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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-51

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: December 11, 1991

SUBJECT: Use of the Disqualification Consent Agreement (DCA) in
 the Food Stamp Program

 SUGGESTED

DISTRIBUTION: Director of Local District Fraud Unit
 DSS Attorney
 Food Stamp Directors
 Income Maintenance Directors
 Staff Development Coordinators

CONTACT

PERSON: Audit & Quality Control Case Integrity Unit
 1-800-342-3715, extension 4-7123

Food Stamps Program
 County Representative 1-800-342-3715, extension
 4-9225

ATTACHMENTS:

Attachment I - Notification of Consequences of
 Consenting to a Disqualification
 Consent Agreement - not available
 on-line
 Attachment II - Disqualification Consent Agreement -
 available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		399.4	7 CFR 273.16(h) 7 CFR 273.16 (a)(3)	FSSB VI-E	GIS 90IM/DC036

I. PURPOSE

The purpose of this directive is to advise local social services districts of the procedures for using the Disqualification Consent Agreement (DCA) in establishing Food Stamp Intentional Program Violations (IPVs). These procedures include the introduction of a specific time frame for advance notification to a household before a Disqualification Consent Agreement may be completed. Additionally, simplified language explaining the consequences of entering into a DCA has been developed.

II. BACKGROUND

In establishing Food Stamp IPVs, federal and State regulations permit the use of the DCA for those Food Stamp cases in which a determination of guilt is not obtained from a court because the accused individual has met the terms of a court order, or the case has not been prosecuted because the individual has met the terms of an agreement with the prosecutor.

In the past, there have been no explicit instructions for use of the DCA in establishing Food Stamp IPVs. This Administrative Directive is being issued because there have been numerous clarification requests and misunderstandings relating to the use of the DCA.

Federal and State requirements are that advance written notification must be provided to the household informing them of the consequences of consenting to disqualification in cases of deferred adjudication. This ADM specifies the time frame within which advance notice must be given as part of the written notification.

III. PROGRAM IMPLICATIONS

Proper use of the DCA will ensure that a client's rights are fully protected in the establishment of an Intentional Program Violation.

IV. REQUIRED ACTION

1. Social services districts which choose to use DCAs must enter into a written agreement with the local district attorney (DA) which specifies that all households will be provided with advance written notice of the consequences of signing a DCA when deferred adjudication is offered.

Since each DA's office may have its own requirements for an agreement, each district should design its own format for the written agreement between the district and the DA's office. Once the written agreement is signed, a copy must be forwarded to the New York State Department of Social Services, Case Integrity Unit, as must all future agreements and modifications.

2. Because no further administrative appeal is available to a client who has entered into a DCA, it is important that the district do a complete and thorough investigation of the allegation. Additionally, an adequate screening and review process must be established to ensure that only appropriate cases are referred to the DA. Evidence packages referred to the DA must sustain the district's contention that an IPV has occurred.

A DCA is to be used only when the DA has determined that the elements necessary to pursue a prosecution are present and has accepted the case for prosecution.

3. Unless a DCA is completed by the DA's office directly, the DA must provide written delegation for each case in which the district is being authorized to act on the DA's behalf in obtaining a DCA. This delegation must state that the case has been accepted for prosecution by the DA, but such prosecution will be deferred if the client enters into the DCA.
4. In all DCA cases, the advance written notification of the consequences of entering into a DCA must be sent by the social services district at least ten calendar days before the date of the scheduled interview to discuss signing the DCA. This advance notification appears on the front page of the DCA currently used by the districts. In the past, this form was generally not provided to the client until the interview. All districts must now review their procedures to ensure that a copy of the DCA with the advance notice language is provided at least ten days before the client is required to meet with the county representative to discuss signing the DCA. The accused client's understanding of the consequences of entering into a DCA is evidenced by signing the consequences statement. Note that if the accused client who signs the consequences statement is not the head of the household, the consequences statement must also be signed by the head of household.
5. The form to be used in completing the DCA, which combines the advance notice, is attached (Attachment I). This form must be produced locally with no variations.
6. The advance notice appointment letter must contain the information that the client is entitled to have a representative present when executing the DCA.

Date December 11, 1991

Trans No. 91 ADM-51

Page No. 4

V. Systems Implications

None

VI. EFFECTIVE DATE

This release is effective January 1, 1992.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance

DISQUALIFICATION CONSENT AGREEMENT

The undersigned understands and agrees to the following:

1. That the Respondent is suspected of committing an intentional violation of the Food Stamp Program resulting in an overissuance of food stamp benefits in the amount of \$_____, for which the Respondent is subject to prosecution.
2. That the nature of the charges and the evidence against the Respondent have been explained to him/her along with his/her rights.
3. That the Respondent has received Notification of the Consequences of Consenting to this Disqualification Consent Agreement.
4. That the signing of this agreement will result in the Respondent being disqualified from the Food Stamp Program for _____ months (permanently) commencing within 45 days of the date this agreement is signed, unless a Court imposes a different disqualification period or different date for initiation of the period. This disqualification may result in the reduction of benefits to Respondent's household.
5. That if the Respondent is not eligible for the Food Stamp Program at the time the disqualification period is to begin, the period shall be postponed until the Respondent becomes eligible for such benefits.
6. That the Respondent agrees to repay the Department of Social Services, the overissuance stated in paragraph 1 above in the sum of \$_____, as follows:
7. That the remaining household members, by the signature of the Head of Household below, agree to make the restitution stated in paragraph 6 above unless the Respondent has already repaid the claim as a result of meeting the terms of the agreement.
8. That further prosecution of the Respondent regarding this alleged intentional violation of the Food Stamp Program will be deferred pending the performance of the terms of this Agreement by the Respondent, and the charges may be dismissed upon complete performance of the terms of this Agreement.

Date: _____

Signature of Respondent

Date: _____

Signature of Head of the Household
(If head of the household is not the same as respondent)