

Regulatory Analysis Form

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REGULATORY
DIVISION

IRRC Number: 2749

(1) Agency

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

(2) I.D. Number (Governor's Office Use)

14-515

(3) Short Title

Food Stamp Discretionary Provisions

(4) Pa. Code Cite

55 Pa. Code Chapter 501

(5) Agency Contacts & Telephone Numbers

Primary Contact: Lucas M. Miller, Director
OIG, Bureau of Policy

Secondary Contact: Edward J. Zogby, Director
OIM, Bureau of Policy

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking
Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The purpose of this proposed rulemaking is to revise 55 Pa. Code § 501.13(b)(2)(i)(C) (relating to intentional program violation disqualification) so that it conforms to Federal regulation at 7 CFR 273.16(h)(1)(ii)(C) (relating to disqualification for intentional program violation). The Department also proposes to revise § 501.13(a)(1) by deleting the term "Office" and inserting "Bureau" when referencing the agency that handles administrative disqualification hearings.

(9) State the statutory authority for the regulation and any relevant State and Federal court decisions.

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

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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.

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.

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

This proposed 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.

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

There are no public health, safety or environmental risks associated with nonregulation. The risks associated with nonregulation include the disallowance of Federal funding necessary to administer the Food Stamp Program for failure to update 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.)

This proposed rulemaking affects individuals who commit intentional program violations and who consent to disqualification as part of a deferred adjudication process. This proposed rulemaking ensures that the requirements for notifying these individuals of the consequences of consenting to disqualification are codified completely and accurately in accordance with Federal law and regulation. Approximately 925 individuals were disqualified from participation in the Food Stamp Program for fiscal year 2004-2005 because they or the head of the household signed a disqualification consent agreement; 671 for fiscal year 2005-2006 and 645 for fiscal year 2006-2007.

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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.)

No one will be adversely affected by this proposed rulemaking.

(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.)

This proposed rulemaking affects individuals who apply for and receive Food Stamp benefits.

(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 did not seek public input since the proposed rulemaking will codify Federal requirements.

(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.

Linda S. Lubbering 7-14-08

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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.

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

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

Not applicable.

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

Program	FY -3	FY -2	FY -1	Current FY
Cash Grants	\$434.931 M	\$478.338 M	\$254.459 M	\$266.079 M

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

The rulemaking is needed to codify Federal requirements. Further, there are no adverse effects or costs.

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

Nonregulatory methods were not considered since this proposed rulemaking will codify Federal requirements.

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

No alternative regulatory schemes were considered since this rulemaking will codify 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 regulation.

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

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

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

The Department will meet and discuss specific issues relating to this proposed rulemaking with affected individuals and organizations, based on the public comments received.

(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.

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

(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.

This proposed 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.

(30) What is 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?

This rulemaking is effective upon final publication in the *Pennsylvania Bulletin*.

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

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

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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DO NOT WRITE IN THIS SPACE

Copy below is hereby approved
as to form and legality.

[Signature]
~~Attorney General~~

By: _____
(Deputy Attorney General)

DEC 15 2008
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: Steele B. Redman

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

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

[Signature]

BY: Andrew C. Clark

NOV 18 2008

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 PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF INCOME MAINTENANCE

[55 Pa.Code Chapter 501]

Food Stamp Discretionary Provisions

Statutory Authority

Notice is hereby given that the Department of Public Welfare (Department) under the authority of the Public Welfare Code, Act of June 13, 1967, P.L. 31 No. 21, 62 P.S. §§ 201(2) and 403(b) and Federal food stamp regulation at 7 CFR 273.16(h)(1)(ii)(C) (relating to disqualification for intentional program violation) intends to amend the regulation set forth in Annex A.

Purpose of Regulation

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

This proposed 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. Proposed rulemaking is needed to ensure that these requirements are codified in State regulation completely and accurately.

Requirements

§ 501.13(b)(2)(i)(C) (relating to intentional program violation disqualification)

The Department proposes to amend this clause to delete references to specific disqualification penalty periods that are no longer correct and to codify notice requirements as provided under Federal regulation. The Department proposes to amend this clause to specify that a written notice to food stamp households in which a member accused of committing an intentional program violation consents to disqualification must include a reference to 7 CFR 273.16(b)(relating to disqualification penalties). Written notice must also include a statement of which penalty is being imposed as a result of the consent agreement.

Affected Individuals and Organizations

This proposed 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 2004-2005 because they or the

head of household signed a disqualification consent agreement; 671 for fiscal year 2005-2006 and 645 for fiscal year 2006-2007.

Accomplishments and Benefits

This proposed rulemaking codifies notice requirements that comply with 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 proposed rulemaking.

Paperwork Requirements

This proposed rulemaking does not increase or add to paperwork requirements.

Effective Date

This rulemaking is effective upon final publication in the *Pennsylvania Bulletin*.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081 within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. *14-515* when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

Regulatory Review Act

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on **FEB 12 2009** the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided the 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.

Under § 5(g) of the Regulatory Review Act, if the IRRC has any comments, recommendations or objections to any portion of the proposed regulation, it may notify the Department and the Committees within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.

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] specified at 7 CFR 273.16(b).

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

[(D)] (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.

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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

- X Proposed Regulation
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, Independent Regulatory Review Commission, and Legislative Reference Bureau.