



Department of Human Resources
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FIA INFORMATION MEMO

Control Number: 08-01

Issuance Date: July 2, 2007

**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS AND CASE MANAGERS**

FROM: KEVIN M. MCGUIRE, EXECUTIVE DIRECTOR

RE: DEADLINE FOR ISSUING A NOTICE OF ADVERSE ACTION

PROGRAM AFFECTED: FOOD STAMP PROGRAM

ORIGINATING OFFICE: OFFICE OF PROGRAMS

SUMMARY:

The United States Department of Agriculture (USDA) recently provided clarification about the deadlines for acting on a reported change that decreases the food stamp benefit.

Section 420.7 A of the Food Stamp Manual states that for a decrease in benefits or ineligibility, the case manager **must issue a notice of adverse action to a household within 10 days of the date a change is reported** unless one of the exemptions to the notice of adverse action applies. This information memo will clarify the meaning of issuing a notice of adverse action within 10 days of the date the household reports a change or the local department becomes aware of a change.

Questions and answers to clarify the meaning of “within 10 days”:

Question 1. If the tenth day for issuing a notice of adverse action falls on a weekend or holiday, does the case manager have until the end of the next working day to issue the notice?

Answer 1. **No.** The case manager is required to issue the notice of adverse action within ten days. In order to comply with food stamp policy the case manager must determine when the tenth day falls. If the tenth day is on a weekend or holiday the case manager must issue the notice of adverse action earlier than the tenth day.

Question 2. Does the agency meet the requirement by initiating the change on CARES on the tenth day, and actually mailing the notice of adverse action on the eleventh day?

Answer 2. **No. Issue** means mail or give. The agency has not issued a notice of adverse action until the notice is mailed to the household.

Example 1: On 11/13, Mr. A reported that he had started to receive SSI. His food stamps will go down because of the increase in income. The 10-day deadline for sending the notice of adverse action falls on 11/23, which is during the Thanksgiving holiday. The case manager must initiate the change in CARES no later than Wednesday 11/21 so that the notice of adverse action will go out within 10 days of the change.

Example 2: Ms. E called her case manager on July 19 and reported that her son moved to Virginia to live with his father. The 10th day falls on Sunday. The case manager must issue notice of adverse action by Friday July 27 to meet the 10-day requirement.

Note: It is important for the local department to act on changes that decrease food stamp benefits as quickly as possible within the 10-day period. Quick action will often prevent an overpayment or Quality Control error.

Example 3: Quality Control notified the local department on 10/17 that Mrs. C had refused to cooperate with the review process. The case manager must send notice of adverse action no later than Friday 10/26 in order to meet the 10-day deadline. The case manager can take action sooner than the 10-day period. If the case manager takes action to send the notice of adverse action on 10/18, the case will close effective 11/1. If action is taken later in the 10-day period, the case will not close until 12/1.

Example 4: On 12/5, Ms. B mailed her case manager a change report form indicating that her 19-year daughter has been employed full time for the Motor Vehicle Administration since 10/1. She also sent two recent pay stubs. The case manager didn't enter the earnings on CARES until 12/22. After overnight batch, CARES issued the notice of adverse action on 12/23. The case will close with over scale earnings effective 2/1. Ms. B incorrectly received benefits for January because of the agency delay in processing the change. If QC chooses the case in the January sample the reviewer will likely find an agency error for failure to follow up on a reported change.

Following is a chart to synopsize the time frames for acting on reported changes:

10-10-10 Rule

<ul style="list-style-type: none">• A change reporting household has up to 10 days from the date it knows of the change to report it or, for earnings, 10 days after 1st paycheck.• A simplified reporting household has to report when income exceeds 130% of the federal poverty level by the 10th day after the end of the month of the change.	The case manager <u>has up to 10 days</u> to act on any reported change, even if the customer was not required to report it.	Unless the situation is exempt from the adverse action period, the case manager must allow at least 10 days for the adverse action period.
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REMINDERS

Exemptions to the Notice of Adverse Action

With certain exceptions, case managers must provide timely and adequate notice prior to taking any action to reduce or terminate a household's program benefits within the certification period. The notice of adverse action is considered timely if it includes at least **10 calendar days** from the mailing date of the notice to the effective date.

The exemptions to the adverse action period are listed in the Food Stamp Manual in section 430.4.

Unclear information

Sometimes the case manager receives information about changes in a household's circumstances, but does not have enough information to make the change. This could be information from a third party, an automated match or information from the household.

For unclear information, the case manager must issue a request for clarification allowing at least 10 days for the household's response. If the household does not respond or does not provide sufficient information, the case manager will issue a notice of adverse action and close the case after the 10-day adverse action period.

The full policy for following up on unclear information is in section 420.8 of the Food Stamp Manual.

Example 5: The case manager received a new hire alert for Mr. D on 5/11. At the same time CARES sent the customer a new hire notice, which gives him 10 days to return the employment verification. Mr. D returned the verification on 5/15. The case manager has up to 10 days to act on the reported change in earnings. The case manager enters the new earnings on CARES on 5/17 and CARES sends the notice of adverse action after overnight batch and reduces the benefits effective 6/1.

Example 6: Same situation as #4, except that the case manager does not take action until 5/23. Because of the adverse action period, the case does not close until 7/1. While the timing falls within requirements, there is an increased risk of a QC error if there was a delay between the new employment and when the new hires alert posts to CARES.

INQUIRIES:

Please direct questions to Kay Finegan at 410-767-7939 or Rick McClendon 410-767-7307.

cc: FIA Management Staff
Constituent Services
OTHS System Support Unit