

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)  
16 **DE Admin. Code** 9032 and 9038

### FINAL

### FINAL ORDER

### DSSM: Food Supplement Program, 9032.3, 9032.8, 9032.9, 9032.11 and 9038

#### Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend Food Supplement Program policies in the Division of Social Services Manual (DSSM) regarding Utility Expenses; Liquid Resources and Loans; Continuing Shelter Charges; Household Size; and, Verification Subsequent to Initial Certification. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the June 2009 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by June 30, 2009 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### Summary of Proposed Changes

The proposed changes described below amend Food Supplement Program (FSP) policies in the Division of Social Services Manual (DSSM) regarding Utility Expenses; Liquid Resources and Loans; Continuing Shelter Charges; Household Size; and, Verification Subsequent to Initial Certification.

#### Statutory Authority

- 7 CFR §273.2(f)(1)(iii), Utility Expenses;
- 7 CFR §273.2(f)(1), Mandatory Verification;
- 7 CFR §273.2(f)(3), State Agency Option,
- 7 CFR §273.2(f)(1)(x), Household Composition; and,
- 7 CFR §273.2(f)(8), Verification Subsequent to Initial Certification.

#### Summary of Proposed Changes

The purpose of the proposed changes is to simplify the verification process and remove rules not required by the federal Supplemental Nutrition Assistance Program (SNAP), as follows:

**DSSM 9032.3**, Utility Expenses: The change makes clear that staff only verify the utility that is needed to give the household the appropriate Standard Utility Allowance (SUA). Revised policy adds clarification that addresses utilities for unoccupied homes.

**DSSM 9032.8**, Liquid Resources and Loans: The change removes this verification which is not mandatory under federal guidelines. Therefore, DSSM 9032.8 is "Reserved". DSSM 9059 excludes loans which have to be repaid from counting as income. DSSM 9038 allows the Division of Social Services (DSS) to verify any information that is questionable.

**DSSM 9032.9**, Continuing Shelter Charges: The change corrects the text that this section applies only to initial certifications, not recertifications.

**DSSM 9032.11**, Household Size: The change removes this requirement to verify household size which is not mandated by federal rules. Therefore, DSSM 9032.11 is "Reserved". DSSM 9038 allows DSS to verify any information that is questionable.

**DSSM 9038**, Verification Subsequent to Initial Certification: The change relaxes the verification rules for recertification to more align them with federal rules.

### **Summary of Comments Received With Agency Response**

The Delaware Community Legal Aid Society, Inc. (CLASI) and ACTION for Children; and, the State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. The Division of Social Services (DSS) has considered each comment and responds as follows.

#### **CLASI/ACTION for Children**

Re: 9038 Food Supplement Program Verification Requirements

We support the changes proposed for the Food Supplement Program. For too long, CLASI and the agencies who are members of ACTION have seen clients suffering long delays in the processing of their Food Stamp/SNAP recertifications. We hope that reducing the amount of information that needs to be provided and processed at recertification will significantly reduce these delays.

We have one concern regarding the proposed change to DSSM 9038. Section A provides two lists: one of items that must be verified and one of items that do not need to be verified. Both lists are under the same subsection. It is unclear if the last sentence on the do not verify list, "unchanged information unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old," applies to everything that was listed above on the required to be verified list. We hope it does. In which case, we suggest clarifying this language. This could be done by stating "A. At recertification, verify the following information if it has changed, is incomplete, inaccurate, inconsistent, or more than 12 months old."

If the sentence on the do not verify list that states "unchanged information unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old," applies to items other than what is listed in the preceding section, what the sentence is referencing should be explained.

**Agency Response:** DSS revises the bulleted sentence in question to read in the final order regulation as follows:

Unchanged information, except for income, unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.

#### **SCPD**

Council endorses the proposed regulation since it relaxes verification burdens on households, and has the following observations.

Utility Expenses: For background, SCPD is attaching a USDA summary of the standard utility allowance ("SUA") and chart reflecting Delaware's SUA compared to other states. According to the USDA, the SUAs are used in place of actual utility costs to calculate a household's total shelter costs. Utility costs include electric, gas/fuel, water, sewer, trash, and telephone. The proposed "utility expenses" regulation appears to be consistent with other DSS standards, including 16 DE Admin Code 9060.

Liquid Resources & Loans: A shelter cost deduction is available for loan repayments on a mobile home or mortgage payments. The proposed regulation removes a verification requirement which is not mandatory under federal guidelines.

Continuing Shelter Charge: A deduction is available for continuing charges of shelter such as condo fees and rent. See 16 DE Admin. Code 9060F. Under the proposed regulation, verification would not be required during recertification.

Household Size: The proposed regulation removes a requirement of verification of household size. The criteria for a household [16 DE Admin Code 9013] are somewhat flexible.

Verification Subsequent to Initial Certification: The proposed regulation relaxes verification standards at recertification, focusing on new or changed expenses as juxtaposed to updated verification of unchanged expenses.

**Agency Response:** Thank you for your concurrence. DSS appreciates your endorsement.

### **Findings of Fact:**

The Department finds that the proposed changes as set forth in the June 2009 *Register of Regulations* should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation to amend the Division of Social Services Manual (DSSM) as it relates to the Food Supplement Program regarding Utility Expenses; Liquid Resources and Loans; Continuing Shelter Charges; Household Size; and, Verification Subsequent to Initial Certification is adopted and shall be final effective August 10, 2009.

Rita M. Landgraf, Secretary, DHSS

### **DSS FINAL ORDER REGULATIONS #09-28 REVISIONS:**

#### **9032.3 Utility Expenses**

~~If a household wishes to claim expenses for an unoccupied home, verify the actual utility expenses in every case and do not use the standard utility allowance.~~

~~For those households entitled to the heating/cooling or limited standard utility allowance as specified in DSSM 9060, verify that the household actually incurs a utility expense, although there is no need to verify the amount of the expense.~~

~~Do not verify more than one utility, except for the limited utility allowance, unless questionable in accordance with DSSM 9033.~~

~~For those households entitled to the one utility standard, verify the actual amount of the utility at each application and recertification.~~

Verify only the utility (or utilities) needed for the household to receive one of the four Standard Utility Allowances.

#### Heating and Cooling SUA

- Verify the electric bill for air conditioning, or
- Verify the utility that provides the heat.

#### Limited SUA

- Verify only two utilities (non-heat and non-cooling).

#### One Utility SUA

- Verify the one utility (non-heat, non-cooling and non-phone).

#### Phone SUA

- Verify the phone expense.

#### Utilities for Unoccupied Homes per 9060 F(4)

- Verify the actual expenses for the unoccupied home.
- If the household has utility expenses at both homes, give the appropriate SUA.
- If the household has utility expenses only at the unoccupied home, the SUA is not permitted. Combine the actual utility expenses with the shelter costs.

**(Break In Continuity of Sections)**

### **9032.8 Liquid Resources and Loans**

When verifying whether funds are exempt as a loan, a legally binding agreement is not required. A statement signed by both parties which indicates that the payment is a loan and must be repaid will be sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, also require that the provider of the loan sign a statement which states that repayments are being made or that payments will be made in accordance with an established repayment schedule. Reserved

### **9032.9 Continuing Shelter Charges**

Verify shelter costs at initial application, at recertification, and when shelter expense change if allowing the expense could potentially result in a deduction expenses if the expense is a potential deduction.

*(Break In Continuity of Sections)*

### **9032.11 Household Size**

Verification will be accomplished through a collateral contact or readily available documentary evidence. Any documents which reasonably establish household size must be accepted and no requirement for a specific type of document may be imposed.

Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, school records, draft cards, census records, marriage records, or those examples listed in DSSM 9032.7.

Factors involving household composition will not be verified unless questionable in accordance with DSSM 9033.

For example, a client applied for a family size of six. He provides the birth certificates or social security numbers for each member. Household size is verified. No other verifications are needed.

If a client applied for six members and his/her lease indicates eight people live there, household size is questionable. Staff then need to ask for a collateral statement or landlord form Reserved

*(Break In Continuity of Sections)*

### **9038 Verification Subsequent to Initial Certification Verification for Recertifications and Interim Changes [273.2(f)(8)] [7 CFR 273.2(f)(8)]**

A. Recertification - Verify all income at each recertification. Verify shelter and utility expenses at each recertification. Previously unreported medical expenses and total recurring medical expenses which have changed by more than \$25 shall also be verified at recertification. Do not verify total medical expenses claimed by households which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent, or outdated.

Verify any changes in the legal obligation to pay child support, the obligated amount, and the amount of actual payments made to nonhousehold members for households eligible for the child support deduction. Verify unchanged child support payments only if questionable.

Verify newly obtained Social Security Numbers at recertification according to procedures outlined in DSSM 9032.5.

Other information which has changed may be verified at recertification. Do not verify unchanged information unless the information is incomplete, inaccurate, inconsistent, or outdated.

Changes reported during the certification period are subject to the same verification procedures as apply at initial certification. Verify all changes in income. Verify all changes in shelter and utility expenses. Do not verify total medical expenses unless the information is incomplete, inaccurate, inconsistent, or outdated.

Guidelines for determining if information is outdated:

- Expenses billed monthly - no more than 3 months old
- Expenses billed quarterly - no more than 6 months old

- ~~Expenses billed seasonally—no more than 1 year old~~
- ~~Expenses billed annually—no more than 1 year old.~~

~~For individuals who are satisfying the ABAWD work requirements by working, by combining work and participation in a work program, or by participating in a work or workfare program that is not operated or supervised by the State, the individuals' work hours shall be verified.~~

A. At recertification, verify:

- All income.
- Shelter costs when the household moves or reports a change of more than \$25.
- Utility expenses if the household moves or reports a change.
- Unreported or new medical expenses.
- Monthly allowable medical expenses that have changed by more than \$25.
- Changes in the legal obligation to pay child support, the obligated amount, and the amount of actual payments made to non-household members.
- Newly obtained Social Security Numbers.
- Work hours for individuals who are satisfying the ABAWD work requirements.
- Other information that has changed if questionable.

Do not verify:

- Monthly allowable medical expenses that are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.
- Unchanged child support payments, unless questionable.
- Unchanged information[, **except for income,**] unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.

B. For changes reported during the certification period, verify:

- The same information as verified at initial certification.
- All income.
- Shelter and utility expenses if the household reports a change.

Do not verify:

- Total recurring medical expenses unless the information is incomplete, inaccurate, inconsistent, or more than 12 months old.

**13 DE Reg. 267 (08/01/09) (Final)**