

5101:4-2-03

**Food stamps assistance : assistance group (AG) definition, definitions non-AG members eligible to participate as separate AGs, non-AG members ineligible to participate as separate AGs, and ineligible AGs .**

- (A) ~~General and special definitions~~ 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.

~~An AG is composed of one of the following individuals or groups of individuals provided they are not residents of an institution, except as otherwise specified in paragraphs (E) to (H) of this rule, 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) ~~General definition~~ 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.

~~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.~~

~~A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.~~

- (2) Groups: a group of individuals living together and customarily purchase food and prepare meals together for home consumption.

- (2)(3) ~~Special definition—spouses~~ 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.

~~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.~~

- (3)(4) ~~Special definition—children~~ 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.

~~Children under twenty-two years old who live with their parents (natural, adoptive, or step) and their own children or spouses must be included in the same AG with their parents.~~

- (4)(5) ~~Special definition—person~~ 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.

~~Persons (excluding foster children) under eighteen years of age and unmarried who live 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.~~

- (5)(6) ~~Special definition—elderly~~ 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").

~~Although a group of individuals living together and purchasing and preparing meals together constitutes a single AG based on paragraph (A) (1) of this~~

~~rule, an otherwise eligible member of such an AG who is sixty years of age or older and who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act of 1935 or suffers from a nondisease-related, severe, permanent disability may be a separate AG from the others, other than his spouse, provided that 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 line (FSP-14 "Separate Assistance Group Income Standards-Elderly and Disabled Assistance Groups Only").~~

(B) ~~For the purpose of determining whether people are living together, consideration shall be given to, but not limited to the following.~~ 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-AG~~ assistance group members eligible to participate as separate ~~AGs~~ assistance groups

For the purpose of defining an AG assistance group under paragraph (A) of this rule, the following individuals shall not be included as a member of the AG assistance group unless specifically included as an AG assistance group member under paragraph (A)(~~2~~) (3) (spouses), (A) (~~3~~) (4) (parents living with their children), or (A)(~~4~~) (5) (person under parental control) of this rule, and shall not be included as a member of the AG assistance group for the purposes of determining AG 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 AGs assistance groups:

(1) Roomers

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

(2) Live-in attendants

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

(3) Other

Other individuals who share living quarters with the AG assistance group but who do not customarily purchase food and prepare meals with the AG 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 AG assistance group.

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

Some AG assistance group members are ineligible to receive benefits under the provisions of the Food ~~Stamp~~ 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 AG assistance group for the purpose of defining an AG assistance group in accordance with this rule. However, such individuals shall not be included as eligible members of the AG assistance group when determining the AG's assistance group's size for the purpose of comparing the AG's assistance group's monthly income with an income eligibility standard or assigning a benefit level by AG assistance group size. These individuals are not eligible to participate as separate AGs 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 AG assistance group who is otherwise eligible to participate in the food ~~stamp~~ assistance program shall be eligible to participate as a member of that or any other AG 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 section:

- (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 section 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 section.

~~(7) No individual who receives supplemental security income (SSI) benefits and/or California supplementary payments as a resident of California is eligible to receive food stamp benefits. The secretary of the United States department of health and human services has determined that the SSI payments in California have been specifically increased to include the value of the food stamp allotment. See rule 5101:4-6-15 of the Administrative Code for how to treat the income, resources, and expenses of these individuals.~~

~~(8)(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.~~

~~(9)(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 AGs assistance groups.

(1) Boarders

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 by a government agency. Boarders are ineligible to participate in the program as independent AGs assistance groups. They may, however, participate as members of the AG assistance group providing the boarder services to them,

at such AG's assistance group's request. 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 AG 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 AG 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 AG assistance group.

Excluding residents of a commercial boarding house, an individual furnished both meals and lodging by an AG assistance group but paying compensation of less than a reasonable amount to the AG assistance group for such services shall be considered a member of the AG 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 AG assistance group providing the boarder services shall be considered available to such AG 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 AG assistance group. Payments received from all other persons determined to be boarders shall be treated as self-employment income to the AG assistance group.

The procedures for handling self-employment income from boarders (other than such income received by an AG 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 AG 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 ~~stamp~~ assistance program.

(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 AG assistance group for such foster care boarders shall not be considered as available income to the AG assistance group. Foster care boarders may participate in the program as members of the AG assistance group providing the boarder services to them, at such AG's assistance group's request. If the AG assistance group chooses this option, foster care payments received by the AG assistance group shall be considered unearned income to the AG assistance group and counted in their entirety in determining the AG's 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 ~~stamps~~ 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 AG assistance group units for the purpose of applying for and participating in the food ~~stamp~~ assistance program.
- (5) Residents of public or private shelters for homeless persons.

#### (H) Strikers

AGs Assistance groups with striking members shall be ineligible to participate unless the AG assistance group was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. AGs 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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Certification

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Date

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