

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
BISMARCK, NORTH DAKOTA
May 5, 2017**

IM 5300

TO: County Social Service Directors
Economic Assistance Policy Regional Representatives
Economic Assistance Policy Quality Control Reviewers

FROM: Carol Cartledge, Director, Economic Assistance

SUBJECT: Felony Drug Convictions

PROGRAMS: Supplemental Nutrition Assistance Program (SNAP) and
Temporary Assistance for Needy Families (TANF)

EFFECTIVE: April 21, 2017

RETENTION: Until superseded

**SECTIONS
AFFECTED:** **SNAP**
Other Disqualifications 430-05-77-55
SFN 376 - Drug Related Felony Review 430-05-100-125
TANF
Convicted Drug Felon 400-19-45-95-10
SFN 376, Drug-Related Felony/Fleeing Felon Review 400-
19-165-175

North Dakota House Bill 1041 passed during the 2017 Legislative Session. This bill eliminated the SNAP and TANF disqualification period for individuals convicted of a Drug Felony after August 22, 1996.

Prior to April 21, 2017, individuals convicted of a drug felony may be disqualified from receiving SNAP or TANF benefits for seven years. **Effective April 21, 2017, individuals who are convicted of a drug felony are no longer disqualified from participation in the SNAP or TANF Programs. This change is effective with applications and reviews received on or after April 21, 2017.**

Drug felony reviews completed for an application or review dated April 21, 2017 or after, are being reviewed by the state office. Eligibility workers will

be notified by state policy staff once the disqualification has been ended in TECS or Vision. The application or review must be reprocessed to determine potential eligibility and underpayments.

SFN 405-Application for Assistance, SFN 407-Application for Review, Vision Review and the TANF Monthly Report will be updated with the next revision.

Applications or reviews received on or after April 21, 2017, for SNAP and TANF a felony drug review is no longer required. Disqualifications for closed cases will be end dated April 2017.

For open SNAP cases containing individuals who have a 'DD' participation code, at the first review filed on or after April 21, 2017, e-mail the individual's name and the case number to the State Policy Staff (fspolicy@nd.gov). The disqualification period will be ended in the TECS system.

For open TANF cases, TANF state office policy staff will contact each eligibility worker to assist them in ending the disqualification.

Following are the specific policies for each program:

SNAP

Other Disqualifications 430-05-77-55

Drug Related Felony

With the passing of North Dakota House Bill 1041 during the 2017 Legislation Session, SNAP recipients with a felony drug conviction who apply for SNAP or have a review completed on April 21, 2017, or later are no longer disqualified from participation in SNAP.

~~An individual convicted of a felony for possession, use, or distribution of illegal drugs is eligible to participate in SNAP for seven years from the conviction date of the offence when the act occurred after August 22, 1996.~~

~~If an individual is convicted of a drug related felony, the following information must be sent to the State SNAP Office for review on the SFN 376 Drug Related Felony Review form:~~

- ~~• Eligibility Worker's Full Name and County~~
- ~~• Individual's Date of Birth~~

- Individual's Full Name and Middle Initial
- Case Number Individual is Participating In
- Individual's Client ID Number
- Sex of Individual
- Copies of the Criminal Complaint and Judgment or Order which substantiates the individual's drug-related felony

In order to determine whether an individual's conviction is disqualifying, the court documents sent to the State Office must include the date of the offense(s), the sentence or judgment of the court and the nature of the offenses. This information is usually contained in the Criminal Complaint and Judgment document. However, the offense date is not always listed on the Criminal Complaint and Judgment.

If the Criminal Complaint and Judgment document does not contain the offense date(s) please request a copy of the "Information" or "Criminal Information" document and forward it to the State Office. The "Information" or "Criminal Information" document will include the offense date(s).

If an individual is convicted in a federal court, the court documents may not indicate whether an offense was a misdemeanor or a felony. In that case, the court documents should be forwarded to the State Office even without that information being provided.

The State SNAP Office will review the information to determine if the conviction disqualified the individual from SNAP and notify the worker. If appropriate, the State SNAP Office will enter the disqualification timeframe on the sanction screen in TECS (IPSA) and change the individual's participation code to DD.

If an individual reports and verifies their felony has been reduced to a misdemeanor prior to a SNAP review being completed, the eligibility worker must provide the client's name and case number to the will complete the SFN 376 with the required information and resubmit the Criminal Complaint and Judgment documents to the State SNAP Office and the disqualification will be ended. If the client regains eligibility, the eligibility worker will receive notification and an end date will be added to the IPSA screen in TECS. Clients will regain eligibility following the month of report. or at the next SNAP review.

If an individual is currently disqualified and completes a review, the eligibility worker must provide the client's name and case number to contact the State SNAP office. The disqualification will be ended. for a

~~review of the criminal complaint and judgment at their next review or new application. If the client regains eligibility, the eligibility worker will receive notification and an end date will be added to the IPSA screen in TECS.~~

SFN 376, Drug-Related Felony/Fleeing Felon Review 430-05-100-125 will be revised for Fleeing Felon and Parole or Probation Violator reviews.

TANF

Convicted Drug Felon 400-19-45-95-10

With the passing of North Dakota House Bill 1041 during the 2017 Legislation Session, TANF recipients with a felony drug conviction who apply for TANF or have a review completed on April 21, 2017 or later are no longer disqualified from participation in TANF.

As reviews are completed, individuals who are disqualified because of a drug felony will have their drug convictions ended and will be eligible for TANF the month following the month of review.

~~An individual convicted of a federal or state felony which occurred after August 22, 1996, involving the possession, use, or distribution of an illegal drug (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) and whose sentence is consistent with a felony conviction is ineligible to participate in the TANF Program for seven (7) years from the date of conviction. Action to deny or terminate TANF for the individual can be taken only if verification is obtained concerning such conviction. Only convictions overturned in a court of law may be removed with approval from Economic Assistance Policy Division.~~

Note: ~~This does not apply to alcohol-related convictions.~~

~~If an individual is convicted of a drug related felony in a local, state, or federal court, the following information must be sent to the Economic Assistance Policy Division for review on the SFN 376—Drug Related Felony Review form:~~

- ~~• Indicate TANF Program~~
- ~~• Eligibility Worker's Full Name and County Name~~
- ~~• Individual's Date of Birth~~
- ~~• Individual's Full Name, Including Middle Name~~
- ~~• Individual's Case Number~~
- ~~• Individual's Client ID Number~~
- ~~• Individual's Gender~~
- ~~• Application Date~~

- ~~Date Case Must be Processed~~
- ~~Copies of the Criminal Complaint and Judgment or Order which substantiates the individual's drug related felony.~~

~~In order to determine whether an individual's conviction is disqualifying the court documents sent to the state office must include:~~

- ~~1. The date of the offense(s);~~
- ~~2. The sentence or judgment of the court; and~~
- ~~3. The nature of the offense(s).~~

~~This information is usually contained in the Criminal Complaint and Judgment document. However, the offense date is not always listed on the Criminal Complaint and Judgment.~~

~~If the Criminal Complaint and Judgment document does not contain the offense date(s), please request a copy of the "Information" or "Criminal Information" document from the clerk of court where the felony drug conviction occurred and forward it to the Economic Assistance Policy Division. The "Information" or "Criminal Information" document may include the offense date(s).~~

~~The Economic Assistance Policy Division will review the information to determine if the conviction disqualifies the individual from the TANF Program. If an individual is disqualified, the Economic Assistance Policy Division will notify the Eligibility Worker of the seven (7) year disqualification period.~~

~~The earliest date an individual whose disqualification has reached the seven (7) year period may regain eligibility in the benefit month following the month the seven (7) year period ends.~~

~~Convicted drug felons who are disqualified from receiving TANF assistance continue to have their income and assets considered when determining eligibility for remaining household member(s). Disqualified individuals are permitted applicable income disregards (i.e., standard employment expense allowance, employment incentive disregard and work-related child/adult dependent care). Individuals participating in the JOBS program are eligible for Supportive Services.~~

Prior to a review being completed, Individuals who have been disqualified from TANF due to a drug related felony may regain eligibility if the felony drug conviction has been reduced to a misdemeanor. If prior to a review being completed, If an individual reports, or it is discovered, that a felony has been reduced to a misdemeanor, the eligibility worker must provide

the client's name and case number to the State TANF Office and the disqualification will be ended. ~~the eligibility worker must complete the SFN 376 with the required information and resubmit the Criminal Complaint and judgment documents to the Economic Assistance Policy Division.~~

~~Upon completion of the review by the Economic Assistance Policy Division, eligibility workers will receive a formal notification indicating if the individual continues to be disqualified. It is NOT up to the eligibility worker to monitor if an individual can regain eligibility. All drug related felony convictions should be reviewed at application and annual review.~~

~~The earliest date an individual whose conviction has been reduced to a misdemeanor may regain eligibility is the benefit month following the month the client reports or the change is discovered. If the client regains eligibility, the eligibility worker will receive notification from the Economic Assistance Policy Division indicating the month for which the client has regained eligibility.~~

~~**Note:** When creating a felony drug disqualification on the Disqualification Window in Vision, upon entering the conviction date, the disqualification start and end dates are determined by the system.~~

SFN 376, Drug-Related Felony/Fleeing Felon Review 400-19-165-175 will be revised for Fleeing Felon and Parole or Probation Violator reviews.

If you have any questions, please contact your Regional Representative.