

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES

Statutory Authority: 16 Delaware Code, Section 512 (16 Del.C. §512)
16 DE Admin. Code 2000

PROPOSED

PUBLIC NOTICE

Food Supplement Program; Issuing Benefit Restorations

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 policies in the Division of Social Services Manual (DSSM) regarding the Food Supplement Program, specifically, *Issuing Benefit Restorations*.

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 by October 31, 2011.

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 PROPOSAL

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Food Supplement Program, specifically, *Issuing Benefit Restorations*.

Statutory Authority

- 7 CFR §273.17, *Restoration of lost benefits*
- 45 CFR §233.20(a)(12), *Recoupment of overpayments and correction of underpayments for programs other than AFDC*

Summary of Proposed Changes

DSSM 2011, ~~Benefit Restorations for Cash Assistance and Food Stamps~~ *Issuing Benefit Restorations*: The name of the section is being changed to more clearly indicate the content of the policy. Policy is being reformatted for clarity and ease of readability. Federal citations are also added to the policy section.

DSS PROPOSED REGULATION #11-43

REVISIONS:

2011 ~~Benefit Restorations for Cash Assistance and Food Stamps~~ *Issuing Benefit Restorations*

~~Benefit restorations must be made to correct an underpayment resulting from the Division's failure to act or to take appropriate action on available information. Requests for benefit restorations for one to three months must be approved and countersigned by the Operations Administrator. Requests for benefit restorations for more than three months from the date of the incorrect action must be approved and countersigned by the Chief Operations Administrator. Requests for benefit restorations beyond a period of one year require a fair hearing decision or court hearing. Benefit restorations are always subject to available funds. Benefit restorations are also subject to offsetting overpayments and claims owed by the family or household per DSSM 7002.1 and DSSM 7004.3~~

7 CFR 273.17, 45 CFR 233.20(a)(12)

This policy applies to cash assistance and food benefit applicants and recipients that received less benefits than they were eligible to receive. The need for restoration may be identified by the client or DHSS. Eligibility for restoration may also be determined by a court or administrative hearing decision or a change in law.

1. DSS Must Correct All Under-issuances

An under-issuance occurs when the amount of benefit that the household received was less than the benefit the household was entitled to receive. In these instances DSS will issue a benefit equal to the difference between what was received and what should have been received. This is called a restoration.

Exception: Restorations are not issued when funding is not available.

2. Restorations Must Be Approved

Benefit restorations must be approved by a designated authority. The following are authorized to approve restorations as indicated.

A. Operations Administrator: approves 1 to 3 months of benefits.

B. Chief Administrator: approves 4 to 12 months of benefits.

C. Fair hearing or court decision: required for 13 or more months of benefits.

3. DHSS Applies Restorations to Unpaid Overpayments and Claims

If the client has an unpaid overpayment or claim, the agency will first use the restoration to reduce the overpayment or claim. Any remaining funds are sent to the client. See DSSM 7002.1 and DSSM 9011.1.

15 DE Reg. 450 (10/01/11) (Prop.)