

paragraphs (f)(1) through (f)(3) of this section the vehicle evaluation provisions of a program in that State that uses TANF or State or local funds to meet TANF maintenance of effort requirements and provides benefits that meet the definition of "assistance" according to TANF regulations at 45 CFR 260.31, where doing so results in a lower attribution of resources to the household. States electing this option must:

(i) Apply the substituted TANF vehicle rules to all food stamp households in the State, whether or not they receive or are eligible to receive TANF assistance of any kind;

(ii) Exclude from household resources any vehicles excluded by either the substituted TANF vehicle rules or the food stamp vehicle rules;

(iii) Apply either the substituted TANF rules or the food stamp vehicle rules to each of a household's vehicles in turn, using whichever set of rules produces the lower attribution of resources to the household;

(iv) Apply any vehicle exclusions allowed by their TANF vehicle rules to the vehicles with the highest values; and

(v) Exclude any vehicle owned by any household in the State if it selects TANF vehicle rules that exclude all vehicles completely or contain no resource provisions at all.

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3. In § 273.9, add two sentences after the second sentence of paragraph (d)(6)(ii) to read as follows:

§ 273.9 Income and deductions.

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(d) * * *

(6) * * *

(ii) * * * For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12 month period ending the previous November 30.

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Dated: August 21, 2003.

Eric M. Bost,

Under Secretary, Food, Nutrition, and Consumer Services.

Note: This appendix will not be published in the Code of Federal Regulations.

Appendix: Regulatory Impact Analysis

1. *Title:* Vehicle and maximum excess shelter expense deduction provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001, Public Law 106-387.

2. *Action:*

(a) Nature: Proposed Rule

(b) Need: This action is required as a result of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001, Public Law 106-387.

(c) Background: On October 28, 2000, the President signed the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001 (Agriculture Appropriations Act of 2001). This rule is being proposed to implement sections 846 and 847 of the Agriculture Appropriations Act of 2001. Section 846 increases the maximum amount of the food stamp excess shelter expense deduction for fiscal year 2001 and indexes it for future years to the Consumer Price Index. Section 847 allows State agencies the option to use their Temporary Assistance for Needy Families (TANF) Program vehicle allowance rules rather than the vehicle rules used in the Food Stamp Program (FSP) where doing so will result in a lower attribution of resources to food stamp households.

3. *Justification of Alternatives:* These provisions are statutorily mandated and have already been implemented. In the case of the vehicle provision, FNS could have interpreted the statute to offer a more restrictive definition of TANF-funded programs, which would have limited the number of households gaining eligibility due to the provision. Instead, we propose a comprehensive definition of TANF-funded programs, which maximizes the benefits of the provision and is consistent with both our understanding of Congressional intent and prior policy guidance issued by the Food and Nutrition Service to States.

4. *Effects:* (a) Effects on food stamp recipients, and (b) Program costs: These provisions are expected to increase Food Stamp Program costs by \$335 million in FY 2004 and \$1.82 billion over the five years FY 2004 to FY 2008. Likewise, these provisions are expected to add 243,000 new participants and increase benefits among 1.65 million current participants in FY 2004. These impacts are already incorporated into the President's FY 2004 budget baseline.

Section 846: Increase the Excess Shelter Deduction Limits

Discussion: Recognizing that shelter expenses reduce the amount of income available to purchase food, the Food Stamp Act of 1977 (FSA) provides a deduction from income for households whose shelter

expenses exceed 50 percent of their income, after other applicable deductions are made. Because households with larger shelter expenses relative to their income generally receive a larger excess shelter deduction for food stamp benefit determination, the deduction is a means of targeting benefits to those in need.

The FSA also sets limits on how large the excess shelter deduction can be, often referred to as the "excess shelter deduction cap." Since households with elderly or disabled members are not subject to the shelter deduction cap, most households affected by the cap are households with children. Legislation enacted since 1977 has adjusted the caps to the Consumer Price Index (Omnibus Budget Reconciliation Act of 1981); required that calculations of excess shelter deductions be rounded down to the next lower dollar (Omnibus Budget Reconciliation Act of 1982); removed the caps altogether (Omnibus Budget Reconciliation Act of 1993, Mickey Leland Childhood Hunger Relief Act); and most recently, reset caps and froze them at current levels for households without elderly or disabled members (Personal Responsibility and Work Opportunity Reconciliation Act of 1996). The excess shelter deduction caps in effect for FY 2001 were: \$300, \$521, \$429, \$364, and \$221 respectively, for the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the United States Virgin Islands. Households with elderly or disabled members are not subject to the excess shelter caps.

Since the caps were frozen by the 1996 legislation, many FSP participants, State agencies, and advocacy organizations have sought legislation that would bring the maximum excess shelter expense deduction more closely in line with current housing costs and index it to the cost of living. Section 846 of the Agriculture Appropriations Act of 2001 accomplishes those objectives by: (a) setting the fiscal year 2001 maximum excess shelter expense deductions at \$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 1, 2001; and (b) setting the maximum excess shelter expense deductions for fiscal year 2002 and beyond 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.

Effect on Low-Income Families: This provision will affect low-income households without an elderly or disabled member, who certify or re-certify for food stamp benefits on or after March 1, 2001, and who have shelter expenses that are high enough relative to their net income to be eligible for the excess shelter deduction and subject to the current shelter cap. Most households affected by the provision are households with children. It will allow affected households to claim a larger income deduction for shelter expenses and to obtain higher food stamp benefits.

Cost Impact: We estimate that the cost of this provision will be \$119 million in FY 2004, and \$705 million over the five years,