

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

PROPOSED

PUBLIC NOTICE

Food Stamp Program

9006.3 Exceptions From Notice

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Food Stamp Program policies in the Division of Social Services Manual (DSSM) regarding exemptions from adverse action notices.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 (new fax number) by October 31, 2007.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

Summary of Proposed Change

Statutory Authority

7 CFR 273.13(b), Exemptions from Notice

Summary of Proposed Change

DSSM 9006.3, Exemptions from Notice: The policies of the Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA) states that mail returned as undeliverable for whatever reason requires DSS to send a Request for Contact form to the household to clarify their living arrangement before DSS can close the case for whereabouts unknown. The agency is removing language in the current rule that requires terminating a case without timely notice when the post office returns mail with no forwarding address. This information is incorrect. This rule is also being amended to reflect typographical and rule number corrections.

DSS PROPOSED REGULATION #07-45

REVISIONS:

9006.3 ~~Exceptions~~ Exemptions From Notice

[273.13(b)]

Do not provide individual notices of adverse action when:

- 1) The State initiates a mass change (see DSSM 9086);
- 2) The Division determines, based on reliable information, that all members of a household have died or that the household has moved from the project area; ~~or DSS mail has been returned by the post office indicating no known forwarding address;~~
- 3) The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the allotment would terminate;
- 4) The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification and the household was so notified at the time of certification;
- 5) The household jointly applied for TANF/ GA/RCA and food stamp benefits and has been receiving

food stamp benefits pending the approval of the TANF/GA/RCA grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the TANF/GA grant;

6) A household member is disqualified for intentional Program violation in accordance with DSSM 2023, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by intentional Program violation disqualifications are explained in DSSM 2023.

7) DSS has assigned a longer certification period to a household certified on an expedited basis and for whom verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the postponed verification and that DSS may act on the verified information without further notice as provided in DSSM 9041.

8) DSS must change the household's benefits back to the original benefit level as required in DSSM 9085.

9) DSS is terminating the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement if the facility loses either its certification from DHSS or has its status as an authorized representative suspended due to FNS disqualifying it as a retailer. Residents of group living arrangements applying on their own behalf are still eligible to participate.

10) Converting a household from cash repayment to benefit reduction as a result of failure to make agreed upon repayment as discussed in DSSM ~~7000~~ 7004.1.

11) The household voluntarily requests in writing or in the presence of a case worker, that its participation be terminated. If the household does not provide a written request, send the household a letter confirming the voluntary withdrawal. Written information does not entail the same rights as a notice of adverse action except that the household may request a fair hearing.

12) DSS determines, based on reliable information, that the household will not be residing in the project area and, therefore, will be unable to obtain its next allotment. Inform the household of its termination no later than its next scheduled issuance date. Do not delay terminating the household's participation in order to provide advance notice.

If the following conditions are met, dispense with the timely notice requirement in DSSM 9006.2. However, the household must be notified that its benefits will be reduced or terminated no later than the date the household receives, or would have received its allotment:

- a) The household reports the information which results in the reduction or termination.
- b) The reported information is in writing. Information reported on a TANF monthly report form will satisfy this requirement.
- c) Based solely upon the household's written information, DSS can determine the household's allotment or ineligibility.
- d) The household retains its right to a fair hearing.
- e) The household retains its right to continued benefits by requesting a fair hearing within the time period provided by the notice of adverse action.
- f) The Division continues the household's previous benefit level, if required, within five working days of the household's request for a fair hearing.

***Please Note: As the rest of the sections were not amended, they are not being published. A complete set of the rules and regulations for the Division of Social Services is available at:**

<http://regulations.delaware.gov/AdminCode/title16/5000/5100/index.shtml#TopOfPage>