



VIRGINIA  
LEGAL AID  
SOCIETY

## **FOOD STAMPS BASICS (Supplemental Nutrition Assistance Program [SNAP])**

### **What are food stamps/Supplemental Nutrition Assistance Program (SNAP)?**

The food stamp program is a government program that can help people buy food. It is intended to alleviate hunger and malnutrition. As of October 2008, it became officially known as the Supplemental Nutrition Assistance Program (SNAP). However, it is still commonly referred to as food stamps.

### **Who can get food stamps/SNAP?**

People who don't own a lot of things and don't have enough money to buy their food. Households must have low resources (property) and low income to get Food Stamps. All households can have up to \$2,250 in countable resources. A household can have up to \$3,250 in countable resources, if at least one person in the household is elderly (60 or older) or disabled. Your home you live in, household goods, furniture, clothing, and motor vehicles are not counted.

### **How can you get food stamps/SNAP?**

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Go to the Department of Social Services office in your area to file an application. You will have to answer questions about who lives in your house, the property that you own, your bank accounts, your income, etc. You have the right to apply the same day you go into the office. DSS may ask for written proof (verification) only about your income, liquid resources (checking or savings account), medical costs, utility costs and Social Security numbers. DSS may not ask for written proof of anything else unless they have a good reason to question it.

### **Can you mail a food stamp/SNAP application to Social Services?**

You can mail an application or you can take it to the office. You must have a face-to-face meeting to apply unless you cannot get to the agency. If you don't have a vehicle or if you cannot leave home because of a medical condition, you can have a telephone interview.

### **What if you are not able to go to Social Services to apply?**

A spouse or any adult member of your household may apply for you. Or, you may name a trusted friend, relative or neighbor to be your authorized representative.

### **How is a representative named?**

If you want to name an authorized representative, write a note for that person to take to the local social services department. In the note:

1. List the name, address and phone number of the person you are naming;
2. List the duties you want that person to perform;
3. Sign and date the note.

You may also name a representative on the application form.

### **How long does it take to get the food stamps?**

If your application is approved, you should get food stamps within 30 days. If your situation is very severe you are entitled to get food stamps within 7 days after applying. Your situation is considered to be very severe if:

- Your gross monthly income is less than \$150 and liquid resources are less than \$100, or
- Your gross monthly income plus liquid resources are less than monthly shelter expenses.

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## **How much will you receive?**

The amount of food stamps is based on the number of people in your house, the income you have and your household bills.

## **What are the income limits to get Food Stamps?**

Income limits depend on household size. The more people in the household, the more the monthly income limit. Households with an elderly or disabled member must have net income after deductions at or below 100% of poverty. Households without an elderly or disabled member must have gross income before deductions at or below 130% of poverty and net income after deductions at or below 100% of poverty. (The gross income limit of 130% of poverty does not apply if the household includes an elderly or disabled person.)

## **What are the deductions?**

To figure monthly net income, households add up income and subtract deductions. There are six possible deductions. Deduction amounts change over time. The following deduction amounts are in effect from October 1, 2014 through September 30, 2015:

1. Standard - \$155/month, if 1-3 in household; \$165/month if 4 in household; \$193/month if 5; \$221/month if 6 or more in household.
2. Work - 20 percent of wages from a job.
3. Medical - Household members who are 60 or older, or who get Social Security or SSI benefits, can deduct their out-of-pocket medical expenses greater than \$35 per month.
4. Child Care - Expenses to care for a child or other dependent so a household member can work or attend school or training.
5. Legally owed child support payments.
6. Shelter - Housing and utility expenses greater than 50 percent of income after all other deductions are subtracted. The maximum amount of shelter expenses that can be deducted is \$490/month, and more if the household has an elderly or disabled member.

## **Where can you spend the food stamps?**

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Most grocery stores take food stamps. Food Stamps are given in a card by electronic benefit transfer (EBT). The food stamp benefits are added to the debit card on the first day of every month. The card works like a debit card and any unused funds are rolled over to the next month.

If the card is not used at all, after 60 days you will get a letter telling you your account will be frozen after 90 days if you do not buy something. Once your account is frozen, you will have to call your local social services worker to reactivate it.

You may call 1-866-281-2448 to:

- Activate your card and choose your PIN number
- Change your PIN number
- Check your balance
- Report your card lost, stolen or damaged
- Report someone using your card without your approval
- Or if you ever need help or have questions about your Virginia EBT card or account

### **What can you buy with food stamps?**

Food stamps can be used for food items and seeds for your garden. You cannot buy hot foods ready for immediate consumption, pet food, alcohol, tobacco products, paper products or any other non-food items.

### **What do I need to do if there is a change in my circumstances after I am found eligible?**

At some point after you begin receiving food stamps, you will have to be recertified, to make sure you're still eligible. Your worker will notify you as to when that will happen. At the time of your recertification, you need to make sure to tell your worker about all your current circumstances, which may result in a change in your eligibility or the amount of food stamps you'll receive. If your income changes prior to your recertification time, and if your new income puts you over the gross income limit, then you need to report that even before you are up for recertification. If you don't tell your worker about a change when you are required to do so, and you get too many food stamps, you could be charged with fraud. Intentional food stamp fraud can result in jail time. If you have any doubt as to when you are required to report a change in your income or other circumstances, you should call legal aid or some other reliable source of help.

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You are also required to file an Interim Report with DSS, which must include any changes in your address, household membership, total household resources, child support, unearned income of \$50 or more, and earned income (such as wages) of \$100 or more. You must file this Interim Report by the sixth month of your certification period if you're on a 12-month certification, or by the twelfth month of your certification period if you're on a 24-month certification. DSS may change your monthly benefit based on the new information you provide in this report.

### **If your application is denied or you think you should be getting more food stamps, what can you do?**

You can ask your worker to explain the decision. If you don't understand, you should ask questions. If you still don't think the decision is right, you can file an appeal by filling out a simple one page form. The appeal should be filed as soon as possible but you have up to **90** days after the date of the decision. A hearing will be held at the local Department of Social Services office. A Hearing Officer will decide if the decision is right. If you did not receive the right amount of food stamps, the Hearing Officer will order the agency to make a correction and repay you.

### **If you receive a Notice of Proposed Action that terminates or reduces your benefits, what can you do?**

You should file an appeal immediately. If the appeal is filed within **10** days of the date of the notice, benefits will continue until the hearing officer makes a decision.

If you appeal the termination or reduction of existing benefits **after 10** days of the date of the Notice, but **before 90** days after notice, you are still within the appeal limit. However, benefits will not be continued.

### **Can someone help you at a hearing?**

You may bring someone to the hearing to help you. You may also contact the local legal aid office for advice and help with your appeal. A worker from the legal aid office may be able to represent you at the hearing.

### **Do you have to work to get food stamps/SNAP?**

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Some people do have to work or look for work to be able to get food stamps. If you are under age 18 or 50 years or older, the work requirement does not affect you. Pregnant women and disabled people do not have to work or look for work. People with a short-term medical disability (for example, a broken leg or surgery) are also exempt from the work requirement until they can return to work. A statement from your doctor will be needed to verify your medical condition and to estimate how long you are unable to work.

### **What will happen if you quit your job?**

If you quit your job, you will not be able to get food stamps for a while. However, if you have a good reason for quitting the job, your benefits may continue. You will need to explain the reason to your worker.

### **Can two families have separate food stamp cases if they live in the same house?**

It depends on how the families buy their food and fix their meals. If they keep their food separate, each "household" can have a food stamp case. There are some instances when certain people must be in the same food stamp "household." For example, husbands and wives must be in the same food stamp household group and children under age 22 must be in the same food stamp household when living with a parent. Even if the child who is under age 22 is married, he must be in the same food stamp household if he lives in the home with his parents.

### **I am not a U.S. citizen. Can I receive Food Stamps?**

Noncitizens who are lawfully admitted to the U.S. for permanent residence and have a total of 40 qualifying work credits, but have been in the U.S. for less than 5 years, are eligible.

Noncitizens with qualified alien status are eligible after they have resided in the U.S. for 5 years, regardless of whether they've earned any qualifying work credits.

Noncitizens with qualified alien status who are disabled are eligible regardless of the date they began residing in the U.S.

Noncitizens with qualified alien status who are under the age of 18 are eligible regardless of the date they began residing in the U.S.

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Noncitizens who are lawfully admitted to the U.S. for permanent residence and are active duty members or honorably discharged veterans of U.S. armed forces, their spouses and children are eligible.

Certain refugees, aliens granted asylum, and aliens whose deportation has been withheld are eligible.

You will need to provide evidence that you are here legally

### **What other Food Programs can I use?**

- Women, Infants and Children (WIC) Program:
  - Administered by the Health Department
  - Serves
    - low-income women who are pregnant, breast-feeding a child less than 1 year old or postpartum/nonbreast feeding until child is 6 months; and
    - children up to age 5.
  - Provides nutritious foods to supplement diets and provides referrals to health care services.
  - Noncitizens may receive WIC.
  
- School-based programs for low-income children:
  - National School Lunch Program (this is common at most schools)(may be available during the summer)
  - School Breakfast Program (not all schools have this)
  - After School Snack Program (not all schools have this)
  
- Child Care Food Program:
  - available through child care providers who apply to participate
  - can include home-based providers as well as child care centers
  
- Food Banks, Pantries, and Soup Kitchens

### **I have been convicted of a drug felony. Am I eligible for food stamps?**

Virginia law says that you cannot be denied food stamps solely because you were convicted of drug **possession**. However, you must be complying with, or have already complied with, ALL obligations imposed by the criminal court; you must be actively engaged in or already have

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completed a substance abuse program; you must participate in periodic drug screenings; and you must comply with DSS regulations. If you are following this law and have been denied food stamps, you need to file an appeal with DSS (Social Services).

If you were convicted of **drug distribution**, or possession with **intent to distribute**, you will NOT be eligible for food stamps.

### **What happens if DSS says my household received an overpayment of food stamp benefits?**

An overpayment means that you received too much in food stamp benefits for a certain period of time – perhaps a month, several months, or longer. It may also mean that you should not have been receiving food stamps at all. The most important thing for you to remember is that you have the right to appeal a notice that you've been overpaid if you disagree with DSS. Carefully read all notices from DSS to find out your deadline for appealing. Also, even if it's been proved that you received an overpayment, or even if you agree that you received an overpayment, you can still try to have the amount reduced and set up a repayment plan over a period of time.

There are three ways an overpayment might have occurred:

- **Agency Error (AE):** this means that, even though you did everything right in reporting your income, assets, household size, etc., the agency made a mistake in recording your information, or they made a mistake in calculating your benefits. ***You can be required to repay even if it was the agency's error, and even though you did everything right.***
- **Inadvertent Household Error (IHE):** this means that you made a mistake when giving your information to DSS, but you didn't do it intentionally for the purpose of getting benefits you weren't entitled to. It was a misunderstanding or unintended error.
- **Intentional Program Violation (IPV):** this means you intentionally gave wrong information, or failed to give information you were supposed to, for the purpose of getting benefits you weren't entitled to.

You can be required to pay back an overpayment, whether or not it was your fault, and whether or not you intended to get benefits you weren't entitled to. If it is proved that you committed an IPV, you may also be disqualified from receiving food stamps for a year after your first IPV, two years after your second IPV, and permanent disqualification after your third IPV.

If DSS claims that you have been overpaid, they must send you a notice of their claim and a demand for repayment of the amount by which you were overpaid. They must notify you of

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your right to appeal their claim. You will have 90 days within which to appeal, but you should do so as soon as possible in order to get it resolved.

If DSS is claiming you committed an IPV, they must have one of the following before they can start collecting repayment from you:

- A decision in their favor following an Administrative Disqualification Hearing. You have the right to be present at the hearing, and to present your evidence and arguments as to why you were not overpaid. OR
- A decision from a court of law that you were overpaid. OR
- A signed waiver by you of your right to the Administrative Disqualification Hearing. By signing the waiver, you are essentially agreeing that you were overpaid benefits. You should call legal aid or talk to another lawyer before signing such a waiver.

If it is proved that you received an overpayment, after all appeals are done and there's a final decision by an administrative law judge or by a court of law, then DSS will take steps to make you repay. There are basically two ways they may do so: by **recoupment** or by **repayment**.

**Recoupment** is the method of paying back overpaid benefits if you are still receiving food stamps. It means that DSS will withhold part of the benefits that you would normally be eligible for. There are limits as to how much they can recoup each month:

- If the error that caused the overpayment was due to agency error or was unintentional on your part, then DSS is limited to recouping the greater of \$10 or 10% of the monthly allotment for your household. (For example, if you are currently eligible to receive \$200 per month, DSS could recoup a maximum of \$20 per month, leaving your household with \$180 in food stamps.)
- If the error that caused the overpayment was intentional on your part, then DSS can recoup the greater of \$20 or 20% of the monthly allotment for your household. (For example, if you are currently eligible to receive \$200 per month, DSS could recoup a maximum of \$40 per month, leaving your household with \$160 in food stamps.)

**Repayment** is the method of paying back overpaid benefits if you are no longer receiving food stamps. You can work out a repayment plan with DSS. That might be either a lump sum payment, or a plan to pay it back over time.

DSS may work with you to “compromise” the overpayment claim. This means that you can negotiate with them to reduce the total claim to an amount that will allow you to pay it within

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three years, given your economic circumstances. You can write to DSS, explain your financial situation, ask them to waive part of the claim, and propose a plan for how you will pay back the rest.

If you become more than 180 days delinquent in repaying the overpayment, then you may be subject to the Federal Treasury Offset Program (TOP). That could result in interception of your federal income tax refunds, as well as other collection methods.

Other recoupment methods may include wage garnishments or deductions from your state income taxes.

Finally, in extreme cases, there may be criminal charges brought in cases of IPV, or in cases of selling or bartering food stamps for cash or other goods or services. However, DSS cannot pursue criminal charges and administrative (civil) action to recoup an overpayment at the same time. VLAS does not handle criminal cases. If you are charged with a crime, you should request a court-appointed attorney.

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1-866-LeglAid (534-5243)

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