

household, or \$3,000 for households with one or more members who are disabled, or aged 60 years or over. In 1977, the FSA designated the fair market value (FMV) of vehicles in excess of \$4,500 as a countable resource. Subsequent laws and regulations have raised the FMV exclusion to \$4,650, excluded the value of vehicles used for various purposes from household resources, and designated vehicles whose sale would net no more than \$1,500, after payment of liens, as inaccessible resources.

Discussion of the Proposed Rule

Section 846: Section 846 of the Agriculture Appropriations Act of 2001 amends § 5(e)(7)(B) of the FSA to set new limits on the excess shelter expense deduction and to provide for annual fiscal year adjustments based on the Consumer Price Index. The Act set the fiscal year 2001 maximum excess shelter expense deductions at the levels specified in § 846: \$340, \$543, \$458, \$399, and \$268 per month for, respectively, the contiguous 48 States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands effective March, 2001. Section 846 also amends § 5(e)(7)(B) of the FSA to set the maximum excess shelter expense deductions for fiscal year 2002 and beyond. For this reason, the Department proposes to amend 7 CFR 273.9(d)(6)(ii) to state its obligation to compute and announce maximum excess shelter expense deductions for FY 2002 and other future years by adjusting the previous year's maximums to changes in the Consumer Price Index for All Urban Consumers for each 12-month period ending the preceding November 30. The Department proposes to use the Shelter and the Fuels and Utilities Components of the Consumer Price Index rather than the Consumer Price Index for All Items because doing so provides a more accurate measure of changes in shelter and utility expenses.

The Department posts the updated maximum excess shelter expense deductions annually at http://www.fns.usda.gov/fsp/government/FY03_Allot_Deduct.htm.

Section 847: 7 CFR 273.8 excludes from household resources the value of vehicles that produce income, are used as a home, transport a physically disabled household member, are used for long distance travel other than daily commuting, carry most of a household's heating fuel or drinking water, or are considered inaccessible resources because their sale would net \$1,500 or less after any loans are repaid. The FMV (in excess of \$4,650) of one licensed vehicle per adult household member is

counted as a household resource, as is the FMV (in excess of \$4,650) of any other licensed vehicles that teenagers in the household drive to work, job training, or job hunting. The value of any remaining licensed vehicles is included as a household resource, using the greater of the vehicle's FMV (in excess of \$4,650) or its equity value. Unlicensed vehicles are counted at their equity value.

Section 847 of the Agriculture Appropriations Act of 2001 amends § 5(g)(2)(B)(iv) of the FSA to allow States to substitute their TANF vehicle rules for the food stamp vehicle rules when doing so would result in a lower attribution of resources to households. Implementation of § 847 will streamline the process of determining eligibility, make more households eligible for food stamps, reduce errors, and facilitate conformance of TANF and food stamp vehicle policies. This proposed rule would amend 7 CFR 273.8(f)(4) to implement the vehicle provisions set forth in § 847. Below, we answer questions we believe are likely to arise in connection with the proposed rule.

Which TANF Programs Qualify as Sources of Substitute Vehicle Rules?

In lieu of the food stamp vehicle rules at 7 CFR 273.8(f), the Department proposes that a State may substitute the vehicle rules from a program in that State that uses TANF funds, or State or local funds to meet TANF maintenance-of-effort (MOE) requirements, and meets the definition of "assistance" according to TANF regulations at 45 CFR 260.31.

This definition includes cash payments, vouchers, and other forms of benefits designed to meet a household's ongoing basic needs, including benefits provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients and conditioned on participation in work experience, community service, or any other work activity under TANF regulations. It also includes supportive services such as transportation and child-care provided to families without employment.

How May State Agencies Apply § 847?

The Department proposes that State agencies electing to use § 847 must apply either the TANF or food stamp rules, whichever produces the lower attribution of resources to the household, on a vehicle-by-vehicle basis, using any exclusions allowed by either set of rules. The statute does not permit a blanket substitution of TANF rules for food stamp rules unless, of course, a State's TANF rules invariably result in a lower attribution of

resources, as in States whose TANF policies exclude all vehicles from household assets. Although § 847 mentions only the food stamp FMV test, the rule proposes to apply it equally to the food stamp equity test because the intent of the law is to permit TANF policy to substitute for food stamp policy. Under the proposed rule, State agencies electing to apply § 847 must, therefore, apply their TANF rules to any vehicles that would previously have been subject to the food stamp equity test, where doing so would result in a lower attribution of resources. States whose TANF rules exclude one vehicle must apply the exclusion to the vehicle with the highest value unless prohibited by their rules. States whose TANF vehicle rules exclude all vehicles completely, or contain no resource provisions at all, would exclude any vehicle owned by any household in the State from resources when determining eligibility for food stamps. For example, suppose a State agency is evaluating a vehicle with a FMV of \$5,000 and an unpaid loan balance of \$2,400. The State's TANF vehicle rules exclude equity under \$3,000, while food stamp rules exclude FMV under \$4,650. In this case, the TANF rules result in the lower attribution of resources because they exclude the vehicle's entire equity value of \$2,600, while the food stamp rules would count \$350 excess FMV (\$5,000–\$4,650) toward household resources. Consequently, the State agency would use the TANF rules.

What Happens When a Household Owns Multiple Vehicles?

Where a household has more than one vehicle, the rule proposes that a State must exclude any vehicles it can under either TANF or food stamp rules, and evaluate each remaining vehicle separately under whichever rules will result in the lower attribution of resources to the household. For example, a State could exclude a vehicle used to transport a disabled household member (under food stamp rules), exclude one vehicle per licensed driver (under its TANF rules) and value a remaining vehicle at the greater of its equity value or its FMV in excess of \$4,650 (under food stamp rules, assuming its TANF rules offered no option more favorable to the household).

Can a State Agency Mix Provisions of the TANF Vehicle Rules With Provisions of the Food Stamp Vehicle Rules When Evaluating the Same Vehicle?

No. The rule proposes that a State has the option to apply its TANF vehicle rules in lieu of food stamp vehicle rules,