

November 7, 2005

SUBJECT: Food Stamp Eligibility for Residents of Assisted Living Facilities with Meal Options

TO: Mary A. Ferris, Director
Food Stamp Program
Northeast Region

This is in reply to your July 21, 2005, memorandum with the above subject in which you ask for clarifications relating to the provision of the regulations at 7 CFR 273.1(b)(7)(vi). This provision provides, in part, that individuals must be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services.

To be a normal service of an institution, the service does not have to be mandatory. For a person who elects to receive the majority of his or her meals via an institution's optional meal plan, this is a normal service of the institution, and, unless the facility qualifies as one of the exceptions to institutional ineligibility listed under 7 CFR 273.1(b)(7)(vii), the individual is ineligible for food stamps. Those that do not elect to receive the majority of their meals from the facility would not be considered residents of any institution and would, therefore, be entitled to receive food stamp benefits if otherwise eligible.

The exceptions to institutional ineligibility listed under 7 CFR 273.1(b)(vii) are taken from the provision in the Food Stamp Act at Section 3(i). If the residents of an institution receive the majority of their meals from the institution these residents are by law ineligible to receive food stamp benefits. The only legal exceptions to institutional ineligibility are (A) Individuals who are residents of federally subsidized housing for the elderly; (B) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program. This includes the children but not the spouses of such persons who live with them at the treatment center or facility; (C) Individuals who are disabled or blind and are residents of group living arrangements; (D) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and (E) Individuals who are residents of public or private nonprofit shelters for homeless persons.

The Food Stamp Act is very restrictive on who can be exempted from institutional ineligibility. However, the Food Stamp Act at Section 3(g) allows a more expansive definition of what constitutes food that may be purchased with food stamp benefits. It is, therefore, possible for residents of a facility that does not satisfy one of the exceptions to institutional ineligibility who receive the majority of their meals from the facility to be ineligible to receive food stamp benefits while others in the same facility who do not receive the majority of their meal from the facility to receive food stamp benefits if there are otherwise determined eligible. Further, if the facility has been authorized by the Food and Nutrition Service to accept food stamp benefits for eligible food from eligible

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individuals, those individuals in the facility who do not get the majority of their meals from the facility and who have been determined eligible for food stamp benefits may use those benefits to purchase individual meals from the facility. If an individual in a facility that does not satisfy one of the legally required exceptions to institutional ineligibility receives the majority of his or her meals from the facility, that individual is by law ineligible for food stamp benefits. Therefore, in the same institution, some people may be eligible and others may be ineligible.

A separate question was raised as to why meals from Meals on Wheels or congregate feeding sites are treated differently than meals purchased from an assisted living facility. The statutory definition of food creates this special treatment.

/s/

Arthur T. Foley, Director
Program Development Division
Food Stamp Program