



# SFMNP Farmers' Market Manual

Kentucky Department of Agriculture

Office of CEP Division of Food Distribution

2024



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## I. Overview of the SFMNP

The Senior Farmers' Market Nutrition Program is a unique program designed to provide nutrition benefits to low-income seniors and promote the purchase of Kentucky grown fruits and vegetables from farmers at local farmers' markets throughout Kentucky.

A benefit card or an app is provided to participants enrolled in SFMNP in communities with Kentucky Department of Agriculture (KDA) certified farmers' markets. Benefit cards or the app are issued by designated staff members at local distribution agency sites. Benefits are redeemed by participants for the purchase of locally grown fresh fruits, vegetables, cut cooking herbs and honey from farmers participating in the program. SFMNP participants certified each program year by the local distribution agency staff will receive a one-time benefit.

Farmers' markets are selected for the program based on certification from KDA. As these sites are chosen, KDA will train and certify Market Managers, Distribution Agencies and participating farmers.

The SFMNP begins in June with the distribution of benefits to eligible recipients. The benefits will be valid for use at all authorized farmers' markets participating in the SFMNP until October 31<sup>st</sup>. The recipients can use the benefits in any increment throughout the season or spend the entire benefit at one time.

## II. Duties and Responsibilities of Cooperating Agencies

### A. Farmers' Market Coordinators

Farmers' Market Coordinators Shall:

1. Operate farmers' markets in accordance with USDA guideline, 7 CFR Part 249.
2. Guarantee that participating farmers are in compliance with SFMNP Farmer Participation Guidelines.
3. Receive training and training materials annually on SFMNP procedures and provide training to authorized farmers and any employees with SFMNP responsibilities on such procedures.
4. Agree to be monitored for compliance with SFMNP requirements.
5. Agree to conduct annual on-site farm monitoring of all new farmer applicants and at least 10 percent of farmers which shall include those farmers identified as being highest-risk. High risk farmers are identified by: any farmer new to the SFMNP in either an existing market or a market new to the program, any farmer that has had a complaint lodged against him/her or has shown a disregard for the rules of the program, farmers that have a higher redemption rate than others in the same market **(appendix C)**.
6. Provide KDA SFMNP Coordinator or Branch Manager documentation, within seven (7) days, if there is a change of market coordinator and any change of address information.
7. Provide KDA SFMNP Coordinator or Branch Manager a schedule of the hours, days and duration of the market operation. Further, immediate notification shall be provided to KDA SFMNP Coordinator or Branch Manager of any market schedule changes **(appendix G)**.

8. Retain all agreements and records pertaining to the SFMNP for three (3) years plus the current year. Notwithstanding instances when claims, actions or audit findings have not been resolved; in which case the records shall be retained until the actions or findings have been resolved.
9. Public notification of the SFMNP Program:
  - a. Display signage provided by KDA SFMNP stating the Farmers Market is authorized to redeem SFMNP benefits and reflecting the hours of operation for the farmers' market.
  - b. Have the capability of providing the above information in a multilingual manner where services are being delivered in a language minority area. This requirement may be met through the use of multilingual staff members, volunteers, and/or informational materials. Please notify KDA SFMNP Coordinator or Branch Manager if any multilingual material is needed.
  - c. Display in prominent places, program opportunities and benefits to participants or potential participants, the USDA Title VI nondiscrimination poster "...And Justice for All" or a USDA FNS-approved substitute containing the nondiscrimination statement.

**B. Kentucky Department of Agriculture**

Kentucky Department of Agriculture Shall:

1. Conduct training and distribute training materials for all Farmers Market Managers and Distribution Agency coordinators participating in the Kentucky SFMNP.
2. Assist the Farmers Market Managers and Distribution Agency coordinators with the process of redemption for payment of validated SFMNP transactions. KDA is not responsible for payment of improperly made SFMNP transactions.
3. Distribute signs to the Second Party stating that they are authorized to redeem SFMNP benefits.

**C. At the Market**

Once participants arrive at their local farmers' market, they should look for the following sign which indicates vendors participating in the program who accept the SFMNP benefits and their hours of operation. Vendors without this sign posted are not eligible to accept the SFMNP benefits.



SFMNP participants, or proxies, redeeming benefits for the purchase of eligible food items must present a card with pin or an instrument with the app loaded at the point of sale. NO CHANGE WILL BE GIVEN, the total amount of the transaction will be from the senior's benefits.

### III. Eligible Foods

Below is a list of fruits and vegetables deemed eligible for participating SFMNP farmers to sell to the Kentucky SFMNP participants. SFMNP benefits may only be redeemed for items from this list.

<b>ELIGIBLE FOODS</b>	
<b>FRUITS</b>	<b>VEGETABLES</b>
Apples	Beans
Blackberries	Beets
Blueberries	Broccoli
Cherries	Cabbage
Grapes	Lettuce
Melons	Carrots
PawPaws	Cauliflower
Peaches	Corn
Pears	Cucumbers
Strawberries	Eggplants
Watermelon	Greens (Collard, Mustard, Turnip)
	Okra
<b>HERBS</b>	Onions
Edible Cooking Herbs	Peas
thyme	Peppers
sage	Potatoes (Sweet, Red)
oregano	Pumpkins
mint	Radishes
cilantro	Rhubarb
Rosemary	Spinach
Basil	Squash (Summer and Winter)
Garlic	Tomatoes
Other fresh cut cooking herbs	Turnips
Herbs must be fresh cut not dried or in a pot growing	Parsnips
	Mushrooms
	Kohlrabi
<b>HONEY</b>	Edamame Soybeans
	Brussels Sprouts
	Asparagus

### **INELIGIBLE FOODS**

Jellies, Jams, Preserves	Eggs
Baked Goods	Cheese
Potted Herbs	Beef, Pork, Poultry, Fish,
Syrup	Popcorn
Nuts	Granola

**CFR 249.2 Definitions; Eligible foods** means fresh, nutritious, unprepared, locally grown fruits, vegetables, honey, and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Dried fruits or vegetables, such as prunes (dried plums), raisins (dried grapes), sun-dried tomatoes, or dried chili peppers are not considered eligible foods. Potted fruit or vegetable plants, potted or dried herbs, wild rice, nuts of any kind (even raw), maple syrup, cider, seeds, eggs, meat, cheese and seafood are also not eligible foods for purposes of the SFMNP.

#### **IV. Program Policies & Procedures for Farmers**

##### ***How does a farmer become a participant in the Seniors Farmers' Market Nutrition Program?***

At the beginning of each program year, KDA SFMNP Coordinator or Branch Manager will conduct scheduled train-the-trainer sessions with approved Farmers' Markets coordinators. These sessions will equip the Market Coordinators with the tools to provide trainings to the participating SFMNP vendors for that season. These meetings enable farmers to learn about the program and apply to participate. Each year, the farmers will participate in a training session with their local Market Coordinator and complete a SFMNP Farmer application, along with receiving the Farmers Market Manual. After the application is submitted to the Market Coordinator (**appendix A**), he/she will send all applications from the market to the KDA SFMNP Coordinator. Applications will be reviewed for approval. Prior or after approval to participate in the SFMNP, the farmer's farm and/or stand at the farmers' market may be monitored and reviewed as required by USDA.

##### **A. Criteria for Farmer Participation in the Kentucky SFMNP**

7 CFR 249.2 Definitions, *Farmer* means an individual authorized to sell eligible foods at participating farmers' markets and/or roadside stands. Individuals, who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized to participate in the SFMNP.

Individual farmers must:

1. Be a member of an KDA approved Farmers' market.
2. Be a member of an SFMNP approved Farmers' market.
3. Accept SFMNP Vendor cards or app only at an authorized SFMNP farmers' market.
4. Provide information to KDA pertaining to the Kentucky SFMNP as required for periodic reports to USDA FNS.
5. Offer for sale only locally grown fruits, vegetables, honey and cut cooking herbs on eligible foods list for human consumption. Locally grown means grown within Kentucky or within 50 miles of the Kentucky border.

6. Provide eligible foods to senior participants at, or less than, the price charged to other customers.
7. Post SFMNP sign, provided by KDA with the individual identifier (farm) number, at market booth to identify as a vendor.
8. As needed by KDA and Vendor, must have a bank account set up in which payments may be made ACH deposit for market transaction(s). Or he/she may select to be paid by check. Individual must also attend a KDA approved training session each year and train employees selling at the market on SFMNP procedures involving rules and transactions with Vendor cards/apps.
9. Be responsible for the actions of employees, their training and knowledge of the SFMNP.
10. Reimburse KDA for transactions made in violation of the agreement.
11. Comply with the nondiscrimination provisions of USDA and KDA regulations.
12. Sign an annual agreement indicating he/she understands and agrees to follow all rules for participation in the SFMNP program, have received the SFMNP Farmers Market Manual and Civil Rights document.
13. Agree to be monitored for compliance both at the market and on-site farm visits.

**B. A Farmer Shall Not:**

1. Exclusively sell foods grown by someone else, such as a wholesale distributor.
2. Accept SFMNP benefits after October 31 of program year.
3. Collect sales tax on SFMNP purchases.
4. Seek restitution from SFMNP recipients for transactions not reimbursed.
5. Issue cash in exchange for purchases also known as “Buying” cards.
6. Give change back for any reason.
7. Accept SFMNP benefits at an offsite, unapproved SFMNP location, unless approved by both market coordinator and KDA ahead of time.

**C. Policy & Procedures for Participating Farmers’ Markets:**

1. Adhere to USDA CFR 249.2 definitions, Farmers’ Market means an association of local farmers who assemble at a defined location for the purpose of selling their produce directly to consumers.
2. The market must be an organized market. To be considered “organized,” the market must have an established contact person/decision maker and meet at a named location at least once a week during the market season with specified days and operating times.
3. The market must experience one full growing season as a registered KDA market before submitting a new market application to the SFMNP.
4. The market must be registered with KDA and approved as a Kentucky Proud member. Each program year, the market will complete a market agreement, market coordinator contact sheet and market hours of operations (**appendix E, F and G**).
5. The market must sell locally grown fresh produce. Locally grown means grown in Kentucky or within 50 miles of the Kentucky boarder.
6. Farmers MUST display SFMNP sign showing he/she is a participating SFMNP farmer. Farmers participating at a market and selling eligible foods, non-eligible foods and/or outside produce allowed by the market, must post

SFMNP sign prominently near SFMNP authorized items so that customers can easily see which items may or may not be purchased with SFMNP benefits.

7. Participating farmers may only accept benefits for eligible food items as listed on pages 5-6 of this manual and as agreed to by signing the Farmer Participation Agreement.
8. Participating farmers may accept benefits **ONLY** at authorized farmers' markets. Farmers **CANNOT RETURN CHANGE** for purchases made with cards or the app.
9. Farmers must post prices of produce items when accepting SFMNP benefits.
10. Farmers shall not collect sales tax on SFMNP benefits transactions.
11. Farmers must not issue cash in exchange for purchases also known as "Buying" cards.
12. Farmers shall not seek reimbursement from SFMNP participants for transactions not paid by the SFMNP.
13. When accepting benefits from senior participants, farmers **MUST** require the participant or proxy to **have a pin number for their card or an app.**
14. Farmers should not accept cards that have been mutilated or damaged.
15. Farmers **may not accept cards for credit** to buy fruits and vegetables at a later market day or for the next year.
16. Farmers must offer the same courtesies extended to other customers. In addition, farmers must not discriminate against Senior participants in price, quality, or service and must offer fresh produce to Senior participants at no more than the price charged to other customers.
17. The last day farmers may **accept** benefits from senior participants will be set by the KDA SFMNP Coordinator prior to the start of the program. This date is **October 31 of the program year for SFMNP participants to redeem benefits.**

## V. Program Delivery

### Definitions:

**Farmer:** Farmer means an individual authorized to sell eligible foods at participating farmers' markets and/or roadside stands. Individuals, who exclusively sell produce grown by someone else, such as wholesale distributors, cannot be authorized to participate in the SFMNP.

**Market Coordinator:** Farmers' market staff that oversee daily functions at the market and who have completed program training and signed the Farmers' Market Contract (appendix F).

### A. At The Market

1. Recipients will redeem benefits pre-loaded onto cards or an app at local farmers' markets in exchange for eligible fruits, vegetables, honey and cut cooking herbs. At the point of redemption, the recipient or the person redeeming the benefits will approve the transaction.
2. How to accept Senior Farmers' Market Nutrition Program benefits:



- a. One manner in which the SFMNP benefits are obtained and utilized is by the use of a Vendor debit card. This is the most popular method.
- b. The second manner in which the SFMNP benefits are obtained and utilized is on the Vendor App.
- c. Vendor cards and app are not negotiable at any place other than at a KDA approved market, with a SFMNP participating farmer. They should be treated as cash and guarded from possible loss or theft prior to redemption. Each transaction must be made by the farmer or cashier authorized to be at the market. The farmers use the Vendor Register app which allows them to scan the QR code from the eligible senior's card and enter the transaction information. The senior/farmer then enters his/her four-digit passcode to allow the transaction to be completed. The Vendor Register app and the Vendor Shopper app provides the farmer and senior participant the ability to see how much funding is on the card in real time, what category of fruits, vegetables, cut herbs and honey they are selecting, the start/end date for the card, name of senior participant and farmer identifier. Both the senior and farmer verify the purchase and approve.
- d. The transactions will be entered into the Vendor portal waiting to be remitted into the farmers account via ACH made by Vendor. Kentucky SFMNP cards are similar to the one pictured below.



**B. Payments to Farmers**

An authorized farmer, who accepts SFMNP benefits, while complying with program rules should not have any problems receiving payments from the SFMNP transactions. If

problems arise with deposits, a KDA SFMNP Branch Manager or Program Coordinator should be notified immediately. When handling SFMNP transactions, farmers must follow certain federal and state regulations. Farmers who accept benefits before being authorized to participate in the program will not receive payment for the transactions until proper authorization is obtained. KDA SFMNP Coordinator or Branch Manager will notify the Market Manager should attempts to make transactions without proper approval occur.

### **C. Rejected Transactions**

KDA and the contracted banking system will reject SFMNP transactions for the following reasons:

1. Not a valid farmer: If a farmer accepts SFMNP benefits, but has not been authorized by KDA SFMNP, the transaction will not be deposited into farmers account.
2. Submitted for payment too late: SFMNP transactions cannot be submitted after the program ends on October 31st of the program year. All transactions are direct ACH deposited or a check is requested from Vendor.

## **VI. Program Violations and Penalties**

Actions of a farmer and/or farmers' market which constitute violations of the Rules and Procedures governing the SFMNP are divided into Class I and Class II violations. Farmers and farmers' market coordinators will be given notification of violations immediately via email when a violation is observed at the farmers market. Within 30 days from this date of notice, Class #2 violations must have a corrective action in place to fix the violation, the violation corrected and documentation sent to KDA via email by the farmers' market coordinator.

### **A. Farmer Violations and Penalties**

1. Class I Violations
  - a. Accepting SFMNP benefits at unapproved or offsite location
  - b. Accepting SFMNP benefits for non-eligible products or products not locally grown
  - c. Refusing to provide information to KDA pertaining to SFMNP as required for reports to USDA
  - d. Buying cards
  - e. Accepting benefits when on suspension
  - f. Providing falsified information on farmer application or market application
  - g. Failure to attend annual training with authorized market coordinator and/or KDA
  - h. Refusing compliance monitoring at the market or on-site farm reviews
  - i. Failure to reimburse KDA for benefits redeemed in violation of agreement
  - j. Failure to offer SFMNP recipients the same courtesies as other market customers
  - k. Failure to comply with nondiscrimination provisions of USDA and KDA regulations
  - l. Selling products exclusively grown by someone else
  - m. Accepting benefits after October 31<sup>st</sup>
  - n. Collecting sales tax of SFMNP purchases

- o. Seeking restitution from SFMNP participants for transactions not reimbursed by KDA
  - p. Issuing cash/change for SFMNP transactions of SFMNP purchases
  - q. Not being accountable for actions of farmers or employees in the provision of eligible foods and related activities
  - r. Failure to comply with an order issued by KDA
2. Penalties for Class I Violations: Farmer/Market is disqualified from SFMNP immediately
  3. Class II Violations (correctable violations)
    - a. Failure to post SFMNP signage at the market
    - b. Failure to display SFMNP vendor/farm number on sign
    - c. Failure to post the price of each eligible food item
    - d. Farmers failing to adhere to hours of operation
  4. Penalties for Class II Violations: Violations must be corrected within 30 days of notice of violation. Farmers will be required to sign off on a review and will be emailed a violation letter. Violations of SFMNP farmers found at the farmers' market are the responsibility of the farmers' market and Market Coordinators will be emailed a violation notification letter with corrective action required. Proof of corrective action shall be sent to KDA by the Market Coordinator within 30 days of notice of violations. Corrective action shall be emailed or certified mailed to SFMNP Coordinator including picture documentation of actions corrected if applicable. If violations are not shown corrected within 30 days the violation becomes a Class I, failure to follow an order issued by KDA and penalties will be enforced as such.

## **B. Farmers' Market Violations and Penalties**

1. Class I Violations
  - a. Failure to operate in accordance with USDA guideline 7 CFR Part 249
  - b. Failure to provide KDA all contracts and applications to the current year's program
  - c. Failure to guarantee that participating farmers are in compliance with SFMNP Farmer Participation Guidelines
  - d. Failure to receive training annually and/or provide training to authorized farmers and any employees, with SFMNP responsibilities, on such procedures
  - e. Refusal to be monitored for SFMNP compliance
  - f. Failure to conduct annual, on-site farm monitoring of all new farmer SFMNP applicants
  - g. Failure to conduct annual, on-site farm monitoring of at least 10 percent of SFMNP farmer applicants in addition to those that are identified as highest-risk
  - h. Failure to open during published times and days
  - i. Failure to provide KDA a schedule of hours, days and duration of the market operation
  - j. Failure to retain all agreements and records pertaining to SFMNP for three years plus the current year
2. Penalties for Class I Violations: Farmers' Market is disqualified from SFMNP immediately
3. Class II Violations (correctable violations)
  - a. Failure to display signage provided by KDA

- b. Failure to display schedule of hours of operation
- c. Failure to provide KDA immediate notification of any market schedule changes
- 4. Penalties for Class II Violations: Violations must be corrected within 30 days of notice of violation. Corrective action of violations shall be sent to KDA by Market Coordinator within 30 days of notice of violations. Corrective action shall be emailed or certified mailed to SFMNP Coordinator including picture documentation of actions corrected if applicable. If violations are not shown corrected within 30 days the violation becomes a Class I, failure to follow an order issued by KDA and penalties will be enforced as such.

## VII. Complaint Procedures and Reviews

Market vendors/farmers are encouraged to report any questions or problems about the SFMNP to the market manager. Some issues can be worked out locally, without involving state officials, or through procedural changes that come about as a result of routine problem-solving communications among state and local agencies and farmers' market personnel. If a problem cannot be resolved satisfactorily through these means, the following applies:

- A. Anyone with a program complaint about the KDA Seniors Farmers' Market Nutrition Program may contact the KDA SFMNP Coordinator by calling (502) 782-9212.
- B. A complaint alleging discrimination on the basis of race, color, national origin, gender, religion, age or disability should be reported immediately to USDA. Proper procedures are outlined in Appendix H.
- C. Complaints will receive action no later than ten working days from the date the written complaint is received unless critical information pertaining to the complaint takes longer than ten working days to confirm.
- D. When the complaint involves organizational issues within the market, the complaint should be directed to the local Market Coordinator. However, if the complaint involves acceptance of SFMNP benefits or general SFMNP rules contact the KDA SFMNP Coordinator.
- E. When the complaint involves access to benefits or behavior of SFMNP shoppers, market personnel should bear in mind that the complaint process should be reserved for "fixable" problems.
- F. Farmers' markets' personnel should not contact a local-distributing agency directly to complain about residents' access to benefits or an apparent need for recipients to be better informed about how to use the benefits. The complaint in this case should be directed to the KDA SFMNP Coordinator.
- G. If a SFMNP complaint is against a farmers' market or a market vendor, the complaint should be directed to KDA SFMNP Coordinator.
- H. Reviews
  - 1. KDA must review at least 10% of SFMNP Farmers' Markets annually (**appendix B**).
  - 2. The State agency's monitoring review instrument will be used to review SFMNP Farmers Markets.

3. Every year only 10% of the total number of farmers will need to be reviewed including new and highest risk farmers. However, a “new” farmer will be reviewed their first year of participation (**appendix C**).
4. High risk farmers are identified by:
  - a. Any farmer new to SFMNP, in either an existing market or a market new to the program
  - b. Any farmer that has had a participant complaint lodged against him or her
  - c. Any farmer that has a higher redemption rate than others in the same market may be high risk

## VIII. Program Evaluation and Reviews

- A. During seasonal operation of the program, Distribution Agents and Market Coordinators are able to view the Vendor dashboard to review and monitor their SFMNP participants.
- B. KDA must review at least 10% of SFMNP Farmers’ Markets annually (**appendix B**). The State agency’s monitoring review instrument will be used to review SFMNP Farmers’ Markets.

## IX. Non Compliance & Appeals

### A. Notice of Noncompliance -- Penalty Assessment

1. If any of the requirements of 7 CFR §§ 249.6 or 249.10 and SFMNP manual have not been complied with, the Kentucky Department of Agriculture shall cause a notice of violation to be issued.
2. The department may issue an order for immediate compliance and assess the penalty of denial; suspension; or disqualification; against any applicant; participant; local agency; farmer; or farmer’s market\_or the *department* may set forth in the notice a reasonable time period, but not more than thirty (30) days, for the correction of the violation.
3. If any applicant; participant; local agency; farmer; or farmer’s market has not corrected the violation within the period of time prescribed in the notice of violation, the department shall issue an order for immediate compliance and assess the penalty of denial; suspension; or disqualification; against any applicant; participant; local agency; farmer; or farmer’s market.
4. The notice of noncompliance shall be emailed or mailed to the applicant; participant; local agency; farmer; or farmer’s market by certified mail, return receipt requested, addressed to the permanent address as shown on department records.
5. The notice of noncompliance shall specify in what respect the applicant; participant; local agency; farmer; or farmer’s market has failed to comply with the requirements of 7 CFR §§ 249.6 or 249.10 and the SFMNP manual.
6. If the applicant; participant; local agency; farmer; or farmer’s market has not complied with the requirements set forth in the notice of noncompliance within the time limit allowed, the penalty of denial; suspension; or disqualification may be issued as provided above.

## **B. H.1 Administrative Appeal of Department Decisions**

1. Section 1. Requirements for appeal process:

The Kentucky Department of Agriculture shall provide a hearing procedure in accordance with Kentucky Revised Statutes Chapter 13B, whereby applicants, participants, local agencies and farmers, farmers' markets, roadside stands, and/or CSA programs adversely affected by certain actions of the department may appeal those actions.
2. Section 2. Appeals may be taken by persons and for reasons as follows:
  - a. An **applicant** may appeal denial of certification of SFMNP benefits, except that no appeal is available if certification is denied solely because of the lack of sufficient funding to provide SFMNP benefits to all eligible applicants;
  - b. A **participant** may appeal disqualification/suspension of SFMNP benefits;
  - c. A **local agency** may appeal an action of the department disqualifying it from participating in the SFMNP; or
  - d. A **farmer, farmers' market, roadside stand, and/or CSA program** may appeal an action of the department denying its application to participate, imposing a sanction, or disqualifying it from participating in the SFMNP.
3. Section 3. Issues not eligible for appeal: Expiration of a contract or agreement shall not be subject to appeal.
4. Section 4. Time limit to request appeal: Individuals, local agencies, farmers, farmers' markets, roadside stands, and/or CSA programs may appeal an adverse action by the department within 30 days from the date the agency mails or otherwise issues the notice of adverse action.
5. Section 5. Postponement of adverse action pending appeal decision
  - a. An adverse action may, at the department's option, be postponed until a decision in an appeal is rendered.
    - i. In a case where an adverse action affects a local agency or farmer, farmers' market, roadside stand, and/or CSA program, a postponement is appropriate where the department finds that participants would be unduly inconvenienced by the adverse action.
    - ii. In addition, the department may determine other relevant criteria to be considered in deciding whether or not to postpone an adverse action.
6. Section 6. Continuation of benefits during appeal
  - a. Applicants who are denied benefits at initial certification may appeal the denial, but must not receive SFMNP benefits while awaiting the hearing.
  - b. Participants who appeal the termination of benefits within the thirty (30) day period must continue to receive Program benefits until the hearing official reaches a decision or the certification period expires, whichever occurs first unless they are immediately disqualified by a Class I violation. This does not apply to participants whose certification period has already expired or who become otherwise ineligible for SFMNP benefits. Participants who become ineligible during a certification, or whose certification period expires, may appeal the termination, but must not receive benefits while awaiting the hearing.
7. Section 7. Basic hearing procedure
  - a. The department hearing procedure shall at a minimum provide the participant, local agency or farmer, farmers' market, roadside stand, and/or CSA program with the following:

- i. Written notification of the adverse action including:
  1. Cause for the action;
  2. Effective date of the action;
  3. Department's determination of whether the action shall be postponed under paragraph (4) of this section if it is appealed, and the opportunity for a hearing. Such notification shall be provided within thirty (30) days in advance of the effective date of the action.
  4. The opportunity to appeal the action within the time specified by the department in its notification of adverse action.
  5. Adequate advance notice of the time and place of the hearing to provide all parties involved sufficient time to prepare for the hearing.
  6. The opportunity to present its case and at least one opportunity to reschedule the hearing date upon specific request. The department may set standards on how many hearing dates can be scheduled, provided that a minimum of two hearing dates is allowed.
  7. The opportunity to confront and cross-examine adverse witnesses.
  8. The opportunity to be represented by counsel or, in the case of a participant appeal, by a representative designated by the participant, if desired.
  9. The opportunity to review the case record prior to the hearing.
  10. An impartial decision maker, whose decision as to the validity of the department's action shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the SFMNP. The basis for the decision shall be stated in writing, although it need not amount to a full opinion or contain formal findings of fact and conclusions of law.
  11. Written notification of the decision in the appeal, within 60 days from the date of receipt of the request for a hearing by the department.
- b. Mediation or informal settlement of matters that may make unnecessary more elaborate proceedings under KRS Chapter 13B may be employed, so long as the appellant has the opportunity to access the appellate procedures and judicial review under KRS Chapter 13B in the event mediation or informal settlement proceedings fail to reach agreement between the appellant and the department.
- 8. Section 8. Continuing responsibilities of appellant during appeal: When a farmer, farmers' market, roadside stand, CSA program, and/or local agency appeals an adverse action and is permitted to continue in the SFMNP while its appeal is pending, it continues to be responsible for compliance with the terms of the written agreement or contract with the department.
- 9. Section 9. Judicial Review
  - a. All hearings required by 7 CFR § 249.16 shall be conducted in accordance with KRS Chapter 13B.

- b. Appeals may be taken from all final orders of the department to the Franklin Circuit Court in accordance with KRS Chapter 13B.
  - c. If the department renders a decision against a participant, local agency, farmer, farmers' market, roadside stand, or CSA program, the department shall direct the appellant to KRS Chapter 13B for any further review of the decision and any available judicial review.
10. Section 10. Informal Hearing
- a. An *appellant* shall not request a formal administrative hearing under KRS Chapter 13B without first participating in an informal settlement hearing.
  - b. A request for an informal settlement hearing shall be in writing, within ten (10) days receipt of the department's notice of violation.
  - c. Upon receipt, the department will notify the appellant of an informal settlement hearing date. If the appellant is experiencing financial hardship and requests a reduction in a fine amount, prior to the date of the informal settlement hearing, the appellant shall submit their three (3) most recent bank statements. The appellant may also submit, prior to the case review date, documentation detailing corrective action and cost incurred.
  - d. Informal settlement hearings shall be heard by an administrative panel whose members shall be designated by the department. The panel shall include at least one (1) person who is not affiliated with the SFMNP.
  - e. The members of the administrative panel shall not be required to accept or consider information or documents that were not received at least three (3) business days prior to the informal settlement hearing date.
  - f. An appellant may appear before the administrative panel either in person or via telephone conference. An informal settlement hearing must be requested and scheduled in advance.
  - g. An appellant may designate a proxy to appear on their behalf before the administrative panel. Although it is not required, an appellant may designate legal counsel to represent them. The form for proxy representation must be notarized and submitted at least three business days prior to an informal settlement hearing.
  - h. At the conclusion of the informal settlement hearing, the administrative panel shall consider the evidence submitted and testimony supplied, and the department shall issue a Final Agency Action.
  - i. Failure of an appellant to attend a scheduled informal settlement hearing will result in a determination by default and the department shall issue a Final Agency Action stating that the violation(s) and penalties assessed remain as originally issued.
  - j. An appeal may be taken from a Final Agency Action within thirty (30) days to the Office of the Attorney General.
11. Section 11. Formal Administrative Hearing
- a. Within thirty (30) days, an appellant aggrieved by the Final Agency Action issued pursuant to an informal settlement hearing may in writing request a formal administrative hearing.
  - b. A request for an administrative hearing shall state the reason or reasons the aggrieved party believes the departments' action was erroneous.



- c. A request for an administrative hearing shall be submitted to the Department of Agriculture, Office of Legal Services, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601.

## **X. Program Assistance**

If you need any assistance with the Seniors Farmers Market Nutrition Program, you may contact the following:

Seniors Farmers Market Nutrition Program Coordinators  
Kentucky Department of Agriculture  
107 Corporate Drive Frankfort KY 40601  
Office Phone: (502) 573- 0282  
Jesse Frye: 502.382.7458 or [Jesse.Frye@ky.gov](mailto:Jesse.Frye@ky.gov)  
Tina Garland: 502.382.7505 or [Tina.Garland@ky.gov](mailto:Tina.Garland@ky.gov)  
Stephanie Stefanic: 502.401.9908 or [Stephanie.Stefanic@ky.gov](mailto:Stephanie.Stefanic@ky.gov)  
Kentucky Department of Agriculture Website: [www.kyagr.com](http://www.kyagr.com)

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**This institution is an equal opportunity provider.**

*For complete USDA Non Discrimination Statement please visit: <http://www.kyagr.com/consumer/senior-farmer-market.html>*