

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES
DIVISION

CHAPTER 663

SPECIAL FOOD STAMP HOUSEHOLDS

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am 12/27/86; am 6/18/87; am 8/31/87; am 10/26/87; am
4/28/88; am 12/30/88; am 5/4/89; am 6/1/89; am 4/16/90;
am 8/25/90; am 10/10/90; am 8/30/91; R 3/19/93]

chapter 17-720 [Eff. 7/19/82; am 10/2/82; am 11/29/82; am 4/1/83; am 7/5/83; am 10/1/83; am 1/14/84; am 6/4/84; am 11/29/85; am 4/21/86; am 5/1/86; am 7/1/86; am 7/14/86; am 8/16/86; am 9/2/86; am 11/17/86; am 12/27/86; am 6/18/87; am 8/31/87; am 10/26/87; am 1/21/88; am 4/28/88; am 6/27/88; am 12/30/88; am 6/1/89; am 7/24/89; am 10/19/89; am 12/21/89; am 8/25/90; am 11/19/90; am 7/20/91; am 8/30/91; R 3/19/93]

SUBCHAPTER 1

HOUSEHOLD CONCEPT

§17-663-1 Definitions. As used in this subchapter:

"Boarder" means an individual to whom a household furnishes lodging and meals for reasonable compensation.

"Cash out states" means states designated by the Secretary of Health and Human Services which include specifically the value of the food stamp allotment in the states' supplemental security income payments.

"Disabled member" means any member of the household who:

- (1) Receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act; or
- (2) Is a veteran with a service-connected or nonservice connected disability rated by the Veterans Administration as total or paid as total by the Veterans Administration under title 38 of the United States Code; or
- (3) Is a veteran considered by the Veteran's Administration to be in need of regular aid and attendance or permanently housebound under title 38 of the United States Code; or
- (4) Is a surviving spouse of a veteran and considered by the Veterans Administration to

- be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the Veterans Administration to be permanently incapable of self-support under title 38 of the United States Code; or
- (5) Is a surviving spouse or surviving child of a veteran and considered by the Veterans Administration to be entitled to compensation for a service-connected death or pension benefits for nonservice-connected death under title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. As used in this definition, "entitled" refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments but are not yet receiving them; or
 - (6) Receives federally or state-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act; or
 - (7) Receives federally or state-administered supplemental benefits under section 212(a) of Pub. L. 93-66; or
 - (8) Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act; or
 - (9) Received an annuity payment under section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive medicare by the railroad retirement board; or
 - (10) Receives an annuity payment under section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act; or

- (11) Is a recipient of interim assistance benefits pending the receipt of Supplemental Security Income, or a recipient of disability related medical assistance under Title XIX of the Social Security Act, or a recipient of state funded assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the department which are at least as stringent as those used under title XVI of the Social Security Act.

"Elderly member" means a member of a household who is sixty years of age or older or who is fifty-nine years old on the date of application but who will become sixty before the end of the month of application.

"Ineligible alien" means an individual whose alien status makes the individual ineligible for program benefits.

"Live-in-attendant" means an individual who resides in a household to provide medical, housekeeping, child care, or other similar personal services.

"Parental control" means minors who are dependent financially or otherwise upon the household as opposed to independent units.

"Roomer" means an individual to whom a household furnishes lodging but not meals for reasonable compensation.

"Spouse" means either of two individuals:

- (1) Who would be defined as married to each other under section 572-1, HRS; or
- (2) Who are living together and are presenting themselves to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople.

"SSI" means supplemental security income made in the form of monthly cash payments under the authority of:

- (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled;
- (2) Section 1616(a) of the Social Security Act; or

(3) Section 212(a) of Pub. L. No 93-66.

"SSN" means social security number. [Eff 3/19/93;
am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp:
7 C.F.R. §§271.2; 273.1)

§17-663-2 Household concept. (a) A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in subsection (b):

- (1) An individual living alone;
- (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others; or
- (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(b) The following individuals who live with others shall be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified:

- (1) A spouse of a member of the household as specified in section 17-663-1.
 - (A) A spouse of a member of the household, who is temporarily out of the home for part of the month such as a salesperson or construction worker whose job site is too distant for daily commuting, shall continue to be a member of the spouse's household. If the spouse, who is temporarily out of the home due to employment, incurs shelter costs while away from home, the household may claim shelter costs for both the primary residence and the shelter away from home;
 - (B) A spouse who is out of the home for more than a calendar month shall not be considered a member of the food stamp household for that calendar month;
 - (C) Spouses who establish separate residences with the intent to sever

marital ties and do not return to the home for any part of the month may claim separate household status according to chapter 17-680.

- (2) A person under twenty-two years of age who is living with his or her natural or adoptive parents or stepparents; and
 - (3) A child under age eighteen that establishes more than one residence on an ongoing basis such as a student living on campus or in the home of another during the week and returning home on weekends, or a child whose divorced parents have joint custody and split the living arrangement shall be eligible as a household member in that household where the child resides the majority of the month.
 - (4) A child (other than a foster child) under eighteen years of age who lives with and is under the parental control of a household member other than his or her parent. A child shall be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household.
- (c) Notwithstanding the provisions of subsection (a), an otherwise eligible member of such a household who is sixty years of age or older and is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or a nondisease related, severe, permanent disability, may be considered, together with his or her spouse (if living there), a separate household from the others with whom the individual lives. Separate household status under this provision shall not be granted when the income of the others with whom the elderly disabled individual resides (excluding the income of the elderly and disabled individual and his or her spouse) does not exceed 165 per cent of the poverty line.
- (d) Residents of a commercial boarding house, regardless of the number of residents, are not eligible to participate in the program.
- (1) A commercial boarding house is an establishment licensed to offer meals and

lodging for compensation. It does not include any of the entities listed in section 17-663-4(f). In project areas without licensing requirements, a commercial boarding house is a commercial establishment that offers meals and lodging for compensation with the intent of making a profit.

- (2) All other individuals or groups of individuals paying reasonable compensation for meals or meals and lodging must be considered boarders and are not eligible to participate in the program independently of the household providing the board. Such individuals or groups of individuals may participate, along with a spouse or children living with them, as members of the household providing the boarder services, only at the request of the household providing the boarder services. An individual paying less than reasonable compensation for board must not be considered a boarder but must be considered, along with a spouse or children living with him or her, as a member of the household providing the board.

(A) For individuals whose board arrangement is for more than two meals per day, "reasonable compensation" must be an amount that equals or exceeds the maximum food stamp allotment for the appropriate size of the boarder household.

(B) For individuals whose board arrangement is for two meals or less per day, "reasonable compensation" must be an amount that equals or exceeds two-thirds of the maximum food stamp allotment for the appropriate size of the boarder household.

- (3) Boarders shall not be considered residents of an institution as specified in section 17-655-30.

(e) Individuals placed in the home of relatives or other individuals or families by a federal, state, or local governmental foster care program must be

considered to be boarders. They cannot participate in the program independently of the household providing the foster care services. Such foster care individuals may participate, along with a spouse or children living with them, as members of the household providing the foster care services, only at the request of the household providing the foster care.

(f) Individuals to whom a household furnishes lodging for compensation, but not meals, may participate as separate households. Persons described in subsection (b) of this section must not be considered roomers.

(g) A live-in attendant may participate as a separate household. Persons described in subsection (b) must not be considered live-in attendants. [Eff 3/19/93; am 2/7/94; am 10/16/95; am 10/28/96; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2; 273.1(a) and (b))

§17-663-3 REPEALED. [R NOV 19 2005]

§17-663-4 Ineligible household members. The following persons are not eligible to participate as separate households or as a member of any household:

- (a) Ineligible aliens and students;
- (b) SSI recipients in "cash-out" states;
- (c) Individuals disqualified for noncompliance with work requirements;
- (d) Individuals disqualified for failure to provide an SSN;
- (e) Individuals disqualified for an intentional program violation; and
- (f) Residents of an institution, with some exceptions. Individuals must 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. Exceptions to this requirement include only the individuals listed in paragraphs (1) through (5). The individuals listed in paragraphs (1) through (5) may participate in the program and shall be treated as separate households from the others with

whom they reside, subject to the mandatory household combination requirements of section 17-663-2(b), unless otherwise stated:

- (1) Individuals who are residents of federally subsidized housing for the elderly;
 - (2) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment program 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 program or facility;
 - (3) Individuals who are disabled or blind and are residents of group living arrangements;
 - (4) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and
 - (5) Individuals who are residents of public or private nonprofit shelters for homeless persons.
- (g) Individuals convicted based on behavior which occurred after August 22, 1996 of any offense which is classified as a felony:
- (1) Which has an element of possession, use or distribution of a controlled substance; and
 - (2) The individual has refused or is not complying with mandated drug addiction or alcohol treatment and rehabilitation services.
- (h) Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, or who are violating a condition of probation or parole.
- (i) Persons ineligible because of the time limit for able-bodied adults. [Eff 3/19/93; am 8/18/94; am 12/9/94; am 10/28/96; am and comp NOV 19 2005]
(Auth: HRS §346-14) (Imp: HRS §346.53.3; 7 C.F.R. §§273.1(b)(7); 273.11(m) and (n); 273.24)

§17-663-5 REPEALED. [R NOV 19 2005]

§17-663-6 REPEALED. [R NOV 19 2005]

§§17-663-7 to 17-663-9 (Reserved).

SUBCHAPTER 2

VOLUNTARY QUIT

§17-663-10 REPEALED. [R 10/28/96]

§17-663-11 REPEALED. [R 10/28/96]

§17-663-12 REPEALED. [R 10/28/96]

§17-663-13 REPEALED. [R 10/28/96]

§17-663-14 REPEALED. [R 10/28/96]

§17-663-15 REPEALED. [R 10/28/96]

§17-663-16 REPEALED. [R 10/28/96]

§17-663-17 REPEALED. [R 10/28/96]

§§17-663-18 to 17-663-20 (Reserved).

SUBCHAPTER 3

DRUG ADDICTS AND ALCOHOLICS IN TREATMENT PROGRAMS

§17-663-21 Eligibility as household members. (a) Members of eligible households, including single person households, who are narcotic addicts or alcoholics and who regularly participate in a drug addiction or alcoholic treatment and rehabilitation program on an out-patient basis may use food stamp benefits to purchase food prepared for them during the treatment program by a private, nonprofit organization or institution which is authorized by FNS to redeem the food stamp benefits through wholesalers, or which redeems food stamp benefits at retail food stores as the authorized representative of participating households.

(b) Household members who are narcotic addicts or alcoholics who are participating in a drug addiction or alcohol treatment and rehabilitation program as an in-patient or resident of the treatment program, may participate in the food stamp program but shall do so through an authorized representative who shall be a designated employee of the treatment program, as specified in section 17-663-22. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(e); 274.10(f))

§17-663-22 Drug addiction or alcohol treatment and rehabilitation programs as authorized representatives. (a) Residents of drug addiction or alcohol treatment and rehabilitation programs may apply for food stamp benefits and shall be certified through the use of an authorized representative. The authorized representative shall be a designated employee of the private nonprofit organization or institution that is administering the treatment and rehabilitation program. The organization or institution shall apply for food stamp benefits on behalf of each drug addict or alcoholic and shall receive and spend the food stamp benefit allotment for food prepared, served, or both, to the drug addict or alcoholic.

(b) Narcotic addicts or alcoholics who for the purpose of regular participation in a drug addiction or alcohol treatment and rehabilitation program, reside at a facility or treatment center, shall not be considered residents of institutions. [Eff 3/19/93; am and comp

NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e))

§17-663-23 Certification policy. (a) Residents of drug addiction or alcohol treatment and rehabilitation programs shall be certified as one-person households, except as specified in subsection (j), by using the same provisions applicable to all other applicant households except that certification shall be completed through use of an authorized representative as specified in section 17-663-22.

(b) Prior to certifying a resident of a drug addiction or alcohol treatment and rehabilitation program for food stamps, the branch shall verify that the treatment program is authorized by FNS to act as a retailer or a meal service provider, or is certified by the department or state department of health to receive or is eligible to receive funding under Part B of Title XIX of the Public Health Service Act.

(c) For residents of treatment programs who are entitled to expedited service, the branch shall mail an EBT card to the residents or have the EBT card available to be picked up no later than five calendar days following the filing date. If eligibility for the initial application is expedited, the branch shall complete verification and documentation requirements prior to issuance of a second food stamp allotment.

(d) When regular processing standards apply, the branch shall complete the verification and documentation requirements prior to making an eligibility determination for the initial application.

(e) The branch shall process changes in household circumstances and recertifications by using the regular standards that apply to all other food stamp households.

(f) Households that reside at a drug addiction or alcohol treatment and rehabilitation program shall have the same rights to notices of adverse action, adequate notice, fair hearing, and entitlement to lost benefits as do all other food stamp households. A resident of a treatment program shall be given an application upon request and shall be allowed to file the application on

the same day. The interview, verification, and other certification procedures shall be accomplished through the authorized representative.

(g) Regular participants in a drug addiction or alcohol treatment and rehabilitation program, either on a resident or nonresident basis, shall be exempt from work registration requirements as specified in subchapter 3 of chapter 17-684.

(h) If the information on the application is questionable, the regular participation of a drug addict or alcoholic in a treatment program shall be verified by the branch through the organization or institution operating the program before the branch grants the work registration requirement exemption.

(i) Residents of drug addiction or alcohol treatment and rehabilitation programs shall usually be certified in accordance with chapter 17-647.

(j) In situations where the resident's children are also living with the resident at the drug addiction or alcohol treatment and rehabilitation program, the children shall be included in the household with the parent. [Eff 3/19/93; am 8/18/94; am and comp

NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2(i); 273.11(e))

§17-663-24 Requirements for drug addiction or alcohol treatment and rehabilitation program participation. "Drug addiction or alcohol treatment and rehabilitation program" or "treatment program" means any drug addiction or alcohol treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center, under part B of Title XIX of the Public Health Service Act (42 U.S.C. §300x et seq.). The drug addiction or alcohol treatment and rehabilitation program shall be certified by the state department of health, or other agency designated by the governor as the agency responsible for the State's programs for the rehabilitation of alcoholics and drug addicts under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. §§4541-4594) and

the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. §§1101-1194). [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: HRS §321-193; 7 C.F.R. §271.2)

§17-663-25 Monthly reports. (a) Each drug addiction or alcohol treatment and rehabilitation program shall provide the branch with a list which shall include:

- (1) The names of currently participating residents; and
 - (2) A statement signed by a center official attesting to the validity of the list.
- (b) The branch shall require submission of the list on a monthly basis. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(3))

§17-663-26 Participant departure from the drug addiction or alcohol treatment and rehabilitation program.

(a) The drug addiction or alcohol treatment and rehabilitation program shall take the following actions when a participant leaves the treatment program:

- (1) Notify the branch within ten days of the date the departure becomes known to the treatment program;
- (2) Return the household's EBT card to the participant; and
- (3) Ensure that the household's EBT account is credited with the following amounts for the month of departure:
 - (A) The full monthly food stamp allotment if no food stamp benefits have been spent on behalf of that individual household; or
 - (B) One-half of the household's monthly food stamp allotment if any portion has been spent on behalf of the household and the household leaves the treatment program prior to the sixteenth day of the month; or

(C) The household shall not be entitled to a credit to their EBT account if any portion of the monthly food stamp allotment has been spent on behalf of the household and the household leaves the treatment program on or after the sixteenth day of the month.

(b) Once the household leaves the treatment program, the treatment program shall not act as that household's authorized representative.

(c) The treatment program shall provide the household, if possible, with a change report form. The household shall use the form to report its new address and other circumstances after leaving the treatment program. The treatment program shall advise the household to return the form to the appropriate branch office within ten days.

(d) When a resident leaves a treatment program without notifying the program, the treatment program should attempt to contact the resident. If unable to locate the resident, the treatment program shall return the EBT card to the branch. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(5))

§17-663-27 Reporting changes. The treatment program shall notify the branch of changes in the household's income or other household circumstances. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(2))

§17-663-28 REPEALED. [R NOV 19 2005]

§17-663-29 Treatment program liability. (a) The drug addiction or alcohol treatment and rehabilitation program shall be responsible for any misrepresentation or intentional program violation which it knowingly commits in the certification of program residents. The treatment program shall be knowledgeable about households' circumstances and shall carefully review

those circumstances with residents prior to applying on their behalf.

(b) The treatment program shall be strictly liable for all losses or misuse of food stamp benefits used on behalf of resident households and for all overissuances which occur while the households are residents of the treatment program. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(6))

§17-663-30 Treatment program penalties and disqualifications. (a) The drug addiction or alcohol treatment and rehabilitation program which is authorized by FNS as a retail food store may be penalized or disqualified by FNS if it is determined administratively or judicially that food stamp benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. When the branch has reason to believe that a treatment program is mishandling food stamp benefits in a household's EBT account, the branch shall promptly notify the department's Benefit, Employment and Support Services Division so that FNS may be notified.

(b) The branch shall not take any action against the treatment program prior to FNS action. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(7))

§17-663-31 Claims for overpayments. The branch shall establish a claim against the treatment program for overpayments of food stamp EBT benefits or coupons used or held on behalf of resident clients if any overpayments are discovered during an investigation or hearing procedure for redemption violations. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(7))

§17-663-32 Disqualified treatment program. (a) If FNS disqualifies a drug addiction or alcohol treatment and rehabilitation program from participation as an authorized retail food store, the branch shall

suspend the treatment program's authorized representative status for the same period.

(b) If the treatment program loses its authorization from FNS to accept and redeem food stamp EBT benefits or coupons, or if the treatment program is no longer certified by the state department of health, the treatment program's residents shall not be eligible to participate in the FSP. The residents shall not be entitled to a notice of adverse action but shall receive a written notice explaining the reason for the termination and the effective date of termination.

[Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(e)(7); 273.13(b)(11))

§17-663-33 Branch review. The branch shall conduct periodic, random on-site visits to treatment programs to assure the accuracy of the lists and to ascertain whether the branch's records are consistent and current. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(e)(3))

§§17-663-34 to 17-663-36 (Reserved).

SUBCHAPTER 4

GROUP LIVING ARRANGEMENTS

§17-663-37 Definitions. As used in this subchapter:

"Eligible foods" means:

- (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;
- (2) Seeds and plants to grow foods for the personal consumption of eligible households;
- (3) Meals prepared and delivered by an authorized meal delivery service like meals on wheels to

- households eligible to use food stamp EBT benefits to purchase delivered meals;
- (4) Meals served by a communal dining facility for the elderly, or supplemental security income households to households eligible to use food stamp EBT benefits for communal dining;
 - (5) Meals prepared and served by an authorized drug addiction or alcohol treatment and rehabilitation program to narcotic addicts or alcoholics and their children who live with them;
 - (6) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled as defined in the definition of "disabled member" contained in section 17-663-1;
 - (7) Meals prepared by and served by a shelter for battered women and children to its eligible residents; and
 - (8) In the case of homeless food stamp households, meals prepared for and served by an authorized public or private nonprofit establishment that feeds homeless persons (e.g., soup kitchen, temporary shelter) which is approved by the Benefit, Employment and Support Services Division.

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

"Nonprofit group living arrangement" means an institution which has a tax exempt certificate from the Internal Revenue Service.

"Retail food store" means:

- (1) An establishment, or department thereof, or neighborhood's, farmers', or people's open market food peddlers whose food sales consist of over fifty per cent of eligible staple food items used for home preparation and consumption. Eligible staple foods include meat, poultry, fish, bread, cereals, vegetables, fruits, and dairy products, but do not include hot prepared foods and accessory items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices;
- (2) Public or private communal dining facilities, certain federally subsidized housing facilities, and meal delivery services which provide meals to eligible elderly and disabled individuals;
- (3) Drug addiction or alcohol treatment and rehabilitation programs and publicly operated community mental health centers which conduct residential programs for drug addicts or alcoholics that meet the requirements specified in section 17-663-24;
- (4) Private nonprofit cooperative food buying clubs;
- (5) Public or private nonprofit group living arrangements;
- (6) Public or private nonprofit shelters for battered women and children; and
- (7) Public or private nonprofit establishments, approved by the department's Benefit, Employment and Support Services Division, that feeds homeless persons. [Eff 3/19/93; am 2/07/94; am 12/09/94; am and comp
NOV 19 2005] (Auth: HRS §346-14) (Imp:
7 C.F.R. §271.2)

§17-663-38 Eligibility as household members. A resident of a group living arrangement may participate in the FSP provided the resident shall:

- (1) Be disabled or blind;

- (2) Live in a non-profit group living facility or arrangement certified by the department or the state department of health;
- (3) Receive supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Title I, Title II, Title X, Title XIV, or Title XVI of the Social Security Act (42 U.S.C. §§401-433; 1381-1383); and
- (4) Meet all other eligibility criteria. [Eff 3/19/93; am 2/7/94; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2; 273.11(f))

§17-663-39 Expedited service. A resident of a group living arrangement who is entitled to expedited service shall have an EBT card mailed to the resident or shall have the card available for pickup no later than five calendar days following the date the application was filed. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(i))

§17-663-40 Methods of application. (a) A resident of a group living arrangement may apply for participation in the FSP:

- (1) As a single individual on the individual's own behalf;
- (2) Through an authorized representative of the individual's choice;
- (3) Through the use of an authorized representative who is employed and designated by the group living arrangement; or
- (4) With other residents, as one household group.

(b) The group living facility or arrangement shall determine, after consultation with other agencies providing services to the resident, the method of application based on the resident's ability to manage the resident's own affairs.

(c) A facility may use all methods of application. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f))

§17-663-41 Certification policy. (a) If a resident applies on the resident's own behalf or through an authorized representative of the resident's choice, the household size shall be in accordance with section 17-663-2, where if the resident is purchasing and preparing the majority of resident's own meals, the resident shall be considered a one-person household. However, if the resident is purchasing and preparing the majority of the meals together with other members in the group living arrangement, then all the members, except for those individuals who meet the criteria listed in subsection (b), must be considered members of the same food stamp household. The resident shall control the food stamp EBT benefits and shall be responsible for all overissuances. The resident may use the food stamp EBT allotment to:

- (1) Give the EBT card to the group living facility, which will use the food stamp EBT benefits to purchase food for meals served to the resident individually or communally;
- (2) Purchase and prepare food for the resident's own consumption; or
- (3) Purchase meals prepared and served by the facility.

(b) If the resident applies through the facility's authorized representative the resident shall be considered a one-person household. The facility shall be responsible for any overissuances. The facility may use the food stamp EBT allotment to:

- (1) Purchase food for meals prepared and served to the eligible resident; or
- (2) Give the resident any portion or all of the food stamp EBT allotment for the resident's own use.

(c) If the facility determines several residents qualify as a household, the residents may apply together as a single household group. The members of the group shall be responsible for all overissuances. The number of persons in the household shall determine

the household size. [Eff 3/19/93; am 4/01/96; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(e) and (f), 273.18)

§17-663-42 Use of food stamp EBT benefits. (a) The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain the meals:

- (1) At a central location as part of the group living arrangement service which is authorized by FNS to redeem food stamp EBT benefits at wholesalers or which redeems food stamp EBT benefits at retail food stores as the authorized representative of participating households; or
 - (2) By delivery from a central preparation location to the individual residents.
- (b) If residents purchase or prepare food for home consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's food stamps are used for that resident's meals.

(c) If the resident or group of residents retains use of the resident's or group's own food stamp EBT benefit allotment, the resident or group may either use the food stamp EBT benefits to purchase:

- (1) Meals prepared for them by the facility which is authorized by FNS to redeem food stamp EBT benefits at wholesalers or which redeems food stamp EBT benefits at retail food stores as the authorized representative of participating households; or
- (2) Food to prepare meals for the resident's or group's own consumption. [Eff 3/19/93; am 4/01/96; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(f), 274.10(f))

§17-663-43 Reporting changes. (a) The resident shall report all changes to the branch if the resident applied on the resident's own behalf or through an authorized representative of the resident's own choice

(b) The group living arrangement, when acting in the capacity of an authorized representative, shall report all changes to the branch, including changes in household income and other household circumstances, and when the resident leaves the facility. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f)(4))

§17-663-44 Household departure from the group living arrangement facility. (a) When a household leaves a group living arrangement facility, the facility shall:

- (1) Return to the branch the household's EBT card if the EBT card is received after the household has left the facility; and
- (2) Ensure that the household's EBT account is credited with the following amounts for the month of departure:
 - (A) The full monthly food stamp allotment if no food stamp benefits have been spent on behalf of that individual household; or
 - (B) One-half of the household's monthly food stamp allotment if any portion has been spent on behalf of the household and the household leaves the group living arrangement prior to the sixteenth day of the month; or
 - (C) The household shall not be entitled to a credit to their EBT account if any portion of the monthly food stamp allotment has been spent on behalf of the household and the household leaves the group living arrangement on or after the sixteenth day of the month.

(b) Once the resident leaves, the group living arrangement shall not act as the individual's authorized representative. The group living arrangement shall, if possible:

- (1) Provide the household with a change report form to report to the branch the individual's:
 - (A) New address; and

- (B) Circumstances since leaving the group living arrangement; and
- (2) Advise the household to return the form to the appropriate branch office within ten days. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f)(5))

§17-663-45 Monthly reports of group living arrangement facilities. (a) The group living arrangement facility shall provide the branch with a list of residents in the facility who are participating in the FSP. The list shall be submitted monthly and shall be signed by either the administrator or assistant administrator of the facility to attest to the validity of the list.

(b) The branch shall conduct periodic, random on-site visits, to assure the accuracy of the list and that the branch's records are consistent and up to date. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(f)(2))

§17-663-46 Group living arrangement as a retail food store. (a) The group living arrangement facility shall be authorized by FNS as a retail food store only if it wishes to redeem food stamps through wholesalers.

(b) If the group living arrangement facility accepts the household's EBT card from residents for the purchase of meals for whom it is not the authorized representative, it shall secure FNS authorization as a retail food store. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §278.1(f))

§17-663-47 Exemptions from advance notice. (a) Advance notice of termination to a resident of a group living arrangement shall not be required when the following occur:

- (1) The facility loses its certification from the state department of health or the department; or

- (2) FNS suspends the facility's status as an authorized representative, disqualifying the facility as a retailer.

(b) A resident of a group living arrangement applying on the resident's own behalf shall be eligible to participate, if otherwise eligible. [Eff 3/19/93; comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.13(b)(11))

§§17-663-48 to 17-663-50 (Reserved).

SUBCHAPTER 5

STUDENT PARTICIPATION

§17-663-51 Definitions. As used in this subchapter:

"Student" means any person who is:

- (1) Age eighteen through forty-nine;
- (2) Physically and mentally fit; and
- (3) Enrolled at least half-time in an institution of higher education.

"Half-time" shall be as determined by the particular school. If a definition cannot be obtained from the school, "half-time" shall mean one-half the total number of hours, classes, or credits required for full-time enrollment as determined by the particular school.

"Institution of higher education" means:

- (1) Any business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum; or
- (2) A junior, community, two-year or four-year college or university that offers degree programs regardless of whether a high school diploma is required. [Eff 3/19/93; am 2/7/94; am 8/19/96; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.5)

§17-663-52 REPEALED. [R NOV 19 2005]

§17-663-53 Eligibility requirements for student participation. (a) In order to be eligible for participation in the food stamp program, any person defined as a student shall meet at least one of the following exemption criteria:

- (1) Be employed for a minimum of twenty hours per week, and be paid for such employment or, if self-employed, be employed for a minimum of twenty hours per week and receive weekly gross earnings at least equal to the federal minimum wage multiplied by twenty hours; or
- (2) Be participating in a state or federally financed work study program during the regular school year.
 - (A) To qualify under this provision, the student must be approved for work study at the time of application for food stamps, the work study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins or the month work study is approved, whichever shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment; and
 - (B) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break; or
- (3) Be responsible for the care of a dependent household member under the age of six; or
- (4) Be responsible for the care of a dependent household member who has reached the age of six but is under age twelve and the branch has determined that adequate child care is not available to enable the individual to

- attend class and satisfy the requirements of paragraphs (1) or (2); or
- (5) Be a single parent enrolled full-time in an institution of higher education, as determined by the institution, and be responsible for the care of a dependent child under age twelve.
 - (A) This provision applies in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same food stamp household as the child; and
 - (B) If no natural, adoptive, or stepparent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status under this provision if this student has parental control over the child and is not living with his or her spouse; or
 - (6) Be receiving federally funded benefits from the aid to families with dependent children program; or
 - (7) Be assigned to or placed in an institution of higher education through or in compliance with one of the following programs:
 - (A) A program under the Workforce Investment Act (WIA) of 1998 (29 U.S.C. §794d);
 - (B) The AFDC First-to-Work (FTW) program as provided in subchapter 2 of chapter 17-684;
 - (C) The Food Stamp Employment and Training (E&T) program as provided in subchapter 4 of chapter 17-684;
 - (D) A program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296; or
 - (E) Any other employment and training program operated by a state agency where one or more of the components of such a program is at least equivalent to an acceptable food stamp employment and training program component as specified in subchapter 4 of chapter 17-684. The

department shall make the determination as to whether or not the program qualifies the for the exemption.

Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled, provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption.

- (b) Any individual who meets the definition of a student as defined in section 17-663-51, who does not meet at least one of the exemption criteria in subsection (a) shall be ineligible to participate in the food stamp program. [Eff 3/19/93; am 12/9/94; am 8/19/96; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.5(b))

§17-663-54 School enrollment period. The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation, and recess unless the student:

- (1) Graduates;
 - (2) Is suspended or expelled;
 - (3) Drops out; or
 - (4) Does not intend to register for the next regular school term, excluding summer school.
- [Eff 3/19/93; am and comp **NOV 19 2005**]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §273.5(c))

§17-663-55 Income and resources of ineligible students. The income and resources of ineligible students, as specified in section 17-663-53(b), who are living with a household, shall not be considered in determining eligibility or level of benefits for the household. The ineligible student shall be considered a nonhousehold member and treated as specified in subchapter 7. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.5(d); 273.11(d))

§17-663-56 Exemption from work registration requirement. (a) A student who has met the eligibility requirements set forth in section 17-663-53(a), with the exception of students who are placed in an institution of higher education through the FTW or E&T programs as specified in section 17-663-53(a)(7)(B) and (C), shall be exempt from any work registration requirement.

(b) Persons not enrolled at least half-time or who experience a break in enrollment status due to graduation, expulsion, suspension, or who drop out or otherwise do not intend to return to school, shall not be considered students for the purpose of qualifying for this exemption. [Eff 3/19/93; am and comp

NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1))

§17-663-57 REPEALED. [R **NOV 19 2005**]

§17-663-58 REPEALED. [R **NOV 19 2005**]

§17-663-59 Excluded educational assistance. All educational assistance, including but not limited to grants, scholarships, fellowships, work study, educational loans and veterans' educational benefits, shall be excluded from household income. [Eff and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: Pub. L. No. 107-171; 7 C.F.R. §273.9(c)(3))

§§17-663-60 to 17-663-66 (Reserved).

SUBCHAPTER 6

HOUSEHOLDS WITH SELF EMPLOYMENT INCOME

§17-663-67 General statement. (a) "Self-employment" means the process of receiving income directly from one's own business, trade, or profession rather than earning a specified salary or wages from an employer.

(b) In order to be self-employed, a household shall:

- (1) Sell a service or product for a profit;
- (2) Be independently responsible for obtaining or providing a service or product;
- (3) Have independent costs and expenses necessary to provide a service or product;
- (4) Determine independently the manner, method, and process of business operations; or
- (5) Have success or failure of the business operation depend upon the efforts of the business.

(c) A household that meets the criteria of subsection (b) shall be considered self-employed even if the household:

- (1) Does not report income to the Internal Revenue Service (IRS) and the State of Hawaii as a self-employed person;
- (2) Does not meet social security requirements as a self-employed person or does not pay the employer's and the employee's share of social security taxes; or
- (3) Is not licensed by the State to operate the business. [Eff 3/19/93; am and comp

NOV 19 2005] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-663-68 Areas of concern. The certification areas affected by self-employment income shall include:

- (1) Work registration exemption. The determination shall be made on an individual basis as specified in section 17-663-69;
- (2) Assignment of certification periods. A twelve-month certification period may be assigned if the household's annual support is from self-employment;
- (3) Annualization of self-employment income. Self-employment income shall be annualized if it represents a household's annual support, even if received in less than twelve months; and
- (4) Deductions for the costs of doing business. The deductions shall be allowed for all self-employment income, which need not represent the household's annual support. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(a))

§17-663-69 Work registration. (a) The receipt of income from self-employment shall not automatically exempt a household member from the work registration requirement. The branch shall determine that the self-employment enterprise:

- (1) Requires at least thirty hours of work per week during the period of certification or the twelve month work registration period; or
- (2) Produces weekly gross earnings at least equal to the federal minimum wage multiplied by thirty hours, if not requiring thirty hours of work per week.

(b) In instances where the household member hires or contracts for another person or firm to handle the daily activities of the enterprise, the household member shall not be considered self-employed for the purpose of work registration unless the household member works on enterprise activities at least thirty hours per week.

(c) The branch shall review the circumstances of the household members engaged in seasonal self-employment to determine if the minimum requirement is met in the off-season. If these minimum requirements are not met, the household member shall register for work, unless otherwise exempt.

(d) The household member shall be exempt during the work season if the household member is actively engaged in the enterprise on an average of thirty hours per week, or receives the minimum gross earnings equivalent to the federal minimum wage multiplied by thirty hours per week, over the certification period. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(b)(1)(vii))

§17-663-70 Special income considerations. (a) Income derived from rental property shall be considered earned income for the twenty per cent earned income deduction only if a member of the household is actively engaged in managing the property for at least an average of twenty hours per week. The cost of doing business shall be deducted from income from rental property. If the twenty hours per week criterion is not met, the net income shall be considered unearned.

(b) The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for federal income tax purposes. Even if only fifty per cent of the proceeds from the sale of capital goods or equipment are taxed for federal income tax purposes, the branch shall count the full amount of the capital gain as income. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(b)(1), 273.11(a)(3))

§17-663-71 Costs of producing self-employment income - allowable exclusions. (a) Costs of producing self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income. The expenses shall include, but shall not be limited to, the identifiable costs of:

- (1) Labor (wages paid to an employee or work contracted out);
- (2) Stock (inventory);
- (3) Raw materials (used to make a product);
- (4) Seed and fertilizer (for farming);
- (5) Interest paid to purchase income producing property such as equipment or capital assets;
- (6) Insurance premiums;
- (7) Taxes, assessments, and utilities paid on income producing property;
- (8) Service and repair of income producing property (including automobiles);
- (9) Rental of business equipment and property;
- (10) Advertisement;
- (11) Licenses and permits;
- (12) Legal or professional fees; [and]
- (13) Business supplies; and
- (14) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery, and other durable goods.

(b) The following costs of producing self-employment income shall not be allowed:

- (1) Net loss sustained in any prior period;
- (2) Federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses such as transportation costs to and from work included in the twenty per cent earned income deduction;
- (3) Salaries paid to any household member, including the self-employed individual; and
- (4) Depreciation.

(c) Some items such as automobiles and real property, may be for both business and personal use of the household. In these instances, the branch shall prorate the portion of the expense attributable to business use. [Eff 3/19/93; am and comp NOV 19 2005]

(Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(c)(9); 273.11(a) and (b))

§17-663-72 Annualizing self-employment income.

(a) Self-employment income that is received on a monthly basis from a household not required to monthly report will not be averaged, but will be counted in accordance with prospective budgeting procedures in chapter 17-680.

(b) Monthly reporting households which receive self-employment income on a monthly basis shall report the actual amount of such income on the monthly report form. The household's benefit level for each month shall be based on the actual amount of self-employment income reported, even if such income fluctuates from month to month, and budgeted retrospectively in accordance with chapter 17-680.

(c) Households subject to monthly reporting who derive their self-employment income monthly from a farming operation and who incur irregular expenses to produce such income shall be given the option to annualize the self-employment farm income and expenses over a twelve-month period.

(d) Self-employment income which represents the household's annual income and which is received less often than monthly will be annualized over a twelve-month period even if the income is received within only a short period of time during that twelve months.

(1) Self-employment income will be annualized even if the household receives income from other sources in addition to self-employment.

(2) If there has been a substantial increase or decrease in business so that the averaged amount does not accurately reflect the household's actual monthly circumstances, the self-employment income will be anticipated.

(e) Self-employment income that is intended to meet the household's needs for only part of the year will be averaged over the length of time the income is intended to cover, rather than a twelve-month period.

(f) If a self-employment enterprise has been in existence for less than one year:

(1) The income from the self-employment will be averaged over the period of time the business has been in existence, and the monthly amount projected for the coming year; or

- (2) If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than one year until the business has been operating long enough to base a longer projection. [Eff 3/19/93; am 8/19/96; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: C.F.R. §273.11(a)(1), (2))

§17-663-73 Determining monthly self-employment income. The procedures for arriving at the monthly self-employment income are as follows:

- (a) For the period of time the income is determined to cover:
 - (1) Add all gross self-employment income including capital gains;
 - (2) Exclude the cost of producing the self-employment income; and
 - (3) Divide the self-employment income by the number of months over which the income will be averaged.
- (b) For households whose self-employment income is not averaged but is calculated on an anticipated basis, the branch shall:
 - (1) Add any capital gains the household anticipates receiving in the next twelve months starting with the date the application is filed and dividing this amount by twelve;
 - (2) Use the average monthly capital gains figure in successive certification periods during the next twelve months, except that a new average monthly amount shall be calculated over the twelve-month period if the anticipated amount of capital gains changes; and
 - (3) Then:
 - (A) Add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income;
 - (B) Calculate the cost of producing the self-employment income by anticipating monthly allowable costs of producing; and

(C) Subtract the cost of producing the self-employment income from the self-employment income.

(c) The monthly net self-employment earned income, less any farm self-employment losses, will be added to any other earned income received by the household. The total monthly earned income, less the earned income deduction, will then be added to all monthly unearned income received by the household.

(d) Farm self-employment losses will be offset against other countable household income. To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross income of \$1,000 or more from the farming enterprise. Farming losses will be calculated as follows:

- (1) Farming losses occur when the cost of producing the income exceeds the gross income. These losses will be averaged or anticipated over the year in the same manner as farm self-employment income to determine monthly losses.
- (2) The monthly losses will be subtracted from other countable household income for both the gross income determination and the budget computation.
- (3) When there is other self-employment income in the household, the farming losses will be subtracted from the net self-employment income, not from the total household income. If there are losses remaining after this computation, the remainder will be subtracted from the total of other household income.
[Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(a)(1), (2), (3))

§17-663-74 Certification periods. Households that receive annual support from self-employment shall be certified for up to twelve months. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10(f))

§17-663-75 Households with roomers or boarders.

(a) Households that operate commercial rooming or boarding houses, shall be considered self-employed and the criteria in sections 17-663-67 through 17-663-74 shall apply.

(b) Households with roomers or boarders that are not considered commercial boarding houses, shall be allowed the portion of a roomer or boarder payment which is the cost of doing business. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(b))

§17-663-76 Treatment of boarders and boarder payments. (a) Persons paying a reasonable amount for room and meals shall be excluded from the household when determining the household's eligibility and benefit level.

(b) Payments from the boarder shall be treated as self-employment income as provided below:

- (1) The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household's shelter expenses; and
- (2) Shelter expenses paid directly by boarders to a person outside of the household shall not be counted as income to the households.

(c) That portion of the boarder payments which is a cost of doing business shall be excluded by the branch after the branch determines the income received from the boarder. The cost of doing business shall consist of one of the following amounts, provided the amount allowed as the cost of doing business shall not exceed the payment the household received from the boarder for lodging and meals:

- (1) The cost of the thrifty food plan for a household size that equals the number of boarders; or
- (2) The actual documented cost of providing room and meals, if the actual cost exceeds the thrifty food plan. If actual costs are used,

only separate and identifiable costs of providing room and meals to the boarder shall be excluded.

If the cost of doing business equals or exceeds the board payment, no boarder income shall be included as income to the household. In no case shall a loss be offset against other income; and

(d) The net income from self-employment shall be added to other earned income and the earned income deduction shall be applied to the total earned income amount. Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction. The shelter costs shall not include any shelter expenses directly paid by the boarder to a third party, such as the landlord or utility company. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.1(b)(3); 273.9(b) and (c); 273.11(b) and (c))

§§17-663-77 to 17-663-79 (Reserved).

SUBCHAPTER 7

TREATMENT OF INCOME AND RESOURCES OF NONHOUSEHOLD MEMBERS

§17-663-80 Nonhousehold members. Individual household members shall be ineligible:

- (1) For intentional program violation;
- (2) Because of disqualification for failure or refusal to obtain or provide a social security number;
- (3) For being an ineligible alien;
- (4) Because of disqualification for failure to comply with work registration or employment and training requirements;
- (5) For being a fleeing felon; or

- (6) For being convicted of federal or state felonies for possession, use or distribution of a controlled substance. [Eff 3/19/93; am 10/13/95; am 10/28/96; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(c); Pub. L. No. 104-193 (1996))

§17-663-81 REPEALED. [R NOV 19 2005]

§17-663-82 Intentional program violation, felony drug conviction, fleeing felon disqualification, and work requirement sanction. During the period of time that a household member cannot participate due to disqualification for an intentional program violation, a felony drug conviction, their fleeing felon status, or noncompliance with a work requirement, the eligibility and benefit level of any remaining household members shall be determined in accordance with the procedures outlined in this section.

- (1) The income and resources of the ineligible household member shall continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, child support, and excess shelter deductions shall continue to apply to the remaining household members.
- (2) The ineligible member shall not be included when determining the household's size for the purposes of:
 - (A) Assigning a benefit level to the household;
 - (B) Comparing the household's monthly income with the income eligibility standards; or
 - (C) Comparing the household's resources with the resource eligibility limits. The branch shall ensure that a household's food stamp allotment shall not be increased as a result of the exclusion of one or more household members. [Eff

and comp NOV 19 2005] (Auth: HRS
§346-14) (Imp: 7 C.F.R. §273.11(c)(1))

§17-663-82.1 SSN disqualifications and ineligible able bodied adults without dependents (ABAWD). The eligibility and benefit level of any remaining household members of a household containing individuals determined to be ineligible for refusal to obtain or provide an SSN, or for meeting the time limit for ABAWD as specified in section 17-684-39, shall be determined as follows:

- (1) The resources of such ineligible members shall continue to count in their entirety and be applied to the remaining household members.
- (2) A pro rata share of the income of such ineligible members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the ineligible member's income and dividing the income evenly among the household members, including the ineligible members. All but the ineligible members' share is counted as income for the remaining household members.
- (3) The twenty per cent earned income deduction shall apply to the prorated income earned by such ineligible members which is attributed to their households. That portion of the households' allowable child support payment, shelter and dependent care expenses which are either paid by or billed to the ineligible members shall be divided evenly among the households' members including the ineligible members. All but the ineligible members' share is counted as a deductible child support payment, shelter or dependent care expense for the remaining household members.
- (4) The ineligible members shall not be included when determining their households' size for the purposes of:
 - (A) Assigning a benefit level to the household;

- (B) Comparing the household's monthly income with the income eligibility standards;
or
- (C) Comparing the household's resources with the resource eligibility limits. [Eff and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(c)(2))

§17-663-82.2 Ineligible aliens. (a) The branch shall determine the eligibility and benefit level of any remaining household members of a household containing ineligible aliens as follows:

- (1) All of the ineligible aliens' income shall be counted for purposes of applying the gross income test to determine eligibility for the remaining eligible household members.
- (2) All of the ineligible aliens' resources shall be counted in their entirety and applied to the remaining eligible household members.
- (3) A pro rata share of the income of the ineligible aliens shall be counted as income to the remaining eligible household members. The pro rata share shall be calculated by first subtracting the allowable exclusions from the ineligible aliens' income and dividing the income evenly among all the household members, including the ineligible aliens. All but the ineligible aliens' share shall be counted as income for the remaining eligible household members.
- (4) If the prorated income attributed to the household is earned income, the twenty per cent earned income deduction shall be applied to the prorated income.
- (5) That portion of the household's allowable shelter, child support, and dependent care expenses which are either paid by or billed to the ineligible alien members shall be divided evenly among all the household's members, including the ineligible aliens. All but the ineligible aliens' share shall be counted as a deductible shelter, child

support, or dependent care expense for the remaining eligible household members.

(b) The ineligible aliens shall not be included when determining the household's size for the purposes of:

- (1) Assigning a benefit level to the household;
- (2) Comparing the household's monthly income with the income eligibility standards; or
- (3) Comparing the household's resources with the resource eligibility limits.

(c) The branch shall compute the income of the ineligible aliens using the income definition and exclusions in chapter 17-676.

(d) For purposes of subsection (a), the branch shall not include the resources and income of the sponsor and the sponsor's spouse in determining the resources and income of ineligible sponsored aliens.

[Eff and comp NOV 19 2005] (Auth: HRS §346-14)
 (Imp: 7 C.F.R. §273.11(c)(3))

§17-663-82.3 Reduction or termination of benefits within the certification period. Whenever an individual is determined ineligible within the household's certification period, the branch shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file and the following action shall be required:

- (1) If a household's benefits are reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional program violation, the branch shall notify the remaining members of their eligibility and benefit level at the same time the excluded member is notified of his or her disqualification. The household shall not be entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative

disqualification hearing with the fair hearing.

- (2) If a household's benefits are reduced or terminated within the certification period for reasons other than an intentional program violation disqualification, the branch shall issue a notice of adverse action which informs the household of the ineligibility, the reason for the ineligibility, the eligibility and benefit level of the remaining members, and the action the household must take to end the ineligibility. [Eff and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(c)(4))

§17-663-83 Treatment of income and resources of other nonhousehold members. (a) For all other individuals living in the same household who are not household members as defined in subsections 17-663-2(b) and (c) and who are not specifically mentioned in sections 17-663-82, 17-663-82.1, 17-663-82.2 and 17-663-82.3, the income and resources of such individuals shall not be considered available to the household with whom the individual resides.

- (1) Cash payments from nonhousehold members to the household will be considered income under the normal income standards.
- (2) Vendor payments shall be excluded as income.
- (3) If the household shares deductible expenses with the nonhousehold members, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expense and only the household's pro rata share shall be deducted.

(b) When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

- (1) If the household's share can be identified, the branch shall count that portion due to the household as earned income.
 - (2) If the household's share cannot be identified the branch shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.
- (c) Such nonhousehold members shall not be included when determining the size of the household for the purposes of:
- (1) Assigning a benefit level to the household;
 - (2) Comparing the household's monthly income with the income eligibility standards; or
 - (3) Comparing the household's resources with the resource eligibility limits. [Eff and comp
NOV 19 2005] (Auth: HRS §346-14) (Imp:
7 C.F.R. §273.11(d))

§§17-663-84 (Reserved).

SUBCHAPTER 8

FINANCIAL ASSISTANCE HOUSEHOLDS

§17-663-85 Combined financial assistance/FSP application process. (a) In order to facilitate participation in the FSP, households applying for financial assistance shall be notified of their right to apply for food stamp benefits at the same time and shall be allowed to apply for food stamp benefits at the same time the households apply for other assistance.

(b) A household's eligibility and benefit level shall be based on food stamp eligibility criteria and the household shall be certified in accordance with the notice, timeliness, and procedural requirements of the food stamp rules. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j))

§17-663-86 Joint processing. (a) Financial assistance applications, except where the household indicates it does not want food stamps, shall be processed as food stamp applications in accordance with the regular food stamp processing standard. If it is unclear from the application as to whether the household wants it processed for food stamp purposes, the branch shall determine the household's intent at the interview or through other contact with the household.

(b) The branch shall conduct a single interview at initial certification for both financial assistance and food stamp purposes.

(1) Financial assistance households shall not be required to see a different worker; and

(2) Households shall not be relieved of the responsibility for a personal interview in order to be certified for financial assistance when a personal interview has been waived for the FSP.

(c) If verification requirements for financial assistance differ from the verification required in chapter 17-647, the determination of food stamp eligibility shall not be delayed beyond thirty days after the date the application is filed if the branch has sufficient verification to meet the requirements of chapter 17-647 but has insufficient verification to meet the financial assistance rules.

(d) As a result of differences in financial assistance and food stamp application processing procedures and timeliness standards, the branch shall, if necessary, determine food stamp eligibility prior to determining the household's eligibility for financial assistance payments. Action on the food stamp portion of the application shall not be delayed or the application shall not be denied because the financial assistance determination has not been made.

(e) If the branch is able to anticipate the amount and the date of receipt of the initial financial assistance payment, but the payment will not be received until a subsequent month, the branch shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and shall

notify the household. Portions of initial payments intended to cover a previous month shall be disregarded as a lump-sum payment.

(f) If the amount or date of receipt of the initial financial assistance payment cannot be anticipated at the time of the food stamp eligibility determination, the financial assistance payments shall be handled as a change in circumstances. The branch shall not be required to send a notice of adverse action if the receipt of the financial assistance grant reduces or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced or terminated when the grant is received.

(g) A household whose financial assistance application is denied shall not be required to file a new food stamp application but shall have the household's food stamp eligibility determined or continued on the basis of:

- (1) The original application filed jointly for financial assistance and food stamp purposes; and
- (2) Any other documented information obtained subsequent to the application which may have been used in the financial assistance determination and is relevant to food stamp eligibility or level of benefits. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j)(1))

§17-663-87 Certification procedures for financial assistance households. (a) A household where all members are included in a single financial assistance payment shall have the household's food stamp recertification completed at the same time the household is redetermined for financial assistance.

(b) If a financial assistance household has not had its financial assistance redetermination completed timely, the branch shall ensure that the food stamp recertification is timely completed. In no event shall food stamp benefits be continued beyond the end of the certification period.

(c) A household shall not be required to report changes in the household's financial assistance grants, since the branch has prior knowledge of all changes in the financial assistance grants.

(d) Except as provided in subsection (c) a financial assistance household shall follow the same reporting requirements as any other food stamp household, and shall use the food stamp change report form or monthly eligibility report form. A financial assistance household which reports a change in circumstances to the financial assistance worker shall be considered to have reported the change for food stamp purposes except that households subject to monthly reporting shall be required to report the change only on the monthly eligibility report form.

(e) A household shall be notified:

(1) Whenever the household's benefits are altered as a result of change in the financial assistance benefits;

(2) Whenever the food stamp certification period is shortened to reflect changes in the household's circumstances.

(A) If the certification period is shortened, the household's certification period shall not end any earlier than the month following the month in which the branch determines that the certification period shall be shortened.

(B) The shortened certification period shall allow adequate time for the branch to send a notice of expiration and for the household to reapply on time; or

(3) Whenever the household's financial assistance benefits are terminated, but the household is still eligible for food stamps, its members shall be advised of food stamp work registration requirements, if applicable.

(f) Whenever a change results in the reduction or termination of the household's financial assistance benefits within its food stamp certification period, and the branch has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the branch shall take the following actions:

- (1) If a change in household circumstances requires a reduction or termination in both the financial assistance payment and in food stamp benefits, the branch shall issue a single notice of adverse action, or adequate notice for households required to monthly report, for both the financial assistance and food stamp actions.
 - (A) If the household requests a fair hearing within the period provided by the notice of adverse action or adequate notice, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice unless the basis for the termination was that the household failed to file a completed monthly report by the branch's deadline;
 - (B) If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to financial assistance procedures and timeliness standards. However, the household shall reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed;
 - (C) If the household does not appeal, the change shall be effective in accordance with the provisions specified in chapter 17-680;
- (2) If the household's food stamp benefits will be increased as a result of the reduction or termination of financial assistance benefits, the branch shall issue the financial assistance notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action.
 - (A) If the household decides to appeal and its financial assistance benefits are continued, the household's food stamp

benefits shall continue at the previous basis.

- (B) If the household does not appeal, the branch shall make the change effective for the next regularly issued allotment for the household. If, due to the computer processing deadline, the branch is unable to increase the next allotment, the branch shall supplement the household for that month.

(g) Whenever a change results in the termination of a household's financial assistance benefits within its food stamp certification period, and the branch does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the branch shall not terminate the household's food stamp benefits but instead shall take the following actions:

- (1) Where a financial assistance notice of adverse action has been sent, the branch shall wait until either the household's notice of adverse action period expires or the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its financial assistance benefits are continued pending the appeal, the household's food stamp benefits shall be continued on the same basis; or
- (2) If a financial assistance notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its financial assistance, the branch shall send the household a notice of expiration which informs the household that its food stamp certification period will expire at the end of the month following the month the notice of expiration is sent and that it shall reapply if it wishes to continue to participate. The notice of expiration shall also explain to the household that its certification period is expiring because of changes in its circumstances which may affect its food stamp eligibility and benefit level. [Eff 3/19/93;

am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.10(f)(4), 273.12(f))

§17-663-88 Mass changes in financial assistance.

(a) When the department makes an overall adjustment to financial assistance payments, corresponding adjustments in the households' food stamp benefits shall be handled as a mass change. When the branch has at least thirty days advance knowledge of the amount of the financial assistance adjustment, the branch shall recompute food stamp benefits to be effective in the same month as the financial assistance change. If the branch has less than thirty days advance knowledge, the food stamp change shall be effective no later than the month following the month in which the financial assistance change was made.

(b) A notice of adverse action shall not be required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the financial assistance grant. The branch shall send individual notices to households to inform the households of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that of food stamp eligibility or that benefits were improperly computed. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.12(e)(2); 273.13(b)(1))

§§17-663-90 to 17-663-91 (Reserved).

SUBCHAPTER 9

SUPPLEMENTAL SECURITY INCOME (SSI) HOUSEHOLDS

§17-663-92 Participation of SSI households. (a) SSI applicants or recipients who have not applied for food stamps in the thirty preceding days, or who do not have applications pending may apply for and participate

in the FSP as food stamp only households or aged, blind, or disabled households. Households applying simultaneously for SSI and food stamps shall be subject to food stamp eligibility criteria, and benefit levels shall be based solely on food stamp eligibility criteria until the household is considered categorically eligible. However, households in which all members are either AFDC or SSI recipients or authorized to receive AFDC or SSI benefits shall be food stamp eligible based on their AFDC/SSI status.

(b) Households in which all members are participating in the SSI program shall have the option of applying for food stamps at the Social Security Administration (SSA) office.

(c) Except for applications for residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution, the branch office receiving SSA forwarded applications shall make an eligibility determination and issue food stamp benefits to eligible SSI households within thirty days following the date the applications were received by the SSA office.

- (1) Applications shall be considered filed for normal processing purposes when the signed applications are received by the SSA.
- (2) Expedited processing time standards shall begin on the date the appropriate food stamp application office receives a signed food stamp application.
 - (A) The branch shall prescreen all applications received from the SSA for entitlement to expedited services on the day the applications are received at the correct food stamp office.
 - (B) All SSI households entitled to expedited service shall be certified in accordance with established procedures for expedited services.
- (3) Food stamp applications and supporting documents sent to an incorrect branch office shall be sent to the correct office by the receiving unit on the same day.
- (d) For residents of public institutions who apply for benefits prior to their release from the

institution, the filing date of their application shall be the date of their release from the institution.

- (1) The branch shall make an eligibility determination and issue food stamp benefits to the residents of public institutions within thirty days following the date of the applicant's release from the institution.
- (2) Expedited processing time standards for an applicant who has applied for food stamps and SSI prior to release shall also begin on the date of the applicant's release from the institution.
- (3) The SSA shall notify the branch of the date of release of the applicant from the institution. If, for any reason, the branch is not notified on a timely basis of the applicant's release date, the branch shall restore benefits to the applicant back to the date of release.

(e) Households in which all members are applying for or participating in SSI shall not be subjected to an office interview at the food stamp office.

- (1) The branch eligibility worker shall not contact the household further in order to obtain information for certification for food stamp benefits unless:
 - (A) The application is improperly completed;
 - (B) Mandatory verification required by chapter 17-647 is missing; or
 - (C) The branch eligibility worker determines that certain information on the application is questionable.

- (2) Any additional contact with the household shall be by telephone or mail.

(f) The SSA shall refer non-SSI households and households in which not all members have applied for or received SSI to the correct branch office. These applications shall be processed in accordance with procedures for regular applications for food stamp benefits. [Eff 3/19/93; am and comp NOV 19 2005]
 (Auth: HRS §346- 14) (Imp: 7 C.F.R. §273.2(j) and (k))

§17-663-93 Verification. (a) The branch shall ensure that all required information is verified prior to certification for households initially applying. Households entitled to expedited certification procedures shall be processed in accordance with chapter 17-647.

(b) The branch may verify SSI benefits through the state data exchange (SDX) and beneficiary data exchange (BENDEX) to the extent permitted by data exchange agreements with SSA. The branch shall not verify wage information through BENDEX.

(1) Information verified through SDX or BENDEX shall not be reverified unless the information is questionable.

(2) Households shall be given the opportunity to provide verification from another source if all necessary information is not available on the SDX or the BENDEX, or if the SDX or BENDEX information is contradictory to other household information and statements.

(c) Quality control errors stemming from inadequate SSA verification of information on applications forwarded to the department shall not be considered departmental errors. [Eff 3/19/93; comp

NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-94 Certification period. (a) The branch shall certify households, processed under these rules, for up to twelve months according to established certification procedures provided in chapter 17-647.

(b) The branch shall send a notice of expiration to jointly processed households in which the households are subsequently denied SSI benefits and as a result, food stamp eligibility or benefit level may be affected.

(c) The notice of expiration shall include a statement that the:

(1) Certification period shall expire at the end of the month following the month in which the notice is sent;

- (2) Households shall reapply if the households wish to continue to participate;
- (3) Expiration of the certification period is a result of changes in circumstances which may affect the households' eligibility or benefit levels; and
- (4) Households shall be entitled to an out-of-office interview with established procedures as provided in chapter 17-647. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-95 Reporting changes. (a) The household shall report changes to branches in accordance with established procedures provided in chapter 17-650.

(b) The branch shall process changes in accordance with established procedures provided in chapter 17-680.

- (1) The branch shall take required action in accordance with chapter 17-680 upon learning of the determination for SSI from the SDX, the household, advice from the SSA, or from any other source.
- (2) The branch shall process adjustments to SSI cases resulting from mass change in accordance with established procedures as provided in sections 17-649-11 and 17-649-14. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2 (k)(1), 273.21)

§17-663-96 Restoration of lost benefits. The branch shall restore to a household benefits which were lost by an error by the branch or by the SSA through joint processing. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-97 SSI households applying at the branch. The branch shall allow SSI households to submit food stamp applications to local food stamp offices rather than through the SSA if the households choose. In such

cases, all verification including documentation pertaining to SSI program benefits shall be provided by the household, by SDX or BENDEX, or obtained by the branch. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(1))

§17-663-98 Work registration. Household members applying for SSI and food stamps shall have the work registration requirements waived until the members are determined:

- (1) Eligible for SSI and thereby become exempt from work registration; or
- (2) Ineligible for SSI. A determination of the members' work registration statuses shall then be made through recertification procedures in accordance with subchapter 3 of chapter 17-684. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.7(a)(6))

§17-663-99 Recertification. (a) The branch shall complete the application process and approve or deny timely applications for recertification in accordance with established procedures provided in chapter 17-648.

- (1) A personal interview shall be waived if requested by a household consisting entirely of SSI participants unable to appoint an authorized representative.
- (2) The branch shall provide SSI households with notices of expiration in accordance with established procedures provided in chapter 17-648. The notices shall inform households consisting entirely of SSI recipients that the households are entitled to a waiver of a personal interview if the households are unable to appoint an authorized representative.

(b) Households shall be entitled to make a timely application for recertification in accordance with chapter 17-648 at an SSA office. SSA shall accept the application of a pure SSI household and forward the

completed application, transmittal form and any available verification to the branch office. Where SSA accepts and refers the application in such situations, the household shall not be required to appear at a branch office interview, although the branch may conduct an out-of-office interview, if necessary. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(k)(2))

§§17-663-100 to 17-663-102 (Reserved).

SUBCHAPTER 10

RESIDENT FARM LABORERS AND SCHOOL EMPLOYEES

§17-663-103 Resident farm laborers. Resident farm laborers shall be certified on the basis of the farm laborers' primary source of income. The laborers shall be divided into laborers who work for one employer and laborers who work for more than one employer throughout the year. The certification periods and handling procedures shall differ for each category depending upon the predictability of household circumstances. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10(c)(3))

§17-663-104 Single employer household. (a) Farm laborers whose primary source of income is from regular farm employment with the same employer shall be certified for periods up to one year, providing that income may be readily predicted and household circumstances are not likely to change. The households are regularly employed for the entire year when the households receive a regular monthly salary.

(b) For a regularly employed and paid farm worker, the monthly income figure shall be used to determine the benefit level for the entire certification period because it is regular and should not vary from month to month.

(c) Households which by contract derive the households' annual income in a period of time shorter than one year shall have the income averaged over a twelve-month period provided the income is not received on an hourly or piecework basis. [Eff 3/19/93; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10(c)(3))

§17-663-105 REPEALED. [R **NOV 19 2005**]

§17-663-106 School employees. (a) Households that derive annual income in a period of time shorter than one year shall have the income averaged over the twelve-month period, provided the income is not received on an hourly or piecework basis. This provision includes teachers and other school employees under a contract renewable on an annual basis. The members shall be considered to be receiving compensation for an entire year even though predetermined nonwork periods are involved or actual compensation is scheduled for payment during the work periods only.

(b) The contract renewal process may involve:

- (1) Signing a new contract each year;
- (2) Automatic renewal; or
- (3) As in cases of school tenure, implied rehire rights and preclusion of the use of a written contract.

(c) The fact that a contract is in effect for an entire year does not necessarily mean that the contract will stipulate work every month of the year. There may be certain predictable nonwork periods or vacations, such as the summer break between school years.

(d) Income from a contract shall be considered compensation for a full year regardless of the frequency of compensation as:

- (1) Stipulated in the terms of the contract; or
- (2) Determined at the convenience of the employer.

(e) The annual income household members received from contracted employment described above shall be averaged over a twelve-month period to determine the

members' average monthly income. To determine household eligibility and the basis of issuance:

- (1) All other monthly income from other household members shall be added to the average monthly income; and
- (2) Income exclusions and deductions shall be applied in the normal manner. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10(c)(3))

§§17-663-107 to 17-663-109 (Reserved).

SUBCHAPTER 11

RESIDENTS OF SHELTER FOR BATTERED WOMEN AND CHILDREN

§17-663-110 Shelter for battered women and children. "Shelter for battered women and children" means a public or private nonprofit residential facility that serves battered women and children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-663-111 Shelter certification. Prior to certifying its residents, shelters for battered women and children must meet the department's definition of shelters. Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(g)(1))

§17-663-112 Separate households. (a) Shelter residents may apply for and participate as a separate household from that household resident who abused them

(b) Shelter residents who are included as separate households may receive an additional allotment only once a month. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2, 273.11(g)(2))

§17-663-113 Certification. Shelter residents who apply as separate households shall be certified on the basis of their income and resources and the expenses for which they are responsible. They shall be certified without regard to the income, resources, and expenses of their former households. Jointly held resources shall be considered inaccessible as set forth in section 17-663-117. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(g)(3))

§17-663-114 Shelter expenses. Room payments to the shelter shall be considered shelter expenses. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS 346-14) (Imp: 7 C.F.R. §273.11(g)(3))

§17-663-115 Expedited services. Shelter residents eligible for expedited service shall be handled in accordance with processing standards set forth in chapter 17-647. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(i)(3))

§17-663-116 Authorized representative. Shelters for battered women and children may purchase food in an authorized retail store when acting as an authorized representative of an eligible individual or when using the coupons on the individual's behalf. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §278.2(g))

§17-663-117 Inaccessible resources. Resources shall be considered inaccessible to persons residing in shelters for battered women and children if:

- (1) The resources are jointly owned by those persons and by members of their former household; and
- (2) The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.8(d))

§17-663-118 Use of food stamp benefits.

Residents of shelters for battered women and children may use their food stamp benefits to purchase meals prepared especially for them at a shelter which is authorized by FNS to redeem at wholesalers or which redeems at retailers as the authorized representative of a participating household. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: §346-14) (Imp: 7 C.F.R. §274.10(f)(3))

§17-663-119 Change in former household's composition. The branch shall take prompt action to ensure that the former household's eligibility or allotment reflects the change in household's composition. Such action shall include either shortening the certification period by issuing a notice of expiration in accordance with chapter 17-648 to the former household of shelter residents or acting on the reported change in accordance with chapter 17-680 by issuing a notice of adverse action in accordance with chapter 17-649. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.11(g)(5))

§§17-663-120 to 17-663-122 (Reserved).

SUBCHAPTER 12

HOUSEHOLDS CONTAINING SPONSORED ALIEN MEMBERS

§17-663-123 Definitions. As used in this subchapter:

"Date of admission" means the date established by the Immigration and Naturalization Service as the date the sponsored alien was admitted for permanent residence.

"INA" means the Immigration and Nationality Act, Title 8 of the U.S. Code (8 USC).

"Sponsor" means a person who executed an affidavit or affidavits of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident on or after February 1, 1983.

"Sponsored alien" means an alien for whom a person (the sponsor) has executed an affidavit of support (INS Form I-864 or I-864A) on behalf of the alien pursuant to section 213A of the INA.

"USCIS" means the U.S. Citizenship and Immigration Services (formerly known as Immigration and Naturalization Service (INS)). [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.4)

§17-663-124 Deeming of sponsor's income and resources. (a) For purposes of this section, only when a sponsored alien is an eligible alien in accordance with section 17-655-44, will the branch consider available to the household the income and resources of the sponsor and the sponsor's spouse.

(b) For purposes of determining the eligibility and benefit level of a household of which an eligible sponsored alien is a member, the branch shall deem the income and resources of the sponsor and the sponsor's spouse, if he or she has executed USCIS Form I-864 or I-864A, as the unearned income and resources of the sponsored alien.

(c) The branch shall deem the sponsor's income and resources until the alien:

- (1) Becomes a U. S. citizen;
- (2) Has worked for forty qualifying quarters as described in section 17-655-44;

- (3) Can receive credit for forty qualifying quarters of work as described in section 17-655-44; or
 - (4) Sponsor dies.
- (d) The monthly income of the sponsor and sponsor's spouse (if he or she has executed USCIS Form I-864 or I-864A) deemed as that of the eligible sponsored alien must be the total monthly earned and unearned income, as defined in chapter 17-676, minus any excludable income as defined in chapter 17-676, that can be attributed to the sponsor and sponsor's spouse at the time the household containing the sponsored alien member applies or is recertified for participation, reduced by:
- (1) A twenty per cent earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse; and
 - (2) An amount equal to the program's monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for Federal income tax purposes.
- (e) If the alien has already reported gross income information on his or her sponsor in compliance with the sponsored alien rules of another assistance program, the branch may use that income amount for food stamp program deeming purposes. However, the branch shall limit allowable reductions to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the alien to amounts specified in paragraphs (1) and (2) of subsection (d).
- (f) The branch shall consider as income to the alien any money the sponsor or the sponsor's spouse pays to the eligible sponsored alien, but only to the extent that the money exceeds the amount deemed to the eligible sponsored alien.
- (g) The branch shall deem as available to the eligible sponsored alien the total amount of the resources of the sponsor and sponsor's spouse as determined in accordance with chapter 17-675, reduced by \$1,500.

(h) If a sponsored alien can demonstrate to the branch's satisfaction that his or her sponsor is the sponsor of other aliens, the branch must divide the income and resources deemed by the number of such sponsored aliens.

(i) The provisions of subsections (a) through (h) of this section do not apply to:

- (1) An alien who is a member of his or her sponsor's food stamp household;
- (2) An alien who is sponsored by an organization or group as opposed to an individual;
- (3) An alien who is not required to have a sponsor under the INA, such as a refugee, a parolee, an asylee, or a Cuban or Haitian entrant;
- (4) An indigent alien that the branch has determined is unable to obtain food and shelter taking into account the alien's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor or sponsors. For purposes of this paragraph, the phrase "is unable to obtain food and shelter" means that the sum of the eligible sponsored alien's household's own income, the cash contributions of the sponsor and others, and the value of any in-kind assistance the sponsor and others provide, does not exceed one hundred thirty per cent of the poverty income guideline for the household's size. The branch shall determine the amount of income and other assistance provided in the month of application. If the alien is indigent, the only amount that the branch shall deem to such an alien will be the amount actually provided for a period beginning on the date of such determination and ending twelve months after such date. Each indigence determination is renewable for additional twelve-month periods. The branch shall notify the food stamp program administrator who shall in turn notify the U.S. Attorney General of each such

- determination, including the names of the sponsor and the sponsored alien involved; or
- (5) A battered alien spouse, alien parent of a battered child, or child of a battered alien, for twelve months after the branch determines that the battering is substantially connected to the need for benefits, and the battered individual does not live with the batterer. After twelve months, the branch shall not deem the batterer's income and resources if the battery is recognized by a court or the USCIS and the battery has a substantial connection to the need for benefits, and the alien does not live with the batterer.
- (6) An alien who is under age eighteen. [Eff 3/19/93; am 10/28/96; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.4(c); Farm Security and Rural Investment Act of 2002 (P.L. 107-171)

§17-663-125 REPEALED. [R 10/28/96]

§17-663-126 Sponsored alien's responsibilities.

- (a) During the period the alien is subject to deeming, the eligible sponsored alien shall be responsible for:
- (1) Obtaining the cooperation of his sponsor;
 - (2) Providing the branch at the time of application and at the time of recertification with the information and documentation necessary to calculate deemed income and resources; and
 - (3) For providing the names (or other identifying factors) of other aliens for whom the alien's sponsor has signed an affidavit of support.
- (b) If such information about other aliens for whom the sponsor is responsible is not provided to the branch, the deemed income and resources amounts calculated shall be attributed to the applicant alien in their entirety until such time as the information is provided.
- (c) The alien shall be responsible for reporting the required information about the sponsor and spon

sor's spouse should the alien obtain a different sponsor during the certification period and for reporting a change in income should the sponsor or the sponsor's spouse change or lose employment or become deceased during the certification period. Such changes shall be handled in accordance with the timeliness standards and procedures specified in chapter 17-680. [Eff 3/19/93; am 2/7/94; am and comp NOV 19 2005]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §273.4(c)(4))

§17-663-127 Verification. (a) The branch shall obtain and verify the following information from the alien or alien's spouse both at the time of initial application and at the time of recertification:

- (1) The income and resources of the alien's sponsor and the sponsor's spouse at the time of the alien's application, recertification, and at the time of the monthly eligibility report for food stamp assistance, except that resources need only be verified at the time of the monthly report if questionable;
- (2) The names or other identifying factors, such as an alien registration number, of other aliens for whom the sponsor has signed an affidavit of support or similar agreement.
- (3) The provision of the Immigration and Nationality Act under which the alien was admitted;
- (4) The date of the alien's admission as a lawful permanent resident as established by INS;
- (5) The alien's date of birth, place of birth, and alien registration number;
- (6) The number of dependent's who are claimed or could be claimed as dependents for federal income tax purposes of the sponsor and the sponsor's spouse; and
- (7) The name, address, and phone number of the alien's sponsor.

(b) The branch shall verify income information obtained in accordance with section 17-663-126 and this section.

(c) The branch shall verify all other information which the branch determines is questionable and which

affects household eligibility and benefit level in accordance with chapter 17-647 for verifying questionable information.

(d) The branch shall assist aliens in obtaining verification in accordance with the provisions of chapter 17-647. [Eff 3/19/93; am 10/28/96; comp
 NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.4(c)(4))

§17-663-128 Awaiting verification. (a) If information necessary to carry out the provisions of section 17-663-124 is not received or verified [on a timely basis], the sponsored alien shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined.

(b) The income and resources of the ineligible alien (excluding the deemed income and resources of the alien's sponsor and sponsor's spouse) shall be treated in the same manner as a disqualified member, as specified in subchapter 7, and considered available in determining the eligibility and benefit level of the remaining household members.

(c) If the sponsored alien refuses to cooperate in providing and verifying needed information, other adult members of the alien's household shall be responsible for providing and verifying the required information in accordance with chapter 17-647.

(d) If the information or verification is subsequently received, the branch shall act on the information as a reported change in household membership in accordance with chapter 17-680.

(e) If the same sponsor is responsible for the entire household, the entire household, with the exception of household members who are exempt from sponsor deeming as specified in section 17-663-124(i), shall be ineligible until such time as the household provides the needed sponsor information or verification. The branch shall assist aliens in obtaining verification in accordance with the provisions of chapter 17-647. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7

C.F.R. §273.4(c)(5); Farm Security and Rural Investment Act of 2002 (P.L. 107-171)

§17-663-129 Overpayment due to incorrect sponsor information.

(a) Any sponsor of an alien and the alien shall be jointly and severably liable for repayment of any overpayment of coupons as a result of incorrect information provided by the sponsor.

However, if the alien's sponsor had good cause or was without fault for supplying the incorrect information, the alien's household shall be solely liable for repayment of the overpayment. Examples of good cause or without-fault are:

- (1) Incorrect application of state rules by the branch;
- (2) The alien provided incorrect information regarding the sponsor's income and assets and the sponsor was unaware of the alien's actions; or
- (3) The alien sponsor was unable to provide accurate information regarding income and assets because of a mental disorder.

(b) Where the sponsor did not have good cause, the branch shall decide whether to establish a claim for the overpayment against the sponsor or the alien's household, or both. The branch may choose to establish claims against both parties at the same time or to establish a claim against the party it deems most likely to repay first. If a claim is established against the alien's sponsor first, the branch shall ensure that a claim is established against the alien's household whenever the sponsor fails to respond to the branch's demand letter within thirty days of receipt. The branch shall return to the alien's sponsor (and the alien's household, if appropriate) any amounts repaid in excess of the total amount of the claim.

(c) The sponsor is entitled to a hearing either to contest a determination that the sponsor was at fault where it was determined that incorrect information has been provided or to contest the amount of the claim. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.4(c)(6); 273.18(a)(4))

§17-663-130 Collecting claims against sponsors.

(a) The branch shall initiate collection action by sending the alien's sponsor a written demand letter which informs the sponsor of the following:

- (1) The amount owed;
- (2) The reason for the claim; and
- (3) How the sponsor may pay the claim.
- (4) That the sponsor shall not be held responsible for repayment of the claim if the sponsor can demonstrate that there was good cause or that the sponsor was without fault for the incorrect information having been supplied to the branch. In addition, the branch shall follow-up the written demand letter with personal contact, if possible.

(b) The branch may pursue other collection actions, as appropriate, to obtain payment of a claim against any sponsor which fails to respond to a written demand letter. The branch may terminate collection action against a sponsor at any time if it has documentation that the sponsor cannot be located or when the cost of further collection is likely to exceed the amount that can be recovered.

(c) If the alien's sponsor responds to the written demand letter and is financially able to pay the claim at one time, the branch shall collect a lump sum cash payment. The branch may negotiate a payment schedule with the sponsor for repayment of the claim, as long as payments are provided in regular installments. [Eff 3/19/93; comp NOV 19 2005]
(Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.4(c); 273.18(a))

§17-663-131 Collecting claims against alien households. Prior to initiating collection action against the household of a sponsored alien for repayment of an overpayment caused by incorrect information having been supplied concerning the alien's sponsor or sponsor's spouse, the branch shall determine whether such incorrect information was supplied due to

inadvertent error or intentional program violation on the part of the alien.

- (1) If sufficient documentary evidence exists to substantiate that the incorrect information concerning the alien's sponsor or sponsor's spouse was provided due to intentional program violation on the part of the alien, the branch shall pursue the case in accordance with chapter 17-604.1. The claim against the alien's household shall be handled as an inadvertent household error claim prior to the determination of intentional program violation by the administrative disqualification hearing official or a court of appropriate jurisdiction.
- (2) If the branch determines that the incorrect information was supplied due to misunderstanding or unintended error on the part of the sponsored alien, the claim shall be handled as an inadvertent household error claim, in accordance with chapter 17-683. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.4(c), 273.18(a))

§§17-663-132 to 17-663-134 (Reserved).

SUBCHAPTER 13

MILITARY HOUSEHOLDS

§17-663-135 Purpose. The purpose of this subchapter is to govern the manner in which the income of households including active duty military personnel are to be budgeted. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.10)

§17-663-136. Definitions. As used in this subchapter:

"COLA" means the federal cost of living adjustment payment given to all military personnel in Hawaii.

"LES" means the leave and earnings statement which is an accounting of the earned income received and deductions taken from military pay. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-663-137 Military income. (a) Income for military personnel shall include basic wages, sea duty payment (SEA), basic allowance for housing (BAH), cost of living subsistence (BAS), and cost of living allowance (COLA), as shown on the leave and earnings statement (LES).

(b) The clothing maintenance allowance (CMA) shall be considered a reimbursement.

(c) A household living on base shall be considered to be receiving in-kind benefit when no BAH amount is shown on the LES.

(d) A household living on base receiving a BAH amount and which has an equivalent amount or a portion of housing deducted shall have the total BAH amount shown on the LES counted as earned income. The household may be eligible for a shelter deduction for the payment for housing shown on the LES.

(e) Military income shall be budgeted in accordance with chapter 17-681, except as specified in this subchapter. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(b); 273.10 (c))

§17-663-138 Treatment of military personnel's income when individual is temporarily deployed to duty away from home. (a) When a military person is removed from the food stamp household because of deployment, the income that is left to the household which

originates from the military pay shall be treated as unearned income.

(b) Only that portion of the military person's income which is available to the household either in the form of an allotment, directly deposited into a joint or spouse's bank account or contributed to the household, shall be counted as income to the food stamp household.

(c) When a military person returns to the household after being temporarily deployed, the person's earnings shall be prospectively budgeted in accordance with chapter 17-680. However, that portion of the household's income which originated from the military personnel's earnings, such as an allotment, shall not be budgeted in determining the household's eligibility or level of benefits.

(d) Any additional payment received by a military person who has been deployed to a designated combat zone shall be excluded from household income for the duration of the military person's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and the additional income was not received immediately prior to serving in the combat zone. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.9(b); 273.10(c); Public L. 108-447)

§§17-663-139 to 17-663-141 (Reserved)

SUBCHAPTER 14

CATEGORICAL ELIGIBILITY

§17-663-142 Definitions. As used in this subchapter:

"Authorized to receive" means that an individual has been determined eligible for benefits and has been notified of this determination, even if the benefits have been authorized but not received, authorized but

not accessed, suspended or recouped, or not paid because they are less than a minimum amount.

"General assistance (GA)" means cash or another form of assistance, excluding in-kind assistance, financed by state or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

"Public assistance (PA)" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, Temporary Assistance for Needy Families (TANF), aid to the blind, aid to the permanently and totally disabled and aid to aged, blind, or disabled.

"Supplemental Security Income (SSI)" means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) section 1616(a) of the Social Security Act; or (3) section 212(a) of Pub. L. 93-66. [Eff and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2, 273.2(j)(2))

§17-663-143 REPEALED. [R NOV 19 2005]

§17-663-144 REPEALED. [R NOV 19 2005]

§17-663-145 REPEALED. [R NOV 19 2005]

§17-663-146 REPEALED. [R NOV 19 2005]

§17-663-147 REPEALED. [R NOV 19 2005]

§17-663-148 Categorically eligible PA and SSI households. (a) The following households are categorically eligible for food stamps unless the entire household is institutionalized or disqualified for any reason from receiving food stamps.

- (1) Any household (except those listed in subsection (d)) in which all members receive or are authorized to receive TANF or Temporary Assistance to Other Needy Families (TAONF);
- (2) Any household in which all members receive or are authorized to receive SSI benefits, except that residents of public institutions who apply jointly for SSI and food stamp benefits prior to their release from the institution are not categorically eligible upon a finding by the Social Security Administration (SSA) of potential SSI eligibility prior to such release. The branch must consider the individuals categorically eligible at such time as SSA makes a final SSI eligibility and the institution has released the individual.
- (3) Any household in which all members receive or are authorized to receive PA or SSI benefits, or both in accordance with paragraphs (a)(1) and (2).

(b) The eligibility factors which are deemed for food stamp eligibility without verification because of PA/SSI status are the asset, gross and net income limits, social security number information, sponsored alien information, and residency. However, the branch must collect and verify factors relating to benefit determination that are not collected and verified by the other program if these factors are required to be verified. If any of the following factors are questionable, the branch must verify that the household which is considered categorically eligible:

- (1) Contains only members that are PA or SSI recipients;
- (2) Meets the household definition;
- (3) Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for PA or SSI purposes; and
- (4) Includes no persons who have been disqualified as provided for in subsection (c).

(c) Households subject to retrospective budgeting that have been suspended for PA purposes as provided for in TANF regulations, or that receive zero benefits shall continue to be considered as authorized to receive benefits from the appropriate agency. Categorical eligibility shall be assumed at recertification in the absence of a timely PA redetermination. If a recertified household is subsequently terminated from PA benefits, the procedures in section 17-663-87 shall be followed, as appropriate.

(d) Under no circumstances shall any household be considered categorically eligible if any member of that household is:

- (1) Disqualified for an intentional program violation or failure to comply with monthly reporting requirements;
- (2) Disqualified for failure to comply with the work requirements specified in subchapter 4 of chapter 17-684; or
- (3) Ineligible by virtue of a conviction for a drug-related felony.

These households are subject to all food stamp eligibility and benefits provisions (including the provisions of section 17-663-82) and cannot be reinstated in the program on the basis of categorical eligibility provisions.

(e) No person shall be included as a member in any household which is otherwise categorically eligible if that person is:

- (1) An ineligible alien;
- (2) Ineligible under the student provisions;
- (3) An SSI recipient in a cash-out state;
- (4) Institutionalized in a nonexempt facility; or
- (5) Ineligible because of failure to comply with a work requirement.

(f) For the purposes of work registration, the exemptions in section 17-684-25 shall be applied to individuals in categorically eligible households. Any such individual who is not exempt from work registration is subject to the other work requirements in chapter 17-684.

(g) When determining eligibility for a categorically eligible household, all provisions of the food stamp program shall apply except for sections 17-675-18, 17-676-69, and 17-680-27. [Eff and comp
NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j)(2))

§17-663-149 Categorically eligible GA households.

(a) Households in which each member receives GA benefits shall be categorically eligible for food stamps unless the individual or household is ineligible as specified in subsections (d) and (e).

(b) In determining whether a household is categorically eligible, the branch shall verify that each member receives PA benefits, SSI, or GA and that it includes no individuals who have been disqualified as provided in subsections (d) and (e). The branch shall also verify household composition if it is questionable, in order to determine that the household meets the definition of a household.

(c) When determining eligibility for a categorically eligible household, all food stamp program requirements apply except the following:

- (1) Assets. None of the provisions of chapter 17-675 apply to categorically eligible households. The provision in section 17-675-18 regarding assets available at the time of the interview does not apply to categorically eligible households;
- (2) Gross and net income limits. None of the provisions in section 17-680-25 relating to income eligibility standards apply to categorically eligible households. The provisions in sections 17-676-69 and 17-680-27 relating to the income eligibility determination also do not apply to categorically eligible households;
- (3) Zero benefit households. All eligible households of one or two persons must be provided the minimum benefit;
- (4) Residency; and
- (5) Sponsored alien information.

(d) No person shall be included as a member of an otherwise categorically eligible household if that person is:

- (1) An ineligible alien;
- (2) An ineligible student;
- (3) Disqualified for failure to provide or apply for an SSN;
- (4) A household member, not the head of household, disqualified for failure to comply with a work requirement;
- (5) Disqualified for intentional program violation;
- (6) An SSI recipient in a cash-out state; or
- (7) An individual who is institutionalized in a nonexempt facility.

(e) A household shall not be considered categorically eligible if:

- (1) It refuses to cooperate in providing information to the branch that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility;
- (2) The household is disqualified because the head of household fails to comply with a work requirement;
- (3) The household is ineligible under the striker provisions; or
- (4) The household is ineligible because it knowingly transferred assets for the purpose of qualifying or attempting to qualify for the Program.

(f) Households consisting entirely of recipients of PA, SSI and/or GA shall be categorically eligible.

[Eff and comp NOV 19 2005] (Auth: HRS §346-14)
 (Imp: 7 C.F.R. §273.2(j)(4))

§17-663-150 Households with some PA or GA recipients. The branch shall apply the joint application procedures to a food stamp applicant household in which some, but not all, members are in the PA/GA filing unit, except for procedures concerning categorical eligibility. [Eff and comp NOV 19 2005]
 (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(j)(5))

§17-663-151 (Reserved).

SUBCHAPTER 15

HOMELESS FOOD STAMP HOUSEHOLDS

§17-663-152 Definitions. As used in this subchapter:

"Homeless individual" means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

- (1) A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);
- (2) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;
- (3) A temporary accommodation for not more than ninety days in the residence of another individual; or
- (4) A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby, or similar places).

"Homeless meal provider" means a public or private nonprofit establishment (e.g. soup kitchen, temporary shelter), that feeds homeless persons or a restaurant which has been approved by the Food Stamp Program Office to offer meals at low or reduced prices to homeless persons. [Eff 3/19/93; am 10/28/96; am and comp **NOV 19 2005**] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2; Pub. L. No. 104-193 (1996))

§17-663-153 Participation of homeless food stamp households. (a) Homeless food stamp individuals as defined in section 17-663-152 shall be permitted to use their food stamp benefits to purchase prepared meals

from homeless meal providers authorized by FNS as specified in section 17-663-155.

(b) The use of food stamp benefits to purchase prepared meals from the homeless meal providers shall be on a voluntary basis. If other individuals have the option of eating free or making a monetary donation, food stamp recipients shall be provided the same option of eating free or making a donation in money or food stamps.

(c) If the homeless food stamp individual chooses to use food stamp benefits to purchase prepared meals from the homeless meal providers, the household shall not be entitled to any cash change or credit slips from the meal provider. [Eff 3/19/93; am and comp
NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.11(h), 278.1, 278.2)

§17-663-154 Approval of homeless meal providers.

(a) Establishments or shelters who wish to become homeless meal providers shall submit an application with the Food Stamp Program Office (FSPO). The FSPO shall approve the application form for homeless establishments and shelters when the FSPO is satisfied upon sufficient evidence that the establishment or shelter does in fact serve meals to homeless persons.

(b) The FSPO shall make the determination that the applicant meal provider is serving meals to homeless individuals by one or a combination of the following methods:

- (1) Conducting an on-site investigation of the establishment or shelter;
- (2) Examining the establishment's records;
- (3) Confirming with other licensing agencies, e.g., department of health, that the establishment is authorized to prepare and serve meals to the public; or
- (4) Through collateral contacts designated by the establishment.
 - (A) The collateral contact may be made either in person or by the telephone;
 - (B) The acceptability of a collateral contact shall not be restricted to a particular individual or organization

but may be any individual or organization who may be expected to provide an accurate third-party verification of the establishment's statements; and

(C) Examples of acceptable collateral contacts include:

(i) Landlords;

(ii) Social service agencies; or

(iii) Other governmental agencies.

(c) The FSPO office shall notify the meal provider establishment of the decision rendered on the meal provider's application. [Eff 3/19/93; am and comp] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.9)

NOV 19 2005
§272.9)

§17-663-155 Participation of homeless meal providers. (a) Homeless meal providers as defined in section 17-663-152 shall be responsible for obtaining approval from the FSPO as set forth in section 17-663-154 that it does serve meals to homeless persons.

(b) Upon receipt of the approval notification from the FSPO, the homeless meal provider shall apply with the local FNS office to qualify for authorization to accept food stamps from homeless food stamp recipients and shall provide FNS with the written approval notice from FSPO. The FNS office shall make the final decision whether the establishment or shelter shall be authorized as a homeless meal provider.

(c) Authorized homeless meal providers may only request voluntary use of food stamps from homeless food stamp recipients and may not request such households using food stamps to pay more than the average cost of the food purchased by the homeless meal provider contained in a meal served to the patrons of the meal service. For purposes of this section, "average cost" is determined by averaging food costs over a period of up to one calendar month. Voluntary payments by food stamp recipients in excess of such costs may be accepted by the meal providers. The value of donated foods from any source shall not be considered in determining the amount to be requested from food stamp

recipients. All indirect costs, such as those incurred in the acquisition, storage, or preparation of the foods used in meals shall also be excluded. [Eff 3/19/93; am and comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§272.9, 278.1, 278.2)

§§17-663-156 to 17-663-158 (Reserved).

SUBCHAPTER 16

PRERELEASE APPLICATIONS FROM RESIDENTS OF INSTITUTIONS

§17-663-159 Prerelease applicants. (a) Households whose members are residents of a public institution which applies for SSI under the SSA's Prerelease Program for the Institutionalized shall be allowed to apply for food stamp benefits jointly with their application for SSI prior to their release from the institution.

(b) The local SSA office shall be responsible to determine whether the applicant who is applying for both SSI and food stamp benefits is a resident of an authorized public institution. If the applicant is no longer a resident of the institution and the application appears to be questionable, the branch shall confirm with the local SSA office whether the applicant had filed its joint application while a resident of an authorized public institution. [Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2, 273.11(i))

§17-663-160 Application processing for residents who have applied under the SSA's prerelease program for the institutionalized. (a) Residents of public institutions applying for SSI and food stamp benefits shall complete a single application for both SSI and food stamps before being released from the institution.

(b) The date of application shall be the date the resident is released from the institution. For resi

dents of public institutions applying for food stamp benefits prior to their release from the institution, the branch shall meet the appropriate processing time frames as stated in chapter 17-647 for each applicant household.

(c) The benefit level for the initial month of certification shall be based on the date of the month the household is released from the institution. Eff 3/19/93; comp NOV 19 2005] (Auth: HRS §347-14) (Imp: 7 C.F.R. §§273.2, 273.10(a))