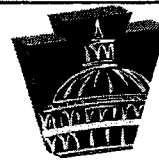


# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency: Office of Inspector General (OIG) and the Department of Public Welfare, Office of Income Maintenance (OIM), Bureau of Policy

(2) Agency Number: 14

Identification Number: 515

IRRC Number: **2749**

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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(3) Short Title: Food Stamp Discretionary Provisions

(4) PA Code Cite:  
55 Pa. Code Chapter 501

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Andreas Durr, Chief, Policy Division, Bureau of Policy and Training  
(717) 787-8607 phone, 101 South Second Street Executive, (717) 772-4988 fax, [adurr@state.pa.us](mailto:adurr@state.pa.us)

Secondary Contact: Edward J. Zogby, Director, OIM, Bureau of Policy  
(717) 787-4081 phone, 4<sup>th</sup> Floor Health and Welfare Bldg, (717) 787-6765 fax, [ezogby@state.pa.us](mailto:ezogby@state.pa.us)

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

Edward J. Zogby, Director, OIM, Bureau of Policy  
(717) 787-4081 phone, 4<sup>th</sup> Floor Health and Welfare Bldg, (717) 787-6765 fax, [ezogby@state.pa.us](mailto:ezogby@state.pa.us)  
(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

## Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of this final-form rulemaking is to amend 55 Pa. Code § 501.13(b)(2)(i)(C) (relating to intentional program violation disqualification) to conform to Federal requirements in 7 CFR 273.16(h)(1)(ii)(C). The Department also is amending 55 Pa. Code § 501.13(a)(1) by deleting the term "Office" and inserting "Bureau" when referencing the bureau that handles administrative disqualification hearings.

(9) Include a schedule for review of the regulation including:

- |   |   |
|---|---|
| A. The date by which the agency must receive public comments:                               | <u>March 30, 2009</u>                                       |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>No meetings or hearings are scheduled.</u>               |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>December, 2009</u>                                       |
| D. The expected effective date of the final-form regulation:                                | <u>Effective upon final publication in the PA Bulletin.</u> |
| E. The date by which compliance with the final-form regulation will be required:            | <u>Effective date</u>                                       |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>  |

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

The Department will review compliance with this final-form rulemaking through its quality control and corrective action review process.

## Regulatory Analysis Form

### **SECTION II: STATEMENT OF NEED**

(11) State the statutory authority for the regulation. Include specific statutory citation.

The Public Welfare Code Act of June 13, 1967, P.L. 31 No. 21 (62 P.S. §§ 201(2) and 403(b)) and the Federal Food Stamp regulation in 7 CFR 273.16(h)(1)(ii)(C) (relating to disqualification for intentional program violation).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Federal regulation at 7 CFR 273.16(h) requires states to provide advance written notification to food stamp households of the consequences of consenting to disqualification.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This final-form regulation is needed to ensure that the requirements for written notification to food stamp households of the consequences of consenting to disqualification as part of a deferred adjudication process are codified in State regulation completely and accurately.

## Regulatory Analysis Form

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies, or references were used to justify this rulemaking. The rulemaking will codify Federal requirements.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No individuals are expected to be adversely affected by this regulation.

(16) 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.

This final-form rulemaking affects individuals who apply for and receive Food Stamp benefits.

~~3/21/08~~

(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 that may be required.

There are no costs or savings to the regulated community associated with compliance.

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

There are no costs or savings to local governments associated with compliance. Not applicable.

(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 that may be required.

The Department does not anticipate any fiscal impact on State government associated with implementation of this proposed rulemaking.

## Regulatory Analysis Form

(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.

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

Explain how the cost estimates listed above were derived.

Not applicable.

## Regulatory Analysis Form

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Cash Grants	\$478.338 M	\$254.459 M	\$258.079 M	\$268.579 M

## Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This final-form rulemaking is needed to codify Federal requirements. There are no adverse effects or costs.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The Department did not seek public input since the rulemaking codifies Federal requirements.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory schemes were considered since this rulemaking codifies Federal requirements.

(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 regulations.

This rulemaking is not more stringent than Federal standards.



## Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

This rulemaking should not put Pennsylvania at a competitive disadvantage with other states since it is codifying Federal requirements applicable to all states.

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

This rulemaking does not affect existing or proposed regulations of the Department or another state agency.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No new reports, forms, recordkeeping or paperwork are required by this rulemaking.

(28) 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.

This rulemaking applies to individuals who receive food stamp benefits, commit an intentional program violation and consent to disqualification as part of a deferred adjudication process. Federal law requires states to provide these individuals with written advance notice of the consequences of consenting to disqualification.

CDL-1

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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: Dale Jenkins

DOCUMENT/FISCAL NOTE NO. 14-515

DATE OF ADOPTION: \_\_\_\_\_

BY: Estelle B. Richman

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: Andrew C. Clark

Andrew C. Clark

OCT 9 2009

\_\_\_\_\_  
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-FORM RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF INCOME MAINTENANCE

[55 Pa.Code Chapter 501]

Food Stamp Discretionary Provisions

*Statutory Authority*

The Department of Public Welfare (Department), by this order, adopts the amendments set forth at 39 Pa.B. 1114 (February 28, 2009) under the authority of sections 201(2), and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)) and the Federal Food Stamp regulation in 7 CFR 273.16(h)(1)(ii)(C) (relating to disqualification for intentional program violation).

*Purpose of Regulation*

The purpose of this final-form rulemaking is to amend § 501.13(b)(2)(i)(C) (relating to intentional program violation disqualification) to conform to Federal requirements in 7 CFR 273.16(h)(1)(ii)(C). The Department also is amending §501.13(a)(1) by deleting the term "Office" and inserting "Bureau" when referencing the bureau that handles administrative disqualification hearings.

This final-form rulemaking is needed to codify Federal requirements to provide written notification to food stamp households of the consequences of consenting to disqualification as part of a deferred adjudication process. Rulemaking is needed to ensure that these requirements are codified as a State regulation completely and accurately.

*Summary*

A complete description of the amendment was published at 39 Pa.B. 1114 (February 28, 2009).

*Affected Individuals and Organizations*

This final-form rulemaking affects food stamp households in which a household member is accused of committing an intentional program violation and consents to disqualification under a deferred adjudication process. The individual who is subject to disqualification must receive appropriate advance written notice of the consequences of consenting to disqualification.

Approximately 925 individuals were disqualified from participation in the Food Stamp Program for Fiscal year (FY) 2004-2005 because they or the head of household signed a disqualification consent agreement; 671 for FY 2005-2006 and 645 for FY 2006-2007.

*Accomplishments and Benefits*

This rulemaking codifies notice requirements that comply with the Federal regulation. Individuals who are not accurately or completely informed of the consequences of consenting to disqualification could challenge the disqualification on the grounds that the written notice was defective.

*Fiscal Impact*

No cost to the Commonwealth, local government, service providers or food stamp households is anticipated as a result of this rulemaking.

*Paperwork Requirements*

There are no additional reports, paperwork or new forms needed to comply with the final-form rulemaking.

*Public Comment*

Written comments, suggestions and objections regarding the proposed rulemaking were requested within a 30-day period following publication of the proposed rulemaking. No public comments were received within the 30-day time frame. The Independent Regulatory Review Commission (IRRC) did not comment on the proposed amendments.

*Regulatory Review Act*

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on **OCT 19 2009**, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Committee on Health

and Human Services and the Senate Committee on Public Health and Welfare (Committees). No comments were received on the proposed amendments.

In accordance with section 5.1(j.1) and (j.2) of the Regulatory Review Act, this final-form rulemaking was deemed approved by the Committees on

. The IRRC met on \_\_\_\_\_ and approved the regulation.

In addition to submitting the final-form rulemaking, the Department provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

*Order*

The Department finds that:

(1) Public notice of intention to amend the administrative regulations by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated there under, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department acting under sections 201(2) and 403(b) of the Public Welfare Code, orders that:

(a) The regulation of the Department, 55 Pa. Code Chapter 501, is amended by amending §501.13 to read as published at 39 Pa.B. 1114 (February 28, 2009).

(b) The Secretary of the Department shall submit this order to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon final publication in the Pennsylvania Bulletin.

ANNEX A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart L. FOOD STAMP PROGRAM

CHAPTER 501. FOOD STAMP DISCRETIONARY PROVISIONS

**§ 501.13. Intentional program violation disqualification.**

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

(1) *Disqualification hearings--7 CFR 273.16(a) and (e).* The [Office] Bureau of Hearings and Appeals is responsible for conducting administrative disqualification hearings for individuals alleged to have committed an intentional program violation as set forth in § 275.11(a) (related to general policy.)

\* \* \* \* \*

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

\* \* \* \* \*

(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] because the accused individual [having] met the terms of a court order or for cases which are not prosecuted [due to] because 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:

(i) *Notification.* Advance written notification will be provided to the household member stating the consequences of consenting to disqualification as part of the deferred adjudication. The advance notification will include, at a minimum:

\* \* \* \* \*

(C) [Disqualification] A statement that the disqualification penalties for intentional program [violation] violations under the Food Stamp Program [which could be imposed are 6-month disqualification for the first violation, 12-month disqualification for the second violation and permanent disqualification for the third violation] are specified in 7 CFR 273.16(b) (relating to disqualification for intentional program violation).

(D) A statement of the penalty that will be imposed as a result of consenting to disqualification.

(E) A statement that the remaining household member, if any, will be held responsible for repayment of the resulting claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

\* \* \* \* \*

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: 14-515
SUBJECT: FOOD STAMP DISCRETIONARY PROVISIONS
AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
X Final Regulation
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

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FILING OF REGULATION

Table with columns: DATE, SIGNATURE, DESIGNATION. Includes entries for House Committee on Health & Human Services, Senate Committee on Public Health & Welfare, and Independent Regulatory Review Commission.