

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES  
BISMARCK, NORTH DAKOTA  
October 1, 2019**

**IM 5361**

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

**FROM:** Michele Gee, Director, Economic Assistance

**SUBJECT:** Felony Conviction Disqualification

**PROGRAMS:** **Supplemental Nutrition Assistance Program (SNAP)**

**EFFECTIVE:** **October 1, 2019**

**SECTIONS  
AFFECTED:** **430-05-25-40 Excluded Household Members**  
**430-05-77-55 Other Disqualifications**

Due to new federal regulations, individuals are disqualified if convicted of federal aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault and who are also not in compliance with the terms of their sentence or parole or are a fleeing felon. This policy is effective with all new applications and reviews received on or after October 1, 2019.

The following policy will be added to 430-05-25-40 Excluded Household Members:

The following individuals residing with a household **must be** excluded from the household when determining the household's size for purposes of assigning a benefit level. Correct participation codes for these individuals on SSDO are listed.

Excluded household members may not participate as separate households.

1. **Sale of a Controlled Substance Involving SNAP Benefits.** An individual found by a Federal, State, or local court to have used or received SNAP benefits, in a transaction involving the sale of a controlled substance. (DF)

2. **Fleeing Felons, Parole or Probation Violators.** Fleeing felons (charged with or convicted of any felony), parole or probation violators are ineligible to participate in the program. (DF)
3. **Ineligible aliens.** Individuals who do not meet the citizenship or eligible alien status, and those who do not attest to citizenship or alien status at the time of application. Among those excluded are alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country. (DI)
4. Intentional program violation **disqualification.** Individuals disqualified because they have been found guilty of IPV. (DF)
5. **Social Security Number disqualified.** Individuals disqualified for failure to provide a Social Security Number. (DI)
6. **Work Requirements.** Individuals disqualified because they failed to comply with the Work Requirements, comparable work requirements for [Job Opportunities and Basic Skills](#) (JOBS) or [Basic Employment Skills Training Program](#) (BEST) (DW).
7. [Able Bodied Adults Without Dependents](#) must be coded as (DI).
8. **Duplicate Benefits.** Individuals convicted of attempting to receive duplicate benefits because they made a fraudulent statement regarding their identity or place of residence after September 22, 1996. (DF)
9. Disqualified from participation in the Food Distribution Program. Individuals disqualified from participation in the Food Distribution Program for an IPV may not participate in SNAP until the disqualification period expires. (DI)
10. **Sale of Firearms, Ammunition, or Explosives Involving SNAP Benefits.** Individuals found by a Federal, State, or local court to have used or received SNAP benefits in a transaction involving the sale of firearms, ammunition, or explosives. (DF)
11. **Trafficking Benefits.** Individuals convicted by a Federal, State, or local court of trafficking benefits for an aggregate amount of \$500 or more. Aggregating involves the accumulation of separate dollar amounts for separate but related trafficking offenses leading up to a conviction. (DF)

12. **Felons who are not in compliance with their sentence or are parole or probation violators/fleeing felons.** An individual who has been convicted of federal aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault and are not in compliance with the terms of their sentence, parole or are a fleeing felon is ineligible to participate in the program.  
(DF)

### **Work Requirements**

Work requirements for participation do not apply to excluded household members.

#### **Exception:**

**Individuals that are excluded from participation for failure to comply with work requirements must comply or become exempt.**

### **Treatment of Assets**

The assets of excluded household members are counted in their entirety to the remaining household members.

### **Treatment of Income**

The countable income of excluded household members is considered available in its entirety to the remaining household members according to the following:

1. Count all of the income of members disqualified because of:
  - a. Sale of a controlled substance involving SNAP benefits.
  - b. A fleeing felon charge or conviction, or a parole or probation violation.
  - c. SNAP IPV.
  - d. SNAP [work requirement](#).

#### **Exception:**

**Ineligible [ABAWDS](#)**

- e. A conviction for attempting to receive duplicate benefits.

- f. Sales of firearms, ammunition, or explosives involving SNAP benefits.
  - g. A conviction for trafficking benefits.
  - h. **Felons who are not in compliance with their sentence or are parole or probation violators/fleeing felons.**
2. Count a prorated share of the income of:
- 1. An ineligible alien.
  - 2. An individual who fails to meet the SSN requirement.
  - 3. An ineligible ABAWD.
  - 4. An individual who has been disqualified from the Food Distribution Program (Tribal Commodities) for an IPV.

TECS prorates the income of the ineligible household member by dividing the income by the total number of household members (including the ineligible household member). All but the ineligible household members share is counted as income for the remaining household members. When the excluded household member has earned income, the 20% earned income deduction is applied in its entirety to the prorated share of the remaining household members. TECS performs this calculation based on the participation codes of household members.

### **Treatment of Expenses**

Expenses of excluded household members are allowed as follows:

- 1. Allow all the expenses of members disqualified because of:
  - a. Sale of a controlled substance involving SNAP benefits
  - b. A fleeing felon charge or conviction, or a parole or probation violation.
  - c. SNAP IPV.
  - d. SNAP [work requirement](#).

#### **Exception:**

**Ineligible ABAWDS**

- e. A conviction for attempting to receive duplicate benefits.
  - f. Sale of firearms, ammunition, or explosives involving SNAP benefits.
  - g. A conviction for trafficking benefits.
  - h. **Felons who are not in compliance with their sentence or are parole or probation violators/fleeing felons.**
2. Allow a prorated share of allowable child support, shelter and dependent care expenses that are paid by or billed to the following individuals. If the following individuals are elderly or disabled, medical expenses paid by or billed to them are not allowable and the household is subject to the shelter expense maximum.
- a. An ineligible alien.
  - b. An individual who fails to meet the SSN requirement.
  - c. An ineligible ABAWD.
  - d. An individual who has been disqualified from the Food Distribution Program (Tribal Commodities) for an IPV.

That portion of the household's allowable child support, shelter and dependent care expenses that are paid by or billed to the excluded household member are divided evenly among the household members including the excluded member. In order for the TECS system to prorate expenses that are billed to or paid by the excluded household member, the expenses must be listed by the excluded household member. All but the excluded member's share is allowed as a deductible expense for the remaining household members. TECS performs this calculation based on the participation codes of household members.

**Exception:**

**If the appropriate utility standard is paid by or billed to the excluded household member the entire expense is allowed.**

The following policy will be added to 430-05-77-55 Other Disqualifications:

**Felons who are not in compliance with their sentence or are parole or probation violators/fleeing felons**

An individual who has been convicted of federal aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault and who are also not in compliance with the terms of their sentence, parole or are a fleeing felon is ineligible to participate in the program.

Information must be submitted that an individual has been convicted of one the crimes listed above and that the individual is out of compliance with the terms of their sentence. This information along with SFN-376 Fleeing Felon/Parole or Probation Violator Review form must be forwarded to the State SNAP Office. The State SNAP Office will review the information to determine if meets the criteria to disqualify the individual. County staff will be notified to impose of the state's decision.

The SFN-405 Application for Assistance and the SPACES Self-Service Portal Application and Review will be updated with a question relating to this new policy.