



NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Notice of Adoption of Final Rule Amending the Subsidized Grocery Program

A Notice of Public Hearing and Opportunity to Comment on a proposal by the Department of Health and Mental Hygiene (“Department”) to amend Chapter 34 in Title 24 of the Rules of the City of New York (“RCNY”) governing the subsidized grocery program was published in the City Record on November 1, 2024. A virtual public hearing was held on December 3, 2024. No one testified at the hearing and no written comments were received. The Department has not made any substantive changes to the proposed rule and now adopts such rule as indicated below.

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. The rule change will allow the Department to enroll more new participants in the future.

First, the adopted rule requires 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

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>].

with a greater 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 rule changes the reasons for removal from the Groceries to Go Program and allows for the removal of participants from the program after three months of program inactivity, instead of after six months. The rule also limits 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 individual was removed from the program, that individual could join a waitlist. These changes will enable the Department to enroll more eligible New Yorkers in need of credits to purchase groceries.

The adopted rule also adjusts 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, this rule limits the number of credits participants can hold in their Groceries to Go accounts to three months' worth of credits. Under the rule, program participants will 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 will 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. Section 1-01 of chapter 34 of Title 24 of the Rules of the City of New York is renumbered as section 34-01.

§ 2. Subdivisions (a), (c), (d), (f) and (h) of section 34-01 of chapter 34 of Title 24 of the Rules of the City of New York, section 34-01 as renumbered by this rule, are 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.

(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.

(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.

(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.

(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.