

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF SOCIAL SERVICES

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

### FINAL

### ORDER

#### Food Stamp Program

#### 9032.2 Alien Eligibility

#### Nature of the Proceedings

Delaware Health and Social Services ("Department") / Division of Social Services initiated proceedings to amend Food Stamp Program policies in the Division of Social Services Manual (DSSM) regarding alien eligibility. 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 October 2007 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2007 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### Summary of Proposed Change

##### Statutory Authority

7 CFR 273.2(f)(1)(ii), *Mandatory Verification, Alien Eligibility*

##### Summary of Proposed Change

DSSM 9032.2, *Alien Eligibility*: The deleted paragraph does not belong in this section. The federal regulations do not have this paragraph in this section. For food stamp purposes, citizenship is not verified unless questionable. This language, phrased differently, is actually in another section of policy under DSSM 9033, *Verifications of Questionable Information*.

#### Summary of Comments Received with Agency Response

No public comments were received.

#### Findings of Fact

The Department finds that the proposed changes as set forth in the October 2007 *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 alien eligibility in the Food Stamp Program is adopted and shall be final effective December 10, 2007.

Vincent P. Meconi, Secretary, DHSS, November 14, 2007

**DSS FINAL ORDER REGULATION #07-53  
REVISION:**

## 9032.2 Alien Eligibility

A. DSS must verify the eligible status of applicant aliens. If an alien does not wish DSS to contact INS to verify his or her immigration status, DSS will give the household the option of withdrawing its application or participating without that member.

The following information may be relevant to the eligibility of some aliens: date of admission or date status was granted; military connection; battered status; if the alien was lawfully residing in the United States on August 22, 1996; membership in certain Indian tribes; if the person was 65 or older on August 22, 1996; if a lawful permanent resident can be credited with 40 qualifying quarters of covered work and if any Federal means-tested public benefits were received in any quarter after December 31, 1996; or if the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time or is the spouse or unmarried dependent of such a person. DSS must verify these factors if applicable to the alien's eligibility.

The SSA Quarters of Coverage History System (QCHS) is used to verify whether a lawful permanent resident has earned or can receive credit for a total of 40 qualifying quarters. The QCHS may not show all qualifying quarters because SSA records do not show current year's earnings and in some cases the last year's earnings, depending on the time of request. Sometimes an applicant may have work from an uncovered employment that is not documented by SSA, but is countable toward the 40 quarters test. In both cases the individual, rather than SSA, will need to provide the evidence needed to verify the quarters.

B. An alien is ineligible until acceptable documentation is provided unless:

1. DSS has submitted a copy of a document provided by the household to INS for verification. Pending such verification, DSS cannot delay, deny, reduce, or terminate the individual's eligibility for benefits on the basis of the individual's immigration status; or

2. The applicant of DSS has submitted a request to SSA for information regarding the number of quarters of work that can be credited to the individual. SSA has responded that the individual has fewer than 40 quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited. DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original determination of insufficient quarters; or

3. The applicant or DSS has submitted a request to a Federal agency for verification of information which bears on the individual's eligible status. DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original request for verification.

C. DSS must provide alien applicants with a reasonable opportunity to submit acceptable documentation of their eligible status as of the 30th day following the date of application. A reasonable opportunity is at least 10 days from the date of DSS's request for an acceptable document. When DSS fails to provide an alien applicant with a reasonable opportunity as of the 30th day following the date of application, DSS must provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible.

~~D. DSS must verify a household member's citizenship or status as a non-citizen national. DSS will accept participation in another program as acceptable verification if verification of citizenship or non-citizen national was obtained for that program. If the household cannot obtain acceptable verification, DSS must accept a signed third party statement, under penalty of perjury, which indicates a reasonable basis for personal knowledge that the member in question is a U. S. citizen or a non-citizen national.~~

*(Inserted to Provide Context Only)*

## 9033 Verification of Questionable Information

[273.2(f)(2)]

Eligibility factors other than those listed in DSSM 9032 will be verified only if questionable and if they affect a household's eligibility or benefit level.

Questionable information is information inconsistent with statements made by the applicant, with other information on the application or previous applications, or with information received by the agency. Procedures described below will apply when one of the following eligibility factors is questionable:

When expenses claimed by the household for purposes of determining allowable program deductions (per DSSM 9060) or those otherwise reported during the certification interview (e.g., car payments, credit card bills) exceed declared income, ask the household to verify how such expenses were paid. New applicants must

satisfactorily explain past management. Possible methods to verify payments are as follows:

<u>Income Source</u>	<u>Type of Verification</u>
Loans and gifts	Statement from lender
Sale of personal property	Receipt from sale
Exchange of services/ in-kind benefits	Statement from landlord, etc.
Gambling proceeds	Lottery tickets
Odd jobs	Note from employer

Benefits may be authorized if the following conditions are met:

- a) A new household provides a satisfactory explanation of past management including any verification that is reasonably available to the household.
- b) A participating household satisfactorily verifies factors of past management. Verification must be from the month(s) immediately preceding certification/recertification.

Additionally, households where management has been questionable will be notified that they will be responsible for verifications of all cash outflow at times of recertification if management continues to appear questionable.

A. Household Composition. Verify factors affecting the composition of a household, if questionable. Individuals who wish to be a separate household from those with whom they reside will be responsible for proving a claim that they are a separate household to the satisfaction of the Division.

Individuals who claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness will be responsible for proving a claim of separateness in accordance with DSSM 9032.11.

B. Citizenship. The household must provide acceptable verification for any member whose U.S. citizenship is questionable.

A claim to citizenship may be considered questionable if:

- 1) The claim of citizenship is inconsistent with statements made by the applicant or with other information on the application or on previous applications.
- 2) The claim of citizenship is inconsistent with information received from another source.
- 3) The individual does not have a Social Security Number.

When a household's statement that one or more of its members are U.S. citizens or has the status as a non-citizen national is questionable, ask the household to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, certificates of citizenship or naturalization provided by INS, such as identification cards for use of resident citizens in the United States (INS form I 179 or INS form I 197), or U.S. passports. Participation in the TANF Program will also be considered acceptable verification if verification of citizenship or non-citizen national status was obtained for that program. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, accept a signed statement from a third party indicating a reasonable basis for personal knowledge that the member in question is a U.S. citizen. The signed statement must contain a warning of the penalties for helping someone commit fraud, such as: "If you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both."

The member whose citizenship or non-citizen national status is in question will be ineligible to participate until proof of U.S. citizenship or non-citizen national status is obtained. Until proof of U.S. citizenship or non-citizen national status is obtained, the member whose citizenship or non-citizen national status is in question will have his or her income, less a pro rata share, and all of his or her resources considered available to any remaining household members as set forth in DSSM 9076.2.

C. Deductible expenses. If obtaining verification for a deductible expense may delay certification, advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. This provision also applies to the allowance of medical expenses per DSSM 9032. Shelter costs would be computed without including the unverified components. The standard utility allowance will be used if the household is entitled to claim it.

If the expense cannot be verified within 30 days of the date of application, determine the household's eligibility and benefit level without providing a deduction of the unverified expense. If the household subsequently provides the missing verification, redetermine the household's benefits, and provide increased benefits, if any, in accordance with the timeliness standards in DSSM 9085. If the expense could not be verified within the 30 day processing standard because the Division failed to allow the household sufficient time per DSSM 9040 to verify the expense, the household will be entitled to the restoration of benefits retroactive to the month of application, provided that the missing verification is supplied in accordance with DSSM 9040. If the household would be ineligible unless the expense is allowed, the household's application will be handled as provided in DSSM 9040.

**11 DE Reg. 799 (12/01/07) (Final)**