



NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Notice of Public Hearing and Opportunity to Comment on Proposed Amendments to Title 24 of the Rules of the City of New York

What are we proposing? The Department of Health and Mental Hygiene (the “Department”) is proposing to amend Chapter 34 (Grocery Delivery Program) of Title 24 of the Rules of the City of New York, modifying the rules for the Groceries to Go Program, a subsidized grocery program.

When and where is the hearing? The New York City Department of Health and Mental Hygiene will hold a public hearing on the proposed rule. The public hearing will take place at 10:00AM to 12:00PM on Tuesday, December 3, 2024. The hearing will be conducted by video conference accessible via internet or telephone:

- **Internet.** To participate in the public hearing, enter to register at this Webex URL: <https://nycdohmh.webex.com/nycdohmh/j.php?MTID=m6b4334663ab1c6636cb357b90ac7a68c>
If prompted to provide an event number or password, please enter the following:
Event number: **2343 063 1994**, Password: **mmZYXjWa433** (66999592 from phones)
- **Phone:** For access, dial: **(646) 992-2010** or **(408) 418-9388**; then please enter the following
Access code: **234 306 31994**

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website:** You can submit comments to the Department through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email:** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail:** You can mail written comments to:
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, 14th Floor, CN30
Long Island City, NY 11101-4132
- **Fax:** You can fax written comments to the Department at 347-396-6087.
- **Speaking at the hearing:** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078 or by emailing at resolutioncomments@health.nyc.gov before the hearing begins at 10:00AM on December 3, 2024. While you will be given the opportunity during the hearing to indicate that you would like to comment, we prefer that you sign-up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? Written comments must be received on or before December 3, 2024 at 5:00 p.m.

Do you need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. You must tell us by November 19, 2024.

Can I review the comments made regarding the proposed rules? You may review the online comments made on the proposed rules at <https://rules.cityofnewyork.us/proposed-rules/>. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time after the hearing by the Department’s Office of General Counsel.

Where can I find the Department’s rules? The rules of the Department can be found in Title 24 of the Rules of the City of New York.

What rules govern the rulemaking process? This notice is made according to the requirements of New York City Charter §1043. This proposed rule was not included in the Department’s regulatory agenda for this fiscal year because it was not contemplated when the Department published the agenda.

Statement of Basis and Purpose

The Department is amending the rules for the subsidized grocery delivery program, called the Groceries to Go Program (“Program”).

The Program was established to provide eligible Health and Hospital NYC Care members with diabetes or hypertension, and who are at risk for food insecurity, with money to purchase groceries through an online marketplace of local grocery stores. Due to the high rates of food insecurity in New York City and the overwhelming demand for the Program, the Department proposes several changes to Chapter 34 to reach more New Yorkers experiencing food insecurity. As of October 16, 2024, over 2,150 New Yorkers are on a waiting list for the Program. Without the rule change, the Department will not be able to enroll any new participants for the remainder of the City’s fiscal year 2025.

First, the Department proposes requiring households seeking to enroll in the Program to self-report experiencing food insecurity¹, instead of a self-report of risk for food insecurity. Research shows that food insecurity may exacerbate outcomes related to diet-related chronic diseases,² including diabetes and hypertension, making New Yorkers with food insecurity and these conditions a high priority population for food support programs like Groceries to Go. Thus, when screening for program eligibility, the Department will stop using questions validated to identify people at risk for food insecurity³ and instead use questions validated to identify individuals experiencing food insecurity.⁴ This change will allow the Groceries to Go Program to reach eligible New Yorkers with the greatest need for monthly credits to purchase groceries. The amended definition used for food insecurity is based on the definition used by the United States Department of Agriculture for the Supplemental Nutrition Assistance Program (SNAP).

Additionally, the Department proposes amending the rule to change the reasons for removal from the Groceries to Go Program. The Department proposes to remove participants after three months of program inactivity, instead of after six months. The Department also proposes limiting program participation to a maximum of 18 cumulative months. Individuals removed following 18 cumulative months of participation would be assessed for eligibility to re-enroll in the program following a period of 18 or more months off the program. If the program is full at the conclusion of the 18-month or longer period after such an

¹ United States Department of Agriculture, Economic Research Service. Food Security in the U.S., Measurement. Available from <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/measurement/#insecurity>

² Gundersen, C., & Ziliak, J. P. (2015). Food Insecurity And Health Outcomes. *Health affairs (Project Hope)*, 34(11), 1830–1839.

³ Goldman, N., Sheward, R., & Ettinger de Cuba, S. (2014). The hunger vital sign: a new standard of care for preventive health. *Children’s Health Watch*.

⁴United States Department of Agriculture, Economic Research Service. U.S. Household Food Security Survey Module: Six-Item Short Form. [Available from <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/survey-tools/#six>].

individual was removed from the program, that individual could join a waitlist. The Department proposes these changes so the Program can enroll more eligible New Yorkers in need of credits to purchase groceries.

The Department is also aligning the number of program credits participating households receive to better reflect how the program is currently operating. Participating households with one to two people will receive \$110 per month and those with three or more people will receive \$270 per month. . All participants receive a 50% discount, up to \$30 per month in savings, on purchases of fresh fruits and vegetables using their program credits. The \$30 per month in savings were previously named as credits received by participants but in practice, they are part of a separate discount and are not always fully utilized by participants.

Finally, the Department proposes limiting the number of credits participants can hold in their Groceries to Go accounts to three months' worth of credits. Under the proposed amendments to the rule, program participants would receive between \$0 and \$110 per month for households of one or two people and between \$0 and \$270 per month for households of three or more people, depending on the number of unused credits banked in their accounts. Limiting the number of credits that participants can carry would increase the Department's ability to accommodate additional participants.

The rules are as follows.

Deleted material appears in [brackets]. New material is underlined. The terms “shall” and “must” may be used interchangeably and denote mandatory requirements unless the context clearly indicates otherwise.

Section 1. The title of section 1-01 of chapter 34 of Title 24 of the Rules of the City of New York is amended to be section 34-01 and to read as follows:

§ 134-01. Grocery delivery program.

§ 2. Subdivision (a) of section 34-01 of chapter 34 of Title 24 of the Rules of the City of New York is amended to read as follows:

(a) *Definitions.* For purposes of [the] this section, the following terms have the following meanings:

The term “food insecurity” means that within [last 12 months of applying] the 12 months preceding application for enrollment or re-enrollment in the Program, the [individual] household had low or very low food security characterized by:

(1) [Had concern regarding lack of food for their household;] Reduced quality, variety, and desirability of their diet, but the quantity of food intake and normal eating patterns were not substantially disrupted; or

(2) [Lacked funds to purchase enough food for their household; or] At times during the year, eating patterns of one or more household members were disrupted and food intake reduced because the household lacked money and other resources for food

[(3) Received food from a food pantry].

The term “household” means everyone who lives at the same address.

The term “Program” means the Groceries to Go Program described in this section.

§ 3. Subdivision (c) of section 34-01 of chapter 34 of Title 24 of the Rules of the City of New York is amended to read as follows:

(c) *Eligibility criteria.* Only one [person] individual per household may be enrolled in the Program at any time. The Program will not accept applications from more than one [person] individual at the same address. The Program will only be available to individuals that meet all of the following eligibility criteria:

- (i) The individual is a Health and Hospitals New York City Care Member;
- (ii) The individual reports diagnosis of hypertension or diabetes;
- (iii) The individual reports [a risk for] having household food insecurity; [and]
- (iv) The individual is a New York City resident[.]; and
- (v) For individuals removed from the Program after 18 cumulative months of Program participation, at least 18 months have elapsed following such individual’s removal.

§ 4. Subdivision (d) of section 34-01 of chapter 34 of Title 24 of the Rules of the City of New York is amended to read as follows:

(d) *Program credits.* Program credits will be allocated as follows:

- (i) A household of one or two people will receive [~~\$140~~] \$110 per month, or the maximum portion thereof that would bring such household’s Program account balance up to a maximum of \$330;
- (ii) A household of three or more people will receive [~~\$300~~] \$270 per month, or the maximum portion thereof that would bring such household’s Program account balance up to a maximum of \$810;
- (iii) The program credits will be eligible to be used for food categories posted on the Department’s website. The Department will consider promotion of overall health when determining such categories.

§ 5. Subdivision (f) of section 34-01 of chapter 34 of Title 24 of the Rules of the City of New York is amended to read as follows:

(f) *Enrollment capacity subject to available resources.* Enrollment capacity for [first time] applicants of the Program is on a first-come, first-serve basis among eligible New Yorkers. Enrollment capacity is subject to resource availability as determined by the Department.

§ 6. Subdivision (h) of section 34-01 of chapter 34 of Title 24 of the Rules of the City of New York is amended to read as follows:

(h) *Removal*. The Department may remove an individual from the Program for the following reasons: (i) the individual is no longer eligible; (ii) [inactivity for six months] the individual has participated in the Program for 18 cumulative months without a subsequent break from the Program of at least 18 consecutive months; [or] (iii) inactivity for three consecutive months; or (iv) non-compliance with this section or established vendor policies. Individuals may also be removed at any time upon their request. The Department will provide written notice to the individual that they will be removed from the Program stating the reason for removal. An individual may object to such removal by submitting an objection in writing to the Commissioner or his or her designee within 10 calendar days of receipt of the notice, if received by e-mail or fax, or 15 days if received by mail. The objection will be reviewed and the individual will be notified of the Department's determination regarding the removal of the individual from the Program. Such determination constitutes a final agency action.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Groceries to Go Program

REFERENCE NUMBER: DOHMH-148

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 23, 2024
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Groceries to Go Program

REFERENCE NUMBER: 2024 RG 107

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: October 23, 2024