

(b) The ALJ shall prepare, upon the basis of the record, and shall file an initial decision which shall include a decision on a request for good cause relief, a copy of which shall be served upon each of the parties.

(c) Such initial decision shall constitute the final notice of determination for purposes of judicial review without further proceedings, unless there is a motion for reconsideration filed pursuant to §283.17(d) or review by the Judicial Officer is sought pursuant to §283.20.

PART 284—MISCELLANEOUS

Sec.

284.1 Pandemic Electronic Benefits Transfer (P-EBT).

284.2 [Reserved]

AUTHORITY: Pub. L. 116-127, 134 Stat. 178.

SOURCE: 85 FR 70049, Nov. 4, 2020, unless otherwise noted.

§284.1 Pandemic Electronic Benefits Transfer (P-EBT).

(a) *Overview.* Section 1101 of the Families First Coronavirus Response Act (FFCRA; Pub. L. 116-127), as amended, authorized supplemental allotments to certain households. These benefits shall be referred to as Pandemic Electronic Benefits Transfer (P-EBT) benefits throughout this section. This section establishes the retailer integrity regulations for P-EBT for retailers in any State as defined in Section 3(r) of the Food and Nutrition Act.

(b) *Definitions.* For this section:

(1) *Trafficking* means the activities described in the definition of trafficking at §271.2 of this chapter when such activities involve P-EBT benefits.

(2) *Firm's practice* means the activities described in the definition of firm's practice at §271.2 of this chapter when such activities involve P-EBT benefits.

(3) *Involving P-EBT benefits or involve P-EBT benefits* means activities involving P-EBT benefits as well as supplemental nutrition assistance program (SNAP) benefits, or only P-EBT benefits.

(c) *Participation of retail food stores and wholesale food concerns, and redemption of P-EBT benefits.* Requirements and restrictions on the participation of

retail food stores and wholesale food concerns and the redemption of coupons described at §§278.2, 278.3 and 278.4 of this chapter, including the acceptance of coupons for eligible food at authorized firms, also apply to activities involving P-EBT benefits.

(d) *Firm eligibility standards.* A firm may be subject to the following actions described at §278.1 of this chapter for noncompliance or violations involving P-EBT benefits:

(1) The requirements described at §278.1(b)(4) of this chapter regarding a collateral bond or irrevocable letter of credit for applicant firms with certain sanctions apply to applicant firms with sanctions imposed for violations involving P-EBT benefits. The amount of the collateral bond or irrevocable letter of credit shall be calculated in accordance with §278.1(b)(4)(i)(D) and shall also include the amount of P-EBT benefit redemptions when calculating the average monthly benefit redemption volume.

(2) Authorization shall be denied or withdrawn based on a determination by the Food and Nutrition Service (FNS) that a firm lacks or fails to maintain necessary business integrity and reputation, in accordance with the standards and time periods described at §278.1(b)(3), (k)(3), and (l)(1)(iv) of this chapter. When making such determinations, FNS shall consider the criteria referred to in §278.1(b)(3), (k)(3), and (l)(1)(iv) where the underlying activities involve P-EBT benefits.

(3) Firm authorization shall be denied or withdrawn for failure to pay any claims, fines, or civil money penalties in the manner described at §278.1(k)(7) and (l)(1)(v) and (vi) of this chapter where such sanctions were imposed for violations involving P-EBT benefits.

(e) *Penalties.* For firms that commit certain violations described at §§278.6 and 278.2 of this chapter where such violations involve P-EBT benefits, FNS shall take the corresponding action prescribed at §278.6 or §278.2 for that violation. For the purposes of assigning a period of disqualification, a warning letter shall not be considered to be a sanction. Specifically, FNS shall:

§ 284.2

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(1) Disqualify a firm permanently, as described at § 278.6(e)(1)(i) of this chapter, for trafficking, as defined at § 284.1(b)(1) of this chapter, or impose a civil money penalty in lieu of permanent disqualification, as described at § 278.6(i) of this chapter, where such compliance policy and program is designed to prevent violations of regulations of this section;

(2) Disqualify a firm permanently, as described at § 278.6(e)(1)(ii) of this chapter, for any violation involving P-EBT benefits committed by a firm that had already been sanctioned at least twice before under this section or part 278 of this chapter;

(3) Disqualify the firm for 5 years, as described at § 278.6(e)(2)(v) of this chapter, or for 3 years, as described at § 278.6(e)(3)(iv) of this chapter, for unauthorized acceptance violations involving P-EBT benefits, and impose fines, as described at § 278.6(m) of this chapter, for unauthorized acceptance violations involving P-EBT benefits;

(4) Disqualify the firm for 5 years in circumstances described at § 278.6(e)(2) of this chapter when the amount of redemptions, which shall also include the amount of P-EBT redemptions, exceed food sales for the same period of time, as described at § 278.6(e)(2)(ii), (iii), and (iv);

(5) Disqualify the firm for 3 years as described at § 278.6(e)(3)(ii) of this chapter for situations described at § 278.6(e)(2) of this chapter involving P-EBT benefits;

(6) Disqualify the firm for 1 year for credit account violations as described at §§ 278.6(e)(4)(ii) and 278.2(f) of this chapter, where such violations involve P-EBT benefits;

(7) Disqualify the firm for ineligibles violations for such circumstances and corresponding time periods as described at § 278.6(e)(2)(i), (e)(3)(i), (e)(4)(i), and (e)(5) of this chapter, where such violations involve P-EBT benefits;

(8) Double the appropriate period of disqualification for a violation, as described at § 278.6(e)(6) of this chapter, where such violation involves P-EBT benefits, when the firm has once before been assigned a sanction under this section or part 278 of this chapter;

(9) Issue a warning letter to the violative firm when violations are too limited to warrant a period of disqualification, as described at § 278.6(e)(7) of this chapter, where such violations involve P-EBT benefits;

(10) Impose a civil money penalty for hardship or transfer of ownership, as described at § 278.6(g) of this chapter, in amounts calculated using the described formula at § 278.6(g), which shall also include the relevant amount of P-EBT redemptions when calculating the average monthly benefit redemptions; and

(11) Impose a civil money penalty in lieu of permanent disqualification for trafficking as described at § 278.6(j) of this chapter in an amount calculated using the described formula at § 278.6(j), which shall also include the relevant amount of P-EBT redemptions when calculating the average monthly benefit redemptions.

(f) *Claims.* The standards for determination and disposition of claims described at § 278.7 of this chapter apply to P-EBT benefits.

(g) *Administrative and Judicial review.* Firms aggrieved by administrative action under paragraphs (d), (e), and (f) of this section may request administrative review of the administrative action with FNS in accordance with part 279, subpart A, of this chapter. Firms aggrieved by the determination of such an administrative review may seek judicial review of the determination under 5 U.S.C. 702 through 706.

§ 284.2 [Reserved]

PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO

Sec.

285.1 General purpose and scope.

285.2 Funding.

285.3 Plan of operation.

285.4 Audits.

285.5 Failure to comply.

AUTHORITY: 7 U.S.C. 2011–2036.

SOURCE: Amdt. 209, 47 FR 32409, July 27, 1982, unless otherwise noted.