

GENERAL INFORMATION SYSTEM
Center for Employment & Economic Supports

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TO: Commissioners; TA and FS Directors; Fraud Investigators, Legal Staff, WMS Coordinators, and Staff Development Coordinators

FROM: Russell Sykes, Deputy Commissioner, Center for Employment and Economic Supports

SUBJECT: False or Misleading Marital Status Information and Food Stamp Program Intentional Program Violations

EFFECTIVE DATE: Immediately

CONTACT PERSON:

TA Program Questions: Bureau of Temporary Assistance at (518) 474-9344

FS Program Questions: FS Bureau at 1-800-343-8859 Extension 3-1469

Program Integrity Questions: William Donnelly (518) 402-0129

This message is to advise social services districts about a recent clarification received from the United States Department of Agriculture (USDA) regarding Intentional Program Violations (IPV) in the Food Stamp program. Specifically, the USDA clarified the circumstances in which the provision of false or misleading information regarding marital status on an application or recertification form may constitute an IPV. The USDA has stated that, for purposes of establishing an IPV in the Food Stamp program, the applicant/recipient must have provided the false or misleading marital status information intentionally and for the purpose of affecting food stamp eligibility and/or benefit level. Further, the USDA also clarified that an IPV may be established even if the false or misleading information does not affect eligibility or benefit amounts. An overpayment does not need to have occurred in order to pursue the IPV.

The USDA recognizes that marital status is an important consideration for determining household composition and, hence, Food Stamp program eligibility and benefit amount. The USDA further acknowledged that there is a legitimate interest in establishing the marital status of Food Stamp program applicants and recipients, and that a false or misleading statement regarding marital status potentially could be the basis of an IPV. As marital status is an important component for determining food stamp eligibility and benefit amount, it is important for districts to investigate any discrepant information regarding marital status and take appropriate action.

A discrepancy in the marital status information submitted on the application/recertification may be identified by districts in a variety of ways including the matching of applicants/recipients against a database of marital records. However, while such information is an indicator that could potentially lead to an IPV, discrepant information regarding marital status alone is insufficient to establish an IPV. A case based solely on discrepant marital status information will not be accepted into the IPV hearings process. Further investigation is necessary before a district can determine that it is appropriate to pursue an IPV.

The USDA clarified that the fact that an applicant/recipient has made a false or misleading statement regarding marital status does not necessarily mean that the applicant/recipient has committed an IPV. As stated above, the false or misleading statement must be intentional and made for the purpose of affecting eligibility and/or benefit level. The USDA clarification specifically refers to two examples; one, of an applicant/recipient who believes that a legal separation means that he or she is no longer married and responds to the question on the form incorrectly and, two, an applicant/recipient who simply wishes to be disassociated from their spouse and, without fraudulent intent, provides a false statement. In the first example, there is no IPV because there was no intent to make a false or misleading statement. The applicant/recipient was not aware that the information he/she provided regarding marital status was inaccurate and, thus, did not have the knowledge necessary to form the required intent. In the second example, although the false statement was intentionally provided, there is no IPV as there was no intent to affect Food Stamp program eligibility and/or benefit amount.

In summary, in order for cases based on a false or misleading statement on an application/recertification as to marital status to be accepted for an IPV hearing, the district must clearly establish that the applicant/recipient:

1. Intentionally made the false or misleading statement as to marital status on the application/recertification form, and;
2. Made the false or misleading statement for the purpose of affecting their eligibility for food stamps or their benefit amount, regardless of whether it actually did affect their eligibility or benefits.

A district may establish the above two elements by obtaining a signed statement from the applicant/recipient admitting to both elements set forth above. The statement must contain an acknowledgement that the applicant/recipient understands that he/she does not have to sign the statement and must set forth the consequences of signing such an admission. The OTDA is developing a recommended form for this use and will be distributing the form in the near future. Submission of this signed, recommended form, or the approved local equivalent, in combination with the required IPV hearing packet, provides a sufficient basis to begin the IPV hearings process. If the applicant/recipient does not sign the recommended form, the district needs to conduct further investigation before it can determine whether a sufficient basis exists to establish the IPV. For example, the district may discover that the spouse is living in the household or that the

applicant/recipient is attempting to conceal income. Such information would be sufficient to submit the case for an IPV hearing.

This GIS and the USDA clarification address only the situation where there is discrepant information regarding marital status. The establishment of IPV cases in situations where other application/recertification information supplied by the applicant/recipient is false and/or inaccurate remains unchanged.