



NC Department of Health and Human Services

# Controlled Substance Felons

April 2023 In-person Regional Meeting

# **Who is a Controlled Substance Felon? 270**

**An individual who both committed and was convicted under federal or state law on or after August 23, 1996, of any offense classified as a felony by the law of the jurisdiction involved with an element of the possession, use, or distribution of a controlled substance.**

**The individuals are considered Controlled Substance Felons and are permanently disqualified from receiving FNS benefits unless they meet the exception listed in FNS 270.02 Exceptions to Permanent Disqualification.**

# Exceptions to Permanent Disqualification 270.02

**An individual convicted of a Class H or I felony that involved possession, use, or distribution of a controlled substance committed on or after August 23, 1996, in North Carolina may reestablish eligibility for FNS benefits if they meet both conditions listed in 1 and 2 below:**

- 1. Met the minimum disqualification period of six months after release from custody or six months from date of conviction if never committed to custody.**

# Exceptions to Permanent Disqualification 270.02 (continued)

**2. After serving the minimum disqualification period per FNS 270.02 A. 1. the individual may regain eligibility if they meet the following requirements:**

- a. The individual cannot be determined eligible to receive FNS benefits until notice of compliance is received from the Area Mental Health Authority (AMHA).**
- b. Individuals already participating in drug and alcohol treatment programs must be referred to the AMHA for evaluation.**
- c. When notified that the individual has successfully completed, or has continuously participated in, a required substance abuse treatment program as determined appropriate by the AMHA.**

# Determining Classification of Controlled Substance Felony

- 1. Use available information in the Department of Corrections (DOC) Inquiry. Available via OVS and/or OLV, please use DOC online inquiry when OVS or OLV show inconclusive.**
- 2. Contact the individual's parole or probation officer.**
- 3. Use any resource available to your agency such as contacting the Clerk of Court. (Sometimes the Clerk of Court can provide a criminal record check with the full name of the individual; however, there may be a fee charged for this service.) This maybe required for Safekeeping or CRV results in DOC.**

# Determining Classification of Controlled Substance Felony (continued)

**Controlled Substance Felonies need to be addressed at application, reapplication, full recertification, and when a new household member is reported.**

**Has anyone in your home been convicted since August 22, 1996, of a controlled substance felony offense that was committed on or after August 23, 1996?**

**Was the conviction classified as a Class H or Class I controlled substance felony charge?**

**Was the conviction in North Carolina?**

**Has it been at least six months since their release from custody, or if they were never committed to custody, has it been six months since the date of conviction?**

# Determining Classification of Controlled Substance Felony (continued)

**If the answer to any or all of the above questions is “yes,”**

- 1. Verify the individual’s status as a Class H or I controlled substance felon.**
- 2. Verify that the individual has not been convicted of any other controlled substance felony offense during the six-month period of ineligibility.**
- 3. Obtain a signed DSS-8219 Consent For Release of Confidential Information.**
- 4. Refer the individual to the local AMHA for assessment.**
- 5. Verify compliance before approving benefits since assessment and/or participation in a treatment program is an eligibility requirement.**

# When to Disqualify a Controlled Substance Felon

- 1. Mental Health provides notification that the individual has failed to follow through with the required assessment and/or treatment; or**
- 2. The individual refuses to sign the consent form; or**
- 3. It has not been six months since release from custody or, if the individual was never committed to custody, six months after the date of conviction if there has been no additional controlled substance felony convictions.**



# When to Disqualify a Controlled Substance Felon (continued)

4. **Convicted of a drug felony of any other class than H or I. Example: Class G, Class F, etc....**
5. **Convicted of a drug felony in any other state than North Carolina.**



# Scenarios

- 1. A 32 yr. old comes in to apply for FNS benefits and reports being convicted of a drug felony in North Carolina back in 2011, but isn't sure what class it was. OVS requested and applicant was convicted of a Class G felony. Applicant is permanently disqualified for FNS purposes.**
- 2. A 24 yr. old comes in to apply for FNS benefits and reports just being released from prison last month for 2 felony convictions. OVS is requested and he was convicted of a Class I drug felony in 2021 and released on 3/3/2023. He must serve the six month disqualification from 3/3/2023-8/3/2023.**

# Scenarios

**3. An 19 yr. old applies for FNS benefits and reports being convicted on a drug felony in Arizona last year, not sure what type, just knows it was a felony. This applicant is permanently disqualified for FNS purposes.**

**4. A 57 yr. old applies for FNS benefits and OVS shows client was convicted on a Class G drug felony in March of 1991 and was released from prison in July of 1998 due to that drug charge and two other felonies. No further convictions on record. This applicant is eligible because he was convicted prior to August 23, 1996.**

# Scenarios

- 5. A 36 yr. old recertifies for FNS and OVS reveals client has a Class H drug felony conviction from June of 2022. Applicant must be scheduled for an assessment and recertification cannot be approved for benefits until verification of assessment requirements have been met.**
- 6. A 42yr. old applies for FNS benefits and OVS reveals March of 2021 Class I drug felony conviction. County does not currently have a contract with Mental Health Facility and is not sure how to schedule assessment. Because assessments are also required for WFFA, FNS would need to use same source used for WFFA assessments.**

# Questions

**Any questions you may have please write them on the index cards provided on your table. Please include your name, county, and email address with your question and place in the questions box. A Q&A document along with the PowerPoints will be shared with all the counties in May 2023.**