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**Rules of**  
**Department of Social Services**  
**Division 40—Family Support Division**  
**Chapter 15—Supplemental Nutrition Assistance**  
**Program (Food Stamps)**

<b>Title</b>	<b>Page</b>
<b>13 CSR 40-15.455</b> Eligibility for Individuals with a Drug Felony Conviction .....	3



**Title 13—DEPARTMENT OF  
SOCIAL SERVICES**

**Division 40—Family Support Division  
Chapter 15—Supplemental Nutrition  
Assistance Program  
(Food Stamps)**

**13 CSR 40-15.455 Eligibility for Individuals with a Drug Felony Conviction**

*PURPOSE: This rule establishes the requirements to determine whether a participant who has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance can be eligible for Food Stamp benefits.*

(1) Scope. This rule specifies how the division shall implement the authority granted in section 208.247, RSMo, to determine whether a participant is eligible for Food Stamps if he or she has pled guilty or *nolo contendere* to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance.

(2) Definitions. For purposes of this rule, the following terms shall mean:

(A) Participant: Any individual who is currently eligible for food stamp benefits, who has applied for food stamp benefits, who has received food stamp benefits, or who currently receives food stamp benefits, administered by the division;

(B) Custody: A participant is considered in custody when the individual has been remanded to the custody of the Missouri Department of Corrections, United States Bureau of Prisons, or a state penal institution in any other state, to serve a sentence of imprisonment imposed by a court of one (1) year or more. Custody shall not mean pre-trial detention;

(C) Food Stamp benefits: The Supplemental Nutrition Assistance Program (SNAP) operated by the United States Department of Agriculture (USDA) Food and Nutrition Services, pursuant to 7 U.S.C. chapter 51, and in conjunction with the division to provide benefits to low-income individuals who are in need of aid to purchase food; and

(D) Approved substance abuse treatment program: An alcohol and drug abuse treatment program or provider certified by the Department of Mental Health, Division of Behavioral Health.

(3) Any participant may request a determination of eligibility for the exemption from Food Stamp eligibility disqualification set forth in section 208.247, RSMo. The request for a determination of section 208.247, RSMo,

exemption shall be submitted in writing to the division or, if available, electronically through the division's website. The participant shall provide the following information in order to establish eligibility for the exemption:

(A) The participant's name;

(B) A list of the participant's felony crimes involving the use or possession of controlled substances to which the participant has pled guilty or *nolo contendere*, or has been found guilty of committing, the dates of the guilty plea or finding of guilt, and the court involved; and

(C) The participant's certification that the participant, after August 28, 2014—

1. Has not pled guilty or *nolo contendere* to or been found guilty of an additional controlled substance misdemeanor or felony offense within one (1) year after the participant's release from custody; or

2. Has not pled guilty or *nolo contendere* to or been found guilty of an additional controlled substance misdemeanor or felony offense within one (1) year after the date of conviction if the participant was not committed to custody;

(D) A participant who has been released from custody or pled guilty or *nolo contendere* to a controlled substance misdemeanor or felony offense less than three (3) years prior to the request for a determination of section 208.247, RSMo exemption shall provide a statement either on a form provided by the division or on an official document of the Division of Probation and Parole, Division of Behavioral Health, or the court that the participant has complied with all obligations imposed by court, by the Division of Probation and Parole, and by the Division of Behavioral Health. A participant will be considered to have complied with all obligations imposed by a court or the Division of Probation and Parole if the Missouri Board of Probation and Parole has not taken action to revoke the participant's probation or parole;

(E) The participant shall also submit with the request for determination a signed written statement from an approved substance abuse treatment program to establish compliance with the substance abuse treatment requirements set forth in section 208.247.1(1)(a) to (1)(d), RSMo. Directories containing lists of approved substance abuse treatment programs can be found on the Department of Mental Health's website. The statement shall either be on a form provided by the division or shall be on an official document of the approved substance abuse treatment program. The statement shall be accompanied by documentation of the name, mailing address, and telephone number of the approved substance

abuse treatment program and the name and telephone number of the person, designee, or agent that is verifying the provider's statements to the division. The statement shall certify that the participant—

1. Is currently successfully participating in a substance abuse treatment program approved by the Division of Behavioral Health; or

2. Is currently enrolled in and accepted for treatment and participation in a substance abuse treatment program approved by the Division of Behavioral Health, but is subject to a waiting list to receive available treatment, and the participant remains enrolled in the program and will enter the treatment program at the first available opportunity; or

3. Has satisfactorily completed a substance abuse treatment program approved by the Division of Behavioral Health; or

4. Was determined by a Division of Behavioral Health certified treatment provider not to need substance abuse treatment; and

(F) The participant shall attest that s/he has demonstrated sobriety through voluntary urinalysis testing. The participant shall be responsible for any fees incurred for the voluntary urinalysis testing. The participant shall satisfy this requirement by providing the division the written test results of a urinalysis, provided by an official licensed drug testing vendor/facility, which shows the participant tested negative for illegal controlled substances, as defined in 21 USC section 802(6), other than those legally prescribed to the participant, at the time of the test. The test shall be completed following the participant's last plea of guilty or *nolo contendere* to or finding of guilt for a controlled substance misdemeanor or felony offense involving possession or use of a controlled substance. The participant shall not use any self-administered test process to satisfy this requirement.

(4) Any participant who has pled guilty or *nolo contendere* to or been found guilty of two (2) subsequent felony offenses involving possession or use of a controlled substance after the date of the first controlled substance felony conviction shall not be eligible for section 208.247, RSMo exemption.

(5) Any participant who, after August 28, 2014, has pled guilty or *nolo contendere* to or is found guilty under federal or state law of an additional controlled substance misdemeanor or felony offense within one (1) year after release from custody or, if not committed to custody, within one (1) year after the date of conviction shall not be eligible for section 208.247, RSMo exemption.



(6) The participant's request for a determination of a drug conviction exemption submitted by the participant shall be true, accurate, and complete.

(7) Food stamp benefits received by a participant for him or herself during a period in which the participant did not qualify for the exemption shall be a debt due to the state and collected as overpayment.

(8) Any participant aggrieved by a decision of the division under this regulation may request a hearing pursuant to section 208.080, RSMo. The following procedure shall apply to all administrative hearings requested under this section:

(A) Copies or printouts of case.net information, business record affidavits, written reports, letters or documents from the Missouri Board of Probation and Parole, Division of Probation and Parole, Division of Behavioral Health, or any state or federal court or parole or probation office, and the contents of the aforementioned documents submitted by the individual or the division at the hearing are declared to be competent evidence and admissible into evidence at the hearing to be considered by the hearing officer along with any other evidence or testimony submitted;

(B) A business record affidavit that meets the requirements of section 490.692, RSMo shall be *prima facie* evidence of it being properly executed and signed without the need for further proof of identification;

(C) Copies or printouts of case.net information, business record affidavits, written reports, letters, or documents from the Missouri Board of Probation and Parole, Division of Probation and Parole, Division of Behavioral Health, or any state or federal court or parole or probation office and the contents of the aforementioned documents reporting that the participant has failed to meet any of the requirements for the drug conviction exemption as set forth in this regulation shall create a rebuttable presumption that the participant has failed to meet the requirements of this regulation and shall shift the burden of proof to the participant to refute the presumption.

*AUTHORITY: sections 207.022, 208.247, and 454.400, RSMo 2016.\* Original rule filed Sept. 21, 2016, effective May 30, 2017.*

*\*Original authority: 207.022, RSMo 2014; 208.247, RSMo 2014; and 454.400, RSMo 1982, amended 1985, 1986, 1990, 1993, 1995, 1997, 2014.*