



Department of Human Resources
 311 West Saratoga Street
 Baltimore MD 21201

FIA ACTION TRANSMITTAL

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

FROM: CHARLES E. HENRY, EXECUTIVE DIRECTOR

**RE: FAILURE TO COMPLY WITH A REQUIREMENT OF A PUBLIC
 ASSISTANCE PROGRAM**

PROGRAM AFFECTED: FOOD STAMP PROGRAM

ORIGINATING OFFICE: OFFICE OF POLICY, RESEARCH AND SYSTEMS

SUMMARY

Action Transmittal 97-80, which was issued on March 1, 1997, provided information about prohibiting an increase in food stamps when a household's federal, State or local means-tested public assistance benefit is reduced because of a penalty imposed by that program for failure to follow the program requirements.

Action Transmittal 00-42, issued March 24, 2000:

- ◆ Clarified that the policy applies to any federal, State or local means-tested program (i.e. Temporary Cash Assistance (TCA), Transitional Emergency, Medical, and Housing Assistance (TEMHA) and Public Assistance to Adults (PAA).
- ◆ Expanded the application of the policy to the disallowance for failure to comply with preschool health checkups and school attendance.
- ◆ Expanded the policy to include household caused overpayments.

On January 17, 2001, the Food and Nutrition Service published a Final Rule that made changes to this policy. The regulation also provided clarification of the policy.

ONGOING POLICY

When a household's federal, State or local means-tested public assistance benefit is reduced because a household member fails to perform an action required under the assistance program or for fraud, we count the full money amount as "phantom income"

for food stamps. We do this to keep the food stamp benefit from increasing because of the reduction or termination in the public assistance benefit.

PENALTY PERIODS FOR OTHER PROGRAMS

Penalty Periods for TCA

◆ Failure to Comply with a Child Support Requirement

Failure to comply without good cause results in a full family sanction. The penalty will end upon compliance with the program requirement.

◆ Failure to Comply with a Work Requirement

This is a full family sanction if an adult is not performing the required activity. It is an individual sanction if the person who is not performing the work activity is a minor. For noncompliance with a work activity the penalty period will end as follows:

- For the first instance of noncompliance, the penalty ends upon compliance.
- For the second instance of noncompliance, the penalty ends after 10 days of compliance with the activity.
- For the third and subsequent instances of noncompliance, the penalty period ends after 30 days of compliance with the work requirement.

◆ Finding of Fraud

An assistance unit is ineligible for the following periods of time upon a finding of fraud by a court of law, through an administrative disqualification hearing or through the waiver of a disqualification hearing:

- For six months after the first finding of fraud or until full repayment of the overpayment.
- For 12 months after the second finding of fraud or until full repayment of the overpayment.
- Permanently after the third finding of fraud.

◆ Failure to Comply with Substance Abuse Requirements

The individual who does not comply with substance abuse requirements is ineligible for TCA.

Penalty Periods for TEMHA

- ◆ For TEMHA noncompliance is failure to:
 - Cooperate with the State Review Team when referred by the local department,
 - Cooperate with the Disability Entitlement Advocacy Program (DEAP) when referred by the local department, or
 - Pursue eligibility with SSI with the Social Security Administration when referred.
- ◆ The individual is ineligible for TEMHA until he or she complies with the requirement.
- ◆ An individual convicted for fraud is ineligible for TEMHA for 36 months.
- ◆ TEMHA benefits are not subject to recoupment.

Public Assistance to Adults

- ◆ No substantive requirements were identified for PAA. We would not use phantom income.
- ◆ PAA benefits are recouped only after a recipient fails to comply with court ordered collection that is the result of fraud. We would use the gross PAA amount in calculating the food stamp benefit.

NEW POLICY

Definition of Public Assistance Program

- ◆ The definition of public assistance program has changed.
- ◆ Supplemental Security Income (SSI) **is not** a public assistance program for the purposes of phantom income policy.
- ◆ The public assistance programs included are:
 - Temporary Cash Assistance
 - Transitional Emergency, Medical, and Housing Assistance
 - Public Assistance to Adults

Procedural vs. Substantive Requirements

- ◆ A procedural requirement, which **does not** trigger phantom income for food stamps, is a step that a customer must take to continue to get assistance, such as providing verification. Do not use phantom income for a procedural requirement.
- ◆ A substantive requirement, which **does** trigger food stamp phantom income, is a behavioral requirement of the assistance program that is designed to improve the well being of the family. Examples include:
 - Work and child support requirements
 - Requirements for school attendance
 - Requirements for health check ups for children under age 6
 - Compliance with substance abuse requirements.

Limits on Imposing the Sanction

- ◆ This policy does not apply to customers who fail to perform a required action at the time of initial application.

Example: Ms. A applies for TCA and food stamps. When her case manager tells her that she must file for child support, Ms. A decides she does not want TCA. Her case manager approves her food stamp case and does not include phantom income.

- ◆ The policy applies at the time of redetermination for continued benefits if there is no break in participation.
- ◆ The customer must be certified for food stamps at the time of the failure to perform the required action.

Example: Mr. B receives TCA for himself, his wife and children. They do not receive food stamps. In April Mr. B refused to participate in a work activity and the TCA case is closed. In May Mr. B applies for food stamps. The case manager will not include phantom income in this situation.

- ◆ Assistance payments are "reduced" if they are decreased, suspended or terminated.

Length of the Penalty

- ◆ The prohibition on increasing food stamp benefits applies for the duration of the reduction in the assistance program.

Example: Ms. C and her three children receive TCA and food stamps. Ms. C did not comply with the substance abuse requirements. The TCA grant, in the amount of \$570, was reduced to \$472. To calculate the food stamps the CARES uses \$570 TCA income. In September, Ms. C complies with the requirement. She again gets a full grant amount. The worker must remove phantom income. (The food stamp benefit stays the same if that is the only change)

Example: Mr. D receives TCA and food stamps for himself and two children. He did not report that one of the children had left the home two years ago. Mr. D signed a waiver to an administrative disqualification hearing. He is ineligible for TCA for six months or until he repays the amount of the overpayment. For food stamps, the case manager uses phantom income in the amount of \$372 (2-person assistance unit).

- ◆ The sanction period cannot exceed the sanction in the public assistance program.

Example: In Mr. D's case, the case manager must remove the phantom income after the 6-month sanction period.

- ◆ If the sanction is still in effect at the end of one year, the case manager must review the case to determine if the sanction is still appropriate.
- ◆ The local department must not count the phantom income if it becomes aware that the person has become ineligible for the public assistance program for any reason.
- ◆ If the sanctioned person moves to another household, the sanction applies to the gaining household unless the customer is ineligible for the assistance program for another reason, or the person's public assistance case is closed.

Counting the Amount of an Overpayment/Repayment

Under current policy when the household causes the overpayment in the public assistance program we count the total amount of public assistance, rather than the total amount minus the repayment amount. SSI was considered a means-tested public assistance program. **FNS changed their interpretation in this final rule.**

- ◆ **CARES will now count the total (gross) amount of the public assistance only when the overpayment was caused by an intentional failure to comply with a requirement of the program (intentional program violation).**

- ◆ **Since SSI income is no longer considered a public assistance program for this policy, we will count the net SSI income when a repayment amount is subtracted from the benefit.**

ACTION DUE

This policy is effective October 1, 2001 for applications and recertifications.

INQUIRIES

Please direct policy questions to Kay Finegan at (410) 767-7939.

cc: DHR Executive Staff
FIA Management Staff
Constituent Services
DHR Help Desk
RESI

CARES ACTION REQUIRED

Effective June 2001, CARES was modified to accurately calculate the food stamp benefit amount for recoupment of overpayments (including IPV), PPI and preschool health disallowance.

Food Stamp Benefit Calculation

Use the following procedures to issue an accurate Food Stamp benefit amount to a household with a sanction or a household caused public assistance overpayment:

- Enter the TCA benefit amount as “phantom “ income using the source code ‘OF’ – Other Countable Food Stamps Only on the Unearned Income (UINC) screen of the Head of Household.
- Update the narrative by depressing the PF21 key from the Household Addresses (ADDR) screen indicating the TCA AU has been closed due to non-compliance of child support requirements and non-compliance reason.

Compliance

- Enter ‘Y’ in the DEL indicator on the Unearned Income (UINC) screen and depress the PF 24 key to delete the unwanted phantom income.