicable ten-day notice period to be a countable resource.

To determine the countable resource amount, the worker will consider only the net amount of the payment. For example, a client may be entitled to a \$10,000 settlement from Workman's Compensation but receive a check for \$7,000 after legal fees. \$7,000 would be considered the amount of the lump sum payment.

After the net amount of the payment has been determined, the worker must deduct any expenditures the household claims to have made from the payment. For example, a household receives a \$7,000 lump sum payment, and claims expenditures as follows:

1. \$3,000 to a car dealer for a used car.
2. \$500 to a furniture store.
3. \$800 for repairs to the house.
4. \$400 for clothes and shoes for the children.
5. \$500 to a relative to repay a loan.
6. \$400 to a doctor to pay a previous bill incurred for one of the children.

After expenditures, the balance of the lump sum payment remaining is \$1,400. The household would continue to be eligible if no other resources were available.

When a lump sum payment is reported, the household will be given an opportunity to establish the net amount of the payment and any expenditures. For applicant households, see FSC 8500. For active households, see FSC 11422.

4952 Verification

09-01-88

The net amount of the payment may be verified through letters or documents provided by the source of the payment. Collateral contact with the source of the payment may also be used as verification.

Expenditures declared by the household will be verified if questionable. It will be sufficient to verify any declared liquid resources if the expenditures declared by the household are not questionable.

Questionable expenditures may be verified through receipts furnished by the household. If the household claims it has no receipts and cannot obtain them, all expenditures including the ones determined questionable will be listed in a signed statement completed by the household. The household will then be asked to furnish proof of current bank account levels and a listing of recent withdrawals.

If the household claims the payment was never deposited in the bank and has been expended to the point that the household is eligible, the county office worker must request the following information:

- Verification of the lump sum payment;
- Receipts or other documentation of any questionable expenditures; and
- The household's written, signed statement of the amount remaining from the payment.

Collateral statements may be requested when the household is unable to furnish any other verification of a lump sum payment and/or questionable expenditures. When neither the household nor the county office worker can obtain the needed verification, the client's statement of the amount remaining will be accepted along with proof that the household has no accounts currently active in local banks and/or savings and loans. This proof must include statements of accounts recently closed and/or transferred. Either the household may furnish this proof, or the county may obtain the household's written consent to contact these banks by letter to request this information. If the household refuses to furnish this proof or refuses to consent to the county contacting these institutions, the application will be denied. (Active cases will be closed.)

4953 Documentation

10-01-86

The county office worker must document the amount and the source of the payment and must specify the gross and net amount if applicable. All expenditures claimed by the household must be documented.

All verification obtained for the amount of the payment and questionable expenditures must be documented. The documentation must state why expenditures are considered questionable. When the household claims to be having difficulty establishing the amount of questionable expenditures, all attempts made by either the household or the worker to obtain verification must be documented. The worker must also document how the current available amount of the payment was established. If the household refuses to verify questionable expenditures or the amount of the payment, the worker must document the refusal including the date of the refusal and the reason for the refusal if one was given.

4960 Excluded and Countable Resources Combined Into One Account 10-01-86

Funds designated as excluded resources retain their exclusion when combined with non-excluded funds in a single bank account. The period of exclusion is determined by the reason for the exclusion.

1. Resources Excluded by Law

NOTE Funds excluded as a resource by law and kept in an account separate from non-excluded funds retain their exclusion indefinitely. (See FSC 4450 for a list of resources excluded by law.)

Excluded funds combined in one account with countable funds retain their exemption for six months from the date they are combined. After expiration of the six-month period, all funds in the account are counted as a resource. If withdrawals are made prior to the end of the six-month period of exclusion, the entire account immediately becomes a countable resource.

2. Resources Excluded as Income

Resources excluded as income (e.g. the income of students or self-employed individuals) that are combined in an account with non-excluded funds retain their exclusion for the entire period of proration.

Example A farmer reports a \$1,000 checking account at application interview. Between the time of the interview and the date of certification, he sold some soybeans for \$5,000. This money was deposited into the checking account increasing the balance to \$6,000 which exceeds the allowable resource limit. However, since the money deposited from the sale of the crops is prorated income and excluded as a resource, the household's resources are determined to be \$1,000.

Combined accounts will be verified when questionable. Acceptable verification include bank statements verifying the current amount in the combined account and indicating recent withdrawals and deposits or collateral statements verifying the amount of the excluded resource and the date deposited.

The following information must be documented:

- Total amount in the account;
- The amount determined to be an excluded resource;
- The amount determined to be a non-excluded resource;
- Whether the excluded resource is excluded by law or prorated income; and
- If verification was requested, why the account was considered questionable and the verification obtained.

4970	<u>Transfer of Resources</u>	10-01-86
------	------------------------------	----------

4971	<u>Determining if a Transfer Has Occurred</u>	10-01-86
------	-----------------------------------------------	----------

At the time of the application interview, households must be asked if any household member (or disqualified person whose resources are considered available to the household) has transferred any resources during the 3-month period immediately preceding the date of the application interview.

Households that knowingly transfer countable resources during this period for the purpose of qualifying or attempting to qualify for food stamp benefits must be disqualified from participating in the Food Stamp Program for up to one year from the date of discovery of the transfer. The disqualification penalty also applies to households that transfer resources after they are determined eligible in order to remain eligible.

Example A household acquires a resource after being certified, and transfers the resource to prevent the household from exceeding the resource limit.

4972	<u>Transfers Not Resulting in Disqualification</u>	10-01-86
------	----------------------------------------------------	----------

Eligibility for food stamps is not affected by the transfers listed below:

- Resources which would not otherwise affect eligibility. This includes the transfer of resources that are already excluded or resources that, when added to all other non-exempt resources, would not put the household over the resource limit. For example, if a parent who is participating in the Program transfers his home to a child but continues to live in it, no disqualification will be imposed. The home was already excluded as a resource.
- Resources that are sold or traded at or near fair market value.
- Resources transferred between members of the same food stamp household (including disqualified persons whose resources are being considered available to the household).
- Resources transferred for reasons other than qualifying or attempting to qualify for benefits.
Example - A parent places funds into an inaccessible educational trust fund.
- The removal of an individual's name from a bank account by the major owner of the account.
The major owner is the original owner of the funds deposited into the account.

4973	<u>Transfers Resulting in Disqualification</u>	10-01-86
------	------------------------------------------------	----------

Households must be given a reasonable opportunity to explain the circumstances surrounding a transfer of resources. If the household can establish a valid reason for the transfer (other than the intent to qualify), the household will not be disqualified.

If an applicant household has transferred resources knowingly, with the intent to qualify, the application will be denied. The denial notice will state the reason for and the length of the disqualification as well as the household's right to a administrative hearing. The disqualification period will begin with the month of application.

If the household is certified at the time the transfer is discovered, a notice of adverse action that explains the reason for and the length of the disqualification must be sent. The disqualification period begins with the first benefits authorized after the expiration of the adverse action period, unless the household requests an administrative hearing and continued benefits.

NOTE: A disqualification penalty can be imposed only once for the same transfer.

4974 Periods of Disqualification

07-01-01

To determine the length of the disqualification period, the county office worker must add the value of the transferred resource to the total countable resources and then subtract the resource limit. The remainder will be used to determine the period of disqualification as explained in the following chart.

<u>AMOUNT IN EXCESS OF THE RESOURCE LIMIT</u>	<u>PERIOD OF DISQUALIFICATION</u>
\$ 0 to \$ 249.99	1 month
250 to 999.99	3 months
1,000 to 2,999.99	6 months
3,000 to 4,999.99	9 months
5,000 and up	12 months

20

Example A 54 year old lady made application for food stamp benefits as a one person household. One week before she submitted the application, the lady transferred \$3,000 from a bank account to a relative leaving a balance of \$1,000 in the account. The household's total countable resources are \$1,000. The value of the transferred resources is \$3,000.

$\$1,000 \text{ countable resources} + \$3,000 \text{ amount of transfer} = \$4,000$
 $\$4,000 - \$2,000 \text{ resource limit} = \$2,000.$

The transfer will result in a six-month disqualification.

16100 Summary

12-01-00

Any household adversely affected by an action of the Division of County Operations (DCO) must be provided an opportunity to appeal this action through a hearing process called an administrative hearing. The Office of Appeals and Hearings of the Office of Chief Counsel conducts all administrative hearings and renders decisions based upon state policy and regulations. Administrative hearing policy appears in FSC 16200-16552.

The Office of Appeals and Hearings also conducts administrative disqualification hearings. An administrative disqualification hearing is one of the procedures used to determine if an individual has committed an intentional program violation. Policy on administrative disqualification hearings appears in FSC 16600-16920.

16200 Uniform Rules of Procedure

12-01-00

The Office of Appeals and Hearings must process each request for an administrative hearing under uniform rules of procedure. The uniform rules of procedures are available in the Office of Appeals and Hearings for public inspection and copying. The uniform rules of procedure include all filing limits for requests and appeals, advance notification requirements, expedited and other hearing timeliness standards, rules of conduct at the hearing, and the rights and responsibilities of individuals who request a hearing.

16300 The Household's Right to Appeal

12-01-00

At the time of an initial application interview each household must be advised orally of the following information:

1. The household's right to a hearing,
2. How a household may request a hearing, and
3. That the household may be represented at a hearing by legal counsel, a friend, a relative or any other spokesman. (If there is an individual or organization available that provides free legal representation, the household will be advised of the availability of that service.)

A household may request an administrative hearing to appeal any action the household believes has adversely affected its Food Stamp Program participation. A household may appeal when an application for food stamps is denied, when food stamp benefits are decreased, when a food stamp case is closed, when food stamp benefits are believed to be inadequate, or when a request for restored benefits is denied.

Discrimination complaints will be processed as specified in FSC 700.

16310 Requesting a Hearing

12-01-00

A request for a hearing is defined as any clear expression, oral or written, by the household or a representative that the household wishes to appeal a decision or to present its case to a higher authority. The freedom to make such a request must not be hampered in any way. If the household's appeal is unclear, the Office of Appeals and Hearings may request that the household clarify the grievance.

Upon request, DCO must make available, without charge, the specific materials necessary for a household or a representative to determine if a hearing should be requested or to prepare for a hearing. County office personnel will issue an *Appeal for Fair Hearing*, (DHS-1200) to households expressing an interest in an administrative hearing. County office personnel will assist the household to complete the DHS-1200 if such assistance is requested. (The county may document verbal requests for a hearing on a DHS-1200.) A household may also request an administrative hearing by sending a letter to the Office of Appeals and Hearings or by completing the back of a manually issued *Notice of Action* (DCO-1).

The household will be advised of any legal service available to provide the household with representation at the hearing. If the individual making the request cannot speak English and the agency is required to provide bilingual staff or interpreters as specified in FSC 230, the Office of Appeals and Hearings must insure that the hearing procedures are verbally explained in the household's language.

16320 Designation of a Representative

12-01-00

A household may designate in writing a representative to act on the household's behalf during the hearing process. The household must specify in the statement whether the representative is to review the administrative hearing file, to represent the household in the hearing or both. The statement will be filed in the hearing file. (See FSC 16511 for an explanation of an administrative hearing file.)

Once a household has officially designated a representative, the representative must receive a copy of all information provided to the household by DCO regarding the administrative hearing proceedings.

16330 Time Frames For Requesting a Hearing

12-01-00

Administrative hearings must be requested within 90 days of the date of notification of the disputed action or loss of benefits with the following exceptions:

- Exception 1: A household may request a hearing to dispute current level of benefits at any time within the certification period.
- Exception 2: A hearing to dispute denial of a household's request for restored of benefits must be requested within 90 days of the notice of denial. However, the benefits may have been lost up to a year prior to the household's request for restoration. See FSC 13310.

16400 Denial or Dismissal of Request**06-01-01**

The Office of Appeals and Hearings will not deny or dismiss a request for a hearing except under the following circumstances:

1. The request was not received within the specified time period. (The DHS county office will handle untimely requests for an administrative hearing as a request for restoration of benefits. See FSC 13300 for instructions on handling requests for restoration of benefits.)
2. The household or representative withdrew the request in writing.
3. The household or representative failed, without good cause, to appear at the scheduled hearing. (The Office of Appeals and Hearings will determine good cause.) When the household fails to appear without good cause, the hearing is considered abandoned and the Office of Appeals and Hearings immediately dismisses the request.

The Office of Appeals and Hearings sends a final order stating that the hearing request has been dismissed to the county office. Since households are advised that hearings must be rescheduled in advance, no additional notification is sent to the household. Should the Office of Appeals and Hearings determine that the household had good cause for failure to appear, the county office will be so notified.

16500 The Administrative Hearing Process**12-01-00****16510 Beginning the Administrative Hearing Process****12-01-00**

Requests for an administrative hearing submitted to the county office will be forwarded immediately to the Office of Appeals and Hearings. If the household wants the hearing to be held at a location other than the county office, the Office of Appeals and Hearings should be so notified by the county office.

When a request for a hearing is received, the Office of Appeals and Hearings will send a DHS-1210 to the appropriate county office to request information about whether the appeal request was submitted timely. If the request was timely, the county office must prepare an administrative hearing file (including the county statement) and return it to the Office of Appeals and Hearings. If the appeal was not filed timely, the county office must note this on the DHS-1210. The county office must respond within seven calendar days of receipt of this memorandum.

16511 The Administrative Hearing File**12-01-00**

If an individual has timely requested an administrative hearing, the county office will prepare an administrative hearing file. This file must be separate and apart from the case record.

A copy of the administrative hearing file must be submitted to the Office of Appeals and Hearings within seven calendar days of the date the DHS-1210 from the Office of Appeals and Hearings was received in the county office.

Information will not be included in the administrative hearing file unless the household will be allowed to review the information. An example of information that must not be included in the file is the name of an informant who wishes to remain anonymous. See FSC 530 for a full explanation of information in the case record that may not be revealed to the household. Only information that may be included in the administrative hearing file may be presented as evidence at the hearing.

The following information must be included in the administrative hearing file:

1. Notices of Action – The file must include notices sent to the household about the action under appeal. If a notice was system generated, documentation of the date generated and notice type must appear.
2. Documentary Evidence – The file must include documentary evidence that supports the notice of action upon which the household is basing the appeal. Examples, of documentary evidence include, but are not limited to, the application submitted by the household, authorizing documents or narrative, collateral statements, income statements, resource verification, county referral to E&T Program or the Workfare Program, and witness statements.
3. County Statement (DHS-1203) – The file must include a copy of the county statement. The county statement must state the issue and must contain a summary of all facts and evidence supporting the county office's position. Ambiguous and technical language must be avoided.

Five copies of the DHS-1203 must be prepared. The original will be sent to the plaintiff prior to the date of the hearing. A copy will be sent to the appropriate Area Manager. A copy will be included in the hearing file sent to the Office of Appeals and Hearings. A copy will be included in the hearing file retained in the county office. A copy will be filed in the case record.

The administrative hearing file may be discarded or attached to the household's case record after receipt of the decision. (A copy of the DHS-1203 must be retained in the case record.)

16512 Review of the Administrative Hearing File

12-01-00

The household has ten days from the receipt of a form letter from the Office of Appeals and Hearings to go to the county office and review the administrative hearing file. The designated representative may accompany the household. The ES Supervisor or a designee must be present during the review.

16513 Subpoena of Witnesses

12-01-00

Either the household or the county office has the right to subpoena witnesses to testify at an administrative hearing.

NOTE: DHS employees will be expected to attend hearings and testify without being subpoenaed. The Office of Appeals and Hearings will notify DHS employees of the time and place of the hearing by memorandum.

The Office of Appeals and Hearings will notify the household of its right to subpoena witnesses.

Following review of the hearing file, the household will notify the Office of Appeals and Hearings of any individuals who must be subpoenaed on the household's behalf.

When the administrative hearing file is submitted, the county office must advise the Office of Appeals and Hearings of any witnesses to be subpoenaed to testify on behalf of the county office. The Office of Appeals and Hearings will notify the county office of any witnesses the household has requested to be subpoenaed. The county office will have five days from receipt of this notice to request subpoenas for rebuttal witnesses.

The Department of Human Services, Chief Counsel, will issue the subpoenas, pursuant to the terms of agreement and authority of Ark. Code Ann. 20-76-103.

16514 Continuation of Benefits

12-01-00

A household's food stamp benefit amount may be continued at the same amount pending the administrative hearing decision if the household is currently certified; and the request was made within 10 days of the date the notice of action was issued. (This includes notices of adverse action sent at least 10 days prior to the effective date of action and adequate notices sent at the time the action is taken.)

Both the *Appeal for Fair Hearing* (DHS-1200) and the manually issued *Notice of Action* (DCO-1) provide a space for the household to indicate whether or not benefits should be continued.

If the household does not specifically waive continuation of benefits, the Office of Appeals and Hearings will assume that continuation is desired.

If an administrative hearing and continuation of benefits is requested during the 10-day advance notice period, the household's food stamp benefits will be continued on the basis authorized immediately prior to the notice. If an administrative hearing with continuation of benefits is requested during the 10-day period following the issuance of an adequate notice of action, the household's food stamp benefit amount must be reinstated to the basis authorized immediately prior to the notice. Reinstatement must occur within 5 working days of the receipt of the hearing request. A supplemental issuance must be authorized when necessary. (See FSC 13200 for instructions on authorizing supplemental benefits.)

Unless one of the following situations occurs, the continued benefit level will not be changed.

1. If the household's certification period expires, the household must reapply and be determined eligible based on current circumstances. Food stamp benefits will be issued on the basis determined at recertification.

Continuation and Scheduling Hearings

2. If a change that affects the household's eligibility or benefit amount occurs, the household's eligibility and food stamp benefit amount must be recalculated based on the change in circumstances. If the change results in case closure or a reduction in benefits, a notice of adverse action must be issued. Unless the household requests another hearing based upon the action specified in this notice, the change will be made when the 10-day advance notice period expires.
3. If a mass change that affects the household occurs, the change will be made regardless of the status of the administrative hearing request.

NOTE: At a mass change, participation at the prior level will be reinstated only if an administrative hearing is requested based upon the change and the issue being contested is that the food stamp benefit amount was incorrectly calculated or that federal law or regulation was misapplied or misinterpreted by DCO.

4. When a hearing officer makes a preliminary finding that the sole issue is based on federal law, regulation or policy and that DCO has not incorrectly calculated the budget or misapplied or misinterpreted the policy, the household's case will be closed or the food stamp benefits will be reduced as specified in the notice of action. (The hearing officer will notify the DHS county office in writing of this decision.)

If a hearing request is not made within the specified 10-day period, the food stamp benefits will be reduced or terminated as stated unless the household establishes that failure to request a hearing within the specified time was for good cause. The Office of Appeals and Hearings will determine good cause. If good cause is established, DCO must reinstate benefits to the prior basis.

16515 Continuation on Quarterly Reporting Cases**12-01-00**

Households subject to quarterly reporting (QR) have 10 days from the date the automated notice of adverse action was mailed to request an administrative hearing and continuation of benefits.

When a quarterly reporting household's benefits are being continued, the household must continue to submit a QR form. Except for the factor or factors upon which the appeal was based, the county will adjust the household's benefits during the continuation period to take into account reported changes.

16520 Scheduling the Hearing**12-01-00**

Upon receipt of the administrative hearing file, the Office of Appeals and Hearings will schedule a time and place for the hearing.

The time, date, and place of the hearing will be arranged so that the hearing is accessible to the household. A telephonic hearing will be scheduled unless the household requests a face-to-face interview. Telephonic hearings will be conducted through a conference call involving the hearing official, the household, and county office personnel. All participants except the hearing officer may be in the same location. A telephonic hearing may not be utilized unless the household agrees to the arrangement. A face-to-face hearing will be held when requested by the household.

16521 Expedited Hearings**12-01-00**

The Office of Appeals and Hearings will expedite hearing requests from households such as migrant farm workers that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from such households will be processed faster than others will if necessary for the household to receive a decision and (if the decision so indicates) restoration of benefits before they leave the area.

16522 Group Hearings**12-01-00**

In the interest of providing timely services to all households, the Office of Appeals and Hearings may respond to a series of individual requests for hearings by conducting a single group hearing. A group hearing may be conducted if related issues of state and/or federal law, regulation or policies are the sole issues being raised and individual issues of fact are not disputed.

In all group hearings, the policies governing individual hearings must be followed. Each individual household will be permitted to present its case or have the case presented by a representative.

16523 Notification of the Hearing**12-01-00**

The Office of Appeals and Hearings will provide written notice to all parties involved at least ten days prior to the hearing to allow for adequate preparation of the case. The notice will contain the name, address and telephone number of the office to notify if the household will not be able to attend the scheduled hearing. The notice will also contain a statement that the Office of Appeals and Hearings will dismiss the hearing request if the household or designated representative fails to appear for the hearing without good cause and any additional information that will provide the household with an understanding of the proceedings and will contribute to the effective presentation of the household's case.

NOTE: The household may waive, in writing, the 10-day advance notice requirement in order to expedite the hearing process.

16524 Postponement of the Hearing**12-01-00**

The household is entitled to receive a postponement of a scheduled hearing upon request. The postponement will not exceed 30 days. The time limit for action on the decision will be extended for as many days as the hearing is postponed. For example, if the household postpones a hearing for 10 days, the final action will be required within 70 days of the date of the request for the hearing.

The hearing officer may postpone a hearing when, in his or her judgement, a postponement is warranted. Upon the officer's determination that a postponement is warranted, the hearing will be adjourned and rescheduled at a later time. The time frame for administrative hearing decisions will be extended by the number of days between the original hearing and the rescheduled hearing.

16530 The Hearing

12-01-00

The hearing will normally be held in the DHS county office in the county where the household resides. The hearing may be held in another DHS county office if this is more convenient for the household or the representative. The hearing may be held in the household's home or at any other reasonable location in the county if so requested.

16531 The County Office's Responsibilities

12-01-00

The DHS county office must provide an area where an administrative hearing can be conducted privately.

The county must be prepared for the hearing.

If legal assistance is needed, the ES supervisor should request assistance by memorandum to the Chief Counsel, Office of Chief Counsel.

A county representative must be designated prior to the time of the hearing. The county representative must be prepared to represent the county at the time the hearing is scheduled. The county representative must be familiar enough with the case that he or she can answer pertinent questions from either the hearing official or the household.

The county worker will assist the household in preparing for the hearing if such assistance is requested.

16532 The Hearing Officer

12-01-00

The Office of Appeals and Hearings will designate all hearing officers. The hearing officer must not have any personal interest or involvement in the case and must not have been involved in the contested action either as a county office worker or in a supervisory capacity.

The hearing officer may not review the case record or other material either prior to or at the hearing unless such material is made available to the household or a representative.

16533 Conducting the Hearing

12-01-00

A hearing officer will conduct the hearing. The household may be accompanied by friends or other persons and may be represented by a friend, attorney, or designated individual. The county will be represented by the county office worker responsible for the case, by the ES supervisor or his designee or by a DHS attorney (if previously requested, in writing).

The hearing will be conducted in an informal but orderly manner. The hearing officer will explain the administrative hearing procedure to the household (plaintiff). The county office representative will read the county office statement. The county office will present evidence and question any witnesses subpoenaed to the hearing. The county office will also be allowed to cross-examine the plaintiff's witnesses. The plaintiff will then be allowed to present his or her case. He or she may do so alone or with the aid of others. The plaintiff or representative will be given the opportunity to present witnesses, to advance arguments, to offer additional evidence and to question or refute any testimony or evidence. The plaintiff will be allowed to question the county office representative and to confront and cross-examine any adverse witnesses. If the plaintiff is unable to present his or her evidence in a logical manner, the hearing officer will assist him or her. The county office representative will be given the opportunity to present additional evidence and to question the plaintiff, his or her designated representative, or witnesses. Questioning of all parties will be confined to the issue involved. However, other eligibility factors may be dealt with when appropriate.

When all relevant information has been gathered, the hearing officer will summarize the issues, the evidence, the agency policy, and will explain that he or she will write the final decision which may be reviewed by the supervisor or manager of the Office of Appeals and Hearings.

The plaintiff will also be advised of his or her right to judicial review in the event of an adverse ruling.

16534 The Hearing Decision

12-01-00

Prompt, definitive and final administrative actions must be taken within 60 days of receipt of a request for an administrative hearing. The hearing decision is based upon documentary evidence contained in the administrative hearing file and the testimony presented at the hearing.

The hearing officer will prepare a decision in compliance with FNS approved policy or federal regulations. The manager of the Food Stamp Section or designee may be asked to review the decision for correctness in relation to policy or federal regulation. The manager or supervisor of the Office of Appeals and Hearings may review the decision. The signed decision is binding on DCO and cannot be changed unless overturned in a court of law.

16535 Contents of the Administrative Hearing Decision

12-01-00

A hearing decision consists of four parts: Introduction, Finding of Fact, Conclusions of Law, and Decision. Each of these parts is described below.

1. Introduction - This part of the decision summarizes the reason for the appeal. Any pertinent information regarding the appeal must be included. The date and location of the hearing must appear. The participants in the hearing must be named.
2. Findings of Fact - The facts used to make a decision appear in this part. Any testimony presented must be summarized in this part.

3. Conclusions of Law - This summarizes the food stamp policy that applies to the issue under appeal.
4. Decision - This part states the decision rendered. This decision must be based upon the facts presented and the appropriate conclusions of law. The decision must state if the county office was correct in taking the adverse action. If the county was incorrect, the action must be overturned by the decision.

16536 Notification of Hearing Decision**12-01-00**

Once a hearing decision is rendered, both the household and the county office will be notified in writing. The notice must supply the following information:

1. The decision
2. The reason for the decision as supported by food stamp policy or federal regulation
3. The impact of the decision on the household's food stamp benefits as decided through the hearing process
4. The household's right to a judicial review of the hearing decision and that this review may result in a reversal of the decision

Hearing decisions adverse to the household are sent by certified mail, return receipt requested, to insure that timely filing for judicial review may be ascertained.

16537 Judicial Review**12-01-00**

Households not satisfied with an administrative hearing decision have the right to judicial review under the Administrative Procedures Act.

The household must file a petition in the circuit court of the county where the household lives or does business or in Pulaski County within 30 days from the date the household received the administrative hearing decision. Copies of the petition are served on DHS and other parties of record by personal delivery or mail.

Within 30 days from the date of the service of the petition on DHS (or additional time granted by the court, not to exceed 90 days total), the Office of Chief Counsel must transmit to the court the original or a certified copy of the entire record of the hearing under review.

The review will be conducted by the court without jury and will be confined to the record unless a question of irregularity in procedure exists but is not indicated in the record. Testimony may then be taken before the court.

16540 County Office Responsibilities Upon Receipt of Final Decision 12-01-00

The county office will take prompt action to implement decisions from the Office of Appeals and Hearings and assure that the decision is reflected in the household's food stamp benefit amount within the 60 days from the date the hearing was requested.

16541 Decisions That Uphold the Household 12-01-00

When the administrative hearing decision upholds the household, certain actions must be taken within the 60-day administrative hearing processing period.

1. For Households Currently Certified

If the household continued to receive food stamp benefits on the basis authorized prior to appeal action, there is no need to adjust the case or to authorize restored benefits.

If the household waived continuation of benefits and the decision results in an increase in the household's current benefit amount, the benefit amount must reflect the increase within 10 days of the receipt of the hearing decision. This is true even if a supplemental issuance must be authorized to insure that the increase is reflected.

NOTE: The county office may take longer than 10 days to increase the food stamp benefit amount if the household's next benefits will be authorized within the 60 day administrative hearing processing period.

Restored benefits will be authorized for any earlier months when the household received an under-issuance of food stamp benefits due to the issue appealed.

2. For Households Not Currently Participating

Restored benefits will be authorized if applicable. If the household's certification period has expired, benefits will be restored for any month in the certification period when an under-issuance occurred due to the issue under appeal. If a household continued to receive food stamp benefits on the basis authorized prior to the appealed action, no restoration will be authorized. If the household's case was closed and the decision reverses the closure, food stamp benefits will be restored for those months where no benefits were received due to the closure. Benefits will not be restored for any month when food stamp benefits were continued. Benefits will not be restored for any month that would not have been included in the original period of certification. Benefits will not be restored for the current month or future months that were included in the original certification period. The case will be reopened or the household must reapply as specified in the administrative hearing decision. If the household's application (initial or recertification) was denied and the denial was ruled invalid, the action to be taken will be specified in the decision.

16542 Decisions Which Uphold the County**12-01-00**

When the hearing decision upholds the county, and the household had continued to receive food stamp benefits on the basis authorized prior to the appealed action, the case will be closed or the benefit amount will be reduced. No new notice of adverse action will be issued. The hearing decision serves as the notice of action.

An overpayment will be prepared since benefits were over-issued during the appeal process. The overpayment will include any months when the household continued to receive benefits pending the receipt of the decision.

See FSC 15400 for instructions on completing an overpayment.

16550 State Tax Refund Intercept (STRI) Hearing Procedures**12-01-00**

The taxpayer has thirty days from the mailing date of the intercept notice to file a written request for a hearing. All disqualification hearing requests will be sent to Overpayments Recovery Unit (ORU) where a chronological register of hearing results is maintained. After the identifying information is placed on the register, a copy of the request will be sent to the county office that originated the case and to the Office of Appeals and Hearings. (Exception: If the taxpayer has moved to a different county, the county copy along with any case records will be forwarded to the current county of residence.)

Accompanying the hearing request, in a pending file, will be a set of hearing forms prepared by the ORU. The hearing packet will contain an acknowledgement letter and a hearing statement. These forms will be completed when the hearing is scheduled and conducted. When the acknowledgement letter is mailed to the taxpayer, a copy is held in the pending file, a copy is sent to the hearing officer, and a copy is sent to the county office.

When the hearing packet is received from the ORU, copies of this information along with a memorandum from the Office of Appeals and Hearings are sent to the DHS county office. The memorandum advises the county office to prepare a county statement to establish the validity of the overpayment. The county statement should be submitted to the Office of Appeals and Hearings within seven days of the receipt of the memorandum from the Office of Appeals and Hearings.

The procedures described in FSC 16512 and FSC 16530-16536 will also apply to STRI Hearings.

If the taxpayer is not present on the date the hearing is scheduled, the hearing may be rescheduled once at the taxpayer's request. After that, the request for hearing will be considered abandoned. (The rehearing must also be held within the thirty-day period from the date of the original request for a hearing.) If the taxpayer does not appear at the rescheduled hearing or give notice of inability to appear at least twenty-four hours before the hearing, the request will be considered abandoned. All rescheduling will be recorded on the chronological register by the ORU.

16600 Disqualification For Intentional Program Violation

12-01-00

An intentional violation of the Food Stamp Program occurs when an individual intentionally:

1. Makes false or misleading statements to qualify for the Program or to obtain benefits to which the household was not entitled.
2. Misrepresents, conceals or withholds facts to qualify for the Program or to obtain benefits to which the household was not entitled; or
3. Commits any act that constitutes a violation to the federal regulations or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp benefits or electronic benefits transfer (EBT) cards.

A finding of intentional program violation (IPV) is made either through a court of law or a hearing process. The hearing process is known as an administrative disqualification hearing and is administered through the Office of Appeals and Hearings. Penalties in the form of a period of disqualification are imposed against individuals found guilty of an IPV through either process.

This section describes both the hearing process and the imposition of penalties on individuals disqualified either through a court of law or an administrative disqualification hearing.

16700 Administrative Disqualification Hearings

12-01-00

Administrative disqualification hearings are conducted for the following reasons:

- To permit the State to disqualify from the Food Stamp Program those individuals found to have committed intentional program violations.
- To allow the State to retain a percentage of the value of the money collected from overpayments resulting from an intentional program violations

The Office of Appeals and Hearings will make clear written rules of procedures for administrative disqualification hearings (DHS-1206) available to any interested party.

16701 When A Hearing is Conducted

12-01-00

Administrative disqualification hearings are conducted when one or more acts of IPV have been established through documentary evidence if one of the following conditions has been met:

- Civil or criminal prosecution through the court system is not warranted.
- The appropriate legal authority declined prosecution.
- The legal authority took no action within a reasonable period of time resulting in withdrawal of the request to prosecute.

16702 Limitations**12-01-00**

Administrative disqualification hearings are not conducted if the amount the individual obtained because of a suspected IPV is under \$35.00 or if the value of the ineligible items purchased with food stamp benefits is less than \$35.00. The \$35.00 minimum may be a cumulative amount.

An administrative disqualification hearing will not be initiated against an individual when the individual's case is currently in the prosecutor's office, or when the prosecutor or a court of appropriate jurisdiction has taken action against the individual unless another unrelated IPV has occurred.

16703 Consolidation of Hearings**12-01-00**

Administrative disqualification hearings may be combined with other hearings if the factual issues arise out of the same or related circumstances and the household receives proper notice that the hearings will be combined. If hearings are combined, the time frames for conducting administrative disqualification hearings will be followed unless the household waives the 30-day advance notice requirement.

16704 Responsibility For Conducting Hearings**12-01-00**

The Office of Appeals and Hearings conducts administrative disqualification hearings and determines if intentional program violations have occurred.

A hearing officer who does not have personal interest or involvement in the case will conduct administrative disqualification hearings. The same hearing officers who conduct administrative hearings will also conduct disqualification hearings and will be subject to the same requirements.

16710 How A Disqualification Hearing Is Initiated**12-01-00**

Either the Overpayment Unit or the Fraud Investigation Section may initiate an administrative disqualification hearing. Each procedure is described below.

16711 Referral by the Overpayment Unit**12-01-00**

The DHS county office must have sufficient documentation to present at an administrative disqualification hearing before the case is referred to the Overpayment Unit as a suspected IPV. The Overpayment Unit will determine if the case is to be referred to the Fraud Section for possible prosecution, referred for an administrative disqualification hearing, or referred for non-fraud collection. If a hearing is requested, a copy of the request will be sent to the county office.

16712 Referral by the Fraud Investigation Section of OGC**12-01-00**

The Fraud Investigation Unit determines which cases referred to their office are to be subsequently referred for prosecution. When an IPV is established but the case is not referred for prosecution, the case will be referred for an administrative disqualification hearing. The Overpayment Unit will notify the DHS county office that a disqualification hearing will be held.

16720	<u>Preparation of the Administrative Disqualification Hearing File</u>	12-01-00
-------	------------------------------------------------------------------------	----------

16721	<u>Cases Referred by the Overpayment Unit</u>	12-01-00
-------	-----------------------------------------------	----------

An administrative disqualification hearing file must be prepared when the county office receives notification from the Overpayment Unit that a hearing is to be held. A copy of the file must be sent to the Office of Appeals and Hearings within seven calendar days of receipt of the hearing notification. The original file will be retained in the county office.

The file must contain a completed *Food Stamp Intentional Program Violation Statement* (DHS-1208) and any supporting documentary evidence. Examples of documentary evidence include applications; change reports forms, collateral statements, income statements, copies of award letters and verification of resources.

16722	<u>Cases Prepared by the Fraud Section</u>	12-01-00
-------	--------------------------------------------	----------

When the Fraud Investigation Section prepares cases for an administrative disqualification hearing, the Overpayment Unit will send copies of documentation gathered by the Fraud Investigation Unit to the county office. The documentation will be sent with the memorandum advising that an administrative disqualification hearing is to be held. This documentation will become the administrative disqualification hearing file. Copies of this documentation plus copies of food stamp applications signed during the time of the alleged overissuance and IPV will be sent to the Office of Appeals and Hearings by the Overpayment Unit.

The county office will not send copies of the Administrative Hearing File to the Office of Appeals and Hearings. The case record and original applications will be returned to the county office from the Fraud Investigation Section. Neither the case record nor the applications are to be destroyed as long as an administrative disqualification hearing is pending. The Fraud Investigation Section keeps all other original evidence.

The Fraud Investigation Unit will prepare the *Administrative Disqualification Hearing Statement* (DHS-1208) and send it to the DHS county office with the documentation. The county office must review this information prior to the hearing and must present the evidence at the hearing. If any questions arise after receipt of the documentation, the county office must contact the Fraud Investigation Section prior to the date of the hearing to resolve the issue. The fraud investigator's name will appear on the DHS-1208. If he or she is needed for inquiry or testimony at the hearing, the county office will contact the Administrator, Fraud Investigation Unit, to request this individual's presence at the hearing.

16730	<u>Cancellation of a Hearing by the County Office</u>	12-01-00
-------	-------------------------------------------------------	----------

If at any time prior to the time of the administrative disqualification hearing the county office feels that there is not sufficient evidence to conduct a hearing, the Office of Appeals and Hearings should be contacted immediately. The hearing will be cancelled and the case administratively withdrawn. (This does not apply to cases referred by the Fraud Section.)

16740 Advance Notice

12-01-00

The Office of Appeals and Hearings must notify the accused individual at least 30 days in advance of the hearing date. The notice must be mailed by certified mail, return receipt requested. The notification must include the following information:

- The date, time and place of hearing
- The charges against the household member
- A summary of the evidence (administrative disqualification file)
- An explanation of where and how the evidence may be examined
- A warning that if the accused individual fails to appear for the hearing, the decision will be based solely on the evidence provided by the county office
- A warning that if the hearing decision is that an intentional program violation has occurred, a disqualification will be imposed
- A listing of the household member's rights during the hearing
- A statement that the state or federal government may still prosecute the household member in civil or criminal court action and collect the over-issuance
- A statement that the household member may contact the county office for the name and telephone number (if available) of a person who can give free legal advice
- If free legal advice is not available, the number of the lawyer referral service of the local Bar Association
- A statement that the household member or representative has 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to have the hearing rescheduled
- A copy of DCO's published hearing procedures or a statement that a copy of the hearing procedures is available upon request

The Office of Appeals and Hearings uses an *Advance Notice of Your Administrative Disqualification Hearing* (DHS-255) for this purpose. A statement attached to the DHS-255 provides a space for the accused to name any persons he or she wishes to have subpoenaed to present testimony on his or her behalf at the hearing. A waiver of the right to subpoena witnesses is also provided.

16750 Waived Hearings

12-01-00

Individuals accused of intentional program violations may waive their rights to an administrative disqualification hearing.

When a case is referred for an administrative disqualification hearing, the Office of Appeals and Hearings must advise the individual in writing, that he or she may waive his or her right to an administrative disqualification hearing.

The written notification must contain the following information:

- A signature blank for the accused individual and the casehead if the accused individual is not the casehead
- A statement that the accused individual has the right to remain silent concerning the charges and that anything said or signed by the individual concerning the charges can be used in a court of law
- A statement that a signed waiver will result in disqualification and a reduction in food stamp benefits during the period of disqualification even if the accused individual does not admit the charges
- An opportunity for the accused individual to admit the charges or to waive the hearing without admitting the charges
- The telephone number to call for additional information
- A statement that any remaining eligible household members will be held responsible for repayment of the resulting claim
- A statement that the accused individual will be notified of the hearing date at least 30 days in advance if he or she chooses not to waive the hearing

The Office of Appeals and Hearings uses a *Waiver of Right to an Administrative Disqualification, Hearing* for this purpose. (A copy of the signed waiver will be sent to the county office.)

The Fraud Investigations Unit may also obtain from the accused individual a waiver to an administrative disqualification hearing during the course of an investigation and prior to referral to the Office of Appeals and Hearings. A *Waiver of Hearing and Disqualification Agreement* (DHS-267) is used for this purpose. Upon receipt of a signed DHS-267, the Fraud Investigations Unit will forward the form to the county office so that the appropriate disqualification may be imposed.

16760 Scheduling of Hearing

12-01-00

The hearing must be accessible to the member of the household suspected of the IPV.

When the Office of Appeals and Hearings has proof that the household member accused of committing an IPV has received timely advance notice of the hearing, or has refused such notice, then the Office of Appeals and Hearings has fulfilled the notice requirements and can proceed with the hearing. When neither proof of receipt nor proof of refusal exists, and the household member fails to appear, the Office of Appeals and Hearings cannot proceed with the hearing. If the household member appears for the hearing but establishes that the notice was not received 30 days prior, the hearing officer must consult with this individual and determine if the individual will be allowed additional time to submit documents to support his claim or the hearing will be rescheduled. If there is no proof that the advance notice was received 30 days prior, but the household member admits this, then the hearing can proceed.

If the hearing decision is that an IPV exists but the household member provides good cause for failing to appear for the initial hearing, the previous decision is invalidated. The hearing will be rescheduled. The decision will be made based on information presented at the latter hearing. The same hearing officer may conduct both hearings.

16761 Review of the Administrative Disqualification Hearing File

12-01-00

At the time the scheduling letter is sent, the accused individual is advised that he or she has ten calendar days from the date the certified mail receipt is signed to review the administrative disqualification hearing file and request subpoenas.

The county office must provide free copies of the relevant portions of the hearing file if requested by the household or a representative so long as no confidential information is released. In all cases, the county administrator or a designee must review the hearing file with the household or a representative. Confidential information that the household is not allowed to contest or challenge is inadmissible at the hearing and may not have any bearing on the decision.

16761.1 Requesting Subpoenas

12-01-00

Either the individual accused of the IPV or the county office may request that witnesses be subpoenaed to appear at an administrative disqualification hearing. The accused individual will use the attachment to the scheduling letter to request subpoenas. The Office of Appeals and Hearings will advise the county office of any witnesses the household has requested to be subpoenaed.

The county office will have five days from receipt of this notice to request subpoenas for rebuttal witnesses. The county office may request subpoenas on the reverse side of the *Administrative Disqualification Hearing Statement* (DHS-1208). If subpoenas are needed by the county office on any case where the Fraud Investigation Section prepared the county statement, a copy of this form should be used to request the subpoenas from the Office of Appeals and Hearings.

The Department of Human Services, Office of Chief Counsel, will issue the subpoenas pursuant to the terms of agreement and authority of Ark. Code. Ann. §20-76-103.

16762 Postponement of a Scheduled Hearing by the Household**12-01-00**

A household is allowed a postponement of a scheduled hearing if the request is made at least 10 days in advance of the scheduled hearing or if good cause for failure to appear at the hearing can be shown. However, the hearing cannot be postponed more than 30 days, and the postponement may be limited to one at the discretion of the Administrator of the Office of Appeals and Hearings.

If the hearing is postponed, the time limits for processing the hearing will be extended for as many days as the hearing is postponed not to exceed 90 days.

16770 Participation in the Program During the Hearing Process**12-01-00**

All household members have the right to participate in the Food Stamp Program while the determination of an IPV is pending. If the action for which the charge has been brought does not affect the household's current circumstances, the household will continue to receive food stamps based on the latest certification. Recertification will be based on current circumstances. Benefits will not be continued if the household does not reapply.

The county office will terminate or reduce benefits if there is verification that the household is totally ineligible or eligible for fewer benefits and the household fails to request an administrative hearing and continuation of benefits. This is true even if these facts lead to the suspicion of an IPV and a resulting administrative disqualification hearing. For example, the county office may have verification that a household failed to report a change in circumstances that will cause a reduction in food stamp benefit amount. Benefits will be reduced even though DHS has not yet demonstrated through the hearing process that the failure to report involved an IPV.

16780 Conducting the Hearing**12-01-00**

The hearing officer should make a particular effort to arrive at the facts of a case in a way that makes the food stamp household feel at ease.

16781 Attendance**12-01-00**

The hearing be attended by a representative of the county office that initiated the suspected IPV and by the household and/or representative. With the household's consent, friends or relatives may also attend the hearing. If space limitations exist, the hearing officer may limit the number of persons allowed to attend at the hearing. The oath will be administered to all persons presenting testimony at the hearing.

16782 The Household Rights During the Hearing

12-01-00

The household will be allowed to examine the administrative disqualification hearing file prior to the date of the hearing and during the hearing. (See FSC 16761.) The household has other rights as listed below:

- The right to subpoena witnesses to appear on his or her behalf at the hearing
- The right to present his or her case or to have it presented by a legal counsel or other person
- The right to advance arguments without undue interference
- The right to question or refute any testimony or evidence, including an opportunity to confront and cross examine adverse witnesses
- The right to submit evidence to establish all pertinent facts and circumstances in the case

The hearing officer will advise the individual or representative that he or she may refuse to answer questions during the hearing.

16782.1 Representatives for the Household

12-01-00

An individual may designate in a signed statement the name of a representative to act in his behalf by reviewing the hearing file. If the representative is to act on the individual's behalf during the administrative disqualification hearing, this must be so specified on the signed statement. The statement designating the individual must appear in the hearing file.

The designated representative will receive a copy of all correspondence regarding the hearing proceedings.

16783 The Hearing Officer's Role

12-01-00

The hearing officer has the following duties:

- To insure that all relevant issues are considered
- To request, receive, and make part of the record all evidence determined necessary to decide the issues being raised
- To regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing
- To order, where relevant and useful, additional information from a source mutually satisfactory to the household and DHS
- To provide a summary of the hearing so that a decision may be rendered about the alleged act of IPV

16790 The Decision 12-01-00

The hearing officer will prepare a decision based on a comprehensive report of the proceedings. The format will consist of an introduction, findings of facts, conclusions of law, and a decision. The administrator of the Office of Appeals and Hearings may review and sign the order.

16791 Timely Action 12-01-00

Final action (including arriving at a decision and initiating administrative action) must be taken within 90 days of the date the household member is notified in writing that an administrative disqualification hearing has been scheduled.

16792 Absence of Intentional Program Violation 12-01-00

If the decision is that no IPV has occurred, the household member will be so notified by the Office of Appeals and Hearings in writing. A copy of the decision will be sent to the county office, the Overpayments Unit and to the Fraud Investigation Section if this section was involved in the case.

16793 Finding of Intentional Program Violation 12-01-00

If the decision is that an IPV has occurred, the original hearing decision and one copy will be sent to the appropriate county office. Copies will also be sent to the Overpayments Unit, to the household and to the Fraud Investigation Section if this section has been involved.

NOTE: The copy is sent to the household for informational purposes only. The county is still obligated to send the original decision to the household as instructed in FSC 16800.

16800 Imposing the Disqualification - County Office Actions 12-01-00

When the county office receives a hearing decision that an IPV has occurred, a period of disqualification will be imposed against the individual who committed the violation. For offenses that occurred or began on or after October 1996, the disqualification periods are listed below:

- One year for the first violation
- Two years for the second violation
- Permanently for the third violation

For offenses that occurred or began prior to March 1979, no disqualification will be imposed. For offenses that occurred or began during the period from March 1979 to September 1983, the disqualification will be three months regardless of the number of offenses. For offenses that occurred or began during the period from October 1983 to September 1996, the disqualification will be six months for the first offense, twelve months for the second offense, and permanent for the third offense.

For certain offenses there are specific penalties. See the chart below.

Offense	Penalty
Trading food stamp benefits for controlled substances	Permanent disqualification
Trading firearms, ammunitions or explosives for food stamp benefits	Permanent disqualification
Trafficking (selling) food stamp benefits in the amount of \$500 or more	Permanent disqualification
Making fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously (duplicate participation)	10 year disqualification

Only the household member found to have committed an IPV would be disqualified. Remaining members may participate if otherwise eligible. The disqualification will be effective on the first day of the month following the month in which the household member received written notification of the hearing decision. Once imposed, a disqualification period continues uninterrupted until completed regardless of whether the food stamp case is open or closed.

Upon receipt of a decision, the worker will establish a disqualification period that begins with the month following the month the household received the hearing decision. Then the worker will recalculate the household's budget in accordance with FSC 1623.2. Last, the worker will complete and route the *Action Taken on Your Fraud Hearing (DCO-256)* and *Food Stamp Disqualified Recipient Report (DCO-19)*.

An advance notice of adverse action is not required when a disqualification is imposed. The DCO-256 serves as notification of the disqualification period and the resulting change in benefit amount. The DCO-19 must be completed according to the instructions on the form and routed within 10 days of receipt of an IPV decision. The original is routed to the Central Office, Food Stamp Section, mail slot 1240. A copy of the form is filed in the case record and retained for three years following the date the disqualification ended. For a permanent disqualification, the form is retained indefinitely.

16810 Disqualified Recipient System (DRS)

12-01-00

The Disqualified Recipient System (DRS) is an automated system that contains information about individuals disqualified from participating in the Food Stamp Program due to an IPV.

A *Food Stamp Disqualified Recipient Report*, DCO-19, must be routed to the Central Office, Food Stamp Section, where the form will be keyed to a DRS data file. The DRS file is transmitted to the Department of Agriculture, Food and Nutrition Services (FNS) National Computer Center in Kansas City each month.

16812 DRS Error Report

12-01-00

The day following transmission of the data file to Kansas City, the Central Office, Food Stamp Section receives an error report. For example, an DCO-19 is keyed with disqualification number entered as "1" but the national DRS file already has a first offense record in the data file for the individual. If the Food Stamp Section can resolve the items on the error report received from FNS, the correction will be forwarded to FNS at the next available opportunity. However, errors that cannot be resolved by the Food Stamp Section are returned to the DHS County Office for resolution.

16814 DRS Voice Response Unit (VRU)

12-01-00

The Voice Response Unit (VRU) provides recipient disqualification information for the DRS. The VRU is accessed by using a touch tone telephone, a six digit User ID, and a six digit password. Dialing 1-800-445-9498 accesses the VRU.

The VRU should be accessed prior to approving an application from a household that moved to Arkansas from another state within the past three months. (All adult members of the household should be screened against the DRS VRU.) The VRU should be accessed prior to adding an adult member to an existing food stamp household if this member moved to Arkansas from another state within the past three months.

The VRU should be accessed prior to imposing a disqualification if the individual appeared on the report "Food Stamp Recipients With Pending/Active Intentional Program Violations". This query is needed to determine if this offense is first, second, or third offense. Since data from the old DRIPS system has not been updated to the new DRS for Arkansas, the case record must also be checked the offense is imposed.

16815 FACTS/DRS Interface

12-01-00

Each month the Central Office, Food Stamp Section, receives a Match File of DRS cases from FNS. The DRS Match File contains information about individuals who are currently serving disqualification and individuals whose disqualification period has not yet been imposed. The DRS Match File is interfaced with a data file of active food stamp recipients. Individuals participating in a food stamp case who are on the DRS Match File are included on a report "Food Stamp Recipients With Pending/Active Intentional Program Violations". The report is sent to the DHS County Office where the food stamp case is located.

16816 Action on DRS Data

12-01-00

When an individual is included on the "Food Stamp Recipient With Pending/Active Intentional Program Violations" report, the county must impose the disqualification as per FSC 16800 using the report. Information printed on the report includes the food stamp case name and case number as well as the following information for the IPV individual:

- Name
- SSN
- Date of Birth
- Sex Code
- Disqualification Number
- Disqualification Start Date
- Length of Disqualification (*99 if permanently disqualified*)
- Disqualification Decision Date

The following information appears on the report to help the county office obtain needed information from the state and/or county that placed the DRS record on the national system:

- State of Disqualification
- Locality of Disqualification (*This is the county code if the state is in Arkansas or the FIPS code if state is not in Arkansas. A FIPS Code Directory is available in each DHS county office.*)
- Contact Title (*This is the job title of individual to contact for information about the disqualified individual.*)
- Contact Organization (*This is the office to contact for information about the disqualified individual.*)
- Contact Phone
- Contact Phone Extension

Upon imposition of the disqualification, the DHS county office completes a DCO-19 and a copy is forwarded to the Food Stamp Section, Slot 1240. The Food Stamp Section keys the DCO-19 into the DRS file for transmission to FNS.

16820 Overpayment Unit Actions

12-01-00

Upon receipt of a copy of a hearing decision of IPV, the Overpayments Unit will issue a letter to the household. The letter will specify that the household must make restitution for the related overpayment. The letter will also specify that if an agreement to repay the overpayment is not made within 30 days, the household's food stamp benefit amount will be reduced to recoup the overpayment.

After the individual who committed the IPV is disqualified, the household continues to be liable for repayment of the resulting overpayment. The remaining household members must begin restitution during the period of disqualification.

If the household agrees to make restitution, but fails to do so, the household's food stamp benefit amount will be reduced to recoup the overpayment. (The household may also choose to make restitution through recoupment.) Either 20% of the household's monthly food stamp benefit amount or \$10.00, whichever is greater, will be recouped. If the household stops participating in the Program while the overpayment is being recouped, equivalent cash payments will be required until the overpayment is completely repaid.

See FSC 15530 for additional information on collection of overpayments.

16830 Imposition of Disqualification When a Waiver is Signed

12-01-00

If the accused individual signs the *Waiver of Hearing and Disqualification Agreement* (DHS-267) within the specified time frames, the individual will be disqualified as instructed in FSC 1623.2.

The original signed waiver is routed to the Overpayment Unit. Two copies are sent to the appropriate county office. One copy will be filed in the case record. The second copy will be sent to the disqualified individual with a completed *Action Taken on Your Administrative Disqualification Hearing/Waiver* (DCO-256).

The period of disqualification will begin with the first month following the month during which the household member received written notification of the disqualification. (Unless the Fraud Investigations Unit can reasonably expect to get a waiver packet to the county by the 20th of the month, the Fraud Investigations Unit will delay imposition of the penalty until the following month.) If appropriate, the household's certification period will be shortened to end in the month when the disqualification ends. The household of the disqualified member is liable for the overissuance resulting from the IPV.

The Overpayment Unit will contact households that complete the DCO-257 to arrange for repayment to begin. A *Food Stamp Intentional Program Violation Repayment Agreement* (DHS-254) will be issued to the household.

See FSC 16800 for complete instructions on disqualifying a household member for IPV.

16840 Court Imposed Disqualification

12-01-00

DCO will disqualify an individual found by a court of law to have committed an IPV for the length of time specified by the court. Individuals found guilty in a federal, state or local court of trading food stamps for controlled substances will be disqualified permanently. Individuals found guilty by a court of trading firearms, ammunition or explosives for food stamps will be subject to permanent disqualification. If the court does not impose a disqualification period, DCO will impose a disqualification period in accordance with FSC 16800.

When a court finds that a household member has committed an IPV, the Fraud Investigation Section will inform the county office by memo, with a copy to the Overpayments Unit. Upon receipt of the memo, the county office will immediately complete a *Notice of Court Decision* (DCO-259), and send it to the disqualified household member to initiate the disqualification.

NOTE: Court decisions that specify that NO disqualification is to be imposed do not require a DCO-259.

The budget will be recalculated, and the certification period will be shortened to coincide with the disqualification period if necessary. The income and resources of the disqualified member are handled according to procedures described in FSC 1623.2.

A *Food Stamp Intentional Program Violation Repayment Agreement* (DCO-254) will be sent to the household by the Overpayments Unit upon notification of a finding of an IPV by a court of law.

16900 Appeal Rights After the Hearing

12-01-00

No further administrative appeal procedure exists after an adverse decision through an administrative disqualification hearing. Another administrative disqualification hearing cannot reverse the determination of an IPV resulting from an administrative disqualification hearing. The household member is, however, entitled to seek relief in a court having appropriate jurisdiction since the period of disqualification may be subject to change through a court decision.

16910 Judicial Review

12-01-00

An individual found guilty of an IPV through an administrative disqualification hearing has the right to judicial review.

Within 30 days from the date the petitioner received the decision a petition must be filed in the circuit court of any county in which the petitioner lives or does business or in the circuit court of Pulaski County. Copies of the petition are served on the Agency and other parties of record by personal delivery or mail.

Within 30 days from the date of the service of the petition on the agency or additional time granted by the court, not to exceed 90 days total, DCO must transmit to the court, the original or a certified copy of the entire record of the hearing under review.

The review shall be conducted by the court without jury and will be confined to the record unless a question of irregularity in the procedure exists which is not indicated in the record. Testimony may then be taken before the court.

16920 Reversed Disqualification

12-01-00

In cases where the conviction of an individual for IPV is reversed by a court of appropriate jurisdiction, DCO will reinstate the individual in the Program if the household is otherwise eligible. Benefits that were lost as a result of the disqualification will be restored in accordance with the procedures specified in FSC 13330. If an administrative disqualification hearing decision is reversed, the county office will be advised so that any disqualification can be ended.

