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## FIA ACTION TRANSMITTAL

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

**FROM: KEVIN MAHON, EXECUTIVE DIRECTOR, FIA *JMM*  
JOSEPH M. MILLSTONE, DIRECTOR, MCPA/DHMH**

**RE: NEW PENALTIES & DISQUALIFICATIONS**

**PROGRAMS AFFECTED: TEMPORARY CASH ASSISTANCE AND FOOD  
STAMPS**

**ORIGINATING OFFICE: OPA/ DIVISION OF PROGRAM POLICY AND  
REGULATION**

### **BACKGROUND INFORMATION:**

The provisions of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, increased the types of violations which would result in disqualification from the Food Stamp Program and the length of penalties. PRWORA also has penalties which are new to Temporary Cash Assistance (TCA) and Food Stamps (FS).

### **PRIOR POLICY - FOOD STAMP INTENTIONAL PROGRAM VIOLATIONS**

■ Individuals disqualified for intentional program violations (IPV) are ineligible to participate in the Food Stamp Program for the following periods of time:

- 6 months for the first violation
- 12 months for the second violation, or the first finding by a court of trading of food stamps for illegal drugs.
- Permanently for the third violation, second finding by a court of trading food stamps for illegal drugs, or the first finding by a court of trading food stamps for firearms, ammunition, or explosives.

■ The disqualification penalty applies only to the individual found to have committed intentional program violation or who signed the waiver of the right to an administrative hearing, and not to the entire household.

**PRIOR POLICY - AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)**  
**INTENTIONAL PROGRAM VIOLATIONS**

■ Individuals disqualified for intentional program violations (IPV) are ineligible to participate in the Aid to Families with Dependent Children program for the following periods of time:

- 6 months after first finding of fraud
- 12 months after the second finding of fraud
- permanently after the third finding of fraud

■ The disqualification penalty applies only to the individual found by the courts to have committed the intentional program violation, and not the entire household.

**NEW POLICY- FOOD STAMPS INTENTIONAL PROGRAM VIOLATIONS**

■ Individuals disqualified for intentional program violations (IPV) are ineligible to participate in the Food Stamp Program for the following periods of time:

- 1 year for the first violation
- 2 years for the:
  - second violation, or
  - first finding by a court of trading food stamps for illegal drugs
- Permanently for the:
  - third violation,
  - second finding by a court of trading food stamps for illegal drugs, or
  - first finding by a court of trading food stamps for firearms, ammunition, or explosives.

■ An individual is permanently disqualified if convicted by a court of trafficking food stamp benefits of \$500 or more.

The disqualification penalty is applied to the individual. The disqualification period shall begin the month following the adverse action period.

## **NEW POLICY - TEMPORARY CASH ASSISTANCE INTENTIONAL PROGRAM VIOLATIONS**

■ Individuals found by the court to have committed intentional program violations (IPV) cause the household to be ineligible to participate in the Temporary Cash Assistance program for the following periods of time:

- 6 months after first finding of fraud
- 12 months after the second finding of fraud
- permanently after the third finding of fraud

■ The disqualification penalty is applied to the entire household if the fraudulent actions occurred after October 1, 1996. The period can be shortened by the full repayment of the debt. The disqualification period shall begin with the month following advance notice. If the action occurred prior to October 1, 1996 the penalty is an individual penalty.

## **NEW PENALTIES - FOOD STAMP & TEMPORARY CASH ASSISTANCE**

**Fleeing Felons:** An individual is not eligible during any period the individual is fleeing to avoid prosecution, or custody or confinement after conviction, or violating a condition of probation or parole. Fleeing felons and parole and probation violators are ineligible for Food Stamps (FS) and Temporary Cash Assistance (TCA).

**Drug felons** - An individual will be **permanently** ineligible to receive TCA, Emergency Assistance or Food Stamps, if convicted after August 22, 1996 of any offense which is classified as a felony and which has an element of possession, use, or distribution of a controlled substance. Applicants must state at application **in writing**, whether any household member has been convicted of drug felonies.

**Disqualification for receipt of multiple benefits - ( FS) -** An individual shall be ineligible for the FS program for 10 years if the individual is convicted in a Federal or State court or by an Administrative Disqualification Hearing (ADH) to have made a fraudulent statement or representation with respect to place of residence or identity of the individual in order to receive multiple benefits simultaneously. These benefits can be from different states, counties or offices within a county or state.

● For Food Stamps, disqualification begins on the date the individual is convicted in Federal or State Court or an Administrative Disqualification Hearing (ADH) of having made a fraudulent statement or representation with respect residence and identity in order to receive multiple benefits simultaneously. The disqualification penalty applies to the individual. The disqualification period shall begin with the month following the adverse action period.

**Disqualification for receipt of multiple benefits - (TCA)** - An individual shall be ineligible for the TCA program for 10 years if the individual is convicted in a Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states.

● TCA disqualification begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states. The disqualification period for the individual begins the month following adverse action.

### **Income and Resources:**

■ The income after allowable disregards and countable resources of these ineligible individuals are counted in their entirety to other eligible household members.

### **Medical Assistance:**

■ Medical assistance eligibility must be redetermined for sanctioned customers that are removed from the TCA grant. Customers that continue to meet technical and financial eligibility, must be recertified through the end of the current certification period.

### **AIMS**

All disqualifications must be manually tracked.

### **CARES**

#### **Food Stamps**

Code the ineligible member as a nonmember (NM) on the STAT screen. Coding the ineligible member as a NM on the STAT screen will not allow them to be included in the program standards or to have their income and resources counted. Enter the ineligible customer's countable net income on the UINC screen of an eligible household member as (OC) other countable all programs, after all allowable deductions have been applied (ie, child support deductions, medical deductions, dependent care deductions). Enter the ineligible customer's countable resources on the applicable AST1/AST2 screens of an eligible household member. Enter remarks (PF9) behind the UINC and the AST1/AST2 to explain exactly what actions you are taking on the case.

#### **Temporary Cash Assistance**

Code the ineligible member as a cash ineligible MA parent (IP) on the STAT screen. Coding the ineligible customer as an IP on the STAT screen will not allow them to be included in the program standards but will allow their income and resources to be counted in the households eligibility determination. Enter the ineligible customer's countable resources on the applicable AST1/AST2 screens.

**ACTION REQUIRED**

On the STAT screen enter the appropriate code for the disqualification to remove the individual from the household.

New 500 series codes will be added to accommodate the new disqualification periods and reasons. The wording on the notices will be program specific for the codes that are being utilized for both programs. The new codes are as follows:

**Food Stamps**

516 - 1 year for the first disqualification

517 - 2 years for the second violation

518 - for the first conviction by a court of trading food stamps for illegal drugs

519 - permanently disqualified for third violation

520 - permanently disqualified for the second finding by a court of trading food stamps for illegal drugs

521 - permanently disqualified for the first finding by a court of trading food stamps for firearms, ammunition, or explosives

522 - permanently disqualified if convicted by a court of trafficking food stamps benefits of \$500 or more

523 - 10 year disqualification for an individual convicted in a Federal or State Court or by an Administrative Disqualification Hearing (ADH) to have made a fraudulent statement or representation about **residence and identity** of the individual receiving multiple benefits simultaneously at the same time.

524 - ineligible because a fleeing felons and parole and probation violator

525 - convicted drug felons

**Temporary Cash Assistance**

516 - 6 months for the first disqualification

517 - 1 year for the second violation

519 - permanently disqualified for third violation

523 - 10 year disqualification for an individuals convicted in a Federal or State Court of having made a fraudulent statement about the residence of the individual in order to receive multiple food stamp benefits simultaneously from two or more states.

524 - ineligible because a fleeing felons and parole and probation violator

525 - convicted drug felons

**NOTE:** Thoroughly narrate why the individual is being disqualified and how long they are ineligible to participate in the remarks section behind the STAT screen if a 500 series code is used.

### **PAYMENT ACCURACY:**

To ensure payment accuracy it is important to thoroughly document the case to prevent household composition errors. It is also necessary to carefully enter the correct countable income and resources especially when they are coded as belonging to another household member.

### **ACTION DUE**

The increased penalties are effective for disqualifications that resulted from actions occurring after October 4, 1994 when notification to applicants and recipients was sent. A customer letter was sent to recipients on October 4, 1996. Forms will be revised to inform applicants and recipients of the change in penalties.

Please place manual pages in the Food Stamp Manual. The On-line Manual will be updated by November 22, 1996.

### **INQUIRIES**

Inquiries may be directed to Kay Finegan at (410) 767-7939 or Sue Woolford at (410) 767-7190, Division of Program Policy and Regulation.

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## PENALTY COMPARISON CHART

SITUATION	FOOD STAMPS	TEMPORARY CASH ASSISTANCE
Fleeing Felons	Ineligible individual	Ineligible individual
Drug Felons	Ineligible individual	Ineligible individual
Intentional Program Violation (IPV) - First Instance	1 year individual disqualification	6 month full family disqualification
Intentional Program Violation (IPV) - Second Instance	2 years individual disqualification	1 year full family disqualification
Intentional Program Violation (IPV) - Third Instance	Permanent individual disqualification for the third IPV	Permanent full family disqualification for the third IPV
Receiving multiple benefits simultaneously (Food Stamps)	10 year individual disqualification for persons that have been convicted in a Federal or State Court or by an Administrative Disqualification Hearing (ADH) to have made a fraudulent statement or representation about residence and identity of the individual	10 year individual disqualification for persons that have been convicted in a Federal or State Court of having made a fraudulent statement about the residence of the individual
Receiving multiple benefits simultaneously from two or more states (Temporary Cash assistance)		
First finding by a Court of trading Food Stamps for illegal drugs	2 year individual disqualification	<b>NOT APPLICABLE</b>
Second finding by a Court of trading Food Stamps for illegal drugs	Permanent individual disqualification	<b>NOT APPLICABLE</b>
First finding by a Court of trading Food Stamps for firearms, ammunition, or explosives	Permanent individual disqualification	<b>NOT APPLICABLE</b>
Convicted by a Court of trafficking Food Stamp benefits of \$500 or more	Permanent individual disqualification	<b>NOT APPLICABLE</b>

480.1 Purpose

This section describes the action that local departments will take when dealing with food stamp applicants or recipients who have committed an Intentional Program Violation.

480.2 Definition of Intentional Program Violation

To determine whether or not a person has committed an Intentional Program Violation, a violation is defined as intentionally:

- o Making a false or misleading statement;
- o Misrepresenting, concealing, or withholding facts;
- o Committing any act that constitutes a violation of the Food Stamp Act or program regulations relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamps or ATPs.

80.3 Penalties

Individuals disqualified for intentional program violations (IPV) are ineligible to participate in the Food Stamp Program for the following periods of time:

- 1 year for the first violation
- 2 years for the:
  - second violation, or
  - first finding by a court of trading food stamps for illegal drugs
- Permanently for the:
  - third violation,
  - second finding by a court of trading food stamps for an illegal drug, or
  - first finding by a court of trading food stamps for firearms, ammunition, or explosives.

An individual is permanently disqualified if convicted by a court of trafficking food stamp benefits of \$500 or more.

An individual is ineligible for food stamps for 10 years if found by the courts or an Administrative Disqualification Hearing (ADH) to have made a fraudulent statement or representation about residence and identity in order to receive multiple food stamp benefits at the same time.

Fleeing felons and parole and probation violators are ineligible for food stamps.

The income and resources of a disqualified individual are counted in their entirety to other eligible household members.

These penalties will be imposed if the violation was occurring or occurred after the individual signed a food stamp application which contained a warning of these penalties. Any number of violations committed previous to the signing of an application with this warning should be considered as a single violation when determining the appropriate penalty.





REF: 7 CFR	Section Title	Section	Page
73.16	INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION	480	2

The recurring acts of the same Intentional Program Violation will be treated as one violation.

The local department must inform the household in writing of the disqualification penalties for committing an Intentional Program Violation each time it applies for program benefits. The penalties shall be written in clear, prominent, and boldface lettering on the application form.

480.4 Determination that an Intentional Program Violation has been Committed

The disqualification penalties can be applied only after there has been a determination made that the individual committed an Intentional Program Violation by one of the following methods:

- A. The individual is found guilty of violating a federal or state law governing the Food Stamp Program in a court of appropriate jurisdiction;
- B. The individual signs a Disqualification Consent Agreement;
- C. The individual is found to have committed an Intentional Program Violation in an Administrative Disqualification Hearing, or
- D. The individual signs a Waiver of the Right to an Administrative Disqualification Hearing.

.5 Local Department Responsibility

Each director of a local department of social service is to designate an individual in an administrative or supervisory position to review all overissuances where there are indications that an Intentional Program Violation has been committed. The cases will be reviewed by the director's designee to make the following determination:

- A. Are there clear indications that the violation was committed with the intent to obtain Food Stamp benefits to which the household was not entitled;
- B. Can sufficient documentation be gathered to substantiate that the Intentional Program Violation was committed; and
- C. Will the local State's Attorney's Office accept the case for prosecution.

480.6 Court Referrals and Decisions.

Local departments should confer with the State's Attorney to determine under what circumstances a case would be accepted for prosecution.

If the court imposes a disqualification period and specifies the date it is to begin the local department shall disqualify the household member in accordance with the court order.

If the court does not specify or address the disqualification period the local department will impose the appropriate penalty and must disqualify the individual within 45 days of the court decision date.

REF: 7CFR	Section Title	Section	Page
273.16	INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION	480	3

480.7 Disqualification Consent Agreement

The local department, in conjunction with the State's Attorney, may allow the accused individual to sign a Disqualification Consent Agreement (FS-72) which would avert any formal fraud adjudication. This would be applied in those cases that would have previously been handled in a plea bargaining fashion. In discussions with the State's Attorney about fraud referral the local department should also clarify the types of cases that will be offered this option.

If the court renders a decision other than guilty in a case (Stet, Nolle Pros, Probation before Judgement) the local department can not disqualify the individual unless a Disqualification Consent Agreement was signed by the individual.

480.8 Advance Notice for a Disqualification Consent Agreement

The accused household member must be provided advance written notification of the consequences of consenting to disqualification. This notice must include, at a minimum:

- A. A statement for the accused to sign signifying that the individual understands the consequences of consenting to disqualification, along with an explanation that the head of the household must also sign the agreement if the accused is not the head of the household.
- B. A statement that consenting to disqualification will result in disqualification and cause a reduction in benefits during the period of disqualification even though the individual has not been found guilty of a civil or criminal misrepresentation fraud.
- C. A listing of all the disqualification penalties, (Section 490.3) and the one which will be imposed as a result of signing the disqualification agreement.
- D. A statement that unless the accused has repaid the claim by complying with an agreement with the prosecutor or the court, the individual prosecuted for the IPV and any remaining adult household members will be responsible for repayment of the claim.

480.9 Administrative Disqualification Hearings

If the local State's Attorney decides that a case does not warrant prosecution or does not meet the agreed upon criteria for a Disqualification Consent Agreement the local department may refer that case for an administrative disqualification hearing.

The local department may refer an individual for an administrative disqualification hearing regardless of the current eligibility of the individual.

The local department may not initiate an administrative disqualification hearing against an individual whose case is being referred to the State's Attorney for prosecution or subsequent to any action taken against the individual by the State's Attorney or a court of appropriate jurisdiction, if the factual issues of the case arise out of the same circumstance.



REF: 7 CFR	Section Title	Section	Page
273.16	<u>INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION</u>	480	4

480.10

Waiver of Administrative Disqualification Hearings

When the local department decides that an individual is to be referred for an administrative disqualification hearing, the individual shall be notified (FS-111) of the local department's intent in writing. The Advance Notice of an administrative disqualification hearing includes a form (FS-112) for the individual to sign if he wishes to waive his right to the hearing. The notice and waiver form includes the following information.

- A. A summary of the charge against the individual and the evidence to support it;
- B. A statement that the individual may waive the right to an administrative disqualification hearing;
- C. The date the signed waiver must be received by the local department to avoid referral for a hearing. The date shall be no later than 20 days after the notice was sent to the individual.
- D. Notification of the requirement that the head of household shall also sign the waiver if the individual accused of the violation is not the head of the household.
- E. A statement that the individual has the right to remain silent concerning the charge and that anything said or signed by the individual concerning the charge can be used in any future administrative or judicial proceedings.
- F. A statement that signing the waiver will result in disqualification and a reduction or termination of benefits for the household.
- G. An opportunity to state whether the individual admits to the facts as presented by the local department.
- H. A statement that the disqualified individual and any remaining adult household members shall be held responsible for repayment of any claim resulting from overissued benefits;
- I. The name and telephone number of the person to contact for additional information; and
- J. A summary of the individual's right at the disqualification hearing.

The Advance Notice and Waiver form are to be mailed to the individual together or presented in person. Proof of receipt is required.

**FAMILY INVESTMENT ADMINISTRATION**

Customer Name: \_\_\_\_\_ ID/Case Number \_\_\_\_\_

1) Has any member of your household even been convicted since August 22, 1996 of a felony that involved drugs?

Yes \_\_\_\_\_ No \_\_\_\_\_

2) Is any member of your household currently violating parole or probation? or fleeing from the police or the courts?

Yes \_\_\_\_\_ No \_\_\_\_\_

3) Has any member of your household been convicted since August 22, 1996 in a Federal or State Court for misrepresenting where they lived or their identity in order to receive Food Stamp benefits or Cash assistance from more than one place in the same month?

Yes \_\_\_\_\_ No \_\_\_\_\_

4) Has any member of your household been convicted by a court of trafficking Food Stamp benefits of \$500 or more?

Yes \_\_\_\_\_ No \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_