

- An individual convicted of trafficking SNAP benefits for a controlled substance. See Section 9.1,A.

All applicable exclusions, disregards, and deductions apply to the individual(s) income, however, the individual is not included in the AG when determining eligibility or benefit level.

**NOTE:** In no instance is it acceptable for the benefit level to increase when an individual is disqualified and all other case circumstances are the same. Should this happen, please notify the DFA Policy Unit.

b. Failure to Comply With Public Assistance Requirements

**NOTE:** WV WORKS is the only benefit in West Virginia to which this policy applies.

SNAP benefits must not increase due to a reduction, suspension or termination of income from a federal, State or local welfare or public assistance program, when the reduction (suspension or termination) is due to the client's failure to comply with a requirement of the program. The client must be a SNAP recipient at the time of the failure to comply. This includes a reduction, suspension or termination to accomplish repayment, when the reason for repayment is failure to comply with a program's requirements. This applies to reductions, suspensions or terminations which begin on or after August 1, 1996.

In addition, this applies to any reduction, suspension or termination which was decided or applied as of May 31, 1996 and which has not expired as of August 1, 1996.

For these purposes, all three of the following conditions must be met to meet the definition of a federal, State or local welfare or public assistance program. The program must:

- Be means-tested, and
- Distribute publicly-funded benefits, and
- Be governed by welfare or public assistance laws or regulations.

The following sections provide additional information about use of the policy.

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Income

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## (a) Nature of the Deeming Process

To apply the policy described in this section, the amount of the benefit prior to the reduction, suspension or termination continues to be counted as income, even though the client no longer receives it.

The amount which is counted for SNAP benefits is the amount to which the sanction is or would be applied. When another action is taken prior to imposition of the sanction which changes the amount of the WV WORKS benefit, that amount is counted for SNAP benefits.

**EXAMPLE:** On April 20, 2001, a WV WORKS AG is notified that a 1/3 sanction will be imposed effective June, 2001 and the benefit amount will be reduced from \$401 to \$268. On May 2, 2001 the client notifies the agency that he began to receive UCI benefits of \$150 per week that day. The amount of the UCI results in closure of the WV WORKS AG and a \$0 check amount effective June, 2001. Because the AG became ineligible prior to imposition of the sanction, no amount of the WV WORKS benefit is counted.

**EXAMPLE:** Mr. and Mrs. Miller had four children and are notified that a third sanction will be imposed and the benefit amount will be reduced from \$460 to \$0. The WV WORK amount counted for SNAP benefits is \$460. The AG separates; Mr. and Mrs. Miller each will then have \$230 of the WV WORKS benefit counted for the SNAP benefits in their separate AGs. If they reconcile before the end of the sanction period, \$460 WV WORKS benefit will be counted for their SNAP benefit.

## (b) Determination of Failure to Comply

The Worker must accept the determination of the program which was reduced, suspended or terminated, as the final authority for the failure to comply. If the determination is not specifically identified and documented by the other program as a failure to comply, the policy in this section is not applied. The Worker must not make a judgment about the correctness of the previous determination and must not ask or attempt to require that the decision be reconsidered.

If the Worker is unable to obtain information about the client's failure from another program outside DHHR, the policy in this section must not be applied. The Worker must record efforts to obtain such information, with copies of

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Income

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appropriate correspondence, if any, filed in the case record. This is necessary to avoid QC errors for non-compliance with the policy.

(c) Deeming Period

The duration of the penalty imposed by the public assistance program is not affected by a break in SNAP certification. However, if the public assistance benefit is terminated for any reason, other than imposition of a sanction or non-compliance penalty, the amount of the public assistance benefit is no longer counted as income. At the end of the sanction or non-compliance penalty period, the income is no longer counted, regardless of whether or not the individual is a public assistance benefit recipient. For WV WORKS sanctions, the income is only deemed during the first 3 months of any sanction period.

(d) Client Notification

The fact that benefits do not increase based on a decrease in income, does not constitute an adverse action. However, client notification, using form letter ES-NL-B is required. See Sections 6.3,B and C.

(e) Denial of a SNAP Fair Hearing

The AG is not entitled to a separate and distinct SNAP Fair Hearing on the issue of failure to comply because this would require the SNAP Program to second guess another program's determination. However, if the public assistance program is WV WORKS, the issue of intent may be dealt with during a WV WORKS Fair Hearing about the imposition of the reduction, suspension or termination.

A SNAP Fair Hearing may be held on the issue of not increasing SNAP benefits when income has decreased.

(f) Other Changes

Changes in household circumstances which are not related to a penalty imposed by another federal, State or local means-tested welfare or public assistance program must be made.

This includes adjustment in the benefit level when new members join the household, whether or not the AG is prohibited from receiving benefits for the new member from such program.