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## **NEW STATE OPTIONS TO IMPROVE THE FOOD STAMP VEHICLE RULE**

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On October 28, President Clinton signed Public Law 106-387, the Agriculture Appropriations Act for fiscal year 2001. A provision of that legislation, originally introduced as a part of the Hunger Relief Act of 1999, gives states an important new option to improve their treatment of vehicles when determining whether a household is eligible for food stamps. Specifically, the new state option allows states to apply a more liberal method for valuing vehicles that the state has established under part IV-A of the Social Security Act in lieu of regular food stamp rules. (See appendices for the text of the legislation and USDA's implementing guidance of January 4, 2001.) This provision was inspired in part by most states' decision to liberalize the treatment of vehicles in their TANF-funded cash assistance programs.

This provision, along with the broad interpretation of categorical eligibility initially announced in July 1999 and codified into regulations on November 21, 2000, gives states a wide array of options for changing their treatment of vehicles in determining households' eligibility for food stamps. As is discussed below, however, the state option and the new regulations extend opportunities to all states, not just those that have improved their vehicle rules for cash assistance programs. Moreover, it offers the means for states to exclude *all* vehicles from food stamp resource calculations even if their cash assistance programs exclude only one car per household.

States now can choose among five practical courses of action with respect to their food stamp vehicle policy:

1. **Apply the current vehicle policies from the state's TANF-funded cash assistance program to the food stamp program.** For states that want to make a change, this will be the instinctive response. It falls far short, however, of making full use of the law's new option.
2. **Improve the vehicle policies in the state's TANF-funded cash assistance program and then apply those rules to food stamp eligibility determinations.** The new state option may offer states the opportunity for further liberalizations in their cash assistance vehicle rules. Some states set their cash assistance rules equal to the food stamp rules to avoid the burden and risk of error of administering two different vehicle standards in the two programs. The new legislation will allow them to raise both standards together. In addition, the new state option can mean a liberalization of the resource rules in a cash assistance program can bring more food stamp benefits, which are 100 percent federally-funded, into the state.

3. **Improve or eliminate the treatment of vehicles as resources in the food stamp program by adopting the policies of a TANF- or MOE-funded assistance program *other than* cash assistance.** The new option does not limit states to borrowing policies from TANF-funded cash assistance programs. A state may adopt vehicle policies from *any* program that meets two conditions: (1) it receives some funding from federal TANF block grant funds or state MOE funds, and (2) at least some of the benefits it provides meet the definition of "assistance" under HHS's TANF regulations. The extent of this flexibility is described in more detail below. This option effectively allows states to exclude vehicles completely from food stamp eligibility determinations *even if their cash assistance policies are much less generous*.
4. **Exclude some or all vehicles – and other resources – using categorical eligibility for food stamps.** By giving a household a service or other benefit paid for in part or in whole with TANF block grant or TANF MOE funds, a state can render the household categorically eligible for food stamps, without regard to any resources it may own. Some states have developed very simple, inexpensive benefits, such as pamphlets on other programs for which families may be eligible or domestic violence, printed them with TANF funds, and distributed them to all families applying for food stamps. This makes the family categorically eligible for food stamps and eliminates any resource eligibility rules with respect to the family.
5. **Do nothing.** The new provision is a state option. A state can decline to make any changes in its food stamp vehicle policies<sup>1</sup> if it so chooses and there is no deadline by when a state must choose to alter its food stamp vehicle rules. Although some states have criticized the food stamp program's treatment of cars, some may choose to do nothing immediately to change those rules.

When considering each of these options, it should be noted that states have broad flexibility in determining whether to consider the value of vehicles when determining eligibility for Medicaid and, if so, how to do so. Some fourteen states have eliminated consideration of vehicles when determining Medicaid eligibility for low-income families. States may wish to consider using the flexibility granted across all programs to align food stamp and cash assistance rules with their Medicaid policy to the extent they still have a Medicaid vehicle resource test.

Between now and July 1, when the new option takes effect, states will be determining which course to take.

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<sup>1</sup>An exception to this is the recent food stamp regulation that modestly liberalized the food stamp vehicle rules. 65 Fed. Reg. 70202 (November 21, 2000) (amending 7 C.F.R. § 273.8(e)(17)( and (18)). State must implement these changes, but are not required to align their food stamp vehicle rules with their TANF assistance programs.

## Background: Vehicles as Barriers to Food Stamp Eligibility

No matter how poor a family may be, it ordinarily cannot receive food stamps if it has a car the value of which exceeds the Program's resource limits. In the many parts of the country where having reliable transportation is crucial to an individual's ability to find and retain steady employment, food stamp resource rules have become increasingly inconsistent with states' welfare-to-work objectives. The Food Stamp Act of 1977 required states to count the fair market value of a car as a resource to the extent that the value exceeds \$4,500. In setting this limit, the 1977 House Agriculture Committee report stated that the limit was intended to affect only households with expensive cars, not those with ordinary vehicles needed to commute or look for work.

In the 23 years since the limit was originally set, however, it has been increased only \$150 — or about three percent — while the Consumer Price Index for cars has *nearly tripled*. Since the vehicle limit was set at \$4,500 in 1977, the CPI-U for used cars has risen 186 percent. For the vehicle limit today to have the same real value that the \$4,500 limit had in 1977, it would need to be set at more than \$12,800. Stated another way, the current limit equals *just 36 percent* of the 1977 limit's real value. As a result, the vehicle limit has a far more restrictive effect on working poor families today than Congress intended when it established the limit.

THE FOOD STAMP VEHICLE RESOURCE LIMIT HAS LOST VALUE OVER TIME				
	CPI-U for Used Cars	Actual Limit	Real Value of 1977 Limit	Change in Limit's Real Value since 1977
1977	54.7	\$4,500	\$4,500	---
1984	112.5	\$4,500	\$9,255	- 51.4%
Nov. 2000	159.3	\$4,650	\$13,105	- 64.5%

By January 1984, President Reagan's Task Force on Food Assistance, while advancing very conservative proposals in other food stamp areas, warned that the food stamp assets limits had eroded significantly to inflation since 1977 and called for the vehicle limit to be increased immediately from \$4,500 to \$5,500. The Task Force wrote that many working households that had recently become poor due to unemployment "do not qualify for food stamps because they own too many assets such as autos... . Sometimes these assets are not readily marketable, and if the household has borrowed to purchase them they may actually be a drain on the household's resources... . Therefore, we believe these households should be given greater access to the food stamp system. Raising the limit will help accomplish this."

As the Reagan Task Force explained, the food stamp program bases eligibility determinations on a vehicle's *fair market value*, not on the equity a household has in its vehicle. A vehicle thus can disqualify a household from receiving food stamps even if the household has little equity in it and would receive little money from selling the vehicle.

This restrictive rule apparently has its sharpest effects on working poor families in rural areas. Census data show that poor rural households are somewhat more likely to own cars than poor urban households are, evidently due to the longer distances and lack of public transportation in rural areas. A significant number of rural poor households are now ineligible for food stamps due to the cars they use to commute to work. Central city residents who must commute to work in low-skilled jobs in outlying suburbs also often find a car essential if they are to hold their jobs.

In addition, the Food Stamp Program's current treatment of vehicles can turn a temporary set-back into a longer-term one when low-income working families lose their jobs. The relatively low limit on the value of vehicles these families may own can become a barrier preventing them from receiving food stamps. If these unemployed households sell their cars to become eligible for food stamps, they may encounter greater difficulty returning to the workforce because lack of a car can make it harder to search for a job or commute to work. Recent research has found that whether a family has a reliable car is an important factor in determining the success of its effort to make the transition from welfare to work.

With the advent of states' welfare reform efforts, these food stamp vehicle policies have begun to cause even more severe problems. Recipients of AFDC and TANF-funded cash assistance (as well as SSI recipients) have long been exempted from these vehicle resource limits because of a provision of the statute making those families "categorically eligible" for food stamps. As the fraction of poor families receiving cash assistance has declined, however, and the population with earnings has increased, more families that are in need of food stamps have been unable to secure them because of the value of a car a family member needs to find or keep a job. A car that did not count as a resource when the family received cash assistance now disqualifies the family once it works its way off welfare.

In designing programs under the TANF block grant, states have recognized that strict limits on the value of vehicles that families may own are often counter-productive. Almost all states apply more liberal vehicle resource rules to their TANF-funded cash assistance programs than they did under AFDC, and over half of the states have established vehicle policies for cash assistance that are far more generous than the Food Stamp Program applies to households *not* covered by categorical eligibility (see text box for a description of the food stamp resource limit). In addition, most states provide some non-cash TANF-funded services with no vehicle limits at all. Indeed, states have complained that families leaving the cash assistance rolls, or being diverted from cash welfare programs, are unfairly disadvantaged because they are subjected to the food stamp vehicle resource rules while families receiving monthly cash assistance checks have been considered categorically eligible for food stamps (and hence exempt from those rules).

### **Excluding Vehicles by Adopting Liberal Policies from Non-cash Assistance Programs**

As stated above, the new option provides states with broad flexibility. This flexibility springs from the discretion states have about *which* programs' rules to adopt for food stamp resource calculations. The new statute requires only that the program provide "assistance under the State program funded under part A of title IV of the Social Security Act... ." HHS's final

TANF regulations include a precise definition of "assistance."<sup>2</sup> TANF-funded cash assistance programs, of course, meet this definition. So, too, however, do a range of other programs, including:

- programs providing assistance with segregated state maintenance of effort (MOE) funds or MOE-funded separate state programs (typically programs designed to help families in higher education or low-wage employment without counting months against their TANF time clocks);
- child care subsidy programs (since the TANF regulations count child care subsidies as "assistance" unless the recipient is working);<sup>3</sup> and
- other programs offering vouchers, subsidies, or supportive services to recipients who are not employed.

Roughly half of the states have reported spending some of their TANF block grants for federal fiscal year 2000 on benefits that qualify as "assistance" other than regular cash assistance

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<sup>2</sup>45 C.F.R. § 260.31. This definition "includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses)." It also covers services with a clear cash value such as child care and transportation subsidies (except when provided to a working family). Appendix D below sets out the full regulation.

<sup>3</sup>The possibility of applying child care rules, even if they do not count vehicles at all, is expressly mentioned as a possibility in the floor statements on final passage of the Agriculture Appropriations Act of the ranking minority members of both the House and Senate Agriculture Committees, who co-sponsored HRA. *See* statement of Rep. Stenholm 146 Cong. Record H9691 (daily ed. Oct. 11, 2000); statement of Sen. Harkin 146 Cong. Record S10682 (daily ed. Oct. 18, 2000). (Both statements are reproduced in Appendix C below.) USDA's implementing guidance notes that states "may adopt vehicle allowance rules from any program that receives TANF or TANF maintenance-of-effort (MOE) funds so long as that program provides benefits that meet the definition of 'assistance' according to TANF regulations at 45 CFR 260.31. This definition includes ... supportive services such as transportation and child care provided to families who are not employed."

USDA is likely to rule, however, that TANF block grant money transferred to the Child Care Development Fund (CCDF) loses its character as funds under part IV-A of the Social Security Act. As a result, a child care program that receives no TANF or TANF MOE funds except through a transfer to CCDF would not qualify as a program whose treatment of vehicles could be adopted in the food stamp program.

grants.<sup>4</sup> Others may be spending MOE funds, or TANF block grant moneys from prior years, on these forms of "assistance."

The ability to borrow vehicle rules from programs other than basic cash assistance is critical because many of these other programs do not apply resource tests at all. USDA's guidance points out that "States can borrow TANF- or MOE-funded program rules for food stamp purposes which exclude cars completely, or do not apply resource rules at all. In such cases, any vehicle owned by any household in the State would not be considered a resource for food stamp purposes."<sup>5</sup> Therefore, if a state adopts the rules of a child care or other program that has no resource test, it would exclude all vehicles from consideration as resources in the food stamp program regardless of whether the state has liberalized its treatment of vehicles for cash assistance purposes.

To be sure, states have taken great pains to avoid having child care subsidies and other supportive services that meet the definition of "assistance" count against families' time clocks or, if the family is not employed, against the state's work participation rates. Losing months from its time clock in exchange for being exempt from the food stamp vehicle resource rules would not be a good result for many households. Unlike the food stamp categorical eligibility policy USDA announced in July 1999, however, *the new option does not require that a family actually receive benefits* under the TANF- or MOE-funded program in order to benefit from that program's liberal treatment of resources. The mere existence of the TANF- or MOE-funded program in the state is sufficient to allow its treatment of resources to be copied for *all* food stamp households in the state, regardless of their affiliation with that program.<sup>6</sup> Thus, even childless households with no connection whatsoever with the TANF- or MOE-funded program would be able to receive food stamps under the benefit of that program's rules for vehicles.

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<sup>4</sup>According to an informal CBPP survey, these states are Alabama, Alaska, Arizona, California, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Missouri, Montana, Nevada, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and Washington State.

<sup>5</sup>HRA's sponsors recognized this in their floor statements on the final passage of the Agriculture Appropriations Act. *See, e.g.*, 146 Cong. Record H9691 (daily ed. Oct. 11, 2000) (remarks of Rep. Stenholm); *id.*, at S10682 (daily ed. Oct. 18, 2000) (remarks of Sen. Harkin).

<sup>6</sup>USDA's guidance states "[i]f a State decides to apply the policies from a State TANF or MOE-funded program to evaluate vehicles for food stamp purposes, those policies will apply to all food stamp households in the State, whether or not they receive or are eligible to receive TANF assistance of any kind." Susan Carr Gossman, Deputy Administrator, Food Stamp Program, FNS, USDA, *Food Stamp Provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001* at 3 (January 4, 2001)(set out below in Appendix B).

## Determining the Eligibility of Households with Multiple Vehicles

According to a USDA analysis of 1994 data, over three-fifths of low-income households whom current food stamp vehicle rules make ineligible for food stamps have at least two cars or trucks and more than one-fifth own three or more. If a state adopts the rules of a TANF- or MOE-funded program that has no resource test, or that excludes all vehicles completely, households with multiple vehicles will present no special problems since all vehicles will be excluded for all households. If, however, a state chooses to adopt the vehicle rules from its cash assistance program, it should consider how it will treat food stamp households with more than one vehicle. Since the typical cash assistance recipient family has only one adult, many states' cash assistance programs provide liberal or complete resource exclusions for one car while maintaining stringent rules for any additional vehicle a family may own. Thus, the state's policy may be more liberal than food stamp rules for a family's first car but more restrictive than food stamps for second and succeeding vehicles. In these cases, USDA's guidance provides that

States would not be required to perform two complete resource calculations for each household to determine whether TANF or food stamp vehicle rules, when applied to the household's circumstances, result in a lower attribution of resources for that household. They may instead decide which rules are more liberal on a vehicle-by-vehicle basis. For example, if TANF policy is to exclude the primary car completely and count the fair market value of any additional cars, the State may exclude one car in its entirety, since this policy is more liberal than food stamp procedures. For a second vehicle, State could apply food stamp vehicle rules which count the fair market value of a vehicle only to the extent it exceeds \$4,650 and is more liberal than its TANF fair market value policy. In using their TANF policy to exclude one vehicle, States may apply their exclusion to the vehicle with the highest value as provided in their rules.<sup>7</sup>

This makes good sense since requiring such dual calculations would be both administratively burdensome and error-prone. Thus, states may instruct eligibility workers to complete the following steps in determining how much, if any, of the value a household's vehicles are counted as resources for food stamp purposes:

- First, apply exclusions provided for under food stamp rules, such as those for vehicles used in employment, those that transport physically disabled household

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<sup>7</sup>Legislative history supports the conclusion that Congress did not intend to require states to conduct two complete evaluations of households' vehicles. Senator Harkin stated that "[u]nder this provision, states would be free to apply a more realistic TANF policy to a household's primary vehicle even if its policy is to exclude that vehicle completely from evaluations of the family's resources. If the household had an additional car or truck and its TANF policy was stricter than food stamp rules for second vehicles, that additional car or truck should then be evaluated under the usual food stamp procedures." 146 Cong. Record S10682 (daily ed. Oct. 18, 2000). Similarly, Rep. Stenholm said "[w]here a household has more than one vehicle, a state electing the option would evaluate each under whichever rules would result in the lower attribution of resources... ." 146 Cong. Rec. H9691 (daily ed. Oct. 11, 2000).

## The Food Stamp Vehicle Resource Test is Complicated

There Are Four Steps to the Food Stamp Vehicle Test:

1. Determine if any of the household's cars are excludable. A vehicle is excludable if:
  - it is used primarily for income-producing purposes (such as taxi cabs),
  - it annually produces income consistent with its fair market value,
  - it is needed for long-distance employment-related travel, other than daily commuting,
  - it is used as the household's home,
  - it is needed to transport a physically handicapped household member (one car per disabled member exempt),
  - it is needed to carry fuel or water that is the household's primary source of fuel or water, or
  - the household has less than \$1,500 equity in it.
2. For vehicles that are not excluded under Step 1, the vehicle's fair market value (based on the used car "blue book") must be evaluated. If the amount is greater than \$4,650, the excess may be counted toward the household's \$2,000 resource limit (see step 4). Under this step, each vehicle is evaluated separately against the \$4,650 threshold. The values of multiple vehicles are not added together.
3. After determining the fair market value of cars that are not excludable under Step 1, an equity value may also have to be determined for some of these cars.
  - a) Determine if the vehicle is subject to the equity test. Cars exempt from the equity test include:
    - one vehicle per adult in the household regardless of the use of the vehicle, and
    - any additional vehicle a household member under age 18 drives to commute to employment or training or education.
  - b) Determine the equity value of any vehicle not excluded under Step 3a. Equity is the fair market value of a car less any encumbrances (*e.g.*, outstanding loan balances).
4. Now, count the appropriate amount toward the food stamp resource limit.
  - a) For each vehicle evaluated under Steps 2 and 3, count the higher of the fair market value above \$4,650 (Step 2) or the equity value (Step 3).
  - b) Add up the values established for each car under 4a.
  - c) Add the amount determined under 4b to the value of the household's other resources and compare the result with the general asset test of \$2,000 (or \$3,000 for a household with an elderly member). If the total is no more than \$2,000, the household meets the resource eligibility requirements for food stamps.

Of course, the new option allows a state to avoid this complex rule completely by borrowing rules from a TANF- or MOE-funded assistance program that does not count any vehicles as resources or rules that are clearly more generous than the food stamp rule. In that case, eligibility workers would no longer need to know or apply regular food stamp vehicle rules.

**Note: This description is based on the new food stamp vehicle policy issued by USDA in final regulations**

members, those owned by recipients of SSI or TANF- or MOE-funded benefits, or those whose equity value is below \$1,500.<sup>8</sup>

- Then, if the policy the state borrowed from a TANF- or MOE-funded program excluded one car per household, the eligibility worker would be directed to apply that exclusion to the most valuable car remaining.
- For additional cars, the eligibility worker would use which ever program's rules were more liberal. For example, if the policy under the TANF- or MOE-funded program was more stringent than food stamp policy, the eligibility worker would count the fair market value (FMV) of any additional car to the extent it exceeds \$4,650. In such a case, the relatively rare food stamp "equity test" would also still apply.<sup>9</sup> (See the text box for an explanation of the food stamp vehicle resource rule and equity test.)

Of course, the new option allows a state to avoid these complex issues completely by borrowing rules from a TANF- or MOE-funded assistance program that does not count any vehicles as resources. Or the state could adopt a more liberal multi-car vehicle policy in its TANF cash assistance program and then apply those rules to food stamps. In either case, eligibility workers would no longer need to know or apply regular food stamp vehicle rules. The relatively rare, although particularly complex equity test would no longer need apply if more generous and simpler rules were imported from another program. Thus, even a state that applies the food stamp \$4,650 fair market value test in its TANF-funded cash assistance program and does not wish to disturb these rules should simplify the treatment of vehicles by eliminating the food stamp equity test in food stamps (assuming the state does not apply that test in its TANF-funded program). Simplifying the food stamp rules for multiple vehicle households would be an improvement for low-income households, eligibility workers and non-profit groups working to inform families about the food stamp program.

### **Excluding Vehicles through Food Stamp Categorical Eligibility**

Recipients of AFDC and TANF-funded cash assistance (as well as SSI recipients) have long been exempted from food stamp vehicle resource limits and other asset tests because of a provision of the statute making those families "categorically eligible" for food stamps. As the fraction of poor families receiving cash assistance has declined, however, and the population

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<sup>8</sup>USDA has been allowing states via waivers to exclude from the food stamp vehicle test any cars with an equity value of less than \$1,000. On November 21, 2000, USDA made this national food stamp policy in final regulations and increased this amount to \$1,500. 7 C.F.R. § 273.8(e)(3)(i)(G). This rule becomes effective on January 20, 2001, and must be implemented by June 1, 2001.

<sup>9</sup>USDA's implementation guidance notes that states may apply more liberal rules borrowed from TANF- or MOE-funded assistance programs in lieu of the food stamp equity test. For those states that find the equity test unduly burdensome and error-prone, this offers an opportunity to eliminate that test statewide.

with earnings has increased, more families that are in need of food stamps have been unable to secure them because of the value of a car a family member needs to find or keep a job. A car that did not count as a resource when the family received cash assistance now disqualifies the family once it works its way off welfare.

On July 14, 1999, USDA issued new guidance on the Food Stamp Program's categorical eligibility rules designed to help address this problem. Final rules codified this guidance on November 21, 2000.<sup>10</sup> The Food Stamp Act grants categorical eligibility to "households in which each member receives benefits under a State program funded under part A of title IV of the Social Security Act." USDA's new policy allows states to extend categorical eligibility to families receiving *only services* that secure funding from the federal TANF block grant or state maintenance-of-effort moneys (as well as to families receiving cash assistance).

The services that trigger categorical eligibility for food stamps can be as modest or as intensive as a state deems appropriate. Nor is it necessary that a family actually access a service to be deemed a recipient any more than an individual who has been issued a Medicaid card must go to the doctor to be considered a Medicaid recipient. For a service to trigger categorical eligibility (and thus to exempt the recipient family from the Food Stamp Program's resource limits), USDA's guidance requires that (1) the state authorize the family to receive the service, (2) the family be told how it may access the service, and (3) at least some TANF block grant or MOE funds help support the service.

The final regulations state that a state agency *must* confer categorical eligibility to the following types of households:

- Households in which all members receive cash assistance via a public assistance or SSI program (so long as they are not residents of an institution).
- Households in which all members receive or are authorized to received non-cash or in-kind benefits or services from a program designed to meet either of the first two statutory purposes of the TANF block grant<sup>11</sup> and that is more than 50 percent funded by federal TANF or state MOE funds.
- Households in which all members or are authorized to received non-cash or in-kind benefits or services from a program designed to meet the third or fourth statutory

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<sup>10</sup>65 Fed. Reg. 70198 (November 21, 2000), *amending* 7 C.F.R. § 273.2(j)(2).

<sup>11</sup>These purposes are set out in section 401(a)(1) and (2) of the Social Security Act (42 U.S.C. §§ 601(a)(1) and (2)): states may spend TANF and MOE funds to "(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; [or] (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage".

purposes of the TANF block<sup>12</sup> grant *and* that is more than 50 percent funded by federal TANF or state MOE funds *and* that requires participants to have a gross income test below 200 percent of poverty.

The state agency *may at its option* confer categorical eligibility to:

- Households in which all members receive or are authorized to receive non-cash or in-kind benefits or services from a program designed to meet one of the first two purposes of the TANF block grant and that is *less than* 50 percent funded by federal TANF or state MOE funds.
- Households in which all members or are authorized to received non-cash or in-kind benefits or services from a program designed to meet purposed three and four under the TANF block grant *and* that is *less than* 50 percent funded by federal TANF or state MOE funds *and* that requires participants to have a gross income test below 200 percent of poverty. Exercising this option requires approval from USDA.
- Households in which one member receives or is authorized to receive any of the above described benefits and services where the state determines that the whole household benefits from such services.

Because the USDA policy allows states to confer categorical eligibility based on a service as simple and inexpensive as a pamphlet or an offer of access to a case manager, states may, with a few simple steps, exempt substantial numbers of families with children from the food stamp resource rules and thereby address the barrier the vehicle limit poses. Taking advantage of this opportunity simply requires the state to recognize such a service and make minor modifications to its procedures for handling families seeking food stamps. The state cost can be quite slight.

### **Comparing the New State Option and Categorical Eligibility**

Because the expanded categorical eligibility policy USDA announced in July 1999 has been the primary mechanism available to states seeking to improve the food stamp program's treatment of cars, it may be useful to compare that policy with this new state option. The two differ in three major respects.

First, categorical eligibility applies only to "recipients" of benefits under part IV-A. This has forced states seeking to improve their food stamp vehicle policies to find cost-effective ways of delivering something that could be characterized as a TANF- or MOE-funded benefit to low-

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<sup>12</sup>Section 401(a)(1) and (2) of the Social Security Act (42 U.S.C. §§ 601(a)(3) and (4)) allows states to use TANF and MOE funds to "(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) encourage the formation and maintenance of two-parent families."

income families. The new option, by contrast, allows a state to replace the food stamp vehicle rules statewide with more liberal alternatives from TANF- or MOE-funded programs. States that do so will not have to concern themselves with whether any particular household receives benefits under the program whose vehicle rules it is borrowing.

This should make the new option much more appealing to many states than categorical eligibility has been because the states will not need to develop an administratively feasible method of delivering a benefit to every household they wish to benefit from improved treatment of vehicles. Indeed, concern about having to maintain the harsher food stamp resource rules for childless households that were ineligible for TANF- or MOE-funded services (including elderly individuals and couples) was a factor some states have cited in eschewing categorical eligibility. A state adopting the new option on vehicles, by contrast, will apply its improved rules to all food stamp households in the state regardless of their composition.

Second, categorical eligibility eliminates all resource limits. The new option, on the other hand, is limited to vehicles. States therefore may wish to continue to rely upon categorical eligibility to avoid counting as resources the value of individual retirement accounts (IRAs) and defined contribution pension plans (such as those under sections 401(k) and 403(b) of the Internal Revenue Code).

Finally, both options relate to a range of TANF- and MOE-funded programs going well beyond regular cash assistance. A TANF- or MOE-funded benefit can trigger categorical eligibility even if it does not meet the definition of "assistance" in the TANF rules. Thus, some states made families categorically eligible for food stamps based on their receipt of a simple pamphlet or an offer of case management services. By contrast, the new option allows states only to borrow resource rules from programs offering benefits classified as assistance. This difference may be less important than it appears, however, because a household need not actually receive TANF- or MOE-funded assistance in order to benefit from the new option. As noted above, all that is required is that the TANF- or MOE-funded program *exist* and that at least some of the benefits it offers meet the definition of "assistance."

## **Conclusion**

States and non-profit groups have long argued that the food stamp vehicle asset limit was too restrictive and too complicated when compared with other programs. Now, with new legislation and existing administrative options, states have the flexibility to set their food stamp vehicle limit for the entire food stamp caseload at the level they chose. Some of these policy mechanisms are preferable to than others because they would allow states to entirely eliminate the food stamp vehicle asset limit and to radically simplify the food stamp rules for households with multiple vehicles. Regardless of which method a state elects, this new option gives states the much needed flexibility to open up the food stamp program to low-income working households who need a modest vehicle to get to work.

## **APPENDIX A: New Statutory Provision on Vehicles in the Food Stamp Program**

Section 847 of the Agriculture Appropriations Act for Fiscal Year 2001 amends section 5(g)(2) of the Food Stamp Act (7 U.S.C. § 2014(g)(2)) by adding a new subparagraph (D), to read as follows:

(D) ALTERNATIVE VEHICLE ALLOWANCE- If the vehicle allowance standards that a State agency uses to determine eligibility for assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) would result in a lower attribution of resources to certain households than under subparagraph (B)(iv), in lieu of applying subparagraph (B)(iv), the State agency may elect to apply the State vehicle allowance standards to all households that would incur a lower attribution of resources under the State vehicle allowance standards.

Clause (iv) of subparagraph (B) contains the fair market value rule for counting licensed vehicles as assets. This provision was originally part of the Hunger Relief Act of 1999.

## APPENDIX B: USDA Implementing Guidance of January 4, 2001

January 4, 2001

**SUBJECT:** Food Stamp Provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001

**TO:** Regional Administrators  
Food and Nutrition Service

On October 28, 2000, the President signed Public Law 106-387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, which includes several provisions affecting the Food Stamp Program. Attached is an implementing memorandum describing the provisions which increase the maximum excess shelter expense deduction, and allow States to substitute their Temporary Assistance for Needy Families (TANF) vehicle rules for the food stamp vehicle rules where doing so would result in a lower attribution of food stamp resources to households. Regulations reflecting revisions to the Act made by Public Law 106-387 will be published as soon as possible. Please forward the attached memorandum to your State commissioners.

We are also attaching a chart listing each State's vehicle policy under its TANF cash assistance program. This information has been compiled from several sources and may not reflect the State's current policy. As stated in the memorandum, States may, however, use the vehicle rules from other TANF programs under certain conditions. If States opt to use TANF rules for valuing vehicles, please let us know which program the State is using and the rules of that program.

If you have any questions, please contact John Knaus or Connie Slough at (703) 305-2098 or (703) 305-2762, respectively.

Susan Carr Gossman  
Deputy Administrator  
Food Stamp Program

Attachments

Commissioners  
All States

On October 28, 2000, the President signed Public Law 106-387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, which includes several provisions affecting the Food Stamp Program. This memorandum describes the two provisions of this act which increase the maximum excess shelter expense deduction, and allow States to substitute their Temporary Assistance for Needy Families (TANF) vehicle rules for the food stamp vehicle rules where doing so would result in a lower attribution of resources to food stamp households.

The following information is provided for your guidance.

#### **Section 846--MAXIMUM AMOUNT OF EXCESS SHELTER EXPENSE DEDUCTION**

This section amends section 5(e)(7)(B) of the Food Stamp Act of 1977 to increase the cap on the excess shelter expense deduction for fiscal years 2000 and beyond for households which do not contain an elderly or disabled member. For fiscal year 2001, maximum excess shelter expense deductions shall not exceed \$340, \$543, \$458, \$399, and \$268 per month for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands, respectively. Maximum excess shelter expense deductions for fiscal years 2002 and beyond are to be computed based on the applicable amount for the preceding fiscal year, adjusted to reflect changes in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding November 30. This provision is effective March 1, 2001, but does not apply to certification periods beginning before this date. States must, therefore, implement the new shelter expense deduction cap when certifying or recertifying households on or after the March 1, 2001, effective date. We realize some States may have difficulties in programming their computers to allow for dual excess shelter caps. However, the statute does not permit application of the new shelter deduction allowances for all households on the March 1<sup>st</sup> effective date.

#### **Section 847--VEHICLE ALLOWANCE**

This section amends section 5(g)(2) of the Food Stamp Act of 1977 (FSA) to allow State agencies the option to use their TANF vehicle allowance rules rather than the fair market value vehicle rules used in the Food Stamp Program where doing so will result in a lower attribution of resources to food stamp households. Vehicles that are excluded in their entirety under section 5(g)(2)(C) of the FSA would continue to be excluded before applying the TANF option. The new vehicle provision is effective July 1, 2001, but does not apply to certification periods beginning before this date. States may, therefore, implement this change through certifications and recertifications occurring anytime on or after July 1, 2001.

Until final regulations are published, States have flexibility in determining how these provisions should be implemented. It may be helpful to review the floor statements made October 11 and 18, 2000, by Representative Charles W. Stenholm, and Senator Tom Harkin, respectively, concerning the conference report on the bill which was signed into law as Public Law 106-387.

These statements can be found on page H9691 of the October 11, and pages S10682 and S10683 of the October 18, 2000, Congressional Record. (Copies of the transcripts have been enclosed for your convenience). We would like to emphasize these points for your information:

- ⇒ States may adopt vehicle allowance rules from any program that receives TANF or TANF maintenance-of-effort (MOE) funds as long as that program provides benefits that meet the definition of "assistance" according to TANF regulations at 45 CFR 260.31. This definition includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs including such benefits when they are provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients and conditioned on participation in work experience or community service or any other work activity under TANF regulations. It also includes supportive services such as transportation and child care provided to families who are not employed. (A comprehensive definition of "assistance" under TANF is enclosed for your information.)
- ⇒ If a State decides to apply the policies from a State TANF or MOE-funded program to evaluate vehicles for food stamp purposes, those policies will apply to all food stamp households in the State, whether or not they receive or are eligible to receive TANF assistance of any kind.
- ⇒ Although section 847 of Public Law 106-387 amends section 5(g)(2)(B)(iv) of the FSA pertaining solely to the fair market value test for vehicles, States may, however, apply this provision to the food stamp equity test for vehicles which is not mandated by statute. States may, therefore, apply their borrowed TANF option to those vehicles which are subject to the equity test for food stamps. If a State TANF program has a more lenient vehicle test than food stamps for fair market and equity evaluation purposes, it may use this policy for both. If the food stamp fair market test is more lenient than a State TANF program, but the program's equity test is more lenient than food stamp rules, the State may choose the food stamp test for fair market evaluation, and TANF rules for the equity test.
- ⇒ Where a household has more than one vehicle, a State electing the option may evaluate each vehicle separately under whichever rules will result in the lower attribution of resources to the household. States would not be required to perform two complete resource calculations for each household to determine whether TANF or food stamp vehicle rules, when applied to the household's circumstances, result in a lower attribution of food stamp resources for that household. They may instead decide which rules are more liberal on a vehicle-by-vehicle basis. For example, if TANF policy is to exclude the primary car completely and count the fair market value of any additional cars, the State may exclude one car in its entirety, since this policy is more liberal than food stamp procedures. For a second vehicle, States could apply food stamp vehicle rules which count the fair market value of a vehicle only to the extent it exceeds \$4,650 and is more liberal than its TANF fair market policy. In using their TANF policy to exclude one vehicle, States may apply their exclusion to the vehicle with the highest value as provided in their rules.
- ⇒ States can borrow TANF- or MOE-funded program rules for food stamp purposes which exclude cars completely, or do not apply resource rules at all. In such cases, any vehicle

owned by any household in the State would not be considered a resource for food stamp purposes.

### **Quality Control Hold-Harmless Procedures**

The following procedures shall be used for all cases with review dates on or after the effective date of the above provisions.

⇒ Once the State implements the excess shelter deduction provisions, variances resulting from the incorrect implementation of these provisions shall be excluded from error analysis (in accordance with regulations at 7 CFR 275.12(d)(2)(vii)) in cases that are certified or recertified during the first 120 days of the required implementation date beginning on March 1, 2001. If a State implements the optional TANF vehicle policy, variances resulting from the incorrect implementation of these provisions shall be excluded from error analysis for cases certified or recertified during the first 120 days of the implementation period beginning either on July 1, 2001, or on the date of implementation, whichever is later. Under these procedures, the variance exclusion would be applied to cases in which the allotment authorized as of the review date is based on a certification or recertification action occurring during the variance exclusion period. For these cases, the variance exclusion would be applied until the case is recertified after the expiration of the variance exclusion period or an interim change occurs and is processed after the expiration of the variance exclusion period, whichever is earlier. The review date itself does not have to fall within the variance exclusion period for these hold-harmless procedures to apply. The hold-harmless provisions shall not apply to cases certified or recertified either prior to or after the 120-day variance exclusion period.

Regulations reflecting revisions to the Act made by Public Law 106-387 will be published as soon as possible. States electing the TANF option should inform their Regional Office which TANF assistance program they intend to use for vehicles and the rules of that program.

## APPENDIX C: Legislative History of New Food Stamp Vehicle Provision

Statement of Representative Charles Stenholm, Ranking Minority Member of the House Committee on Agriculture, at 146 Cong. Record H9697 (daily ed. October 11, 2000), on final passage of the conference report on the Agriculture Appropriations Act in the House:

Mr. STENHOLM. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. Kaptur) for yielding the time to me.

Mr. Speaker, I rise in support of the conference report. ...

Mr. Speaker, I am pleased that this conference report includes two important provisions from the bipartisan Hunger Relief Act, of which I am a proud co-sponsor. One of these would increase and then index the cap on the excess shelter deduction. ...

The other provision would give states broad flexibility to increase or eliminate limits on the value of vehicles they may own and still receive food stamps. For many low-income families, having a dependable car is essential to their ability to find and keep employment. Denying food assistance to a household based on the value of a vehicle makes no sense: if the household sold the vehicle, it would become eligible for food stamps but then would have a much harder time becoming more self-sufficient. This provision allows states to adopt rules from any program that receives TANF or TANF maintenance of effort funds as long as that program provides benefits that could meet the definition of “assistance” in the TANF rules. This could include, for example, any child care program since child care can count as assistance under certain circumstances. States would not be required to determine whether any particular individual received assistance from the TANF- or MOE-funded program since that would impose administrative burdens and whatever standards the state adopted would apply statewide. Where a household has more than one vehicle, a state electing the option would evaluate each under whichever rules would result in the lower attribution of resources, whether the regular food stamp rules or the rules borrowed from the other state program. Of course, if the state TANF- or MOE-funded program excluded cars completely, or did not apply resources rules, those rules would prevail.

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Statement of Senator Tom Harkin, Ranking Minority Member of the Senate Committee on Agriculture, Nutrition, and Forestry and member of the Conference Committee on the Agriculture Appropriations Act, at 146 Cong. Record S10682 (daily ed. October 18, 2000), on final passage of the conference report on that Act in the Senate:

Mr. HARKIN. Mr. President, I would like to make a few more points on the hunger relief provisions.

The centerpiece of this package would allow states to reform their treatment of cars and trucks when determining whether a household meets the food stamp resource eligibility limits. Rural families need to look for and travel to employment, to get groceries, and for a host of other purposes. Rural roads and seasonal driving hazards make a dependable vehicle a real necessity. Particularly in an era of welfare reform, we should not be forcing households to choose between reliable transportation and needed food assistance, as current rules effectively do.

States have recognized this, and a great many of them have greatly reformed their treatment of cars in their TANF-funded programs. This is particularly true of the first car that a household has. Under this provision, states would be free to apply a more realistic TANF policy to a household's primary vehicle even if its policy is to exclude that vehicle completely from evaluations of the family's resources. If the household had an additional car or truck and its TANF policy was stricter than food stamp rules for second vehicles, that additional car or truck should then be evaluated under the usual food stamp procedures.

This change in the law gives a state the broadest flexibility to adopt a policy that effects vehicles from any assistance program it operates under the TANF statute. The Secretary has appropriately interpreted similar language already contained within the Food Stamp Act as applying to any program that receives support either from federal TANF block grant funds or from the funds that the TANF statute requires states to spend as "maintenance of effort" in order to draw down the TANF block grant. A similar construction is appropriate here. All that would be required is that the program get TANF block grant or maintenance of effort funds that it provide a benefit that can meet the definition of assistance, not necessarily cash assistance. For example, a state could apply the policy it uses in a child care program because HHS's regulations define child care as assistance when provided to non-working families.

Once a state decided to apply the policies from a state program to evaluating cars for food stamp purposes, those policies would apply to all food stamp households in the state, whether or not they receive or even are eligible to receive TANF benefits of any kind.

The other Hunger Relief Act provision would raise the cap on the food stamp excess shelter cost this March and then adjust it for inflation beginning October 1, 2001.

...

## APPENDIX D: Regulatory Definition of TANF “Assistance”

### 45 C.F.R. § 260.31

Sec. 260.31 What does the term “assistance” mean?

(a)(1) The term “assistance” includes cash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under § 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) It excludes:

(1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to § 404(k) of the Act, to an individual who is not otherwise receiving assistance.

(c) The definition of the term assistance specified in paragraphs (a) and (b) of this section:

(1) Does not apply to the use of the term assistance at part 263, subpart A, or at part 264, subpart B, of this chapter; and

(2) Does not preclude a State from providing other types of benefits and services in support of the TANF goal at § 260.20(a).