

# 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 9072

### PROPOSED

### PUBLIC NOTICE

#### Terminating Food Benefits due to Substantial Lottery or Gambling Winnings

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, 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 (DSS) is proposing to amend Division of Social Services Manual regarding the Food Stamp Program, specifically, Terminating Food Benefits due to Substantial Lottery or Gambling Winnings.

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, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to [Nicole.M.Cunningham@delaware.gov](mailto:Nicole.M.Cunningham@delaware.gov), or by fax to 302-255-4413 by 4:30 p.m. on October 1, 2020. Please identify in the subject line: Terminating Food Benefits due to Substantial Lottery or Gambling Winnings.

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 purpose of this notice is to advise the public that Delaware Health and Social Services/Division of Social Services (DHSS/DSS) is proposing to amend Division of Social Services Manual regarding the Food Stamp Program, specifically, Terminating Food Benefits due to Substantial Lottery or Gambling Winnings.

#### Statutory Authority

- 7 CFR 272.17
- 7 CFR 273.11 (r)
- 7 CFR 273.12 (a)

#### Background

The U.S. Department of Agriculture's Food and Nutrition Service released a final rule on April 15, 2019 on lottery and gambling winnings. The rule provides that any household that receives substantial lottery or gambling winnings must lose eligibility for SNAP benefits immediately upon receipt of the winnings. It also requires that those households remain ineligible until they meet the allowable SNAP financial resource and income eligibility requirements.

DSS is proposing policy DSSM 9072 to implement the federal rule for lottery and gambling winnings in SNAP. The proposed policy defines substantial lottery or gambling winnings. The policy also provides instructions for SNAP recipients and DSS and DMMA staff on household reporting requirements, disqualification criteria, eligibility requirements for previously disqualified households, and case processing procedures for substantial lottery or gambling winnings.

#### Summary of Proposal

##### *Purpose*

To explain the Supplemental Nutrition Assistance Program (SNAP) requirement that prohibits individuals with substantial lottery or gambling winnings from receiving food benefits.

##### *Summary of Proposed Changes*

Effective for services provided on and after November 11, 2020 Delaware Health and Social Services/Division of Social Services proposes to amend Division of Social Service Manual regarding the Food Stamp Program, specifically, Terminating Food Benefits due to Substantial Lottery or Gambling Winnings.

##### *Public Notice*

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware

Health and Social Services/Division of Social Services (DHSS/DSS) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on October 1, 2020.

### Fiscal Impact

DSS estimates that this new policy will result in a cost of \$796,010 due to required enhancements to the DHSS benefit eligibility system. Changes will be made to the system's eligibility processing and client notification functions and to the online self-service benefit application (ASSIST). DSS will also add a lottery and gambling data interface to the eligibility system to comply with the federal requirements found at 7 CFR 272.17 that mandate State agencies, to the maximum extent practicable, establish agreements with gaming entities in order to identify individuals within the State with substantial winnings who are members of a SNAP household. This new data interface will allow DSS and DMMA staff to receive direct, unaltered information regarding SNAP households' substantial lottery or gambling winnings in Delaware to determine if a household meets the disqualification criteria according to DSSM 9072. This data match will also reduce the amount of verification required from households and will result in fewer case processing errors.

	Federal Fiscal Year 2021
General (State) funds	\$398,005
Federal funds	\$398,005*

\*50% Federal funding is contingent upon approval by the U.S. Department of Agriculture

### POLICY – AMENDMENT

Delaware Department of Health and Social Services  
Division of Social Services  
Policy and Program Development Unit

### **9072 RESERVED Terminating Food Benefits due to Substantial Lottery or Gambling Winnings**

7 CFR 272.17; 7 CFR 273.11 (r); 7 CFR 273.12 (a)

Food benefit households that receive substantial lottery or gambling winnings will not be eligible for the Food Supplement Program upon receipt of the winnings.

- 1. Substantial lottery or gambling winnings are a cash prize won in a single game with a gross value equal to or greater than the maximum limit for lottery and gambling winnings for the Food Supplement Program.**
  - A. Substantial lottery or gambling winnings include, but are not limited to, cash prizes from:
    - Scratch off tickets
    - Video lottery
    - Lottery drawings, such as Powerball
    - Table games, such as blackjack or roulette
    - Slot machines
    - Sports betting
    - Horse racing
    - Keno
    - Bingo
    - Internet gambling
  - B. DSS and DMMA will assess the value of lottery and gambling winnings before taxes or other withholdings are deducted.
  - C. If multiple individuals shared in the purchase of a ticket, hand, or similar bet, then DSS or DMMA will use only the portion of the winnings given to a member of the food benefit household to determine if the household's winnings are equal to or greater than the maximum limit for lottery and gambling winnings.
  - D. The maximum limit for lottery and gambling winnings applies to all food benefit households, including elderly or disabled households and categorically eligible households.

- E. The Food and Nutrition Service (FNS) determines the maximum limit for lottery and gambling winnings each year. DSS publishes the maximum limit in the annual October Cost of Living Adjustments Administrative Notice.

Note: The maximum limit for lottery and gambling winnings is set to the same amount as the maximum financial resource limit for elderly or disabled food benefit households.

**2. Food benefit households are required to report to DSS or DMMA when a household member receives substantial lottery or gambling winnings.**

- A. Households that have received substantial lottery or gambling winnings must report the total winnings to DSS or DMMA within 10 days of the date the household received the winnings.
- i. This reporting requirement also applies to households that spent or gave away the winnings prior to reporting to DSS or DMMA.
  - ii. Households must report in-state and out-of-state winnings.

**3. DSS and DMMA case workers must verify food benefit households' lottery and gambling winnings.**

- A. DSS and DMMA will accept verification of households' lottery or gambling winnings, including, but not limited to:
- i. A receipt or notice from the Delaware Department of Finance;
  - ii. A receipt or form from the payer of the winnings;
  - iii. A copy of the household member's bank statement; or
  - iv. Information from a data match for lottery and gambling winnings.
- B. DSS and DMMA case workers will follow the procedures for questionable or unclear information per DSSM 9033 and DSSM 9085.5 when:
- i. Information or verification of a household member's lottery or gambling winnings is unclear, questionable, or missing; or
  - ii. A third party reports a household member's lottery or gambling winnings without providing acceptable verification.

Note: If DSS or DMMA receives information about the household's winnings from the lottery and gambling data match in the eligibility system, the household's food benefit case can be closed without contacting the household if the match meets the following conditions:

- The household's reported winnings are equal to or greater than the maximum limit for lottery and gambling winnings; and
- The data match information is clear and complete.

If the information received from the lottery and gambling data match is questionable, DSS and DMMA case workers will follow the procedures for unclear information per DSSM 9085.5. For example, the spelling of the household member's name on the data match is different from the spelling of the name in the case file.

**4. Any food benefit household with a member who receives substantial lottery or gambling winnings will no longer be eligible for food benefits immediately upon receipt and verification of the winnings.**

- A. The DSS or DMMA case worker must immediately close or deny the food benefit case for the entire household once a household member's winnings are verified.
- B. If the DSS or DMMA case worker issued a request for contact to the household and the household fails to respond or refuses to provide sufficient information or verification about the winnings, the case worker will follow the procedure to close the food benefit case per DSSM 9085.5.
- C. DSS or DMMA will send a notice of adverse action to the household prior to terminating food

benefits for substantial lottery or gambling winnings.

- D. DSS or DMMA will send a notice of denial to the household if DSS or DMMA discovers during the recertification process that the household received substantial lottery or gambling winnings.
- E. The DSS or DMMA case worker will process an overpayment for the food benefit case if benefits were issued to the household following the household's receipt of winnings that exceeded the maximum limit for lottery and gambling winnings.

**5. Households that were determined ineligible for food benefits because of substantial lottery or gambling winnings will remain ineligible until the household meets the resource and income eligibility requirements for the Food Supplement Program.**

- A. A household can re-apply for food benefits at any time after the household's case is closed.
- B. DSS and DMMA will determine eligibility using the regular resource and income limits for the Food Supplement Program for households that re-apply for benefits after their case closed due to substantial lottery or gambling winnings.
  - i. DSS or DMMA will count any winnings kept by the household as a resource at re-application.
  - ii. The household cannot be determined categorically eligible at re-application, even if the household was previously categorically eligible per DSSM 9042. This requirement applies only the first time the household re-applies for food benefits.
- C. If at re-application the food benefit household's composition has changed since the case closed, DSS or DMMA will consider the household to be a new food benefit household and not a household that was closed due to substantial lottery or gambling winnings, regardless of who left or entered the household.
  - i. A household that has changed after case closure may be determined categorically eligible at re-application and does not have to meet the conditions in section (5)(B) of this policy.

16 DE Reg. 874 (02/01/13)

24 DE Reg. 259 (09/01/20) (Prop.)