HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 FAMILY AND ADULT SERVICES DIVISION

CHAPTER 610

FOOD STAMP PROGRAM ADMINISTRATION

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Historical Note: This chapter is based substantially upon chapter 17-714. [Eff 7/19/82; am 10/2/82; am 11/29/82; am 4/1/83; am 4/1/85; am 5/18/85; am 11/29/85; am 4/21/86; am 9/2/86; am 6/1//87; am 12/24/90; R 3/19/93]

SUBCHAPTER 1

OVERVIEW AND PROGRAM ADMINISTRATION

§17-610-1 Definitions. As used in this chapter:

"Allotment" means the total value of coupons a household is authorized to receive during each month or other time period.

"Authorization to participate (ATP) card" means a document which is issued to a certified household to show the allotment the household is authorized to receive. The ATP card may be issued by a computer or hand issued at the unit.

"BA" means branch administrator.

"Bulk storage point" means any sub-unit which has the responsibility for accepting and storing supplies of coupons prior to shipment to issuance sites.

"Communal dining facility" means a public or private nonprofit establishment approved by FNS which prepares meals for elderly persons or for supplemental security income recipients and their spouses.

"Coupon" means any coupon, stamp, or type of certificate printed by FNS and issued by the department to eligible households for the purchase of eligible food.

"Coupon issuer or issuance agent" means any bank, savings and loan association, person, partnership, corporation, organization, political subdivision, or other entity which has been assigned or contracted by the department to issue coupons to households.

"Eligible foods" means:

(1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;

(2) Seeds and plants to grow foods for the personal consumption of eligible households;

(3) Meals prepared and delivered by an authorized meal delivery service to households eligible to use coupons to purchase delivered meals, also known as meals on wheels;

(4) Meals served by a communal dining facility for the elderly, SSI households, or both, to households eligible to use coupons for communal dining;

(5) Meals prepared and served by an authorized drug addiction or alcoholic treatment and rehabilitation center to households eligible to use coupons to purchase those meals;

(6) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled as defined in the definition of “disabled member” contained in section 17-663-1;

(7) Meals prepared by and served by a shelter for battered women and children to its eligible residents; and

(8) In the case of homeless food stamp households, meals prepared for and served by an authorized public or private nonprofit establishment (e.g., soup kitchen, temporary shelter), approved by the state program development - income maintenance office, that feeds homeless persons.

"FNS" means the Food and Nutrition Service of the United States Department of Agriculture.

"Food Stamp Act" means the Food Stamp Act of l977, as amended (7 U.S.C. §§2011-2027).

"FSP" means food stamp program.

"Group living arrangement" means a public or private nonprofit residential setting that serves no more than sixteen residents and is certified by the department or the state department of health under federal regulations issued under section 1616(e) of the Social Security Act or under standards determined to be comparable to standards implemented by the department or the state department of health under section 1616(e) of the Social Security Act. To be eligible for food stamp benefits, a resident shall be blind or disabled as defined in the definition of "disabled member" contained in section 17-663-1.

"PD-IM(FS)" means program development-income maintenance, food stamp.

"Program informational activities" means activities that convey information about the program, including household rights and responsibilities, to applicant and recipient households through means such as publications, telephone hotlines, and face-to-face contacts.

"Project area" means the entire geographic area of a county within the State.

"Retail food store" means:

(1) An establishment, or department thereof, or neighborhood's and farmer's or people's open market food peddlers whose food sales consists of over fifty per cent of eligible staple food items used for home preparation and consumption. Eligible staple foods include meat, poultry, fish, bread, cereals, vegetables, fruits, and dairy products, but do not include hot prepared foods and accessory items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices;

(2) Public or private communal dining facilities, certain federally subsidized housing facilities, and meal delivery services which provide meals to eligible elderly and disabled individuals;

(3) Recognized drug addiction or alcoholic treatment and rehabilitation program facilities and publicly operated community mental health centers which conduct residential programs for drug addicts or alcoholics that wish to redeem coupons through wholesalers;

(4) Private nonprofit food cooperative food buying clubs;

(5) Public or private nonprofit group living arrangements that wish to redeem coupons through wholesalers;

(6) Public or private nonprofit shelters for battered women and children; and

(7) Public or private nonprofit establishments, approved by the state program development - income maintenance office, that feeds homeless persons.

"Secretary" means the Secretary of the United States Department of Agriculture.

"SSI" means supplemental security income.

"State wage information collection agency (SWICA)" means the state agency administering the state unemployment compensation law, another agency administering a quarterly wage reporting system, or a state agency administering an alternative system which has been determined by the Secretary of Labor, in consultation with the Secretary of Agriculture and the

Secretary of Health and Human Services, to be as effective and timely in providing employment related income and eligibility data as the two mentioned agencies.

"Sub-unit" means the physical location of an organizational entity within a project area/management unit involved in the operation of the food stamp program, excluding post offices.

"USDA" means United States Department of Agriculture. [Eff 3/19/93; am 12/09/94] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-610-2 Retention of records. The department shall retain all program records for audit and review purposes, for a period of three years from the month of origin of each record. The department shall retain fiscal records and accountable documents for three years from the date of fiscal or administrative closure. Fiscal closure means obligations for or against the federal government have been liquidated. Administrative closure means the department has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents shall include, but are not limited to, claims, documentation of lost benefits, and the appropriate form pertaining to certification of transfer of household benefits. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.1(f))

§17-610-3 Nondiscrimination. (a) The department shall not discriminate against an applicant or recipient in any aspect of program administration:

(1) Including, but not limited to, certification of households, issuance of coupons, and conduct of fair hearings or any other program service for reasons of age, race, color, handicap, sex, religious creed, national origin, or political beliefs; and

(2) As prohibited by the Food Stamp Act of 1977 (7 U.S.C. §§2011-2027), the Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107), the Rehabilitation Act of 1973 (29 U.S.C. §794),

and Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d). Enforcement action may

be brought under any applicable federal law. Title VI complaints shall be processed in accordance with the nondiscrimination provisions of part 15 of the Code of Federal Regulations.

(b) The following complaint procedure shall be followed by persons aggrieved by alleged discriminatory acts:

(1) Individuals may file a complaint with the Secretary of Agriculture or the Administrator of FNS, Washington, D.C. 20250, or with the department; and

(2) A complaint shall be filed no later than one hundred eighty days from the date of the alleged discrimination. However, the time for filing may be extended by the Secretary of USDA. The branch shall accept all complaints of discrimination, written or verbal, and shall forward them promptly to PD-IM(FS) to be submitted to the Secretary or the Administrator, FNS.

(c) The following information on complaints shall be provided to facilitate investigations:

(1) Name, address, and telephone number or other means of contacting the complainant;

(2) Location and name of the entity responsible for providing service, which is accused of discriminatory practices;

(3) The nature of the incident, action, or the aspect of program administration which is alleged to harm an applicant, recipient, or the individual making the complaint;

(4) The basis for which the individual alleges discrimination exists;

(5) Names, titles, and addresses of persons who may have knowledge of the alleged discriminatory acts; and

(6) The date or dates on which the alleged discriminatory acts occurred.

(d) If an individual verbally alleges that a discriminatory act was committed, and the individual refuses or is reluctant to put the complaint in writing, the person receiving the complaint shall document the complaint in writing. Every effort shall be made by the person accepting the complaint to have

the complainant provide the information specified above. Written complaints shall be accepted by the

Secretary or the Administrator even if the above information is not complete. Persons who file written complaints shall be encouraged to provide this information to facilitate investigation. Investigations shall be conducted as long as information requested under subsection (c)(2), (3), and (4) is provided. Civil rights complaints shall be resolved by FNS civil rights staff members together with the office of equal opportunity.

(e) Notification to the public shall include:

(1) The USDA nondiscrimination poster, "...and Justice for All" prominently displayed in the unit offices;

(2) Applicants, recipients, and other low income households provided access to nondiscrimination and complaint procedures within ten days of a request; and

(3) The department staff publicizing the procedure for handling discrimination complaints and explaining the complaint system to each individual who is interested in filing a complaint. Each individual may file a complaint with either FNS, the department, or both. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.6)

§17-610-4 Complaint procedures. (a) Any complaint received by the branch or department alleging discrimination on the basis of age, race, color, handicap, sex, national origin, political beliefs, or religious creed shall be handled as specified in section 17-610-3.

(b) Any complaint received by the branch or department regarding a determination of eligibility or level of benefits by a specific household shall be handled as specified in chapter 17-602.1.

(c) Any complaint received by the branch or department regarding such areas as processing standards, service to participants, potential participants, or other individuals or groups shall be handled as described in this section.

(1) At the time of application, each household shall be informed in writing of the complaint procedure available to participants, poten-

tial participants, and other concerned individuals or groups. Complaints:

(A) May be made orally, in writing, or in person; and

(B) Shall be reported within ten days of the incident.

(i) Complaints made orally or in person shall be resolved by the individual receiving the complaint, if possible.

(ii) If the complaint cannot be resolved by the individual receiving the complaint, the complaint shall be referred to the individual next in command, until the complaint is resolved.

(2) Complainants wishing to file a complaint shall be encouraged to submit their complaint on the department's complaint form.

(A) Complaints shall be submitted to the branch administrator for resolution.

(B) The branch administrator shall include any significant patterns of deficiencies and their causes in the branch's corrective action plan.

(C) PD-IM(FS) shall review the complaints periodically as part of the performance reporting system review. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.6)

§17-610-5 Restaurant meals. (a) The restaurant meal program shall allow elderly persons sixty years of age or over, disabled persons who receive disability or blindness payments under Titles I, II, X, XIV, and XVI of the Social Security Act and their spouses who participate in the FSP to purchase restaurant meals with food stamps.

(b) Elderly and disabled persons shall have the option to use the food stamps either at a grocery store, at a restaurant, or in combination.

(c) Participating restaurants shall sign an agreement with the State to abide by certain rules beneficial to recipients, restaurants, and PD-IM. Participating restaurants shall be authorized and monitored by FNS.

(d) Restaurants may limit the hours an individual may purchase meals with food stamps or may allow all day purchase.

(e) There shall be no discrimination in accordance with the provisions of §17-610-3.

(f) Only a food stamp ID card shall be used for verification at a restaurant. The ID card shall have the name and address of the recipient and shall be coded to show the recipient is entitled to restaurant meals. The State, through its delegated agent, shall review the restaurant agreements once a year for renewal or termination of the contract. FNS shall be notified upon termination of any agreement. [Eff 3/19/93; am 4/01/96] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2 and 273.11(g))

§17-610-6 Meals on wheels. (a) The following persons shall be eligible for meals on wheels:

(1) Household members sixty years of age or over;

(2) Individuals who are housebound, feeble, physically handicapped, or otherwise disabled to the extent these individuals are unable to adequately prepare meals; and

(3) Spouses of the above individuals.

(b) Individuals eligible for meals on wheels may use all or any part of the coupons issued to them to purchase meals from a nonprofit meal delivery service authorized by FNS. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.10(b))

§17-610-7 Security for coupons and ATP cards. All individuals, partnerships, corporations, or other legal entities including the department, branches, and issuance offices having custody, care, and control of coupons and ATP cards shall, at all times, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATP cards and to avoid any unauthor ized use, transfer, acquisition, alteration, or possession of coupons and ATP cards. These persons shall safeguard coupons and ATP cards from theft, embezzlement, loss, damage, or destruction. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.5(c))

§17-610-8 Personnel. (a) The branch personnel conducting certification procedures and interviews shall be employed in accordance with the current standards of a merit system of personnel administration or any standards later prescribed by the United States Civil Service Commission under Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. §4728). Branch personnel participating in the FSP shall not:

(1) Certify or recertify a household of which that employee is a member; or

(2) Determine the eligibility of a household consisting of an eligible member who is also an employee of the family and adult services division.

(b) Unit offices having only one employee who is also a participant in the FSP, shall have the certification or recertification of the employee's household approved by a person designated by the BA.

(c) Volunteers and others not employed by the State shall not:

(1) Conduct the certification interview; or

(2) Certify food stamp applicants, except for SSI households and disaster victims under certain conditions;

but may participate in related activities such as assisting applicants in completing the application form, prescreening applicants, and securing necessary verification to determine eligibility.

(d) Individuals and organizations involved in lockouts, and the individuals' or organizations' facilities, may not be relied upon or used in the certification process except to verify information supplied by the applicant.

(e) Only authorized employees of the department, coupon issuers, coupon bulk storage points, and federal employees involved in administration of the FSP shall be permitted access to food coupons, ATP cards, or other issuance documents. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.4(a))

§17-610-9 Staffing standards and bilingual requirements. (a) The department shall provide bilingual and certification materials, staff, inter-

preters, and volunteers as required by federal regulations to provide bilingual services.

(b) The branch shall ensure that there are sufficient bilingual staff or interpreters for the timely processing of non-English speaking households subject to the bilingual requirements. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.4(b))

§17-610-10 Program informational activities. (a) The department shall comply with the following minimum information requirements:

(1) Nutrition information, which shall include:

(A) FNS supplied posters and pamphlets containing information regarding foods with substantial amounts of the recommended daily allowances of protein, minerals, and vitamins; menus making use of these foods; and the relationship between health and diet;

(B) Printed materials such as posters, fliers, and pamphlets, that explain the special supplemental food program for women, infants and children (WIC) and, where available, the commodity supplemental food program (CSF) shall be supplied by agencies administering the WIC and CSF programs (where available);

(C) Displaying the posters and making the pamphlets available at all food stamp and public assistance offices; and

(D) Encouraging program participants to participate in the Expanded Food and Nutrition Education Program (EFNEP), and wherever practicable, allow EFNEP personnel to come into food stamp offices to distribute informational materials and speak with food stamp recipients.

(2) The branch shall inform participant and applicant households of their program rights and responsibilities through the use of the department's pamphlet on rights and responsibilities. This information may be provided through whatever means the branch deems appropriate.

(b) All program informational material shall be available in languages other than English as determined by the need and shall include a statement that the program is available to all without regard to race, color, sex, age, handicap, religious creed, national origin, or political belief. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.5)

§§17-610-11 to 17-610-13 (Reserved).

SUBCHAPTER 2

ALLOTMENT REDUCTION PROCEDURES

§17-610-14 General statement. This subchapter sets forth the rules to be followed if the monthly food stamp allotments are reduced, suspended, or canceled to comply with section 18 of the Food Stamp Act of 1977, as amended (7 U.S.C. §2027). [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(a))

§17-610-15 Nature of reduction action. (a) To avoid an expenditure of funds beyond those appropriated by the Congress of the United States for the FSP, action to comply with section 18 of the Food Stamp Act of 1977, as amended (7 U.S.C. §2027) by the Secretary, may include:

(1) Suspension or cancellation of allotments for one or more months;
(2) Reduction in allotment levels for one or more months; or
(3) Combination of reduction, suspension, and cancellation for one or more months.

(b) If a reduction in allotment is deemed necessary, allotments shall be reduced by reducing thrifty food plan amounts for each household size by the same percentage which would result in:

(1) All households of a given size having the household's benefits reduced by the same dollar amount; and

(2) The dollar reduction being smallest for one person households and greatest for the largest households.

(c) All one and two person households affected by a reduction action shall be guaranteed a minimum benefit equal to 8 percent of the maximum thrifty food plan allotment for a one member household as specified in section 17-680-39, unless the action is a:

(1) Cancellation of benefits;

(2) Suspension of benefits; or

(3) Reduction of benefits by ninety per cent or more of the pre-reduction level. [Eff 3/19/93; am 11/22/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(b))

§17-610-16 Implementation of allotment reductions, suspensions, and cancellations. (a) When FNS notifies the department of a decision to reduce the monthly food stamp allotment, the date the reduction is to take effect, and the percentage of reduction of the thrifty food plan amounts for each household size, the department shall take immediate action to effect the reduction for the affected month, without a public hearing, by:

(1) Making necessary computer adjustments;

(2) Reproducing the issuance tables provided by FNS and distributing the tables to issuance personnel;

(3) Ensuring one and two person households whose reduced allotments would be less than $10 shall receive a minimum allotment of $10 except as provided in section 17-610-15(c); and

(4) Adjusting the computer to round benefit levels of $1, $3, and $5 to $2, $4, and $6 respectively.

(b) If FNS notifies the department of a decision to suspend or cancel the distribution of food stamp benefits in a given month and of the date the suspension or cancellation is to take effect:

(1) The provision for a minimum benefit level shall be disregarded and all households' benefits shall be suspended or canceled; and

(2) The department shall take immediate action to effect the suspension or cancellation for the affected month by:
(A) Making necessary computer adjustments; and
(B) Notifying issuance agents and personnel of the suspension or cancellation.

(c) Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month shall not be reduced, suspended, or canceled, even though the allotments are issued during an affected month.

(d) The department shall act immediately to resume issuing benefits to certified households and shall resume benefit issuance as soon as practicable when notified by FNS that a suspension of benefit is over. [Eff 3/19/93; am 11/22/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.7(d)(1), (2), (3))

§17-610-17 Notification of eligible households. (a) Reductions, suspensions, and cancellations of allotments shall be considered federal adjustments to allotments. No adverse action notice shall be sent to certified households.

(b) The department shall publicize the reductions, suspenions, and cancellations of allotments by the following:
(1) News media; and
(2) Posters in certification offices, issuance locations, or other sites frequented by certified households; or
(3) General notices mailed to individual households. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(d)(4))

§17-610-18 Restoration of benefits. Households whose allotments are reduced or canceled as a result of the enactment of the rules specified in this subchapter, shall not be entitled to the restoration of the lost allotments at a future date. However, if there is any surplus of funds as a result of the reduction or cancellation and the Secretary determines

that such a restoration is practicable, the department shall provide affected households with restored allotments as directed by FNS. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(d)(5))

§17-610-19 Effects of reductions, suspensions, and cancellations on the certification of eligible households. (a) Determinations of the eligibility of applicant households shall continue even though a reduction, suspension, or cancellation of allotment is in effect. If the applicant is found to be eligible for allotments:

(1) And a reduction is in effect, the amount of the allotment shall be calculated by reducing the thrifty food plan amount by the percentage amount determined by FNS for the applicant's household size and then deducting thirty per cent of the household's net food stamp income from the reduced thrifty food plan amount; or

(2) While a suspension or cancellation is in effect, no allotment shall be issued to the applicant until issuance is again authorized by FNS.

(b) Households eligible to receive expedited processing who apply and are determined to be eligible for program benefits during months in which:

(1) Reductions are in effect, shall be issued allotments that are reduced in accordance with the reduction and shall have one allotment available to the households within the benefit delivery time frame specified in chapter 17-647;

(2) Suspensions are in effect, shall have benefits issued to the household within the time specified in chapter 17-647, but if the suspension is still in effect at the time issuance is to be made, the issuance shall be suspended until the suspension is ended; and

(3) Cancellations are in effect, shall receive expedited service as specified in chapter 17-647. However, the deadline for completing the processing of these cases shall be two

days or the end of the month of application, whichever date is later.

(c) The reduction, suspension, or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households.

(1) Participating households whose certification period expires during a month in which allotments have been reduced, suspended, or canceled shall be recertified according to the provisions of chapter 17-648.

(2) Households determined eligible to participate in the FSP during a month in which allotments have been reduced, suspended, or canceled shall have certification periods assigned in accordance with the provisions of chapter 17-647.

(d) Any household that has its allotment reduced, suspended, or canceled as a result of the implementation of the requirements of this subchapter may request a hearing if the household disagrees with the action, subject to the following conditions:

(1) A hearing shall be denied those households that are merely disputing the fact that a reduction, suspension, or cancellation was ordered;

(2) A household that believes its benefit level was computed incorrectly under the reduction rule or that the rule was misapplied or misinterpreted may request a hearing;

(3) The household shall not receive the continuation of allotments while awaiting the fair hearing decision; and

(4) A household may receive retroactive allotments to which the household is entitled if the hearing decision results in a determination that allotments to the household were reduced by more than the department was directed to reduce by FNS. [Eff 3/19/93] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(e) and (f))