

5101:4-2-03

Food assistance: assistance group definitions.

- (A) An assistance group is composed of one of the following individuals or groups of individuals provided they are not residents of an institution, are not residents of a commercial boarding house, or are not boarders, except as otherwise specified in paragraphs (E) to (H) of this rule.
- (1) Individual: An individual living alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others.
 - (2) Groups: a group of individuals living together and customarily purchase food and prepare meals together for home consumption.
 - (3) Spouses: a person living with his or her spouse, as defined in rule 5101:4-1-03 of the Administrative Code, shall be considered as customarily purchasing food and preparing meals together, even if they do not do so.
 - (4) Children living with their parents: an adult child under the age of twenty-two who lives with the parent(s) (natural, adopted, or step) must be included in the same assistance group with the parent(s). If an adult child under the age of twenty-two has a spouse and/or child(ren) of his or her own, the spouse and child(ren) of the adult child also must be included in the same assistance group as the adult child.
 - (5) Person under parental control: persons (excluding foster children) under eighteen years of age and unmarried living with and are under the parental control of another household member who is not their natural, adoptive, or step parent shall be treated as customarily purchasing and preparing meals together for home consumption even if they do not do so. Note: "parental control" refers to unmarried minors who are dependents-financial or otherwise-of another household member as opposed to independent units. Persons under age eighteen who are married are considered emancipated and are not to be automatically considered as customarily purchasing and preparing meals together unless they state they are actually doing so.
 - (6) Elderly and disabled individual: although a group of individuals living together and purchasing and preparing meals together constitutes a single assistance group based on paragraph (A) (2) of this rule, an otherwise eligible member of such an assistance group who is sixty years of age or older and unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act of 1935 as amended or suffers from a non disease-related, severe, permanent disability may be a separate assistance group from the others, other than his spouse, provided the

income (all income included in rule 5101:4-4-19 of the Administrative Code) of the others with whom the individual resides (excluding the income of the spouse of the elderly and disabled individual) does not exceed one hundred sixty-five per cent of the poverty level (FSP-14 "Separate Assistance Group Income Standards-Elderly and Disabled Assistance Groups Only").

(B) Final determinations of living arrangements shall be made on a case-by-case basis, using reasonable judgment based on the circumstances of the particular living arrangement, and need not be reflective of these guidelines should other more conclusive factors be involved. For the purpose of determining whether people are living together, consideration shall be given to, but not limited to the following:

(1) Separate address

The county agency shall consider whether the persons involved have addresses that are commonly recognized as separate in the community.

(2) Separate utilities

The county agency shall consider whether the persons involved have separate utility meters and are, therefore, billed separately by the utility companies.

(3) Separate entrances

The county agency shall consider whether the persons involved have separate entrances to their living quarters, and whether such entrances require passing through one living quarter in order to gain access to another.

(4) Opinion of the landlord

The county agency shall consider whether the owner of the property considers the property to contain separate units.

(C) Non- assistance group members eligible to participate as separate assistance groups.

For the purpose of defining an assistance group under paragraph (A) of this rule, the following individuals shall not be included as a member of the assistance group unless specifically included as an assistance group member under paragraph (A) (3) (spouses), (A) (4) (parents living with their children), or (A) (5) (person under parental control) of this rule, and shall not be included as a member of the assistance group for the purposes of determining assistance group size, eligibility, or benefit level. The income and resources of such individuals shall be handled in accordance with rule 5101:4-6-15 of the Administrative Code. The following individuals (if otherwise eligible) may participate as separate assistance groups:

(1) Roomers

Individuals to whom an assistance group furnishes lodging for compensation, but not meals.

(2) Live-in attendants

Individuals who reside with an assistance group to provide medical, housekeeping, child care, or other similar personal services.

(3) Other

Other individuals who share living quarters with the assistance group but who do not customarily purchase food and prepare meals with the assistance group. For example, if an applicant family shares living quarters with another family to save on rent, but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant assistance group.

(D) Non-assistance group members ineligible to participate as separate assistance groups.

Some assistance group members are ineligible to receive benefits under the provisions of the Food and Nutrition Act of 2008. Others may become ineligible for such reasons as being disqualified for committing an intentional program violation or refusing to comply with a regulatory requirement. These individuals shall be included as a member of the assistance group for the purpose of defining an assistance group in accordance with this rule. However, such individuals shall not be included as eligible members of the assistance group when determining the assistance group's size for the purpose of comparing the assistance group's monthly income with an income eligibility standard or assigning a benefit level by assistance group size. These individuals are not eligible to participate as separate assistance groups. Ineligible individuals include the following:

- (1) Ineligible aliens are those individuals who do not meet the citizenship or eligible alien status. See rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.
- (2) A person disqualified for intentional program violation is one who has been disqualified in accordance with Chapter 5101:6-20 of the Administrative Code. See rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.
- (3) Persons who have been disqualified for failure to provide a social security

number as provided for in rule 5101:4-3-24 of the Administrative Code are ineligible to participate. See rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.

- (4) An individual who is disqualified for refusing or failing to comply with a work requirement of rule 5101:4-3-11 of the Administrative Code. See rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.
- (5) Persons enrolled in an institution of higher education on at least a half-time basis who fail to meet the eligibility criteria in accordance with rule 5101:4-6-04 of the Administrative Code are ineligible to participate. See rule 5101:4-6-15 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.
- (6) No member of an assistance group who is otherwise eligible to participate in the food assistance program shall be eligible to participate as a member of that or any other assistance group during any period during which the individual is fleeing to avoid prosecution or custody for a crime, or attempt to commit a crime, that would be classified as a felony (or in the state of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under a federal or state law for a felony. See rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.

The county agency will utilize the following procedure when it has information that an individual may be ineligible under this paragraph:

- (a) The county agency will contact the appropriate law enforcement agency to give the law enforcement agency thirty days to determine if the individual is fleeing and to arrest or extradite the individual.
- (b) If within the thirty days the law enforcement agency arrests or extradites the individual, the county agency will take appropriate action to remove the individual from the assistance group if he or she is no longer a member of the household.
- (c) If by the end of the thirty days the law enforcement agency has not been able to arrest or extradite the individual, the county agency will take appropriate action to impose ineligibility under this paragraph for as long as the law enforcement agency continues to take appropriate action to arrest or extradite the individual.

- (d) If within the thirty days the law enforcement agency indicates it will not attempt to arrest or extradite the individual or that the individual is not fleeing, the county will not impose ineligibility under this paragraph.
- (7) For individual(s) who have failed to perform an action required under rule 5101:4-3-09 of the Administrative Code, see rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.
- (8) For persons ineligible under rule 5101:4-3-20 of the Administrative Code, the time limit for able-bodied adults without dependents, see rule 5101:4-6-13 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.

(E) Ineligible assistance groups.

(1) Boarders and individuals in foster care

Boarders are defined as individuals or groups of individuals residing with others and paying reasonable compensation to the others for lodging and meals (excluding residents of a commercial boarding house). Boarders are also defined as adults or children who have been placed in a foster ~~home~~ care by a government agency. Boarders are ineligible to participate in the program as independent assistance groups. They may, however, participate as members of the assistance group providing the boarder services to them, at such assistance group's request pursuant to rule 5101:4-6-03 of the Administrative Code. In no event shall boarder status be granted to those individuals or groups of individuals described in paragraphs (A)(2) to (A)(5) of this rule.

~~(a) The household within which a boarder resides (including the household of the proprietor of a boarding house) may participate in the program if the assistance group meets all the eligibility requirements for program participation.~~

~~(b) To determine if an individual is paying reasonable compensation for meals and lodging in making a determination of boarder status, only the amount paid for meals shall be used, provided that the amount paid for meals is distinguishable from the amount paid for lodging. A reasonable monthly payment shall be either of the following:~~

~~(i) Boarders whose board arrangement is for more than two meals a day shall pay an amount which equals or exceeds the maximum~~

~~monthly allotment for the appropriate size of the boarder assistance group;~~

- ~~(ii) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the maximum monthly allotment for the appropriate size of the boarder assistance group.~~

~~Excluding residents of a commercial boarding house, an individual furnished both meals and lodging by an assistance group but paying compensation of less than a reasonable amount to the assistance group for such services shall be considered a member of the assistance group providing the services.~~

~~None of the income or resources of individuals determined to be boarders and who are not considered members of the assistance group providing the boarder services shall be considered available to such assistance group. Payments received from persons or on behalf of persons determined to be boarders because they are in a foster care situation shall not be counted as income to the assistance group. Payments received from all other persons determined to be boarders shall be treated as self-employment income to the assistance group.~~

~~The procedures for handling self-employment income from boarders (other than such income received by an assistance group that owns and operates a commercial boarding house) are set forth in rule 5101:4-6-03 of the Administrative Code. The procedures for handling income from boarders by an assistance group that owns and operates a commercial boarding house are set forth in rule 5101:4-6-11 of the Administrative Code. For program purposes, a "commercial boarding house" is defined as an establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise. Residents of a commercial boarding house are not eligible to participate in the food assistance program.~~

(2) Residents of institutions

Residents of public institutions who apply for SSI prior to their release from an institution under the social security administration's prerelease program for the institutionalized shall be permitted to apply for food assistance at the same time they apply for SSI. Individuals shall be considered residents of an institution if the institution provides them with the majority of their meals

(over fifty per cent of three meals daily) as part of the institution's normal services. Residents of institutions are not eligible for participation in the program, with the following exceptions:

- (a) Residents of federally subsidized housing for the elderly built under either section 202 of the National Housing Act of 1959 (12 U.S.C. 1701) or section 236 of the National Housing Act (12 U.S.C 1701).
- (b) Narcotic addicts or alcoholics together with their children who, for the purposes of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center.
- (c) Disabled or blind individuals, as defined in rule 5101:4-1-03 of the Administrative Code, who are residents of group homes, as described in rule 5101:4-1-03 of the Administrative Code. (See rule 5101:4-6-26 of the Administrative Code for full details on certification of group home residents.)
- (d) Women or women with their children temporarily residing in a shelter for battered women and children. Such persons temporarily residing in shelters for battered women and children shall be considered individual assistance group units for the purpose of applying for and participating in the food assistance program.
- (e) Residents of public or private shelters for homeless persons.

(3) Strikers

Assistance groups with striking members shall be ineligible to participate unless the assistance group was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. Assistance groups where the member on strike is exempt from work registration requirements the day prior to the strike (other than those exempt solely on the grounds that they are employed) would not be affected by the striker provisions and could be eligible for program benefits.

(F) Foster care individuals

~~Notwithstanding the provisions in paragraph (A) of this rule, foster care individuals placed in the home of relatives or other individuals or families by a federal, state, or local governmental foster care program shall be considered boarders. The federal, state or local governmental, or court ordered foster care payments received by the assistance group for such foster care boarders shall not be considered as available income to the assistance group. Foster care boarders may participate in the program as members of the assistance group providing the boarder services to them, at such assistance group's request. If the assistance group chooses this option, foster care~~

~~payments received by the assistance group shall be considered unearned income to the assistance group and counted in their entirety in determining the assistance group's income eligibility and benefit level. The provisions of this paragraph do not apply to individuals qualified to participate in the program in accordance with paragraph (G) of this rule.~~

~~(G) Residents of institutions~~

~~Residents of public institutions who apply for SSI prior to their release from an institution under the social security administration's prerelease program for the institutionalized shall be permitted to apply for food assistance at the same time they apply for SSI. Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals (over fifty per cent of three meals daily) as part of the institution's normal services. Residents of institutions are not eligible for participation in the program, with the following exceptions:~~

- ~~(1) Residents of federally subsidized housing for the elderly built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701) or section 236 of the National Housing Act (12 U.S.C. 1701).~~
- ~~(2) Narcotic addicts or alcoholics together with their children who, for the purposes of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center.~~
- ~~(3) Disabled or blind individuals, as defined in rule 5101:4-1-03 of the Administrative Code, who are residents of group homes, as described in rule 5101:4-1-03 of the Administrative Code. (See rule 5101:4-6-26 of the Administrative Code for full details on certification of group home residents.)~~
- ~~(4) Women or women with their children temporarily residing in a shelter for battered women and children. Such persons temporarily residing in shelters for battered women and children shall be considered individual assistance group units for the purpose of applying for and participating in the food assistance program.~~
- ~~(5) Residents of public or private shelters for homeless persons.~~

~~(H) Strikers~~

~~Assistance groups with striking members shall be ineligible to participate unless the assistance group was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. Assistance groups where the member on strike is exempt from work registration requirements the day prior to the strike (other than those exempt solely on the grounds that they are employed) would not be affected by the striker provisions and could be eligible for program benefits.~~

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