

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

FINAL

ORDER

Food Supplement Program - Income and Eligibility Verification System

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) regarding the Food Supplement Program, specifically, *Income and Eligibility Verification System – Exclude Unearned Income Data from IRS*. 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 2014 Delaware *Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by June 30, 2014 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Food Supplement Program, specifically, *Income Eligibility Verification System - Exclude Unearned Income Data from IRS*.

Statutory Authority

- 7 CFR §272.8(a), *State income and eligibility verification system (IEVS)*
- 7 CFR §273.2(f)(9), *Optional use of IEVS*
- 31 **Del.C.** §601, *Department of Health and Social Services responsible for the administration of [Food Supplement] program*

Background

Delaware's Food Supplement Program, formerly known as food stamps, is operated under the provisions of the Food and Nutrition Act of 2008, as amended, and is administered by the Food and Nutrition Service (FNS) under the United States Department of Agriculture (USDA). The Delaware Division of Social Services (DSS) is responsible for the administration of the Food Supplement Program (FSP), including, but not limited to certification of applicant households and issuance, control, and accountability of FSP benefits.

Income Eligibility Verification System

Section 1137 of the Social Security Act mandates that state agencies administering federally funded public assistance programs develop and implement an income and eligibility verification system (IEVS). The Income Eligibility Verification System (IEVS) is a federally operated income and eligibility information matching system that interfaces with other governmental agencies through which agencies request personal data, wage information and benefit information from other state and federal agencies on applicants and recipients.

Summary of Proposed Changes

Federal regulations give state agencies the option to use an Income and Eligibility Verification System (IEVS) to verify income when determining eligibility for and the amount of food benefits. IEVS provides earned and unearned income information through data matches with other state and federal agencies. The Division of Social Services (DSS) has opted to not request or use the unearned income data received from the Internal Revenue Service (IRS) to verify unearned income for the Food Supplement Program (FSP). DSS will continue to use alternative methods to document and verify unearned income.

The proposed changes affect the following policy sections in the Division of Social Services Manual (DSSM):

DSSM 2013.1, *Income and Eligibility Verification Systems (IEVS)*

DSSM 2013.3, *Requesting IEVS Information*

DSSM 2013.5, *IEVS Case Processing Instructions*.

The applicable federal citations are also added to the appropriate policy sections.

SUMMARY OF COMMENTS RECEIVED WITH AGENCY RESPONSE

The Governor's Advisory Council for Exceptional Citizens (GACEC) 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.

GACEC & SCPD

As background, DSS recites that federal regulations give state agencies the option of using an Income and Eligibility Verification System "IEVS" to verify income when determining eligibility for and the amount of benefits. DSS is opting to not use the IEVS system to obtain information on unearned income. Instead, "DSS will continue to use alternative methods to document and verify unearned income." Both earned and unearned income are considered when assessing eligibility. See 16 DE Admin Code 9054-9057.

The rationale for opting to use "alternative methods" to verify unearned income is not provided. The justification could be based on cost, accuracy of information, or difficulty in acquiring information.

The Councils are unable to offer comments (pro or con) given lack of information on the justification for using unearned income verification sources other than the federal IEVS.

Agency Response: "Alternative Methods" will not be identified in this section of the policy. DSS intends to propose clarifying rules addressing "alternative methods" in a future issue of the Delaware *Register of Regulations*.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 2014 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) regarding the Food Supplement Program (FSP), specifically, *Income and Eligibility Verification System – Exclude Unearned Income Data from IRS*, is adopted and shall be final effective August 10, 2014.

Rita M. Landgraf, Secretary, DHSS, July 21, 2014

DSS FINAL ORDER REGULATION #14-29 REVISION:

2013 Verification

7 CFR 272.8(a), 7 CFR 273.2(f)(9)

In general all categorical eligibility factors must be verified before assistance can be authorized unless policy specific to that factor indicates that verification can be delayed.

When a redetermination is due, the recipient must complete a new DSS application form (Form 100). A redetermination is complete when all eligibility factors are examined and a decision regarding continuing eligibility is reached.

Close the assistance case of a recipient who fails, without good cause, to complete the redetermination review. Likewise, close the assistance case of a recipient who fails, without good cause, to provide requested information necessary to establish continued eligibility.

As part of the verification process for continuing eligibility, the person will provide verification that s/he has carried out the elements of the individual Contract of Mutual Responsibility. The penalties for non-cooperation in developing the Contract and/or following through with the required components of the Contract are also detailed.

Refer to DSSM 2001 for specific information regarding timeframes for returning verifications and noticing requirements.

Recipients are required to verify changes in circumstance within ten (10) days of the report of the change.

2013.1 Income and Eligibility Verification Systems (IEVS)

The purpose of the Income and Eligibility Verification Systems is to obtain and verify income information relevant to determining eligibility and benefit amounts in the TANF, FS, Child Care, and Medicaid programs through a series of computer matches and on-line interfaces. In IEVS, the Division will obtain:

- Unearned income data from the Internal Revenue Service (IRS).

<u>Exception: The Food Supplement Program will not utilize unearned income data from the IRS.</u>

- RSDI, SSI, pension, self-employment earnings, wage data and verification of Social Security Numbers from the Social Security Administration (SSA).

- Wage data and UC data from the Delaware Department of Labor (DOL).
- Licensed motor vehicle ownership data from the Delaware Division of Motor Vehicles (DMV). The address reported to DMV of each person holding a Delaware driver's license is also available through this system.

Information obtained through IEVS will enable the Division to:

- Identify unreported or discrepant income information.
- Discourage new applicants from attempting to receive benefits to which they are not entitled.

Except for IRS information, IEVS data is stored in DCIS and can be viewed by accessing the system (see the DCIS User Guide for instructions). IRS information is not stored in DCIS. It is available in hard copy only and is safeguarded according to IRS regulations.

10 DE Reg. 1007 (12/01/06)

(Break in Continuity of Sections)

2013.3 Requesting IEVS Information

Information will be requested from the IEVS income sources on all Cash Assistance, FS, and Medicaid applicants and recipients and on other individuals whose income is considered in determining eligibility for these programs. Other individuals include step-parents, minor parents' parents, and disqualified and sanctioned individuals.

Exception: The Food Supplement Program will not request or utilize unearned income data from the IRS.

Information on persons who apply for benefits is requested from all IEVS income sources each month. For recipients and other individuals, information is requested as indicated below:

- DOL -Wage data is requested quarterly for recipients that were active during the most recent quarter for which DOL has information. For example, in April, DOL has complete wage information for the last quarter of the previous year. In April, DSS will request information on those active in October, November, and December of last year.
- Unemployment Compensation data is requested monthly.
- SSA - Initially, benefit and other income information on all currently active recipients is requested and received. Thereafter, SSA is notified on a monthly basis of additions and deletions to the active DSS file. SSA information is received by DSS when BENDEX (the SSA computer file) is updated with new income information.
- IRS -Income data is requested annually on currently active recipients.
- DMV - Information is screened (on- line) at recertification and redetermination of active recipients.

(Break in Continuity of Sections)

2013.5 IEVS Case Processing Instructions

DSS will request information from the IEVS participating information sources by sending a tape listing current DSS applicants and recipients to the sources in the timeframes indicated in DSSM 2013.3. Information available from the sources' files is matched with DSS clients using the clients' Social Security Numbers.

UC data received from DOL and SSI and RSDI information received from SSA is verified. The DCIS file will be automatically updated and benefits will be recalculated using SSI and UC information. In the instance of RSDI data, DSS workers must resolve discrepancies between SSA and State Agency data, as described later in this section.

Wage and other income and resource data obtained through IEVS is not verified. When received, this data will first be processed by DCIS to screen out irrelevant data and data already known to the DCIS system. Any remaining unresolved wage and income data will be forwarded to Audit and Recovery Management Services (ARMS) for resolution.

ARMS resolves the wage and income data affecting the cases and forwards the information to the appropriate DSS supervisor via a transmittal form which informs DSS of what action should take place. If there is no change, the ARMS worker will notate the case record to indicate IEVS data did not necessitate a case change.

If IEVS information received on applicants can be resolved within the 30-day application processing limit, the application cannot be approved until the IEVS information is documented.

Wage and income information can be resolved by contacting the applicant or recipient or by contacting a reliable third party source (i.e., the employer or the source of other income). It is not necessary to secure the client's permission prior to contacting the third party source because applicants and recipients are notified at application and at redetermination or recertification of DSS' intention to obtain and use IEVS information to establish eligibility.

NOTE:DCIS will use the appropriate reason codes that notify the recipients that the benefit change resulted from information obtained through IEVS. Use of these codes allows DSS to document eligibility and benefit determinations made on the basis of IEVS information.

Additionally, to process IEVS information the procedures outlined below specific to the income information source are followed.

DOL

At application and at recertification or redetermination, DSS screeners will screen each applicant or recipient aged 16 and older through the DOL on- line computer interface. Regardless of whether the individual is found in the DOL system, a minimum of one DOL screen will be printed and included in the case file as evidence that the screening was completed.

Wage information in the DOL system is not verified. If wage information in the previous two quarters is discovered, it must be resolved as part of the application or redetermination/ recertification process. UC information is verified and is used to determine eligibility and benefit amounts.

DMV

At application and at redetermination or recertification, DSS screeners will screen applicants and recipients aged 16 and older through the DMV on-line computer interface when the individual does not report motor vehicle ownership, the situation appears questionable, and further investigation is warranted in order to establish eligibility. Examples of questionable situations include, but are not limited to, persons who do not claim MV ownership and are: 1) employed, or 2) were recently employed, or 3) live in remote locations. Routine DMV screening of all applicants and recipients is not required. DMV vehicle information registration discovered in the system is not verified and must be documented independently as part of the application process.

In addition to vehicle registration information, the address reported to DMV of each person holding a Delaware driver's license is also on file in the system. Though there is no requirement to check this information regularly, workers should be aware that it is available. An example of its potential use is to check the address of an absent parent.

NOTE:If information obtained from the DOL or DMV on-line interface was not reported by the applicant or recipient and this information is relevant to the eligibility and benefit determination, DCIS will use an IEVS reason code. Use of these codes will enable DSS to document eligibility and benefit determinations made on the basis of obtaining and using IEVS information.

SSA

At application all applicants must furnish a SSN or provide proof that an application for a number has been filed with the Social Security Administration. Applicants who have a number will be asked to provide proof of the number. Acceptable documentation includes a Social Security card, a pay stub, a W- 2 form or a UC claim card. If an applicant is unable to provide proof of his/her number but can furnish one, the application will be processed using the number the applicant furnished. All SSN's will be submitted to the SSA for verification through IEVS.

Numbers not verified by IEVS will be forwarded to Audit and Recovery Management Services (ARMS) for resolution. The procedure for handling unverified SSN's appears in DSSM 9032.5. If it is determined by ARMS that an applicant or recipient provided a false SSN in order to receive benefits for which he/she was not entitled, a claim or overpayment will be processed.

ARMS will notify DSS eligibility workers if it is unable to resolve an unverified Social Security Number. It is the responsibility of the eligibility worker to refer the recipient to the Social Security Administration to reapply for a Social Security Number. When this referral is made, the eligibility worker will note on the referral form (Form 122) the individual's unverified number so it can be investigated. These persons can continue to receive benefits as long as they provide proof that an application for a SSN has been filed at the Social Security Administration within ten (10) days of the referral.

At application, the intake worker will request verification of SSI and RSDI benefits listed on the application. Acceptable verification includes the recipient's award letter that verifies the current benefit or a response from the Third Party Query System (TPQY). If information on benefits has not been verified by the 30th day following the date the application was filed, determine eligibility using the applicant's statement regarding the SSI or RSDI amount. BENDEX information is used on a monthly basis to determine program benefits. DCIS produces a monthly report indicating the RSDI benefit amount shown on the BENDEX report from SSA as well as the RSDI amount currently displayed on the DCIS file for each RSDI recipient. When both amounts agree, no further action is necessary. Whenever there is a discrepancy between the two RSDI amounts shown, proceed as follows:

1. Investigate the discrepancy and attempt to determine which figure is accurate. SSA's Third Party Query System (TPQY) report and award letters should be useful resources.

2. If the discrepancy is resolved, notify the Information Systems Unit (ISU) DCIS, Biggs Building, Herman M. Holloway, Sr. Health and Social Services Campus, and provide them with copies of any documentation used in your investigation.
3. Make any necessary corrections to DCIS.
4. If the BENDEX data appears discrepant, notify ISU of the circumstances so that technical assistance from SSA can be sought.

IRS

DSS matches its active file with IRS files annually. Newly accredited cases are submitted for matching on a monthly basis. Unearned income sources revealed through this match process are considered unverified until independent third party documentation is obtained through either the household or appropriate income, resource or benefit source.

Exception: The Food Supplement Program will not request or utilize unearned income data from the IRS.

ARMS has exclusive access to the IRS match reports, which are maintained in accordance with IRS (Dept. of the Treasury) Publication 1075, as well as the DHSS IEVS Security Action Plan developed by ARMS. IRS information is not placed in casefiles. Every effort is made to protect the confidentiality of the information and prevent its unauthorized use.

(Break in Continuity of Sections)

9037 Use of Income and Eligibility Verification System (IEVS)

~~[273.2(f)(9)]~~ 7 CFR 273.2(f)(9)

Use information obtained through the IEVS to verify the eligibility and benefit level of applicant and participating households, in accordance with procedures specified in DSSM 2013.1. Disclosure safeguards must be satisfied, per DSSM 9003.

Take action, including proper notices to households, to terminate, deny, or reduce benefits based on information obtained through the IEVS which is considered verified upon receipt. This information is social security and SSI benefit information obtained from SSA and UIB information obtained from DOL. If DSS has information that the IEVS obtained information about a particular household is questionable, consider this information unverified. Unverified information is:

~~Unearned income information from IRS;~~

- Wage information from SSA and DOL;
- Any questionable IEVS information.

Prior to taking action to terminate, deny, or reduce benefits based on unverified information obtained through IEVS, independently verify the information. Independent verification includes verification of the amount of the asset or income involved, whether the household actually has or had access to such asset or income that it would be considered countable for food stamp benefit purposes, and the period during which such access occurred. ~~Except with respect to unearned income from IRS, if~~ When DSS has information indicating that independent verification is unnecessary, such verification is not required.

Obtain independent verification of unverified information from IEVS by contacting the household and/or the appropriate income, resource or benefit source. When contacting the household, do so in writing, informing the household of the information DSS has received, and requesting that the household respond within ten (10) days. If the household fails to respond in a timely manner, send a notice of adverse action.

Contact the appropriate source by the means best suited to the situation. When the household or appropriate source provides the independent verification, properly notify the household of the action DSS intends to take and provide the household with an opportunity to request a fair hearing prior to any adverse action.

18 DE Reg. 142 (08/01/14) (Final)