

Part 2

General Eligibility Rules

15 What is a food stamp/SNAP household or assistance unit?

A food stamp/SNAP household or assistance unit is either a person living alone or a group of people living together who “*customarily purchase and prepare*” a majority of meals together. 106 C.M.R. § 361.200. This “household rule” applies whether or not the people living together are related by blood or marriage or have any legal obligations to each other. When a group of people live under one roof, they are considered a food stamp/SNAP “household” if they buy and share food most of the time.

The food stamp/SNAP household rule also says that spouses who live together and children who live with parents under age 22 must be in the same household—even if they do not buy food and prepare meals together, or not all want food stamp/SNAP benefits. See **Question 17**.

Unlike TAFDC, EAEDC and MassHealth rules that look at the legal responsibility of persons who live together, the food stamp/SNAP program looks at a “household” based on the group of people under the same roof and how they buy and share food. This is a fundamental concept of the food stamp/SNAP program, but it can confuse both low-income households and advocates because it is different from how other needs-based programs operate.

Note: Federal regulations use the term “household.” 7 C.F.R. § 273.1(a). DTA sometimes uses the term “household” and sometimes uses the term “assistance unit.” This Guide uses the term “household.”

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Can I get benefits separately from other people I live with?

If people live with you but buy their own food and prepare the majority their own meals *separately* (for example, 11 or more meals per week), you may be able to get your own food stamp/SNAP benefits. You are not required to keep your food separate from their food, use a different stove or refrigerator or even have access to cooking facilities. 106 C.M.R. § 361.200. Unless the information is questionable, you can also self-declare your living situation on the application form. See **Question 8**.

Example: Jane and Steve are roommates who share an apartment. Both have jobs, Jane works part-time. They sometimes eat dinner together, but they buy and prepare most of their food separately. Jane and Steve can be separate food stamp/SNAP households. Even if they share a bedroom—unless legally married—they can be separate food stamp/SNAP households if they purchase and prepare most of their meals separately.

Being in a separate food stamp/SNAP household usually means you will get more benefits. That’s because each separate food stamp/SNAP household gets the full deductions on income before the monthly benefit amount is calculated. It also means you cannot be cut off or denied if the other person does not comply with the work rules, income reporting or other program rules. However, some people, like spouses and children, *are required* to be in the same household even if they buy and prepare food separately. 106 C.M.R. § 361.200(A). See **Question 17**.

If you are too disabled to purchase and prepare your own food, but someone else who is not your spouse or parent (if you are under 22) does it for you, you can also get separate household status. See **Question 18**.

Additional Policy Guidance on Purchase and Prepare Rule: • Applicant need not verify household composition (e.g., that the applicant purchases and prepares separately) unless questionable. Household composition questions removed from landlord verification form. Transitions Hotline Q&A, (May 2008) • A person too disabled to purchase and prepare for him or herself and gets assistance from others can also qualify for separate household status. Transitions FYI (Dec. 2007) • Roommate subletting need not get “shared housing verification form” filled out; roommates can be separate households without verification unless questionable. Transitions Hotline Q&A, (July 2007) • DTA clarifies the *majority of meals* concept in a Bay State CAP mailing to SSI

recipients living with others but preparing most meals separately as follows: “most means 11 or more meals per week.” F.O. Memo 2005-50, Attachment B (Oct. 3, 2005).

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Who cannot be a separate food stamp/SNAP household?

Some people cannot be a separate household *even if* they buy and prepare their food separately. Here are three important exceptions:

- A child under age 22 who is living with her or his parent or stepparent must be in the same food stamp/SNAP household as the parent. 106 C.M.R. § 361.200(A)(3).
- A child (other than a foster child) under age 18 who is living with a responsible adult (regardless of relationship) must be in the same household as the adult. 106 C.M.R. § 361.200(A)(2).
- A husband and wife who live together must be in the same household, even if they never share meals together. 106 C.M.R. § 361.200(A)(1).

Example 1: Jane Doe is 20 years old. She and her baby live with her mother Margaret and Jane’s twin brothers, who are 12. Jane receives TAFDC for herself and her baby, and buys food and fixes meals separately from the rest of her family. Because Jane is under age 22, she cannot get food stamps/SNAP separately for herself and the baby. Jane, her baby and her brothers and her mother have to qualify for benefits as one household, or not at all.

Example 2: Katherine Kraft is 65 years of age and receives Social Security. She cares for her two grandchildren, ages 8 and 12, and receives TAFDC for them. Katherine cannot get separate food stamp/SNAP benefits for her grandchildren because they are minors and she provides financial and parental supervision for them.

Households with a foster adult or child

There are also special household rules for foster children and foster adults. Unlike other situations, a household can *choose* to include or exclude the foster child from the food stamp/SNAP unit. 106 C.M.R. § 361.240(F). If the foster child/adult is included, the foster care payments will count as

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income to the household. It is usually better to exclude the foster child/adult to maximize the food stamp/SNAP benefits for the rest of the household. The foster child, however, cannot get benefits as a separate household.

Example 3: Sam and Susan Smith-Jones have two children of their own. They also care for a foster child, Jimmy, and get foster care payments of roughly \$600 per month for him. Sam and Susan have a choice. They can apply for food stamps/SNAP for themselves and their two children. Their income—excluding the foster care payments—will be used in the calculation of their benefits for *four* people. Alternatively, Sam and Susan can apply for food stamps/SNAP for themselves, their two children, *and* their foster child, Jimmy. In that case, their income, plus the foster care payments, will be used in the calculation of benefits for *five* people. Households usually get more food stamp/SNAP benefits excluding the foster child since the foster care payments are excluded as countable income.

Advocacy Reminders:

- ✓ The TAFDC and food stamp/SNAP rules differ in how they treat teen parents who live with parents or siblings. Although a teen parent age 18 or older can get her own TAFDC grant for herself and her baby, she *cannot* get her own food stamp/SNAP benefits separately from her parents if she lives with them, until she turns age 22. If her parents do not wish to apply for food stamps/SNAP, the teen parent is not eligible but her TAFDC should continue.
- ✓ The TAFDC and food stamp/SNAP rules also differ in the treatment of children living with non-parent relatives. A grandparent, stepparent, aunt, or other relative can get separate TAFDC for a dependent child without being part of the TAFDC unit or having his/her income count, 106 C.M.R. § 204.320. However, in the food stamp/SNAP world, a relative cannot get separate food stamps/SNAP for the child under age 18 where they exercise parental control over the child.

Additional Policy Guidance on Household Status: • DTA affirms option to include/exclude foster care child/adults in household. Hotline Q&A (Oct. 1992) • Adopted children are required to be included in household with parents. Transitions Hotline Q&A, (Oct. 2001) • Foster grandparent income not countable for food stamps/SNAP. Transitions FYI (Jan. 2005)

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What if I am elderly or disabled and live with other people but I cannot buy and cook my own food?

There are *two* options that can help households get food stamp/SNAP benefits, even when they are unable to prepare their own meals:

Option 1: *If you are disabled, and your disability makes you unable to purchase and prepare your own food, you can get food stamps/SNAP separate from the people you live with – even if they shop and cook food for you. This option is available as long as the majority (more than half) of the food you consume is purchased with your income and prepared separately. Unlike Option 2, you do not have to be both elderly and disabled and you do not need to get proof of the income of the people you live with. However, if the person buying and cooking food for you is your spouse, or your parent if you are under age 22, you cannot get separate benefits.*

There are many reasons why persons with disabilities may have meals prepared separately including where persons with disabilities have special diets or food preferences, have meals at different times from others, need to manage their income and expenses separate from others. Having a disability that prevents you from buying and cooking food for yourself does prevent you from getting your own food stamp/SNAP benefits.

Example: Thomas is a 35-year-old disabled adult. He shares an apartment with a roommate, Joe. Because Thomas is unable to buy and cook his own food due to his disability, Joe does that for him. Thomas gives Joe money to buy food and Joe cooks it for him. Joe also cooks and prepares food for himself separately. Sometimes they share a meal, but the majority of meals Thomas consumed at home (more than half) are purchased and prepared separately. Joe could also be Thomas's authorized representative and use his EBT card to purchase food for Thomas. Either way, Thomas can be his own food stamp/SNAP household and not require Joe to participate in the program or provide information on his income and assets.

Option 2: *If you are 60 or older and have a permanent disability that prevents you from buying and preparing food, you may be able to get food stamps/SNAP separately for yourself even when you live people who buy and prepare all the food for the household together. To qualify for a*

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separate food stamp/SNAP household you must be a permanently disabled person, over age 59 *and* the gross income of the other people living with you must be less than 165 % of the federal poverty level (FPL). 106 C.M.R. § 361.200(B)(4). See **Appendix B, Chart 5**.

Example: Bertha Doe is a 75-year-old disabled woman. She receives \$800 per month in Social Security benefits. She lives with her 40-year-old daughter Mary and her two kids. Mary's gross income is \$1,200 per month and there is no other countable income in the household. Mary purchases food and prepares the meals for the entire family, including Bertha. Since Bertha is both disabled and over age 59 years of age, she can still be a separate food stamp/SNAP household because her daughter's gross income is below 165 percent of the federal poverty level for a family of three (Mary and her two children). Mary also has the option of applying for food stamps/SNAP for herself and her children. The two separate households will receive more in benefits than a combined household. If Bertha's husband happens to live in the home, he and Bertha would have to be in the same food stamp/SNAP household.

In Option 1, DTA should accept a self-declaration that you are unable to purchase and prepare your meals separately but your roommate or assistant provides that service with you. Note, if your spouse or children under age 22 live with you, they must be in same household with you as described in **Question 17**.

Additional Policy Guidance on Separate Household Status: • Individual who is *both* elder and disabled can qualify as separate SNAP unit if income of other household members is below 165% below FPL. DTA Transitions Hotline Q&A (Oct. 2010). • A person too disabled to purchase and prepare for him or herself (regardless of age) and gets help from others to purchase and prepare can also qualify for separate household status (not need to be elderly or show income of others). Transitions FYI (Dec. 2007) • USDA clarification that a person too disabled to purchase and prepare his or her own food can still be a separate food stamp/SNAP household if the food prepared by another person is prepared separate from other individuals. Neither the 165% gross income test nor needing to be both elderly and disabled are applicable in this situation. USDA Food and Nutrition Service policy memo, June 12, 2006, <http://www.fns.usda.gov/snap/rules/Memo/2006/061206.pdf>

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Are there special rules for elders and persons with disabilities?

Yes! If you are disabled or elderly (60 years of age or older) you can benefit from special program rules. 106 C.M.R. § 361.210.

- You can deduct out-of-pocket medical expenses and un-capped shelter expenses from your income. 106 C.M.R. § 364.400(C), (G). See **Question 53**.
- You may still qualify for benefits if your gross income *exceeds* the 200% gross income test and your net income after deductions is below the 100% poverty level test. See **Question 51**. However, you must also meet the \$3,000 asset test. 106 C.M.R. §§ 363.110(A), 364.370, 364.550. See **Question 42**.
- You can deduct out-of-pocket medical expenses and un-capped shelter expenses from your income. 106 C.M.R. § 364.400(C), (G). See **Question 53**.
- You do not have to comply with work requirements. 106 C.M.R. §§ 362.310(B), 362.320(B). See **Questions 36-38**.
- If you are a legal permanent resident, battered immigrant or parolee—*and* you are also disabled—you are not required to wait five years from when you got status to get benefits. 106 C.M.R. § 362.220(B)(7)(e). See **Question 23**.
- You can sometimes be a separate food stamp/SNAP household even if someone else buys and prepares food for you. 106 C.M.R. § 361.200(B)(4). See **Question 18**.

You are considered elderly when you turn age 60 or older. DTA will ask you for proof of your age if questionable. Chances are you verified your age when you verified your identity or DTA checked your SSN in the Social Security data base, which data base also confirms your age.

You are considered disabled if you get:

- Supplemental Security Income (SSI) benefits or social security disability benefits,

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- a public disability retirement pension, if you have the kind of disability that social security considers permanent,
- railroad retirement disability benefits,
- veteran's disability benefits or veteran's benefits for a spouse or children if you meet special rules,
- MassHealth for the disabled (DTA can verify this by calling MassHealth),
- EAEDC benefits based on a severe disability, *or*
- TAFDC benefits and you are exempt from the work rules or time limits based on a severe disability.

If you receive EAEDC or TAFDC cash assistance, in order to meet the food stamp/SNAP disability criteria, you need to meet the SSI standards of disability as determined by the Disability Evaluation Service (DES). DES codes cases that meet SSI standards as decision code 100, 110, 120, or 130 on the "Disability Determination Tracking Form" it sends to DTA. Many disabled EAEDC and TAFDC recipients meet SSI standards even though they have not been approved for SSI benefits.

For elder immigrants who do not get a DES evaluation, DTA has developed a form on which a doctor can certify that the immigrant meets the SSI standards. This is especially important for legal permanent residents subject to the 5-year waiting period. See **Question 23**.

Additional Policy Guidance on Disability: • Specific DES disability codes (Disability Evaluation Service) recognized for MassHealth Disability and EAEDC recipients. Transitions Hotline Q&A (Dec. 2009) • See also BEACON User's Guide, Ch. XIII-H, pp. 51-57, on how to determine severity of disability for food stamp/SNAP purposes.

20 Who is considered a United States citizen?

A United States citizen is an individual who was *born anywhere in the United States or its territories*, including Puerto Rico, Guam and the U.S. Virgin Islands. Individuals from the American Samoa or Swain's Island are also considered U.S. citizens for benefits purposes.

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An individual who was born in another country and was granted U.S. citizenship through the *naturalization process* is also a U.S. citizen. 106 C.M.R. § 362.200.

In addition, there are persons who have “*derived citizenship*” which is based on the U.S. citizenship of their parents. If an individual was born abroad and at least *one of the biological parents* was a U.S. born citizen at the time of the child’s birth and lived in the U.S. at any time prior to the birth, the individual has derived citizenship. An individual born abroad also has “derived citizenship” where *both parents* naturalized to U.S. citizenship before the child turned age 18. 106 C.M.R. § 362.210. These individuals do not need to petition for U.S. citizenship or naturalize in order to be considered a U.S. citizen and is eligible for food stamp/SNAP benefits.

Under the food stamp/SNAP program, *you are not required to verify U.S. citizenship unless the information provided is questionable*. 106 C.M.R. § 362.210. The program rules allow you to self-declare, under penalty of perjury, that you are a U.S. citizen. DTA must accept this certification unless there is some basis for it being questionable. See **Question 8**. The recent changes in the federal Medicaid law which require verification of U.S. citizenship do not affect food stamps/SNAP program.

Advocacy Reminders:

- ✓ Persons born in Puerto Rico do not need to re-verify identity, age, date of birth or U.S. citizenship unless information provided is questionable. Recent actions by the Commonwealth of Puerto Rico to void birth certificates issued prior to July 2010 should not affect most food stamp/SNAP applicants or recipients.
- ✓ It may be helpful to ask an individual born abroad if either of his or her parents were a U.S. citizen or if they naturalized before he or she turned age 18. Some clients may not know they have “derived” citizenship.

Additional Policy Guidance on Citizenship: • Federal medical law effective July 2006 requiring Medicaid/MassHealth recipients verify U.S. citizenship does not affect food stamp/SNAP households. F.O. Memo 2007-25 (March 21, 2007) • U.S. citizenship of children is not questionable solely because parents are immigrants. Transitions Hotline Q&A (March 2006) • Foreign-born children of U.S.-born and/or naturalized U.S. citizens are themselves U.S. citizens and meet the food stamp/SNAP eligibility requirements. Transitions Hotline Q&A (May 2006) • DTA guidance on handling cases for individuals with voided Puerto Rican birth certificates; U.S. citizenship can be self-declared unless questionable. F.O. Memo 2010-49 (Nov. 1, 2010)

21 Am I eligible if I am a legal immigrant?

The eligibility rules for immigrants and refugees (immigrants) are very complicated and sometimes require the advice of an experienced advocate. It is also important to note that the food stamps/SNAP eligibility rules affecting immigrants are different from cash assistance and MassHealth rules. The chart in **Appendix D** highlights the differences.

There are basically *three groups* of immigrants who qualify for benefits as under the food stamp/SNAP rules. 106 C.M.R. §§ 362.220-362.240.

Group 1: Refugees and other individuals who have fled persecution

You qualify under the food stamp/SNAP eligibility requirements if you are:

- A person who entered the U.S. as a *refugee*,
- A person granted *asylum* after entering the U.S.,
- A person granted *withholding of deportation* or removal,
- A *Cuban/Haitian entrant*—defined as a national of Cuba or Haiti who has legal status, a pending application for asylum or an application for certain other statuses,
- A *Vietnamese Amerasian* immigrant (e.g., the offspring of a U.S. citizen conceived during the Vietnam war), *or*
- A *victim of trafficking in persons*—such as slavery or sex trafficking—who has applied for status under a special process with the Department of Health and Human Services.
- *Nationals of Iraq or Afghanistan* granted a “*Special Immigrant Visa*” (SIV). These individuals are predominantly interpreters for the U.S. military in Iraq or Afghanistan and their immediate family members, who have been granted legal permanent residence in the U.S.

If your immigration status falls under one of the above, you qualify for food stamp/SNAP benefits *without the five-year waiting period*. You are also eligible without the waiting period if you previously had one of these statuses, even if you are now a legal permanent resident, parolee or battered non-citizen.

Group 2: Legal permanent residents, parolees and battered immigrants

You *may* qualify under the food stamp/SNAP requirements if you are:

- A *legal permanent resident* (LPR or sometimes referred to as a “green card holder”),
- A person granted *parolee status* (generally based on humanitarian or public interest reasons) for more than one year, *or*
- A *battered immigrant* (this includes the parent of an abused child or the child of an abused parent) who meet the requirements for battered immigrants in **Question 24**.

If you are one of the above immigrants, you also must have *five years* in qualified status *unless* you meet one of the following:

- You are a child under age 18, *or*
- You are blind or have a disability that your health care provider states meets SSI criteria *and* you are receiving a state or federal disability benefit, such as MassHealth Disability, EAEDC, or other benefits listed in **Question 23**, *or*
- You are a legal permanent resident with 40 qualifying quarters of work history. See **Question 22**.

Group 3: Immigrants with other special statuses

You also meet the food stamp/SNAP eligibility requirements, without any waiting period, if you are:

- A *Native American* born in Canada or Mexico (Native Americans born in the U.S. are U.S. citizens),
- A *Hmong or Highland Laotian tribe member* during the Vietnam war or the spouse, surviving spouse or unmarried dependent child of a tribe member, *or*
- A *veteran of the U.S. military, an active duty service member*, or the spouse, widow or dependent of a veteran or active duty service member and you are lawfully residing in the U.S. (even if not an LPR). See 106 C.M.R. § 362.240(A) for a list of immigrants considered to be lawfully residing in the U.S.

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For an excellent guide with copies of U.S. Immigration and Citizenship Service issued documents and key to the codes, see the National Immigration Law Center Guide posted at www.nilc.org.

Ineligible immigrants

Unless you fall within one of the above three groups, you are not eligible for food stamps/SNAP. See 106 C.M.R. § 362.220(D)-(G). You can still apply for benefits for U.S. citizen or qualified immigrant dependents who meet the eligibility rules, but you will not receive benefits for yourself.

Examples of ineligible immigrants include:

- A legal permanent resident or parolee over age 18 who has less than five years in qualified status and is *not* disabled. To qualify as disabled, see **Question 23**.
- An immigrant who is lawfully present under other provisions of immigration law, such as applicant for asylum or adjustment under a relative petition, an immigrant granted Temporary Protected Status, or other status where you have work authorization or are known to the Department of Homeland security,
- An undocumented or out of status immigrant, *or*
- A non-immigrant (student, visitor, diplomat).

See **Question 25** for how ineligible immigrant parents can apply for eligible children, and **Question 27** for how income of ineligible immigrants is counted to the rest of the household.

Advocacy Reminders:

- ✓ You must give proof of immigration status for any immigrant household member who is applying for food stamps/SNAP. Federal law requires DTA to confirm with immigration officials the status of all applicants through the alien status verification system, called “SAVE” or Systematic Alien Verification for Entitlements. See **Question 7**.
- ✓ USCIS now has a special process for immigrants to correct incorrect or incomplete information in SAVE. You can find information on this at www.uscis.gov Advocates report that SAVE frequently fails to show the pending status of battered immigrants, the initial entry status of parolees or persons under “Orders of Supervision” and other statutes. Contact an advocate if DTA says SAVE has not confirmed your status or if you wish to correct the information USCIS has in SAVE.

- ✓ Be sure to double check if DTA says you must wait five years for benefits. Untrained DTA workers sometimes misapply this rule to LPRs who were previously in the refugee group, to LPR children or disabled immigrants not subject to the waiting period, and battered immigrants whose waiting period starts from when the VAWA or relative petition was filed.

Additional Policy Guidance on Immigrants and Refugees: • Memo implementing federal change allowing Iraqi and Afghan Special Immigrant Visa LPRs to qualify without 5 year wait. F.O. Memo 2010-19 (March 6, 2010) • Detailed guidance on which Cuban and Haitian nationals are “Cuban/Haitian entrants” and how to verify eligibility. F.O. Memo 2007-52 (Sept. 28, 2007) • Detailed guidance on who qualifies as a battered immigrant and acceptable verifications. F.O. Memo 2005-22 (May 1, 2005) • Expired document does not mean immigrant’s legal status has expired; worker should presume immigrant may still have current legal status and do SAVE check. Transitions FYI (Oct. 2007) • Even though LPR parent and LPR child entered U.S. at the same time, the child is not subject to five-year wait; guidance includes examples of LPRs exempt from five-year wait. Transitions Hotline Q&A (March 2006) • Five-year waiting period for LPR who previously entered with parole status starts with earlier date parole was granted, not LPR status date. Transitions Hotline Q&A (May 2006) • Instructions to DTA staff on SAVE verification process and right of clients to correct SAVE information, F.O. Memo 2010-36A (Dec. 30, 2010) • See also the BEACON User’s Guide, Ch. XII-E, pp. 1-20, on coding, verification, and process for submitting SAVE inquiries, sending manual denial notices to approved households with an ineligible person..

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How can my work history help qualify me so that I don’t have to wait the five years?

Legal permanent residents with **40 qualifying quarters (10 years)** of work history meet immigrant eligibility without the five year waiting period. 106 C.M.R. § 362.220(B)(7)(f) and (g). If you are an LPR adult who is not disabled and you are told you must wait five years in status, it is important to determine if you have countable work history. In addition, having sufficient work history may make you eligible for federal Supplemental Security Income benefits if you become elderly or severely disabled.

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You can get work quarters credit for:

- **Work you did** in the U.S. or a U.S. territory and work done in some foreign countries, including work that did not count for Social Security. Check with an advocate before claiming credit for work done when the wage earner did not have work authorization or a valid social security number.
- **Work done by your spouse when you were married.** This includes work done by a common law spouse even if you were not legally “married.” It also includes work done after you separated, but before divorce (though you lose your spouse’s quarters once you divorce).
- **Work done by your parents before you were 18,** including work done by your parents before you were conceived, born, or adopted.

You can get credit for your own or someone else’s work history even if the person did not earn a lot or did not work continuously. SSA established an earnings threshold for determining quarters of work. For example, in 2007, if you earned at least \$4,000 for the year, you get 4 quarters for the year. You may be able to get four quarters of credit even if all the work was done in one quarter.

Note: Under the food stamp/SNAP rules, you cannot get credit for work done after December 31, 1996, if the wage earner also received TAFDC, Medicaid or MassHealth, SCHIP (special Medicaid benefits for children), food stamp/SNAP benefits or SSI while working.

Example: Clara C. has been in the United States for just three years but recently lost her job in a factory. Jose C., from whom she is separated but not divorced, has been here eight years. They have each been working consistently since they arrived in the U.S. Clara has 12 quarters of work (three years with four quarters in each year). Jose C. has 32 quarters of work (eight years with four quarters in each year). They have never received food stamp/SNAP, Medicaid or other federal means-tested benefits. Clara can count her 12 quarters and her husband’s 32 quarters for a total of 42. She can apply for food stamps and is not required to wait the five years.

DTA can get information about work history through the SSA Quarters of Coverage History System (QCHS). DTA sends an inquiry to SSA to find out whether you have enough qualifying quarters, including records from a spouse or parent who does not want to cooperate. If you think your spouse or your parent (before you turned 18) may have work history in the U.S., be sure to tell DTA so they can make the inquiry on this person’s work history as well (through a Form SSA-513).

Advocacy Reminder:

- ✓ You can get food stamps for up to six months while the investigation request is pending. You can also get Social Security to correct your earnings record if the earnings report is not accurate. Contact an advocate for more information about work history.

Additional Policy Guidance on Work History: • Detailed guidance (still in effect) on the process for calculating and verifying work history of immigrant, spouse of immigrant, parents through the SSA Quarters of Coverage History System. F.O. Memo 1998-15 (March 12, 1998) • See also the BEACON User's Guide, Ch. XII-E, pp. 8-9, on 40 quarters work history verification. • Receipt of Social Security survivor's benefits as a surviving spouse is sufficient proof of work quarters for food stamp/SNAP purposes. Transitions, Quality Corner, (July 2002) • Adults who entered the U.S. as children can use their parent's work history in the U.S., even if work performed before the child arrived in the U.S. Transitions, Quality Corner, (Feb.2002) • LPR may receive benefits for six months pending verification of work quarters through SSA QCHS. No recoupment of food stamp/SNAP benefits if work history ultimately not verified. Transitions FYI (June 2006)

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How can I prove disability so I do not have to wait five years?

If you are a legal permanent resident *adult*, you are exempt from the five-year wait if you receive a disability benefit based on a severe disability. 106 C.M.R. § 362.220 (B)(7)(e). Unlike cash assistance and MassHealth, the food stamp/SNAP program relies on a disability determination made by another benefit program.

If you receive MassHealth benefits or EAEDC *based on a disability*, you may be eligible *without* the five-year wait. For both programs, your disability must be as severe as the SSI disability criteria. DTA is supposed to check with the UMass Disability Evaluation Service (DES) to find out the severity of your disability.

If you are *age 65 or older* and you receive EAEDC cash assistance, DTA will let you prove disability with a signed one-page statement from your doctor, nurse practitioner, physician assistant, or psychologist. The

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disability needs to meet the SSI severity levels that apply to seniors (which does take advanced age into account for SSI purposes).

Advocacy Reminder:

- ✓ If you are an elder or disabled LPR but are not receiving EAEDC cash assistance, contact a Legal Services advocate. Some elder or disabled LPRs may not qualify for EAEDC for financial reasons (e.g., spousal income or assets above the low EAEDC limits, or they do not want/need EAEDC benefits.) An advocate may be able to find a way for you to prove disability to overcome the five-year waiting period.

Additional Policy Guidance on Disability Verification: • Broader group of health care practitioners now allowed to sign Disability Certification, including doctors, osteopaths, nurse practitioners, physician assistants, and psychologists. Transitions Q&A (July 2008) • Guidance to DTA workers on identifying both elderly and disabled EAEDC immigrants who may be eligible for food stamps/SNAP without the five-year waiting period. Guidance includes Disability Verification Form for Elderly Non-Citizens. F.O. Memo 2008-11 (March 11, 2008) and F.O. Memo 2008-28 (May 29, 2008) • See also BEACON User's Guide, Ch. XIII-H, pp. 51-57, on how to determine severity of disability for food stamp/SNAP purposes.

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What are the special immigrant eligibility rules for battered immigrants and their families?

Immigrants abused by a spouse or parent (and the children or parents of abused immigrants) may be eligible for benefits even if their immigration status is pending. 106 C.M.R. § 362.220(B)(8).

You may be eligible if you are no longer living with your abuser **and** you meet one of the following:

- Your spouse or your parent is a U.S. citizen or legal permanent resident and filed a relative petition (usually called a Form I-130) to get you legal permanent residency status. The petition can be either approved or pending with immigration officials.

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- You have a pending or approved self-petition for legal status as a victim of domestic violence. This is called a VAWA (Violence Against Women Act) petition or Form I-360. It is available to immigrants who are married to U.S. citizens or legal permanent residents but are no longer living with them.
- You have an approved or pending application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.
- You now have legal permanent resident status (a green card), and you got your green card through a petition by your spouse or parent or because you self-petitioned as a victim of domestic violence.
- You are the dependent child of a battered immigrant who has filed or been approved for one of the above, even if you are not listed on the petition.

Five-year waiting period for battered immigrant adults

Battered immigrant adults are, unfortunately, subject to the same five-year waiting period as LPRs and parolees. 106 C.M.R. § 362.220(B)(8). This rule does not apply to children under the age of 18, or immigrants who are disabled and receiving a disability-based benefit. 106 C.M.R. § 362.220(B)(8)(e).

To calculate the five-year period for battered immigrant adults, there are some important points to remember. For battered immigrants with relative visa petition (Form I-130), the five year period starts the date it was filed (or date the immigrant entered the U.S. after filing, if later). For battered immigrants who self-petitioned under VAWA, the start date for the five year period is the date that a prima facie determination was made by immigration officials for the VAWA petition (Form I-360).

Children of battered immigrants

There is no five year waiting period for children who are LPRs, have parole status, are children of immigrants who meet the battered immigrant rules, or are U.S. citizens. These children, like other qualified immigrant children, are eligible for benefits immediately. 106 C.M.R. § 362.220(B)(8)(e)(3). There is also *no* five-year waiting period in the TAFDC program for battered immigrants. 106 C.M.R. § 203.675(A)(8).

Advocacy Reminders:

- ✓ It is important to screen for the disability exemption. Many battered immigrants may be suffering from physical or emotional abuse as a result of the battering. If the immigrant is not receiving a disability-based benefit like EAEDC or TAFDC as disabled, consult an advocate.
- ✓ DTA will ask for proof of immigration status and copies of your petition for legal status. SAVE may not verify a pending or approved relative petition or VAWA petition. Some battered immigrants may also have fled without documents. DTA will accept a self-declaration from battered immigrants if proof of filing for a status is not available.
- ✓ If you filed a self-petition under VAWA, it is possible your children will not be listed on notices from the Department of Homeland Security, but your children have the same legal protections (derived status) under the special rules for battered immigrants.

Additional Policy Guidance on Battered Immigrants: • Extensive guidance on the eligibility of battered immigrants, including scope INS coding, acceptable documents, eligibility of other household members, verification if documents missing, etc. F.O. Memo 2005-22 (June 1, 2005) • Immigrants are not required to self-petition under VAWA to be considered a battered immigrant for benefits. Transitions Hotline Q&A (June 2007).

25

Can my children get benefits if I am an ineligible immigrant?

You have the right to apply for eligible household members, such as U.S. citizen children, and exclude from the application immigrant members who are not eligible or do not want to apply. When you apply, you need to indicate which household members are not seeking benefits.

DTA should not proceed with efforts to verify status if you or other household members do not wish to apply. 106 C.M.R. § 362.220. DTA should only ask for proof of the U.S. citizenship of your children if “questionable.” 106 C.M.R. § 362.210. However, even if you chose to not apply or are not eligible, as a person legally responsible for your children, you must provide DTA with information on your income and expenses.

Advocacy Reminders:

- ✓ The fact that you are an immigrant does not make the U.S. citizenship of your children questionable. DTA cannot demand proof of their citizenship unless there is a reasonable basis for DTA to question it. Contact Legal Services if unreasonable demands for verification.
- ✓ The DTA paper food stamp/SNAP application has a section that allows applicants to identify immigrant household members *not* seeking benefits. If you are apply for benefits through the internet (the Virtual Gateway), there is no section to declare who is not applying. You can send a written statement with the other proofs sent in to clarify who is and is not applying for benefits. DTA should verbally ask this question during your interview or if you are applying in person.
- ✓ Although you are not required to give information on your own immigration status if you are not applying for benefits for yourself, your eligible children may get higher benefits if you have legal status and give DTA proof of that status. DTA uses a favorable income calculation for households that include ineligible but legally present immigrants residing with the food stamp household. See 106 C.M.R. §§ 362.220, 365.520(B), and **Question 27**.

Additional Policy Guidance on mixed household eligibility: •

Extensive guidance to DTA regarding right of non-citizen to not provide information on immigration status and opt out of food stamp/SNAP application, and to apply for just eligible family members. Guidance includes opt-out form, client brochure and resource list of agencies. F.O. Memo 2004-34 (Sept. 24, 2004)

- Advisory to workers that HHS Office of Civil Rights is concerned about DTA local office practices discouraging non-citizens from applying for themselves and/or eligible children. Transitions FYI (Jan, 2004)
- U.S. citizenship of children is not questionable solely because parents are immigrants. Transitions Hotline Q&A, (March 2006)
- DTA must use favorable financial calculation for mixed households where parents provide information on legal status. Transitions Hotline Q&A, (April 2005)

26 Will receiving food stamp/SNAP benefits hurt my immigration status or will DTA report me to immigration authorities?

No. Getting food stamps/SNAP will not hurt your immigration status or create a “public charge” problem. Food stamps/SNAP are not considered cash assistance benefits. Receiving these benefits also has no impact on your ability to become a U.S. citizen if you are planning to naturalize. Other non-cash programs also do not cause public charge problems, including school breakfast or lunch, Women Infant and Children (WIC) benefits, MassHealth (other than long term care), housing subsidies, job training, child care, shelters, disaster relief, and health clinic services.

Further, DTA workers are *not authorized* to report you or share information with immigration authorities unless you give written permission. The information on your application is private. 106 C.M.R. § 360.400.

In some cases, an immigrant may be in the United States “unlawfully”—but it is not up to DTA to make that determination. The *only* circumstance where DTA can determine that you are “known to be in the U.S. unlawfully” is when DTA has seen a copy of your *final order of deportation* or other formal document that proves you are not here legally. 106 C.M.R. § 362.240(B). In that limited situation DTA is authorized to report you to the Department of Homeland Security without your permission. 106 C.M.R. § 362.220 (first section). If you are not sure about your status or need legal advice, consult an immigration specialist.

Additional Policy Guidance on Immigration Status and Public

Charge: • DTA brochure, “What Non-Citizens Need to Know.” F.O. Memo 2004-34 (Sept. 20, 2004) • DTA policy confirming that DTA staff can reporting to USCIS only when an immigrant provides a final order of deportation; reporting is done through DTA Central. Transitions FYI, (Jan. 2004) • “Unlawfully residing” involves a Final Order of Deportation or other formal U.S.C.I.S. document that shows a determination made of unlawful status. Transitions Hotline Q&A, (Feb 2002).

Other Resources on Public Charge: • Department of Homeland Security, U.S. Citizen & Immigration Service fact sheet on public charge, October, 2009. <http://www.uscis.gov/portal/site/uscis>. Includes USCIS list of programs not subject to the public charge consideration, including food stamp/SNAP benefits, WIC and other non-cash benefits. • USDA statements on

public charge and nutrition benefits, available in 34 languages. The English language version of the USDA statement can be found at:

<http://www.fns.usda.gov/snap/outreach/Translations/English/pc-english.htm>

USDA has also notified all state SNAP agencies of USCIS guidance on that receipt of SNAP benefits does not lead to “public charge,” found at:

<http://www.fns.usda.gov/snap/rules/Memo/2010/020110.pdf>

• Additional sources for information on immigrants and public benefits can be found at the National Immigration Law Center, www.nilc.org, and the Mass. Immigrant and Refugee Advocacy Coalition, www.miracoalition.org.

27

How does DTA count the income of an ineligible immigrant who lives with eligible persons?

Some ineligible immigrants live with other people who are eligible for food stamps/SNAP, such as an immigrant parent with U.S. citizen children.

There are *two* different calculations depending on the immigration status:

Calculation for households with legally present ineligible immigrants

If you are *lawfully residing in the U.S.* but ineligible for benefits *or* choose not to be part of the food stamp/SNAP household, your household benefits are calculated using a more favorable calculation. 106 C.M.R. § 365.520(B)(2)

The food stamp/SNAP regulations define a broad group of immigrants who are considered “lawfully residing.” See 106 C.M.R. § 362.240(A) for a list of immigrants considered “lawfully residing.” This includes legal permanent resident adults (some of whom must wait for five years from entry) as well as immigrants with work authorization or other proof of pending status, such as asylum applicants. It also includes lawfully residing immigrants who chose for other reasons to not apply for food stamp/SNAP benefits.

The favorable calculation for households with lawfully present immigrants involves *three steps*. DTA initially calculates benefits with immigrant as a household member, then calculates benefits for the household excluding the immigrant and his or her income, and finally compares the two results. This calculation is best understood with an example.

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Example: Juana Smoe is an applicant for asylum. She has official work authorization (I-688) but is not eligible for benefits until the asylum status is granted (which can take years). Ms. Smoe has two children born in the United States. She earns \$1,250/month gross income and pays \$700 rent plus heat and cooling costs. Her children have no income of their own. Here's how DTA calculates her benefits:

- **Step 1:** DTA calculates the benefit amount the family would receive if the immigrant were included in the household. DTA uses the total household income (including the income of the ineligible immigrant and all allowable deductions).

In Ms. Smoe's case, DTA first calculates the benefits for a household of three including Ms. Smoe and her two children. DTA counts all of Ms. Smoe's income and allows all applicable deductions (in her case, the 20% earnings disregard, the \$141 standard deduction and a shelter deduction maxed at \$459).

Ms. Smoe has countable income of \$400 a month. The maximum benefit for a household of three is \$526 a month. After subtracting 30% of net income, her family will receive \$406/month.

Countable net income after deductions:	\$400
Maximum benefits for household of 3 persons :	\$526
Subtract 30% of countable net income:	<u>-120</u>
Benefit for this HH (\$426 less 1/3 net income):	\$406

- **Step 2:** DTA then calculates the benefits for the eligible household members excluding the ineligible immigrant and his/her income. If the household members have countable income (for example, child support), that income is counted.

In Ms. Smoe's case, the children have no countable income, so the benefit for the children at Step 2 would be \$367 a month.

Countable income of children:	\$ 0
Max benefits for household of 2 persons :	\$367

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- **Step 3:** The two amounts are compared and the household is eligible for the amount in Step 1 or Step 2, whichever is *lower*. In Ms. Smoe’s case, the benefit for the children is the amount in Step 2 (\$367) because that is lower than the amount in Step 1 (\$406).

The policy *reason* the lower amount is picked is one of fairness—that an immigrant-headed household should get no more food stamp/SNAP benefits than they would receive if *all* were eligible U.S. citizens.

However, if Ms. Smoe had *no* countable income, the family’s food stamp/SNAP benefit would still be capped at the maximum amount for two persons, or \$367 (as opposed to the higher amount of \$406 for three persons), because Ms. Smoe is not eligible.

Calculation for households with undocumented or undetermined status members

If you are *an immigrant who is undocumented or refuse to provide information* on your status, the calculation is more harsh. DTA will count *all* of the ineligible immigrant’s income toward the eligible members *without* considering the ineligible immigrant’s needs. 106 C.M.R. § 365.520(A). This calculation is identical to the way that income is counted for sanctioned household members (individuals who have committed fraud or work sanctions). See **Question 50**.

DTA does *one* calculation counting the income of the ineligible individual but excludes him or her in determining the household size and benefit amount as follows:

Example: In the case of Juana Smoe, above, it turns out she does not have any proof of legal status. She has exactly the same income, expenses and household circumstances above. Because she is in “undetermined legal status,” DTA counts *all* of her income against a food stamp/SNAP benefit level for the two children only. The children will receive only \$247 in food stamp/SNAP benefits, as this is the maximum monthly benefit level for a household of two with countable net income of \$400. All of Jane’s countable income is subtracted against a household of two persons.

Countable net income after deductions:	\$400
Maximum benefits for household of 2 children :	\$367
Subtract 30% of countable net income:	<u>-120</u>
Benefit for this HH (\$426 less 1/3 net income):	\$247

Additional Policy Guidance on Mixed Household

Calculations: • BEACON User’s Guide, Ch. XIII-E, pp. 28-30, detailed instructions on the three-step process to calculate food stamps for “combination FS AU” households, clarifies to whom income belongs in the calculation and when deductions apply. • Guidance confirming negative calculation used for undocumented non-citizen with income applying for benefits for eligible children. Transitions Hotline Q&A, (June 2003).

28

Does the income of an immigrant’s sponsor count?

There is no counting or “deeming” of a sponsor’s income to legal permanent residents seeking benefits. “Deeming” involves counting income from a source, such as sponsor, that is *not* actually received by the LPR but is assumed available. There is also no deeming of sponsor income in TAFDC, EAEDC or MassHealth.

It is important to note that any financial support you *actually receive* from the sponsor for living expenses, including vendor payments, is counted and treated as unearned income in calculating your benefits. 106 C.M.R. § 363.230 (C)(2). For example, if your sponsor provides you with \$500 per month in income, DTA will calculate your food stamp/SNAP benefits counting \$500 of unearned income.

There is an exception to this sponsor deeming rule. DTA will count sponsor income when a household member is sanctioned for failure to comply with the food stamp/SNAP work rules, the TAFDC monthly reporting rules, or has committed fraud (intentional program violation). 106 C.M.R. § 362.270.

Additional Policy Guidance on Sponsor Income: • No sponsor deeming for EAEDC and TAFDC recipients, nor for Food Stamps/SNAP “categorically eligible households” unless household is under sanction for violation of work rules, intentional program violation or failure to comply with TAFDC monthly reporting rules. F.O. Memo 2008-65 (Dec. 9, 2008).

29 What if I am homeless or live in a shelter?

You do not need to have a permanent address or a regular place to live to get food stamps/SNAP. 106 C.M.R. § 362.100. You do not need to have cooking facilities. You can get benefits if you live on the street. You can also receive benefits if you are staying at a homeless shelter or a shelter for victims of domestic violence, even if you get free meals at the shelter on a regular basis. 106 C.M.R. § 361.240(B).

You must provide something to prove identity (who you are). 106 C.M.R. § 361.610(G). There are many different ways you can prove who you are, including a statement from someone who knows you, such as a staff person at a soup kitchen, food pantry, detox program, or shelter. 106 C.M.R. § 361.640(B). See **Questions 7 and 8**. You can also pick up mail about your food stamp/SNAP benefits through the DTA local office or a P.O. Box if you do not have a mailing address.

You may be entitled to emergency food stamps/SNAP if you have less than \$150 in gross income and less than \$100 in cash or savings or meet other rules for “expedited” food stamps/SNAP. See **Question 9**.

Advocacy Reminder:

- ✓ Homeless individuals and families who do not incur regular shelter expenses are eligible for an automatic “homeless deduction” of \$143 per month, which is a flat amount subtracted from countable income to determine your benefits. See **Question 58**.

30 Can I get benefits if I am disabled and live in a group home?

Yes. If you live in a licensed group home for persons who are disabled or blind, you are eligible for food stamp/SNAP benefits at the one-person benefit allotment, even if you share common meals at the home. 106 C.M.R. §§ 361.240(B), 365.620. The group home must be licensed as a community-based residential facility and serve no more than 16 residents at a time. 106 C.M.R. § 365.640.

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If you live in a licensed group home, you may be able to apply for your own food stamp/SNAP benefits or the group home may decide to be your authorized representative. See **Question 5**. However, this is not automatic just because you are in a group home. The group home must make this decision based on a determination of your “physical and mental ability to handle your own affairs.” 106 C.M.R. § 365.620(A).

Since 2004, DTA has made a major effort to reach group home residents in Department of Mental Health, Department of Mental Retardation and Mass. Commission for the Blind facilities. DTA has simplified the food stamp/SNAP application and verification process. Group homes are also encouraged to earmark a portion of the residential shelter costs for heating/cooling expenses in order to maximize benefits with use of the heating/cooling SUA. If you are a provider of a residential facility, contact DTA about maximizing food stamp/SNAP benefits for your residents.

Advocacy Reminders:

- ✓ If you are a group home resident with a Home Health Care card, DTA will put the EBT benefits on this card instead of issuing a new card—making it easier for you to remember your PIN. If you already have a Bay State EBT card, the benefits will be put on that card.
- ✓ If you leave the group home to live on your own in private or public housing, your food stamp/SNAP benefits should still continue without interruption. Be sure to report the change in address, living situation and expenses. DTA should not require you to file a new application unless your certification period is ending.
- ✓ If the group home insists that they become your authorized representative to receive your EBT card and purchase your food, and you do not agree with this, you have a right to challenge their decision. Contact an advocate.

Additional Policy Guidance on Residents of Group Homes: •

Outreach efforts announced to simplify and automate enrollment of DMH and DMR group home SSI residents in food stamp/SNAP program. Guidance includes DTA forms for resident to indicate level of authorized rep role in receipt of benefits. F.O. Memo 2004-41 (Oct. 8, 2004) • Interagency agreement with DMH, DMR to designate 10% of residents’ shelter costs as a heating expense, to leverage heating/cooling SUA. Transitions FYI, (Sept. 2007) • Group home facility makes determination of which residents require authorized reps vs. receive own benefits, but facility cannot impose one method for all residents, must do individualized determinations. F.O. Memo 97-17 (March 14, 1997) • Representative payee administrative fees charged for SSI or RSDI recipients should be treated as dependent care expenses. Transitions FYI, (Sept. 2006).

31

Can I get benefits if I live in a hospital, school, or other residential institution?

Residents of institutions which provide residents with a *majority of meals* (e.g., more than half of the weekly meals) *do not* qualify for food stamp/SNAP benefits. Institutions include hospitals, boarding schools, nursing homes, mental health facilities, and prisons. 106 C.M.R. § 361.240(A) and (B).

However, as with group homes, there are a number of exceptions that permit residents of certain institutions. 106 C.M.R. § 361.240(B). You may still be eligible for food stamps/SNAP if you live in the following settings:

- federally subsidized housing for the elderly,
- shelter for homeless individuals or families or a shelter for victims of domestic violence,
- teen parent living program (the teen program may act as your authorized representative and use your benefits for group meals or may let you use some or all of the benefits separately, see 106 C.M.R. § 365.620(B)), *or*
- drug or alcohol treatment center (public or nonprofit). The center will require you to make them an authorized representative during your stay. 106 C.M.R. § 365.610.

Advocacy Reminders:

- ✓ Although individual residents of drug/alcohol treatment centers and teen living programs do not receive the food stamp/SNAP benefits directly, the resident should receive the benefits directly once he or she moves into a permanent residence. Advocates should be sure that the residential program reports the change of address to DTA and ensures benefits continue if the individual meets the food stamp/SNAP rules.
- ✓ If you are sentenced to “home detention” (for example, you wear an electronic or prison bracelet at home), you should not be considered jailed or incarcerated.

Additional Policy Guidance on Residents of Institutions: •

Children home on summer break are eligible for benefits, but not while at school. Transitions Hotline Q&A (July 2006) • Receipt of school meal plan at college does not disqualify student if meal plan does not provide majority of meals consumed. Transitions Hotline Q&A (Nov. 2006) • Home detention (electronic bracelet) does not render an applicant ineligible. Transitions Hotline Q&A (Aug. 2001) • Social Security or other income received for a child in an institution is not countable to rest of household. Transitions Hotline Q&A (June 2000).

32

What if I am a boarder or I live in someone else's home?

If you live in someone else's home and you pay that person for more than half your weekly meals, you are considered to be a boarder and not eligible for food stamp/SNAP benefits as a separate household. 106 C.M.R. § 361.240 (D).

If you pay a reasonable amount for meals, the household providing the meals can choose to include you (and your income) in their food stamp/SNAP benefits, or the household can also choose to exclude you in their benefit allotment. If excluded, DTA will then count your payments (after certain deductions) as income to the host household. A "reasonable" amount is an amount equal to the benefit level for your household if you get three meals per day. 106 C.M.R. § 361.240(D).

If you do *not* pay a reasonable amount for meals, you must be included in the food stamp/SNAP household of the person who provides the meals and your income and assets will be counted in figuring the eligibility of the whole household. 106 C.M.R. § 361.240(D).

Example: Janet and Joe are 23 years old. They move into Janet's mother's house. Janet's mother receives food stamp/SNAP benefits. Janet's mother does all of the shopping and makes all of the meals for Janet and Joe. Janet and Joe pay \$150 a month towards food and \$200 towards lodging. Because \$150 is less than the benefit amount for a household of 2, Janet and Joe must be part of Janet's mother's food stamp/SNAP household and their income and assets count. However, if Janet and Joe bought their food separately instead of giving Janet's mother money for food, they would not be required to be in her household.

If you are elderly or disabled and live with others who provide meals for you, see **Question 18**.

If you rent a room or space in someone else's home and *do not* pay for meals, you are considered to be a roomer. As a roomer, you can apply for food stamps/SNAP as a separate household, so long as you purchase and prepare the majority of your meals separately from the other people in the house. 106 C.M.R. § 361.230(A). See **Questions 15** and **16**.

33 What if I am on strike?

If the reason you need food stamp/SNAP benefits is because you are on a work strike, you and your household cannot get food stamps/SNAP unless you were income-eligible for food stamps/SNAP before you went on strike. If so, DTA will count either the value of your current income or your income before you went on strike, whichever is higher. 106 C.M.R. § 361.240(E)(2).

You are *not* considered on strike if:

- your former boss locked you out or permanently replaced you, *or*
- you are not on strike but you cannot work because other workers are on strike or because you are afraid to cross a picket line, *or*
- you were exempt from work registration on the day before the strike. See **Question 36** for a list of work registration exemptions.

See 361.240(E)(1).

Advocacy Reminder:

- ✓ There are many exemptions from work registration, so many people who think they are on strike are not considered strikers for food stamp/SNAP purposes.

34 What if I am a college student?

Many low-income college students may be eligible for food stamp/SNAP benefits but not realize it. The college student rules can be very confusing.

Eligible college students

If you are a college student enrolled *half-time or more*, you can still get food stamps/SNAP as long as you meet *any one* of the following conditions:

- you are younger than 18 or older than 49;
- you receive either federal or state Work-Study during the school year (for any amount of work-study hours);
- you have a child under age 6;
- you have a child under age 12 and you are a single parent in school full time *or* you are a parent and do not have enough child care coverage to both attend school full time and work 20 hours;
- you receive TAFDC benefits (pregnant woman or parent/caretaker of dependent children);
- you are disabled and receive disability benefits such as SSI or EAEDC, or your health care provider (nurse, doctor, psychologist, counselor, or social worker) signs a statement that you cannot work short term or longer because you are in a vocational, mental health or substance abuse rehabilitation program;
- you are going to school under a DTA-approved food stamp/SNAP education or training activity or another government-sponsored education and training program; ***or***
- you are attending a community college and pursuing a degree or certificate program that is in a career or technical education field or that the college determines will increase your employability.

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106 C.M.R. §§ 362.400-362.420 lists all the conditions that qualify college students. **Appendix C** includes an FAQ and a form for community colleges to sign if you are in a career or technical education degree or certificate program, or your course of study will lead to employment.

Example 1: Jane is a single parent and a full-time college student with one child age 10. Jane meets the food stamp/SNAP rules for college students because she is a single parent with a child under age 12.

Example 2: George is a full-time college student with no dependents. He has a work-study job on campus for 5 hours a week. George meets the food stamp/SNAP rules for college students because he is doing work-study. He does not need to do 20 hours per week.

Example 3: Suzy is majoring in communications at the local community college. Because she is in a public college and in a program that is expected to lead to employment according to the college, she meets the student eligibility requirements.

Note: College student enrolled *less than half-time* do not need to meet the conditions above to get benefits. 106 C.M.R. § 362.400(A). Depending on your situation, however, you may be required to do work search unless you meet the employment and training exceptions. See **Question 36**.

Purchase and prepare rules for college students

If you *live on campus* and purchase but prepare most of your meals (e.g., get less than half of a meal plan), you may also qualify provided you meet the student status conditions. If you *live with your parents* and you are under age 22, you must be part of their household if you meet the student eligibility rules and even if you purchase separately. See **Question 17**.

Treatment of college student loans and grants

There are specific rules on what income is countable for eligible college students. It is important to remember the following:

- Federal loans, grants and work-study do not count in calculating your food stamp benefits. 106 C.M.R. § 363.230(D). This includes Pell Grants (BEOG), federal college work study, Supplemental Educational Opportunity Grants (SEOG), National Direct Student Loans (NDSL), Guaranteed Student Loans (GSL) and other student financial aid from programs funded under Title IV of the federal Higher Education Act.

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- Private and state grants, private loans and state work-study monies do count—but only the amount that is designated for living expenses counts in calculating food stamp/SNAP benefits (e.g., that exceeds your tuition, fees, books, supplies, child care and other earmarked educational expenses. 106 C.M.R. § 363.230(D)(4).
- If you do have countable income from loans or grants, DTA will average the amount of available income over the course of the academic year or semester—whatever the length of time the income is intended to cover—even if you receive it in a lump sum. 106 C.M.R. § 364.340(A)(2).

For more information on the income counting rules and what is countable or non-countable, see **Questions 44** through **50**. To help verify your countable school income, DTA uses an “Educational Income and Expense Form” (EDUC-1). By signing this form, you are giving permission for your college financial aid office to release information to DTA. Use of the form also makes it easier for the financial aid office to report non-federal financial aid you receive and indicate if any of it is designated for your living expenses. You are not required to use this form, however, but it may help in getting the exact information DTA needs.

Advocacy Reminder:

- ✓ In June 2010, DTA issued guidance which expands the food stamp/SNAP eligibility for low-income students attending community colleges if they are enrolled in career or technical education degree or certificate programs, or in other programs that the college determines are likely to enhance the student’s employability. This policy change is especially important for public college students who do not get work study or meet the other student. **Attachment C** includes a form for community colleges to sign, and an FAQ.

Additional Policy Guidance on College Students: • DTA guidance extending SNAP eligibility to community college students enrolled in career and technical education programs (defined under the Perkins Act) or in degree or certificate programs likely to lead to employment. F.O, Memo 2010-28 (June 1, 2010) and DTA Transitions Hotline Q&A (July 2010) • Guidance on eligibility of college students living in other households; income of college student does not count to others if college student is ineligible for benefits. Transitions Hotline Q&A (July 2009) • Work hours of students should be averaged over the month to get a weekly average, based on the last four pay stubs. F.O. Memo 2007-44 (Aug. 30, 2007) • Non-federal education loans and grants designated for living expenses are countable income; guidance includes EDUC-1 form and instructions. F.O. Memo 2004-9 (March 15, 2004) • Federal work-study is never countable income even though receipt meets student requirements. Transitions FYI (Dec. 2006) • Multiple policy clarifications: Once student turns 22, student can be own food

stamp/SNAP household even if living with parents (if he or she purchases and prepares separately); participation in school meal plan does not disqualify student if meal plan does not provide majority of meals. Only one parent in a two-parent household can claim responsibility to care for a young child to meet student rules. Transitions Hotline Q&A (Nov. 2006).

35 What if I have a criminal record or DTA says I am a “fleeing felon”?

A criminal record, including a drug felony conviction, does not bar you from receiving food stamps/SNAP benefits in Massachusetts. However, you can be barred from food stamp/SNAP benefits if you are:

- “actively fleeing” prosecution or punishment for a felony, *or*
- violate a condition of probation or parole.

See 106 C.M.R. § 367.800(D).

Under the 2008 Farm Bill, Section 4112 directs states to not disqualify individuals whose names happen to appear on a criminal database until the state has confirmed that the individual is actually “fleeing prosecution” and that they are being “actively pursued by law enforcement.” USDA has not yet issued guidance on this provision. If you see any households denied or terminated for food stamp/SNAP benefits on this basis, contact a Legal Services advocate.

Advocacy Reminder:

- ✓ You cannot get benefits if you get more than half your meals from a prison or half way house, but you may be eligible for food stamp/SNAP benefits if you are sentenced to home detention (for example, with an electronic bracelet). See **Question 31**.

36 Who must register for work and do job search, and who's exempt?

Any member of your family who is age 16 to 60 and is not exempt must register and search for work, and accept any suitable job offer. This is called the Food Stamp Employment & Training (“FS/ET”) Program. 106 C.M.R. § 362.310. DTA will have you sign a work registration form where you agree to certain activities and to report of your job search efforts.

Even though the current work rules for “able-bodied adults without dependents” (ABAWDs) are suspended until September 2010 or longer, all individuals in this category must also meet the FSET work search rules. See **Question 37**.

Job search activities and reporting

After you register (by signing the FSET form), the basic job search requirement involves making 18 job contacts within 60 days of when you registered. Or you can do 24 hours of job search activities, which includes at least 5 job contacts, within 60 days. 106 C.M.R. §§ 362.310(D)(5), (E)(5).

You can count as a search activity the hours spent filing out an application, doing an interview, going to a career center for job search. Job contacts can be done by phone, over the internet, or by mail. DTA will give you a “Job Search Activity Log” to fill out where you list either 18 job contacts or you list the hours you spent (and types of activities) to add up to 24 hours. You need to *start* your job search within 30 days of when you register, and have it all done by day 60. After you do this, you are all set for 12 consecutive months. 106 C.M.R. § 362.310(E).

In addition to job search, there are a few other rules. If DTA refers you to an FSET vendor that can help you with career or training skills, you are required to accept the referral. If you are offered a job, you must take it unless you have a really good reason to refuse the job, and you cannot quit the job unless you have a really good reason. 106 C.M.R. § 362.310(D)(3), (6), (7) & (8). Note that EA shelter residents may have to participate in a more formal job search program. 106 C.M.R. § 362.310(A)(1).

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Exemptions from the work registration/job search rules

The food stamp/SNAP regulations provide for a wide range of exemptions from the job search and the FS/ET requirements. 106 C.M.R. § 362.310(B). You are exempt if you are:

- physically or mentally “unfit” for work because you are receiving disability benefits such as SSI or EAEDC, *or*
- physically or mentally “unfit” for work based on a statement from a nurse, doctor, psychologist, counselor, or social worker saying you cannot work on a short- or long-term basis or based on participation in vocational rehabilitation program, a mental health program, or a drug or alcohol treatment program, *or*
- under 16 years old or over 59 years old, *or*
- age 16 or 17 years old but *not* the head of household (whether or not going to school), *or*
- age 16 or 17 years old *and* the head of your food stamp/SNAP household *and* you are going to school or an employment and training program at least half-time, *or*
- more than three months pregnant, *or*
- responsible for the care of a child under age six, even if that child is not part of your food stamp/SNAP household, *or*
- responsible for the care of an incapacitated person even if the incapacitated person does not live in your household, *or*
- a TAFDC or EAEDC recipient complying with the cash assistance program work requirement, *or*
- complying with FS/Work Program requirements for ABAWDs, *or*
- receiving unemployment compensation or waiting for unemployment compensation and complying with the job search requirements of the unemployment office, *or*
- participating in a drug or alcohol treatment program, *or*
- working at least 30 hours a week or making at least \$217.50 per week (\$217.50 is 30 times the current federal minimum wage of \$7.25/hour that went into effect July 24, 2009), *or*

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- a student enrolled in a program at least half-time. See **Question 34** on which college students are considered eligible for food stamps/SNAP.

If you do not comply with FS/ET work registration or job search rules after you apply and do not have “good cause,” see **Question 38**, you are ineligible for benefits for three (3) months for the first finding, six (6) months for the second finding, and twelve (12) months for the third finding. 106 C.M.R. § 367.800(E)(1). For the first two offenses, only the household member who does not comply loses benefits. On the third offense, if you are the “head of household,” your whole household is ineligible for six months and you also lose your portion of benefits for 12 months. See 106 C.M.R. § 361.220 for a definition of who is the “head of household.” Further, if you are sanctioned and have income, DTA will count all of your income to the rest of the household members without taking into account your needs. See **Question 49**.

Advocacy Reminders:

- ✓ Work search requires only 18 job contacts within a 60-day period, or 24 hours worth of job search activities—not both. DTA workers should provide each FSET client with a “Job Search Activity Log” and help on how to fill it out or do work search activity,
- ✓ DTA has a one-page form you can bring to a medical provider to sign if you have a mental or physical impairment that makes it difficult for you to work. It can be signed by a wide range of medical providers, licensed social workers, counselors or directors of substance abuse or mental health programs.
- ✓ A 16- or 17-year-old who is a *dependent* in a food stamps household does not need to be in school or register for work search. The teen is exempt until he or she turns 18. 106 C.M.R. § 362.310(B)(11). If the teen is the head of household (e.g., his or her own food stamp/SNAP household), he or she would need to register.

Additional Policy Guidance on Work Registration: • Federal minimum wage increase effective July 24, 2009, impact on work rules. F.O. Memo 2009-46 (August 4, 2009) • ARRA rules suspend work/community service requirements for ABAWDs, but ABAWDs must still do job search activity, revised Job Search Activity Log. DTA F.O. 2009-33 (May 29, 2009) • Individual residing in same household as child exempt from work rules, even if child is not in food stamp unit. Transitions FYI (April 2008) • Incapacitated person or child needing care does not need to live in same household for food stamp/SNAP member to be exempt from work rules. F.O. Memo 2008-02 (Feb. 15, 2008) • Dependent less than 18 years old who drops out of school not required to do FSET/job search. Rules only apply to head of household. Transitions Hotline

Q&A, August 2007 • DTA form for verification of medical “unfit” status. F.O. Memo 2004-22 (May 21, 2004) • Refugee attending training program exempt from work requirements. Transitions Hotline Q&A, (Nov. 2001).

37

Are there work rules for childless adults ages 18 to 50 years?

There are *no* mandatory community service/work requirements for persons age 18 to 49 under current law. The work rule requirements were suspended under the American Recovery and Reinvestment Act of April 2009 and recently extended through September 30, 2011 due to the recession.

Able-bodied adults without dependents (ABAWDS) have historically been required to a) register for FSET, b) do job search *and* c) work 20 hours a week or doing unpaid community service hours based on the amount of food stamp/SNAP benefits they received. Unpaid work was known as the “work rule” and was imposed on ABAWD individuals after receiving three months of benefits. While Massachusetts got waivers to exempt ABAWDs in some geographic areas with high unemployment, ARRA suspended the rule nationwide in April of 2009 as the economy worsened. An ABAWD household cannot be denied or disqualified for failure to meet the work program rules. It is possible this policy will continue after September of 2011. Check with an advocate for updates throughout 2011.

FSET and Job Search

Even though the work rules for able-bodied adults without dependents are suspended, this population is still required to comply with the work registration and work search (FSET) rules. 106 C.M.R. §§ 362.310(D)(5), (E)(5). See **Question 36**.

Semi-annual reporting

Because of the suspension of the ABAWD work rules, these individuals should be put on semi-annual reporting if they have any earned or unearned income, a history of income (within the past five months) or are homeless. This means less reporting of changes during the six month period. If the work rule were in effect, ABAWDs would likely be on change reporting. 106 C.M.R. § 366.110(C)(1)(d). See **Question 72**.

Additional Policy Guidance on ABAWD Work Rules: •

Extension of ARRA rule suspending work/community service requirements for ABAWDs, but ABAWDs must still do job search activity. Transitions FYI (Oct. 2010), DTA F.O. Memo 2009-33 (May 29, 2009).

38

What if I have a “good cause” for not meeting the food stamp/SNAP work registration or work search rules?

You should not be sanctioned or lose food stamps if you had good cause for not complying with work registration or job search (FS/ET). See 106 C.M.R. § 362.330(A). (These good cause rules also apply to the Work Program rules for childless adults when the work rules are in effect. These rules are currently suspended. See **Question 37**.)

Good cause reasons for failure to comply with the FS/ET and FS/Work Program rules include:

- You lack state-standard child care during the hours of your work, including lack of special needs child care for a disabled child;
- You have a family crisis or emergency that you have to deal with during your work hours;
- You do not have transportation or you have to travel more than two hours/day or walk more than two miles round trip;
- The employer makes unreasonable work demands, such as not paying you on schedule;
- The employment is unsuitable because the pay is below the state minimum wage; the work or program discriminates against you on the basis of sex, race, religion, ethnic origin, or physical or mental handicap; there is a strike or lockout; the employment or FS/ET activity places unreasonable risks on your health or safety; or the hours interfere with your religious observances.

Advocacy Reminder:

- ✓ Remember, if your situation changes where you fall into an exemption from the FSET work registration/work search rules, you do not need to claim good cause. 106 C.M.R. § 362.300. Exemptions include if you are incapacitated, go into a substance abuse treatment program, are more than three months pregnant, receive UI benefits, attend an approved college activity, etc. See **Question 36**.

39

Am I eligible for food stamp/SNAP if I quit a job?

Maybe. DTA can deny your food stamp/SNAP benefits—or cut you off — if you are subject to the FSET work requirements *and* you voluntarily quit a job without good cause.

Here’s how the rules voluntary quit work:

- If you voluntarily quit a job without good cause *within 60 days before you apply* for benefits, your whole household cannot get food stamp/SNAP benefits for *three* months from the date you quit the job. This disqualification runs from the date you quit the job, not the date you apply for benefits. 106 C.M.R. § 362.340. This rule does not apply if the household member who quit leaves the household, gets a new job, or becomes exempt from work registration rules. The penalties increase for a second and third quit.
- If you voluntarily quit a job without good cause *after the date you applied* for food stamp/SNAP benefits or while you are on benefits, you are ineligible for three months. 106 C.M.R. § 367.800(E)(2) & (F). The other members in your household are still eligible. This rule does not apply if the household member who quit gets a new job or becomes exempt from work registration rules. Penalties increase for a second and third quit. On the third quit, if you are the “head of household,” your whole household is ineligible for six months.

DTA should only ask you to verify work you had within 60 days prior to application. DTA does not need to know about or verify jobs you had more than 60 days prior. If you need help getting information from a past employer, you can give DTA permission to make a “collateral contact”

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with the employer directly (See **Question 8**) or through The Work Number, if the employer participates in that service. 106 C.M.R. § 361.640(B).

Advocacy Reminder:

- ✓ If you meet an exemption from the FSET work registration/work search rules, the voluntary quit sanctions do not apply to you. 106 C.M.R. § 362.340(A)(1). Exemptions include if you are incapacitated, go into a substance abuse treatment program, are more than three months pregnant, receive UI benefits, attend an approved college activity, etc. See **Question 36**.

Additional Policy Guidance on Voluntary Quit Rules: • An employee or DTA may be able to verify the last date of employment and reasons for job termination through “The Work Number,” a service used by many large company employers. F.O. Memo 2007-3 (Jan. 31, 2007) • Start date of disqualification penalty begins with date of quit, not date of Food/stamp SNAP application. Transitions Hotline Q&A (July 2000).

40

What is “good cause” for quitting a job?

There may be many good reasons why you had to leave a job. You need to tell your DTA worker why you left when you apply for or receive food stamps. “Good cause” for quitting a job includes:

- You lack state-standard child care during the hours of your work, including when you lack special needs child care for a disabled child.
- You have a family crisis or emergency that you have to deal with during your work hours.
- The employer makes unreasonable work demands, such as not paying you on schedule.
- Employment becomes unsuitable because it is below the federal or state minimum wage; the work activity discriminates against you on the basis of sex, race, religion, ethnic origin, or physical or mental handicap; there is a strike or lockout; the employment places unreasonable risks on your health or safety; the hours interfere with your religious observances; you are required to travel more than two hours/day or, if walking, to walk more than two miles round-trip.

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- If you were working over 20 hours a week or earning at least 20 times the federal minimum wage and, for reasons beyond your control, the employment stops or wages decrease to less.
- You left employment because it was seasonal or migratory, or you are between jobs.
- Acceptance of another job or enrollment in a school or training program requires you to move away or to leave your job.
- You are under age 60 and resigned from your job but your employer considers it retirement.

See 106 C.M.R. § 362.340 and the additional good cause provisions in 106 C.M.R. § 362.330(A).

You are not subject to the voluntary quit rules if you are exempt from the FS/ET requirements. 106 C.M.R. § 362.340. See **Question 36**. You also should not be disqualified from benefits under the voluntary quit rules—and do not need to prove “good cause”—if you left employment because the employer fired you or asked you to quit, if you reduced your hours of work but did not leave your work, if you stopped a self-employment business or if you quit a job for a new job that fell through. 106 C.M.R. § 362.340(D).

Advocacy Reminders:

- ✓ DTA hearing officers have issued favorable decisions overturning DTA denials for voluntary quit including where the employer misled the worker about the wage rate, failed to honor a reasonable request about working conditions, failed to pay the legal overtime rate, failed to guarantee the work hours that were promised, failed to pay promised health insurance, failed to reimburse for on-the-job travel, and where good cause involved domestic violence, family emergencies, lack of transportation or child care. Contact MLRI for sample appeal decisions.
- ✓ Advocates may also find helpful arguments and case law on “voluntary quit” in MLRI’s 2010-2011 *Unemployment Advocacy Guide*, <http://www.masslegalservices.org/unemploymentadvocacyguide>
- ✓ It is DTA’s obligation to inform you about your rights and responsibilities when you apply for benefits. 106 C.M.R. § 361.550. This includes telling you at application and each recertification which household members are subject to the work requirements, and the penalties for voluntarily quitting a job after you apply for benefits and/or refusing to comply with the work requirements.