

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Department of Public Welfare Office of Income Maintenance/Bureau of Policy		2001 APR 25 PM 3:16 REVIEW COMMISSION
(2) I.D. Number (Governor's Office Use)		IRRC Number: 2192
(3) Short Title Implementation of Disqualification Penalties		
(4) PA Code Cite 55 Pa. Code Chapters 255, 275, and 501.	(5) Agency Contacts & Telephone Numbers Primary Contact: Edward J. Zogby 787-4081 Second Contact: Harry A. Turnauer 783-7691	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input checked="" type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. An individual is subject to immediate disqualification when found to have committed an intentional program violation or agrees to the disqualification penalty and is not eligible for program benefits.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The authority for the regulation: The Food Stamp Act of 1977, 7 U.S.C. § 2015; <i>Garcia v. Concannon & Espy</i> , 67 F.3d 256 (9th Cir. 1995); U.S. Department of Agriculture Administrative Notice 4-96, 42 U.S.C. §602(a)(6). In addition, with respect to the GA and TANF Cash Assistance Programs, a Notice publishing the TANF State Plan (27 Pa.B. 347), and a Notice of Rule Change (27 Pa.B. 1093) implementing the provisions of TANF continue the policy of applying AFDC rules to the TANF and GA programs, except where otherwise noted in the TANF NORC.		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is mandated by U.S. Department of Agriculture Administrative Notice 4-96 effective February 1, 1996, 42 U.S.C. §602(a)(6), pursuant to the United States Court of Appeals for the Ninth Circuit's ruling in *Garcia v. Concannon & Espy*, 67 F.3d 256 (9th Cir. 1995).

In addition, with respect to the GA and TANF Cash Assistance Programs, a Notice publishing the TANF State Plan (27 Pa.B. 347), and a Notice of Rule Change (27 Pa.B. 1093) implementing the provisions of TANF continue the policy of applying AFDC rules to the TANF and GA programs, except where otherwise noted in the TANF NORC.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Under regulations in effect prior to the Notice of Rule Change, the Department of Public Welfare postponed implementing the disqualification penalty if the individual to be disqualified was not eligible for benefits under the program in which the violation occurred. Instead, the disqualification penalty was imposed when the individual reapplied and was determined eligible for benefits. The final form regulation requires immediate disqualification.

(12) State the public health, safety, environmental, or general welfare risks associated with nonregulation.

There are no public health, safety, or environmental risks associated with nonregulation. The general risks associated with nonregulation include the disallowance of Federal funding for failure to correct the Commonwealth's regulations.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The Department of Public Welfare will benefit in the simplification of the program. In addition, the immediate disqualification will serve as a deterrent for future program abuse.

Alt in Reply 11-12-98

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

This regulation does not adversely affect any persons, groups, or entities.

(15) List the persons, groups or entities that will be required to comply with the regulation.
(Approximate the number of people who will be required to comply.)

All applicants and former and current recipients of Temporary Assistance for Needy Families (TANF), formerly AFDC, and the General Assistance (GA) Cash Assistance Program and the Food Stamp Program who are found to have committed an intentional program violation or who agree to disqualification are subject to the immediate disqualification requirements. All persons who, prior to the Federal agency directives, had a disqualification pending are considered to have served their disqualification.

Approximately 1,800 persons with a pending TANF disqualification served their disqualification. Approximately 1,200 persons with a pending GA disqualification served their disqualification. Approximately 9,800 persons with a pending Food Stamp disqualification served their disqualification.

(16) Describe the communications with and input from the public in the development and drafting of the regulation.
List the persons and/or groups who were involved, if applicable.

The Department of Public Welfare implemented this policy : by publication in the Pennsylvania Bulletin (26 Pa.B. 5659) on November 16, 1996, and invited public comment but none was received.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no costs or savings incurred by regulated communities.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no costs or savings incurred by local governments.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There will be no costs or savings incurred by State government.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

(Dollar Amounts In Thousands)

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(20a) Explain how the estimates listed above were derived.

N/A

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(20b) Provide the past three years expenditure history for programs affected by the regulation.
 (Dollar Amounts In Thousands)

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives.
 Provide the reasons for their dismissal.

The Department of Public Welfare considered no nonregulatory alternatives because the regulatory action is required to comply with Federal agency directives resulting from a Federal District Court ruling.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes.
 Provide the reasons for their dismissal.

The Department of Public Welfare considered no alternative regulatory schemes because the regulatory action is required to comply with Federal agency directives resulting from a Federal District Court ruling. In addition, the regulation is required to continue the policy implemented by the Department based on the Federal directives which policy satisfies the Federal law requirement found in 42 U.S.C. §602(a)(6).

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no provisions more stringent than federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation is pursuant to a federal directive and, therefore, should be consistent with that of other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will not affect existing Departmental regulations or regulations of other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department of Public Welfare does not plan to schedule public hearings or informational meetings.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This regulation will not change existing reporting, record keeping, or other paperwork requirements. All disqualifications will continue to be reported in the usual manner. The disqualification date field will now contain the date the disqualification was adjudicated instead of "pending."

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

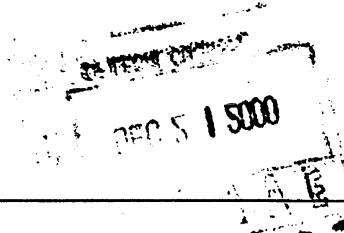
The Department of Public Welfare developed no special provisions.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation is effective upon publication in the Pennsylvania Bulletin retroactively to February 1, 1996, for the Food Stamp Program and effective March 4, 1996, for the TANF and GA Cash Assistance Programs.

(31) Provide the schedule for continual review of the regulation.

The Department of Public Welfare will conduct its review of the regulation through the Department's Quality Control review process.



2007 APR 25 PM 3:15

REVIEW SUBMISSION



**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

2192

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: _____
(Deputy Attorney General)

Date of Approval

Check if applicable.
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

DEPARTMENT OF PUBLIC WELFARE
(Agency)

LEGAL COUNSEL: Luta J. O'Brien

DOCUMENT/FISCAL NOTE NO: # 14-448

DATE OF ADOPTION: (DPW-OIM-10-98-002)

BY: [Signature]

TITLE: SECRETARY OF PUBLIC WELFARE
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies

BY: [Signature]

December 20, 2000
Date of Approval

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

**NOTICE OF FINAL REGULATIONS WITHOUT PUBLICATION AS PROPOSED
DEPARTMENT OF PUBLIC WELFARE
OFFICE OF INCOME MAINTENANCE
BUREAU OF POLICY**

[55 PA. CODE CHAPTER 255]
RESTITUTION

[55 PA. CODE CHAPTER 275]
APPEAL AND FAIR HEARING AND
ADMINISTRATIVE DISQUALIFICATION HEARINGS

[55 PA. CODE CHAPTER 501]
FOOD STAMP DISCRETIONARY PROVISIONS

STATUTORY AUTHORITY

The Department of Public Welfare (Department), by this Order, amends the regulations found in 55 Pa. Code Chapters 255, 275, and 501 (relating to restitution; appeal and fair hearing and administrative disqualification hearings; and food stamp discretionary provisions) as set forth in Annex A pursuant to the authority of §§201(2) and 403(b) of the Public Welfare Code (Code), Act of June 13, 1967, P.L. 31, No. 21, 62 P.S. §§201(2) and 403(b). Section 201(2) of the Code provides that the Department has the authority to promulgate regulations, with approval of the Governor, as may be necessary to render the Commonwealth eligible for Federal funds or other assistance. Section 403(b) of the Code provides that the Department shall establish rules, regulations and standards consistent with the law, as to eligibility for assistance and as to its nature and extent. Section 403(b) also provides that, whenever possible, except for residency requirements for General Assistance (GA), the Department shall establish rules, regulations and standards for GA consistent with those established for Aid to Families with Dependent Children (AFDC), which has been replaced by Temporary Assistance for Needy Families (TANF). In no instance shall the rules, regulations and standards established for GA provide for assistance greater than that provided for AFDC (now TANF). In addition, §402(a)(6) of the Social Security Act (42 U.S.C. §602(a)(6)) requires the Commonwealth to certify that it has established and is enforcing standards and procedures to guard against fraud and abuse. These amendments affect the TANF and GA Cash Assistance Programs and the Food Stamp Program.

Notice of proposed rulemaking is omitted in accordance with §§204(1)(iv) and 204(3) of the Act of July 31, 1968 (P.L. 769, No. 240) referred to as the Commonwealth Documents Law (45 P.S. §§1204(1)(iv), 1204(3)) because a ruling in a Federal case announced the legal interpretation of the Federal statute which provides the authority for this regulation and the regulation relates to Commonwealth grants and benefits. The Department finds that notice of proposed rulemaking is contrary to the public interest as the regulation benefits persons who have been determined to be disqualified but who are not eligible for benefits. Notice of proposed rulemaking would delay benefits to those who are the intended beneficiaries of the Court ruling and the regulation. A Notice of Rule Change was published at 26 Pa.B. 5659 (November 16, 1996) which invited public comment. The Department received no public comments.

PURPOSE

The purpose of these regulations is to incorporate into 55 Pa. Code Chapters 255, 275, and 501 (relating to restitution; appeal and fair hearing and administrative disqualification hearings; and food stamp discretionary provisions) new Federal agency directives concerning the implementation of cash assistance and food stamp disqualification penalties for individuals who are not eligible for program benefits at the time the disqualification is determined.

BACKGROUND

Under regulations in effect prior to the Notice of Rule Change, the Department postponed implementing the disqualification penalty if the individual to be disqualified was not eligible for benefits under the program in which the intentional program violation occurred. Instead, the disqualification was imposed when the individual reapplied for and was determined eligible for the benefit(s).

The U.S. Department of Agriculture requires these amendments to achieve compliance with the ruling of the United States Court of Appeals for the Ninth Circuit in *Garcia v. Concannon & Espy*, 67 F.3d 256 (9th Cir. 1995). In *Garcia*, the Court held that the policy of postponing the implementation of a food stamp disqualification penalty until such time as the individual was eligible for Food Stamp Program benefits violated §6(b)(1) of the Food Stamp Act of 1977, 7 U.S.C. §2015(b)(1). The U.S. Department of Health and Human Services, Administration for Children and Families, required the same amendments for the AFDC Program. The Department extended the amendments to the GA Program because the Department, whenever possible, except for residency requirements for GA, shall establish rules, regulations and standards for GA consistent with those established for AFDC (now TANF) (62 P.S. §403(b)). In no instance shall the rules, regulations and standards

established for GA provide for assistance greater than that provided for AFDC (now TANF). As a result, an individual found to have committed an intentional program violation or who agrees to the disqualification penalty and who is not currently eligible for program benefits will be subject to immediate disqualification. These regulations do not affect the 45 days allowed for the imposition of a disqualification penalty for individuals who are eligible for program benefits.

Since issuance of the NORC, however, the TANF program has replaced the former AFDC program. The Federal mandate requiring the rules in AFDC to mirror Food Stamp disqualification penalties have been rescinded. (62 Fed. Reg. 64301). Under Federal Welfare Reform, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104-193), the Commonwealth is required to certify that it has established and is enforcing standards and procedures to guard against fraud and abuse. (42 U.S.C. §602(a)(6)). The Department announced in its implementation of the TANF program Notice of Rule Change (27 Pa.B. 1093) and the TANF State Plan (27 Pa.B. 347) that it would continue AFDC rules for the most part, except as noted in the Notice of Rule Change for TANF. The Department has decided to continue to treat the imposition of TANF/GA and Food Stamp disqualification penalties in the same manner.

Any disqualification penalties pended prior to the Notice of Rule Change were considered served if the time elapsed from the decision date was greater than or equal to the length of the disqualification period. If the time elapsed from the decision date was less than the length of the disqualification period, the individual was considered disqualified until the time elapsed was equal to the length of the disqualification period. The Department updated its Disqualified Recipient System to indicate that individuals served the disqualification penalty as long as the time elapsed from the decision date was equal to the disqualification period. Since all pended disqualifications have been served, there is no need to regulate this provision of the Federal agency directives.

NEED FOR REGULATIONS

These regulations are needed to implement intentional program violation disqualification directives as specified in U.S. Department of Agriculture Administrative Notice 4-96, relating to Food Stamps and U.S. Department of Health and Human Services, Administration for Children and Families Action Transmittal No. ACF-AT-96-1, relating to AFDC. Although the AFDC Program has been replaced by the TANF Program, Federal Law still requires the Commonwealth to administer a fraud and abuse program under 42 U.S.C. §602(a)(6). The AFDC rules have been continued under TANF, except as noted in the

TANF Notice of Rule Change, 27 Pa.B. 1093. The policy directives were implemented under a Notice of Rule Change published at 26 Pa.B. 5659 (November 16, 1996), retroactively effective to February 2, 1996, for the Food Stamp Program and March 4, 1996, for the TANF and GA cash assistance programs.

SUMMARY OF REGULATIONS

Chapter 255

The amendment to §255.1 clarifies that there is a difference in the dates on which disqualification is implemented if an individual is eligible for cash assistance benefits under the program in which the intentional program violation occurred, or if the individual is not eligible for benefits at the time of disqualification. The amendment also changes the date on which the disqualification is imposed when the individual is not eligible for benefits at the time of disqualification, to the date of a court or administrative order, the signing of a consent agreement or the waiver of an administrative disqualification hearing.

Chapter 275

The amendment to §275.32 changes the notice given when an intentional program violation is found. The amendment clarifies that if an individual is not eligible for benefits at the time of the violation, the notice will indicate an immediate implementation of the penalty.

Chapter 501

The amendment to §501.13 clarifies that there is a difference in the dates on which disqualification is implemented if an individual is eligible for food stamp benefits, or if the individual is not eligible for benefits at the time of disqualification. The amendment also changes the date on which the disqualification is imposed when the individual is not eligible for food stamp benefits at the time of disqualification, to the date of a court or administrative order. The amendments also make the same clarification as applied to disqualification when an administrative disqualification hearing is waived.

AFFECTED INDIVIDUALS AND ORGANIZATIONS

These regulations will affect all applicants and former and current recipients of the TANF and GA Cash Assistance Programs and the Food Stamp Program.

ACCOMPLISHMENTS/BENEFITS

Adoption of these regulations will codify the program changes mandated by *Garcia v. Concannon & Espy*, 67 F.3d 256 (9th Cir. 1995) as well as with U.S. Department of Agriculture Administrative Notice 4-96, 42 U.S.C. §602(a)(6), the TANF State Plan (27 Pa.B. 347) and the TANF NORC (27 Pa.B. 1093).

FISCAL IMPACT

Public Sector: These regulations impose no costs on the public sector.

Private Sector: These regulations impose no costs on the private sector.

General Public: These regulations impose no costs on the general public.

PAPERWORK REQUIREMENTS

These amendments will not change existing reporting or paperwork requirements.

CROSS REFERENCES

These regulations do not affect any other laws or regulations.

EFFECTIVE DATE

These regulations will take effect upon publication in the *Pennsylvania Bulletin* as final rulemaking retroactively to February 1, 1996, for the Food Stamp Program regulations and March 4, 1996, for the TANF and GA Cash Assistance Program regulations, as set forth in the Notice of Rule Change dated November 16, 1996.

SUNSET DATE

There is no sunset date. The regulations apply to an on-going program. The Department will evaluate the effectiveness of these regulations on an on-going basis.

PUBLIC COMMENTS

Although these regulations are being adopted without prior notice, interested persons are invited to submit written comments within 30 days from the date of the publication for consideration by the Department as to whether these regulations should be revised. The comments should be sent to the Department of Public Welfare, Edward J. Zogby, Acting Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

REGULATORY REVIEW ACT

Under §5(f) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1 -- 745.15), the Department submitted a copy of these regulations with proposed rulemaking omitted on APR 25 2001 to the Independent Regulatory Review Commission (IRRC) and to the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the Department submitted these regulation to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act, the Act of October 15, 1980 (P.L. 950, No. 164) (71 P.S. §§732-101 - 732-506). In accordance with §5(c) of the Regulatory Review Act, the Committees approved these regulations on _____, and the IRRC approved on _____

FINDINGS

The Department of Public Welfare finds that:

- (a) Public notice of intention to amend the administrative regulation amended by this order is omitted in accordance with §§204(1)(iv) and 204(3) of the Act of July 31, 1968 (P.L. 767, No. 240) referred to as the Commonwealth Documents Law (45 P.S. §§1204(1)(iv), 1204 (3)) because a ruling in a Federal case announced the legal interpretation of the Federal statute which provides the authority for this regulation and the regulation relates to Commonwealth grants and benefits.

- (b) The adoption of these regulations in the manner provided in this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

ORDER

The Department of Public Welfare, acting pursuant to the Public Welfare Code orders:

- (a) The regulations of the Department of Public Welfare, 55 Pa. Code Chapters 255, 275 and 501, are amended by amending §§255.1, 275.32 and 501.13 to read as set forth in Annex A to this Order.

- (b) The Secretary of the Department of Public Welfare shall submit this Order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality and form as required by law.

- (c) The Secretary of the Department of Public Welfare shall certify this Order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

- (d) This Order shall take effect upon publication in the *Pennsylvania Bulletin* and apply retroactively to February 1, 1996, for the Food Stamp Program and retroactively to March 4, 1996, for the TANF and GA Cash Assistance Programs.

cc: Legislative Reference Bureau

Annex A

Title 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart G. RESTITUTION AND REIMBURSEMENT

CHAPTER 255. RESTITUTION

GENERAL PROVISIONS

255. 1. Restitution and disqualification policy.

(f) **IF THE INDIVIDUAL IS ELIGIBLE FOR BENEFITS UNDER THE PROGRAM IN WHICH THE INTENTIONAL PROGRAM VIOLATION OCCURRED, [The] THE** Department will impose the disqualification within 45 days of the date of the finding of the court, administrative disqualification hearing final order or signing of a consent agreement or waiver of **ADMINISTRATIVE** disqualification hearing as set forth in Chapter 275, Subchapter B (relating to administrative disqualification hearings). If the individual, who is found to have committed an intentional program violation **OR WHO SIGNS A CONSENT AGREEMENT OR WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING** is not [receiving] **ELIGIBLE FOR** benefits under the assistance program in which the intentional program violation occurred, the Department will [postpone the disqualification until the individual qualifies for benefits in that program] **IMPOSE THE DISQUALIFICATION EFFECTIVE ON THE DATE OF THE FINDING OF THE COURT, ADMINISTRATIVE DISQUALIFICATION HEARING FINAL ORDER OR SIGNING OF A CONSENT AGREEMENT OR WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING.** Once the Department imposes the disqualification, the disqualification period shall continue uninterrupted [despite the eligibility of the individual].

Subpart H. APPEAL AND FAIR HEARING

CHAPTER 275. APPEAL AND FAIR HEARING AND ADMINISTRATIVE
DISQUALIFICATION HEARINGS

Subchapter B. ADMINISTRATIVE DISQUALIFICATION HEARINGS

HEARING RESULTS

275.32. Finding of an intentional program violation.

(a) If the hearing officer finds that the individual committed an intentional program violation, the Department will notify the individual before disqualification. The notice will include:

(4) The statement that, if the individual is not [receiving] **ELIGIBLE FOR** benefits in the program in which the intentional program violation occurred, the Department will [postpone the disqualification until the individual qualifies for benefits in that program] **IMPOSE THE DISQUALIFICATION EFFECTIVE ON THE DATE OF THE ADMINISTRATIVE DISQUALIFICATION HEARING FINAL ORDER.**

Subpart L. FOOD STAMP PROGRAM

CHAPTER 501. FOOD STAMP DISCRETIONARY PROVISIONS

501.13. Intentional program violation disqualification.

(a) *Determination of an intentional program violation.*

(3) *Imposing the disqualification - 7 CFR 273.16(e) and (g).* The Department will impose the disqualification **AGAINST THE INDIVIDUAL ELIGIBLE FOR FOOD STAMP BENEFITS** within 45 days of the date of the finding of the court or administrative disqualification hearing final order. If the individual, who is found to have committed an intentional program violation is not [receiving] **ELIGIBLE FOR** food stamp benefits, the Department will [postpone the disqualification until the individual qualifies for food stamp benefits] **IMPOSE THE DISQUALIFICATION EFFECTIVE ON THE DATE OF THE FINDING OF THE COURT OR ADMINISTRATIVE DISQUALIFICATION HEARING FINAL ORDER.** Once the Department imposes the disqualification, the disqualification period shall continue uninterrupted [despite the eligibility of the individual].

(b) *Disqualification without a hearing or prosecution by a court.*

(1) *Waived hearings - 7 CFR 273.16(f).* The procedures to allow the individual to waive an administrative disqualification hearing are set forth in §275.41 (relating to waiver of administrative disqualification hearing). **IF THE INDIVIDUAL IS ELIGIBLE FOR FOOD STAMP BENEFITS, [The] THE** period of disqualification will begin within 45 days of the

date the [household member] INDIVIDUAL signed the waiver. IF THE INDIVIDUAL IS NOT ELIGIBLE FOR FOOD STAMP BENEFITS, THE DEPARTMENT WILL IMPOSE THE DISQUALIFICATION EFFECTIVE ON THE DATE THE INDIVIDUAL SIGNED THE WAIVER. ONCE THE DEPARTMENT IMPOSES THE DISQUALIFICATION, THE DISQUALIFICATION PERIOD SHALL CONTINUE UNINTERRUPTED.

(2) *Deferred adjudication - 7 CFR 273.16(h)*. The Department will establish procedures to allow accused individuals to sign disqualification consent agreements for cases of deferred adjudication. The Office of Inspector General may use this method for cases in which a determination of guilt is not obtained from a court due to the accused individual having met the terms of a court order or which are not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor. Disqualification consent agreements in cases referred for prosecution will conform with the following requirements:

(ii) *Household member consent to disqualification*. If the household member suspected of AN intentional program violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification period specified in 7 CFR 273.16(b) (relating to disqualification for intentional program violation), unless contrary to the order. The period of disqualification shall begin **AGAINST THE HOUSEHOLD MEMBER ELIGIBLE FOR FOOD STAMP BENEFITS** within 45 days of the date the household member signed the disqualification **CONSENT AGREEMENT**. **IF THE HOUSEHOLD MEMBER IS NOT ELIGIBLE FOR FOOD STAMP BENEFITS, THE DEPARTMENT WILL IMPOSE THE DISQUALIFICATION EFFECTIVE ON THE DATE THE INDIVIDUAL SIGNED THE DISQUALIFICATION CONSENT AGREEMENT. ONCE THE DEPARTMENT IMPOSES THE DISQUALIFICATION, THE DISQUALIFICATION PERIOD SHALL CONTINUE UNINTERRUPTED.**

Please return to:
Independent Regulatory Review Commission
14th Floor, Harristown II

TRANSMITTAL SHEET FOR REGULATORY REVIEW ACT

I.D. NUMBER: 14-448
SUBJECT: Restitution; Appeal & Fair Hearing & Administrative Disqualification Hearings; Food Stamp Discretionary Provisions
AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
2001 APR 25 PM 3:16
INDEPENDENT REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/25	<i>Frank L. Stiver</i>	HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
4/25	<i>Debbie Eaton</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
4/25/01	<i>Steph J. Hoff</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
4/25/01	<i>M. Mummert</i>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU