

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency _____

Department _____

Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

☐

Emergency (ACA 25-15-204)

Legal Notice Published _____

☐

10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment _____

☐

Other _____

(Must be more than 10 days after filing date.)

Reviewed by Legislative Council _____

Adopted by State Agency _____

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Mary Franklin

Signature

Phone Number

E-mail Address

Title

Date

ARKANSAS LEGISLATIVE COUNCIL

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**Room 315, State Capitol Building
Little Rock, AR 72201**

Marty Garrity

Executive Secretary

Tel: 501-682-1937

Fax: 501-682-1936

August 22, 2024

Ms. Mary Franklin, Director

Department of Human Services (DHS), Division of County Operations

P. O. Box 1437, Slot S295

Little Rock, AR 72203-1437

Dear Director Franklin:

This letter is to notify you that, the Executive Subcommittee met on August 22, 2024, pursuant to ALC Rule 21(f)(3)(B), to review an emergency rule for the DHS Division of County Operations. The following emergency rule was reviewed and approved:

- ***DHS - Division of County Operations: Compacts of Free Association (COFA) SNAP and TEA Eligibility***

The proposed emergency rule is reviewed and approved, and the review and approval shall be effective upon adjournment of Arkansas Legislative Council, Friday, August 23, 2024.

Sincerely,

A handwritten signature in black ink, appearing to read "Marty Garrity", written over a horizontal line.

Marty Garrity

Executive Secretary

MG:sla

cc: Ms. Kristi Putnam, Secretary
(via electronic mail)

1600 Process 4 – Determining Household Composition

SNAP Manual 02/01/20

A SNAP household is normally composed of an individual living alone or a group of individuals who live together and who customarily purchase food and prepare meals together. To “customarily purchase and prepare together” means that the household purchases food and prepares meals for home consumption as one unit more than 50% of the time. This includes individuals who intend to purchase and prepare meals for home consumption as a unit but lack the financial means to do so until SNAP benefits are received.

1620 Evaluating Eligibility of Members

SNAP Manual 02/01/20

The county office worker will evaluate each household member listed on the application to determine if that member is eligible to participate in the Supplemental Nutrition Assistance Program. The categories of individuals who are not eligible to participate in the Supplemental Nutrition Assistance Program are listed below.

1. Ineligible Aliens-Undocumented Aliens - See SNAP 1621 for details regarding qualified aliens. Ineligible-Undocumented aliens are those who are unable or unwilling to verify immigration status.
2. Certain Students Enrolled in an Institution of Post-Secondary Education - See SNAP 1622.2 for an explanation of which students are ineligible to participate in the program.
3. Disqualified Individuals - This includes people disqualified for any of the following reasons:
 - a. An intentional program violation (IPV) as defined in SNAP 15410
 - b. Failure to comply with the social security number (SSN) requirement as explained in SNAP 2100
 - c. Failure or refusal to comply with the work registration requirements explained in SNAP 3400
 - d. Noncompliance with the Workfare requirement explained in SNAP 3700
 - e. Being currently classified as a fleeing felon as explained in SNAP 1622.10
4. Boarders - See SNAP 1624 for an explanation of boarder policy.
5. Residents of Institutions - See SNAP 1800 for a definition of an institution and the exceptions to this rule.
6. OCSE (Office of Child Support Enforcement) Non-cooperation Disqualification -This includes both custodial parent and non-custodial parent who do not cooperate with OCSE.

SNAP CERTIFICATION MANUAL –SECTION 1000

1621 Citizenship Status

SNAP Manual 10/01/2024

Participation in the Supplemental Nutrition Assistance Program is limited to US citizens and certain non-citizens who are lawfully residing in the United States.

Proof of citizenship will only be requested if an individual's U.S. citizenship is questionable.

A United States citizen is:

- A person (other than the child of a foreign diplomat) born in the United State of America or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship.
- A person born outside of the United States to at least one (1) U.S. citizen parent. (These individuals are sometimes referred to as "derivative citizens.")
- A naturalized U.S. citizen.

Individuals who claim to be naturalized citizens must have completed all the requirements for citizenship, including the swearing in, and must have verification of their status as a naturalized citizen before they can participate in the Supplemental Nutrition Assistance Program as a citizen. (They may participate as a non-citizen if they meet those requirements.)

A United States non-citizen national is:

- A person born in American Samoa or Swain's Island on or after the date the U.S. acquired the possession of either territory.
- A person whose parents are U.S. non-citizen nationals.

U.S. non-citizen nationals are treated as U.S. citizens.

The DHS County office worker must accept participation in another program as acceptable verification if verification of citizenship or non-citizen national status was obtained for that program. For other household members whose citizenship is questionable, the worker may accept any of the following documents as proof of citizenship:

- Birth certificate showing birth in one of the fifty (50) states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and Swain's Island or the Northern Marianna Islands.
- United State passport except for limited passports which are issued for periods of less than five (5) years.
- Report of birth abroad of a U.S. citizen issued by the Department of State.
- Certificate of birth by a foreign-service post.
- Certificate of Naturalization.

SNAP CERTIFICATION MANUAL –SECTION 1000

- Certificate of Citizenship issued to individuals who derive their citizenship through a parent.
- Northern Marianna Identification Card
- Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen.
- American Indian Card with a classification code “KIC”
- Adoption Finalization Papers that show the child’s name and place of birth in the United States or one (1) of its territories.

If none of these documents is available, the alien may provide secondary evidence such as religious records, school records, or census records that indicate birth in the United States.

If the household cannot obtain any of the forms listed above to verify citizenship and the household can provide a reasonable explanation as to why verification is not available, the worker will accept a signed statement, under penalty of perjury, from a third party indicating a personal knowledge that the member in question is a U.S. citizen or non-citizen national. The signed statement must contain a warning of the penalties for helping someone commit fraud. In the absence of verification or third party attestation of U.S. citizenship or non-citizen national status, the household member whose citizenship status is in question will be treated as an ineligible alien (see [SNAP 1621.6](#)) until the issue is resolved.

A legal immigrant who has lived in the United States as a qualified alien for a period of five (5) years or longer may participate in the Supplemental Nutrition Assistance Program if otherwise eligible. See SNAP 1621.1.

Not all aliens who are residing in the United States are allowed to participate in the Supplemental Nutrition Assistance Program. With some exceptions, aliens will be allowed to receive SNAP benefits only if:

1. The alien meets the criteria to be classified as a “qualified alien”; and
2. The alien meets one (1) of the conditions under which a “qualified alien” may receive SNAP benefits.

See [SNAP 1621.1](#) for an explanation of a qualified alien.

An alien who will be allowed to participate in the Supplemental Nutrition Assistance Program is referred to as an “eligible alien.” However, “eligible aliens” must also meet Supplemental Nutrition Assistance Program requirements such as income and resource limits.

Ineligible aliens include aliens such as, but not limited to:

- Visitors and tourists;
- Students;

SNAP CERTIFICATION MANUAL –SECTION 1000

- Diplomats;
- Aliens admitted under color of law;
- Aliens who have applied for eligible status but have not yet been approved; and
- Aliens who have a questionable or unverified status.
- COFA citizens residing in American Samoa, Puerto Rico, or the Commonwealth of the Northern Mariana Islands (CNMI)

1621.1 Qualified Aliens

SNAP Manual 10/01/2024

A qualified alien is:

- An alien who is lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). This category also includes “Amerasian immigrants” as defined under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988.
- An alien who is granted asylum under section 208 of the INA.
- A refugee admitted to the United States under section 207 of the INA. This includes victims of severe forms of trafficking, their minor children, spouses, and in some cases, their parents and siblings. See SNAP 1621.3.4 for additional information about trafficking victims.
- An alien who is paroled into the United States under section 212(d)(5) of the INA for a period of at least one (1) year.
- An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA.
- An alien granted conditional entry under section 203(a)(7) of the INA as in effect before April 1, 1980.
- An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980.
- Compacts of Free Association (COFA) citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who lawfully reside in the United States.
- A battered alien. See SNAP 1621.1.1 below for additional information about battered aliens.

SNAP CERTIFICATION MANUAL – SECTION 1000

1621.3.1 Participation after Five Years as Qualified Alien

SNAP Manual 10/01/2024

Any alien who has lived in the United States as a qualified alien for a period of five (5) years or longer may participate in the Supplemental Nutrition Assistance Program if he or she is otherwise eligible. The Immigration and Naturalization Service (INS) has the sole responsibility for determining the status of an immigrant as a qualified alien. The five (5) year waiting period begins on the date the immigrant obtains status as a qualified alien through the INS.

Even though some refugees may be granted qualified alien status prior to entering the United States, the five (5) year waiting period will begin with the date of entry into the United States.

A legal permanent resident may have been admitted to the United States under another status that confers qualified alien status. In that case, the five (5) year waiting period began on the date the alien became a qualified alien.

When qualified alien status is granted retroactively, the retroactive time will count towards the five (5) year requirement.

If the documentation presented by the alien provides the date on which the alien was granted qualified alien status, this documentation may be used to verify that the alien has met the five (5) year waiting period. (See SNAP 1621.5 for instructions on using the SAVE system to authenticate the documentation.)

For battered aliens, the five (5) year waiting period begins when the prima facie case determination is issued or when the abused immigrant's INS I-30 visa petition is approved. The relevant date for eligibility is the date the immigrant obtained qualified alien status as an abused immigrant rather than the date of that individual's immigration status, such as that of an alien legally admitted for permanent residence (LPR).

NOTE: Compacts of Free Association (COFA) citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau who lawfully reside in the United States are not subject to a waiting period and are immediately eligible for benefits as long as they meet all other SNAP financial and non-financial eligibility requirements.

2200 Eligibility Determination

2220 Citizenship or Alienage Requirement

- *Collateral Statement*, Form DCO-76, completed by a friend or neighbor showing the child as a household member. (Primary type)
- Phone contact with a friend or neighbor.
- Information from current school records
- Other types of collateral contact.

The verification used will be documented or filed in the case record.

2220 Citizenship or Alienage Requirement

10/01/2024

Each individual for whom application is made must be one (1) of the following:

1. A United States citizen (native born or naturalized); or
2. An alien lawfully admitted for permanent residence prior to August 22, 1996; or
3. A qualified alien for whom federal law requires benefits under Title IV-A of the Social Security Act to be provided.
4. An alien who entered the United States on or after August 22, 1996, and has been in “qualified alien” status for at least five (5) years. (**NOTE:** For an alien who is granted qualified alien status due to being a battered alien, the five (5) year period begins with the date of the prima facie case determinations or the date the I-130 visa petition is approved.)
5. An individual who lawfully resides in the United States in accordance with the Compact of Free Association (COFA) between the government of the United States and the governments of the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM), or the Republic of Palau. These individuals may lawfully live and work in the United States and its territories as non-immigrants without a visa.

An alien lawfully admitted for permanent residence prior to August 22, 1996, includes the following:

- A refugee admitted under Section 207 of the Immigration and Nationality Act (INA);
- An alien granted asylum under Section 208 of the INA;
- An alien who was paroled into the United States under Section 212(d)(5) of the INA for a period of at least one (1) year;

2200 Eligibility Determination

2220 Citizenship or Alienage Requirement

- An alien whose deportation is being withheld under Section 243(h) of the INA;
- An alien who was granted conditional entry pursuant to Section 203(a)(7) as in effect prior to April 1, 1980.

2200 Eligibility Determination

2220 Citizenship or Alienage Requirement

A qualified alien under Item #3 above is one who meets one of the following criteria:

- a. Was admitted to the United States less than five (5) years ago as a refugee under Section 207 of the Immigration and Nationality Act.
- b. Was granted asylum under Section 208 of the Immigration and Nationality Act less than five (5) years ago.
- c. Whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act and such withholding decision was made less than five (5) years ago.
- d. Has been admitted for permanent residence under the Immigration and Nationality Act and has worked forty (40) qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as follows:
 - 1) All of the qualifying quarters of coverage worked by the alien's parent while the alien was under 18 years of age will be credited to the alien;
 - 2) All of the qualifying quarters of coverage worked by the alien's spouse during their marriage provided they are still married or the spouse is deceased.
 - 3) No qualifying quarter of coverage described above, beginning on or after January 1, 1997, worked by the alien, parent, or spouse) will be credited to the alien if the alien, parent, or spouse (as appropriate) received any Federal means-tested public benefit during the period for which the qualifying quarter of coverage is so credited.
- e. Is lawfully residing in the State and is (1) a veteran with an honorable discharge from the military; (2) on active duty (other than for training) in the Armed Forces of the United States; or (3) the spouse or unmarried dependent child of an individual described in (1) or (2).
- f. Has been certified as a victim of a severe form of trafficking under the Victims of Trafficking and Violence Protection Act of 2000, Section 107 (PL 106-38).

A qualified alien under Item #4, including battered aliens, is one who meets one of the following criteria:

2200 Eligibility Determination

2221 Methods of Proving Citizenship or Alienage Status

- An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
- An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year; and
- An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

2221 Methods of Proving Citizenship or Alienage Status

03/28/18

A declaration of citizenship will be accepted unless the County Office determines that the declaration is questionable in which case verification such as birth certificates or naturalization papers will be required.

The following documents may be used to verify alien status:

1. Refugee: INS Form I-94 annotated "Admitted as a refugee pursuant to Sec. 207 of the INA"; INS form I-688B or I-766 annotated "274a.12(a)(3)"; or Form I-571. Date of entry must be less than five (5) years from the current date.
2. Asylee: Form I-94 annotated "Asylum status granted pursuant to Sec. 208 of the INA"; a grant letter from the Asylum Office of the INS; Form I-688B or I-766 annotated "274a.12(a)(5)"; or an order of an immigration judge granting asylum. (If a court order is presented, verify that the order was not overturned on appeal by sending a G-845 to INS, attaching a copy of the document.) The date asylum was granted must be less than five (5) years from the current date.
3. Deportation Withheld: An immigration judge's order showing deportation withheld under Sec. 243(h) and date of the grant; or Forms I-688B or I-766 annotated "274a.12(a)(10)". (If a court order is presented, verify that the order was not overturned on appeal by sending a G-845 to INS, attaching a copy of the document.) The date deportation was withheld must be less than five (5) years from the current date.
4. Lawfully Admitted for Permanent Residence: I-551 (Green Card); or, for recent arrivals, a temporary I-551 stamp on a foreign passport or on Form I-94.