TO: All Corporation-supported grantees and sponsoring organizations

FROM: Frank R. Trinity Frank R. Trinity
General Counsel

DATE: May 24, 2007

RE: Impact of AmeriCorps Benefits on Food Stamp Eligibility

This memorandum is intended to clarify how benefits received under AmeriCorps*State and National and AmeriCorps*VISTA (VISTA) are treated for food stamp purposes. The treatment of benefits varies depending upon whether the member in question is serving with AmeriCorps*State and National or VISTA. The Corporation for National and Community Service is the Federal agency responsible for overseeing both the AmeriCorps*State and National and VISTA programs. However, the programs were authorized and are governed by different legislation which provides for different treatment of benefits.

Impact of AmeriCorps*State and National Benefits on Food Stamp Eligibility

The AmeriCorps*State and National program was authorized by the National and Community Service Act of 1990 (NCSA), 42 U.S.C. § 12501 *et seq*. The NCSA states that allowances, earnings, and payments to participants in AmeriCorps programs "shall not be considered income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally-assisted program based on need, other than as provided in the Social Security Act." 42 U.S.C. § 12637(d). Based on this language, the USDA issued an opinion in 2001 stating that AmeriCorps*State and National benefits are excluded from income for food stamp purposes. (See attached).

Impact of AmeriCorps*VISTA Benefits on Food Stamp Eligibility

There are different rules for AmeriCorps*State and National and VISTA members. The statutory requirements for the VISTA program are located in Title I, Part A, of the Domestic Volunteer Service Act of 1973 (DVSA), 42 U.S.C. §§ 4951-4960. In addition to Part A requirements, various provisions of Title IV of the DVSA apply to VISTA sponsoring organizations and VISTA members, 42 U.S.C. §§ 5043 – 5065.
Section 404 of the DVSA states, in relevant part, as follows:

> (f)(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this chapter shall not in any way reduce or eliminate the level of, or eligibility for, assistance or services any such volunteers may be receiving under any governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act… or the minimum wage under the laws of the State where such volunteers are serving, whichever is greater.

(f)(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under Title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.

42 U.S.C. § 5044(f)(1) and (2). (Emphasis added).

In other words, if a VISTA member was receiving food stamps prior to enrolling in the VISTA program, payments to that VISTA cannot be considered in determining the amount of or eligibility for food stamps. Furthermore, entitlements to assistance may not be denied because of a participant's failure or refusal to seek or accept employment while serving with the VISTA program. However, if a VISTA member was not receiving food stamps before entering the VISTA program, the member's VISTA payments may be included as income in making food stamp calculations. This information can also be found in the USDA's implementing regulations at 7 CFR 273.9(c)(10)(iii).

Summary

Although AmeriCorps*State and National and VISTA members may serve in the same community, and sometimes, with the same non-profit organization, they serve under different rules. The chart below demonstrates how a member's benefits should be treated based on the program with which the member serves.

If the member is serving with....	**And the member...**	**Then...**
AmeriCorps*State and National (NCSA)	... was receiving food stamps prior to beginning service	...the member's eligibility should be unaffected by their AmeriCorps living allowance.
	... was NOT receiving food stamps prior to beginning service	
AmeriCorps*VISTA (DVSA)	... was receiving food stamps prior to beginning service	
	... was NOT receiving food stamps prior to beginning service	...the member's living allowance may be included in income for food stamp purposes.

Bottom line: The only situation in which an individual's food stamp eligibility might be affected is when the individual enrolls as a VISTA member and subsequently applies for food stamps.

Attachment: 2001 USDA Ruling on AmeriCorps*State and National Eligibility for food stamps

USDA

RECEIVED 4/23/01

United States Department of Agriculture

Food and Nutrition Service

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Dear Mr. Trinity:

Thank you for your letter of March 28, 2001. You asked that we give you updated guidance on the question of whether AmeriCorps benefits are excluded from income for food stamp purposes. You pointed out that the National and Community Service Act of 1990, as amended in 1999, (NCSA) no longer refers to the Job Training Partnership Act (JTPA).

AmeriCorps payments continue to be excluded from income for food stamp purposes. The NCSA states that allowances, earnings, and payments to participants in AmeriCorps programs must not be considered income for the purpose of determining eligibility for, and the amount of income transfer and in-kind aid given under, any Federal or federally-assisted program based on need, other than as provided under the Social Security Act.

Although the linkage with JTPA did not affect the counting of AmeriCorps benefits for food stamp purposes in the past, the linkage caused some confusion at times. JTPA income was only counted if it was from on-the-job training (OJT), and AmeriCorps programs did not have any OJT payments. However, in some instances, State food stamp agencies thought that they were dealing with OJT payments in AmeriCorps programs. The change in the NCSA should eliminate this confusion. We are amending our guidance to State agencies to alert them to the change in the NCSA.

Please let us know if you would like further information on this matter. (Incidentally, Judy Seymour has retired.)

Sincerely,

Patrick Waldron
Branch Chief
Certification Policy Branch