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Department of Human Resources
311 West Saratoga Street
Baltimore MD 21201

FIA ACTION TRANSMITTAL

Control Number:

FIA/OPR #98-37

Effective Date: Upon Receipt

Issuance Date: March 11, 1998

TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS
Charles E. Mahon for

FROM: KEVIN MAHON, EXECUTIVE DIRECTOR, FIA

RE: INTENTIONAL PROGRAM VIOLATIONS (TCA) AND REFERRALS TO
THE OFFICE OF ADMINISTRATIVE HEARINGS

PROGRAM AFFECTED: TEMPORARY CASH ASSISTANCE (TCA) PROGRAM

ORIGINATING OFFICE: OFFICE OF POLICY AND RESEARCH

SUMMARY:

The purpose of this action transmittal is to establish the procedures to be used by the Administration to disqualify individuals from participation in the Temporary Cash Assistance (TCA) program when there is sufficient evidence to substantiate the decision that the individual has committed an intentional violation of the Family Investment Program regulations. The attached penalty comparison chart shows the difference between TCA and food stamp penalties. Customers that had penalties imposed prior to October 1996 are not subject to the full family sanction. Full family sanctions are applicable to sanctions imposed after October 1996.

Definition of Intention Program Violation

To determine whether an individual has committed an intentional program violation (IPV), consider the following definition. A violation is defined as intentionally:

- Making a false or misleading statement for the purpose of establishing or maintaining eligibility for cash assistance or for increasing or preventing a reduction in the cash assistance amount;
- Misrepresenting, concealing, or withholding facts in an attempt to receive benefits to which the individual is not entitled.

ACTION TO BE TAKEN:

Notification to an Assistance Unit:

The local department informs all applicants and recipients in writing of the disqualification penalties for intentional program violations on the DHR/FIA 9707 Rights and Responsibilities form. During the application or redetermination process, if it is determined that an individual has provided false or misleading information on the application in an attempt to obtain benefits which they would otherwise not be entitled, the case manager should obtain and process a disqualification waiver for an intentional program violation (IPV), in accordance with the guidelines in action transmittal 97-56.

When the local department receives information that a customer in an active case may have committed an intentional program violation, the local department verifies the information by phone call or letter when possible. The local department then makes a determination whether a field investigation is needed. If a field investigation is needed, the case manager refers the case to the local fraud investigator or to the Division of Special Investigations (DSI) on the DSI-10.

DSI can accept or reject the referral of an IPV case. Once DSI accepts the case referral from the local department the case becomes DSI's responsibility. The case is no longer the local department's responsibility. The Division of Special Investigation:

- conducts an investigation of the suspected intentional program violations;
- prepares a report on the completed investigation showing the methods used to obtain information; and
- may obtain a signed Administrative Disqualification Hearing waiver.

DSI notifies the local department of the result of the investigation by a report or a letter. DSI refers the case to the State's Attorney's office for prosecution. If the State's Attorney decides that the case does not warrant prosecution, DSI notifies the local department to initiate the administrative disqualification process.

The department may refer a person for an administrative disqualification hearing regardless of the person's current eligibility. The local department may not initiate an administrative disqualification hearing against a customer whose case is being referred by the State's Attorney for prosecution, or after any action taken against the person by the State's Attorney or a court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

The local department provides the individuals alleged to have committed an intentional program violation with a listing of individuals or organizations that provide free legal representation.

If the State's Attorney does not accept the case, the case will be sent back to the local department. The local department will then begin the overpayment collection process. The case may be forwarded to Central Collections Unit and/or processed through Administrative Disqualification Hearings. The local department can refer the case to ADH for a civil action.

Waiver of Administrative Disqualification Hearings:

Prior to notifying the customer of the intent to make a referral to the Office of Administrative Hearings (OAH) for an administrative disqualification hearing, the local department must ensure that:

- someone other than the case manager assigned to the customer's assistance unit reviews the evidence against the customer; and
- the evidence warrants scheduling of a disqualification hearing.

The local department must notify the customer in writing of their intent to refer the customer's case to the OAH. The customer's notification of the referral to OAH must include a summary of the charge against the individual and the evidence supporting it and information regarding the administrative disqualification hearing. The information regarding the administrative disqualification must include:

- a statement that the customer may waive the right to an administrative disqualification hearing;
- the date by which the local department must receive the waiver for the customer to avoid a referral of the case to the OAH for a hearing (the date can not be more than 20 days after the local department mailed the advance notification);
- A statement requiring that the caretaker relative also sign the waiver if the person suspected of an IPV is not the caretaker relative for the assistance unit;
- a statement notifying the customer of the right to remain silent concerning the charge, that anything the customer says or signs concerning the charge may be used in future administrative or judicial proceedings, and that the customer's signature on the waiver will disqualify and reduce or terminate assistance for the assistance unit;
- an opportunity for the person to admit to the facts presented by the local department
- a statement that the disqualified customer and remaining assistance unit members are responsible for repayment of any claim for reimbursement of overissued benefits resulting from an intentional program violation; and,
- the name and telephone number of the contact person for the local department.

Imposition of Disqualification Penalties

If the customer suspected of intentional program violation waives the right to an administrative disqualification hearing and the signed waiver is received before the hearing, the local department:

- applies the disqualification penalty; and
- provides written notice to the customer before the disqualification informing the customer of the effective date of disqualification.

When the customer waives the right to an administrative disqualification hearing, the administrative process terminates. The customer may request a fair hearing if the customer disagrees with the amount of the overissued benefit or the method or repayment. A subsequent fair hearing decision may not change the disqualification penalty.

Referral for Disqualification Hearing

The local department refers the customer to the OAH for a hearing if the local department has not received a signed waiver within 20 days of the notification to the customer of the local department's intent to pursue a hearing.

The referral must include:

- identifying case information,
- a summary of the alleged intentional program violation; and,
- a copy of the local department's supporting documentation.

The local department also submits documentation to show whether the customer has been disqualified previously for an intentional program violation, or convicted by a court of committing fraud involving cash assistance.

Schedule of Hearings

The Office of Administrative Hearings sends a written notice to the assistance unit at least 30 days in advance of the date a disqualification hearing has been scheduled. The local department sends the assistance unit a written summary of the evidence, and explains how and where the evidence can be examined. The OAH makes the record available to the assistance unit or its representative at any reasonable time for inspection and duplication.

Combined Hearings

A cash assistance administrative disqualification hearing may be combined into a single hearing with a cash assistance or food stamp fair hearing or a food stamp administrative disqualification hearing if :

- factual issues arise out of the same circumstances; and
- the assistance unit receives prior notice that the hearings will be combined.

If the hearings are combined, the OAH follows the time frames for conducting cash assistance disqualification hearings. If the hearings are combined to settle the amount of the claim and determine if an intentional program violation has occurred, the assistance unit loses its right to a subsequent fair hearing on the amount of the claim. When the hearings are combined, the OAH will, upon the assistance unit's request, waive the 30-day advance notice period.

Hearing Decision and Postponement Procedures

The customer may have one postponement of the scheduled hearing, if the request is made before the date and time of the hearing. The hearing may not be postponed for more than 30 days beyond the original hearing date. Within 90 days of the date of the Administration sent the notice, the OAH shall:

- conduct the hearing,
- reach a decision; and,
- notify the customer and the local department of the decision and of the right to judicial review.

If the hearing is postponed, the 90-day time limit is extended for as many days as the hearing is postponed.

Prehearing Procedures

A pending disqualification hearing may not affect the individuals or the assistance unit's right to participate in the program. The local department shall terminate or reduce the assistance's unit benefit if:

- there is documentation to support the action and,
- the assistance unit fails to request a fair hearing and,
- benefits have continued after receipt of the notice of termination or reduction.

Disqualification Penalties

An assistance unit that contains a customer who has signed the waiver of the right to an administrative disqualification hearing, or who was found to have committed intentional program violations, is ineligible to participate in the cash assistance program for the following periods of time:

- 6 months or until full repayment of any overpayment of cash assistance benefits for the first violation (disqualification penalties still count as an incident even if full repayment is made immediately);

- 12 months or until full repayment of any overpayment of cash assistance benefits for the second violation; and
- permanently for the third violation.
- 10 years 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 or identity of the individual in order to receive multiple benefits simultaneously.

If an administrative law judge finds that the customer committed the intentional program violation, the local department provides written notice of the effective disqualification date to the assistance unit before imposing the sanction. The sanction period begins the first month following the month in which the assistance unit received written notification of the disqualification. Once a disqualification penalty has been imposed, the period of disqualification continues uninterrupted until the benefit is fully repaid or the time period is completed, whichever occurs first.

When an assistance unit has been sanctioned, the local department sends a demand letter for restitution. The letter informs the assistance unit of:

- the amount owed;
- the reason for the claim;
- the period of time the claim covers;
- any offsetting done to reduce the claim;
- the ways in which the claim can be paid;
- the right to a fair hearing if the assistance unit disagrees with the amount of the claim, unless the assistance unit already had a fair hearing on the amount of the claim as a result of the consolidation of an administration disqualification hearing with a fair hearing;
- The right to request renegotiation of any repayment schedule if the assistance unit's economic circumstances change; and
- the requirement to indicate by signature the assistance unit's agreement to make restitution, select the method of payment, and return the repayment notice within 30 days of the date of the notice.

CARES

On the STAT screen under AU Status Reason place one of the following codes if a TCA assistance unit is subject to the full family sanction due to an Intentional Program Violation:

- 516 – for the first disqualification
- 517 – for the second violation
- 519 – permanently disqualified for third violation
- 523 – 10 year disqualification for an individual convicted in a Federal or State Court or an ADH to have made a fraudulent statement or representation about the residence or identity of the individual to receive multiple benefits simultaneously.

If an individual sanction is to be applied because a participant is a fleeing felon and parole and probation violator or a convicted drug felon, apply an individual sanction. On the STAT screen beside the individual's name in the Status Reason column place one of the following codes:

- 524 – ineligible because a fleeing felon and parole and probation violator
- 525 – convicted drug felon.

NOTE: In the remarks section behind the STAT screen narrate why the individual or assistance unit is being disqualified and how long they are ineligible to participate when a 500 series closing code is used.

Food Stamp Benefit Calculation

In order to issue the correct Food Stamp benefit to a household that is sanctioned or one that has an individual being sanctioned the following procedure must be used. On the UINC screen of the Head of Household enter the TCA benefit amount as "phantom" income using the code "OF" (Other unearned income, Food Stamp countable only). This will maintain the FS allotment at the level prior to the sanction.

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 REQUIRED OF: All Local Departments of Social Services

ACTION DUE DATE: Upon Receipt

INQUIRIES:

Direct inquiries to Yolanda M. Parker at (410) 767-7259.

cc: DHR Executive Staff
FIA Management Staff
Constituent Services
CTF
Office of the Inspector General Staff

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 Violation	2 years individual disqualification	1 year full family disqualification
Intentional Program Violation (IPV) Third Violation	Permanent individual disqualification for the third IPV	Permanent full family disqualification for third IPV
Receiving multiple benefits <u>simultaneously</u> (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 or identity of the individual. In addition to a court finding, an ADH waiver, or a disqualification consent agreement is also acceptable forms of verification.	10 year individual disqualification for persons that have been convicted in a Federal or State Court having made a fraudulent statement about residence of the individual
Receiving multiple benefits simultaneously (Temporary Cash Assistance)		
First finding by a Court of trading Food Stamps for illegal drugs	2 year individual disqualification	NOT APPLICABLE
Second finding by a Court of trading Food Stamps for illegal drugs	Permanent individual disqualification	NOT APPLICABLE
First finding by a Court of trading Food Stamps for firearms, ammunition, or explosives	Permanent individual disqualification	NOT APPLICABLE
Convicted by a Court of trafficking Food Stamp benefits of \$500 or more	Permanent individual disqualification	NOT APPLICABLE

APPEAL FOR FAIR HEARING

_____ of _____
Appellants Name Street or RFD

City or County State Zip Telephone No.

Hereby request a fair hearing.

I am appealing the following: (Check appropriate space)

- My application was turned down
- My application was not handled properly
- The amount of my check/allotment is wrong
- My assistance has been incorrectly
Suspended/Reduced/or Terminated
- I am not receiving the services that I need.
- Other (Specify) _____

The Program involved in my appeal is: (Check appropriate space)

- Temporary Cash Assistance
(TCA)
- Transitional Emergency Medical and
Housing Assistance (TEMHA)
- Emergency Assistance (EAFC, EA)
- Food Stamps (FS)
- Social Services (Specify) _____
- _____
- Other (Specify) _____

AM APPEALING because: (Please state what happened and when)

FOOD STAMP APPEALS ONLY:

Please continue the amount of food stamps that I now receive while I am awaiting the hearing. I understand that I will owe the value of any overissuance I receive while awaiting the hearing if I should lose my appeal.

Please do not continue the food stamps that I am now receiving.

FOR PUBLIC ASSISTANCE APPEALS ONLY:

Please continue the amount of grant that I now receive while I am awaiting the hearing. I understand that I will owe the value of any overpayment I receive while awaiting the hearing if I should lose my appeal.

Please do not continue the food stamps that I am now receiving.

_____ DATE _____ SIGNATURE

FOR AGENCY USE ONLY:

Department _____ Local Office _____ Date Appeal Received _____
Case Name _____ Case Number _____
Appeal Based on Notice Sent _____ Effective _____ Conference Held Y N
Benefits Pending? Y N Reason _____
Case Record Attached Y N Reason _____
Worker _____ Supervisor's Approval _____ Date _____

Note: The local department will help you fill out this form. Upon completion, file this appeal with the local department.

Appeal Hearing

**MARYLAND DEPARTMENT OF HUMAN RESOURCES
SPECIAL INVESTIGATIONS DIVISION
FRONT-END FRAUD PROGRAM
WAIVER OF THE RIGHT TO ADMINISTRATIVE DISQUALIFICATION HEARING**

TEMPORARY CASH ASSISTANCE - TCA

CASE NAME	SSN#	CASE #	LOG #

DOB: _____ ADDRESS: _____

INSTRUCTIONS FOR CUSTOMER/CLIENT

If you complete the agreement on this form, you waive (give up) your right to an Administrative Disqualification hearing which would determine if you committed an Intentional Program Violation. (Your rights before and during this kind of hearing are on the reverse of this form.)

If you sign the agreement you will not have to attend a hearing, but you will have to accept the same penalties that would result from a hearing decision against you. The penalty that applies is checked below.

You agree to be disqualified from the TCA Program:

- For six months - Full family disqualification if this is your First offense.
- For one year - Full family disqualification if this is your Second offense.
- Permanent full family disqualification if this is your Third offense.
- Ten (10) year individual disqualification for receiving benefits simultaneously in two (2) states.

Neither you or any member of your immediate family will receive Temporary Cash Assistance benefits during the disqualification period. You have the right to remain silent concerning the violation. Anything said or signed by you can be used in any future administrative or court proceedings.

You must indicate whether or not you agree with what the Department of Social Services says about the program violations on this form. You must do this by checking one of the boxes provided below.

You are being disqualified for the following reason: _____

DISQUALIFICATION AGREEMENT

CHECK ONLY ONE:

- I admit to the facts as presented and understand that a disqualification penalty will be imposed if I sign the waiver.
- I do not admit the facts presented are correct, however, I have chosen to sign this waiver and understand that a disqualification penalty will result.

Signature of head of Household

Witness Signature

Date signed

Date Signed

DIVISION OF SPECIAL INVESTIGATIONS
SUPERVISOR'S DECISION FORM

DSI No. _____

A. _____ Initial Case Review

_____ Accepted for Investigation

_____ Priority Code

_____ Not Accepted for Investigation

_____ 1. Short duration on assistance - no cost effective

_____ 2. Statute of Limitations expired

_____ 3. Limited probability of determining living situation

_____ 4. Inconsistencies need clarification

_____ 5. Unclear request

_____ 6. Other (Specify) _____

B. _____ Priority Case

Assign to Investigator _____

Date Assigned _____

C. _____ Non- Priority

Assigned to Investigator _____

Date assigned _____

Estimated Completion Date _____

D. _____ Other Instructions _____

Supervisor's Signature

Date

STATE OF MARYLAND
DEPARTMENT OF HUMAN RESOURCES
OFFICE OF THE INSPECTOR GENERAL

REFERRAL FOR INVESTIGATION

(Prepare in Triplicate) *

TO: _____ DATE: _____
 _____ }
 _____ } PA or FS } See Address Below
 _____ } Non-PA-MA } See Address Below

FROM: _____ Department of Social Services
 RE: REQUEST FOR AN INVESTIGATION OF A SUSPECTED FRAUD CASE

		CASE STATUS	DATE
Referring: Case Name _____		<input type="checkbox"/> Active	_____
Address _____		<input type="checkbox"/> Closed	_____
_____		<input type="checkbox"/> Suspend	_____
Case Number _____ Category _____		<input type="checkbox"/> Other	_____

Basis for Referral (Concise Summary): _____

<p>Check those attached enclosures: (Only 1 copy of each applicable document is required)</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 33%; vertical-align: top;"> <table border="0"> <tr><td style="text-align: center;">PA</td><td style="text-align: center;">MA</td><td></td></tr> <tr><td><input type="checkbox"/> 490</td><td><input type="checkbox"/> 1159</td><td><input type="checkbox"/> QC 16</td></tr> <tr><td><input type="checkbox"/> 730</td><td><input type="checkbox"/> 1159</td><td><input type="checkbox"/> Other -Specify: _____</td></tr> <tr><td><input type="checkbox"/> 733</td><td><input type="checkbox"/> 1776</td><td><input type="checkbox"/> _____</td></tr> <tr><td><input type="checkbox"/> 337</td><td><input type="checkbox"/> 1777</td><td><input type="checkbox"/> _____</td></tr> <tr><td><input type="checkbox"/> 310</td><td><input type="checkbox"/> 401 A</td><td></td></tr> <tr><td><input type="checkbox"/> 401 A</td><td></td><td><input type="checkbox"/> Food Stamp</td></tr> <tr><td><input type="checkbox"/> 469</td><td></td><td><input type="checkbox"/> Application</td></tr> </table> </td> <td style="width: 33%;"></td> <td style="width: 33%;"></td> </tr> </table>	<table border="0"> <tr><td style="text-align: center;">PA</td><td style="text-align: center;">MA</td><td></td></tr> <tr><td><input type="checkbox"/> 490</td><td><input type="checkbox"/> 1159</td><td><input type="checkbox"/> QC 16</td></tr> <tr><td><input type="checkbox"/> 730</td><td><input type="checkbox"/> 1159</td><td><input type="checkbox"/> Other -Specify: _____</td></tr> <tr><td><input type="checkbox"/> 733</td><td><input type="checkbox"/> 1776</td><td><input type="checkbox"/> _____</td></tr> <tr><td><input type="checkbox"/> 337</td><td><input type="checkbox"/> 1777</td><td><input type="checkbox"/> _____</td></tr> <tr><td><input type="checkbox"/> 310</td><td><input type="checkbox"/> 401 A</td><td></td></tr> <tr><td><input type="checkbox"/> 401 A</td><td></td><td><input type="checkbox"/> Food Stamp</td></tr> <tr><td><input type="checkbox"/> 469</td><td></td><td><input type="checkbox"/> Application</td></tr> </table>	PA	MA		<input type="checkbox"/> 490	<input type="checkbox"/> 1159	<input type="checkbox"/> QC 16	<input type="checkbox"/> 730	<input type="checkbox"/> 1159	<input type="checkbox"/> Other -Specify: _____	<input type="checkbox"/> 733	<input type="checkbox"/> 1776	<input type="checkbox"/> _____	<input type="checkbox"/> 337	<input type="checkbox"/> 1777	<input type="checkbox"/> _____	<input type="checkbox"/> 310	<input type="checkbox"/> 401 A		<input type="checkbox"/> 401 A		<input type="checkbox"/> Food Stamp	<input type="checkbox"/> 469		<input type="checkbox"/> Application			<p>Worker _____ Phone _____ Supervisor _____ Director _____</p> <hr/> <p>ADDRESSES</p> <p>For Medicaid (Non-PA-MA), send to:</p> <p style="text-align: center;">Chief, Division of Field Investigation MACA - O'Connor Building 201 West Preston Street Baltimore, Maryland 21201</p> <p>For PA and FS, send to:</p> <p style="text-align: center;">Division of Special Investigations Office of the Inspector General 311 West Saratoga Street - Rm. 617 Baltimore, Maryland 21201-3521</p>
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<p>* DISTRIBUTION</p> <ul style="list-style-type: none"> •• Original & 1 copy to Investigative Agency • 1 copy for Local Department 																												