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 | INFORMATIONAL LETTER |  
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TRANSMITTAL: 94 INF-11

TO: Commissioners of  
 Social Services

DIVISION: Economic  
 Security

DATE: March 1, 1994

SUBJECT: Intentional Program Violation (IPV) - Regional  
 Meetings Questions and Answers

SUGGESTED

DISTRIBUTION: Income Maintenance Staff  
 Food Stamp Staff  
 Investigations Staff  
 Fair Hearings Staff  
 Accounting Staff  
 Staff Development Coordinators  
 Child Support Enforcement Staff

CONTACT PERSON: Call 1-800-343-8859  
 Public Assistance: Mark Schaffer, extension 4-9348  
 Case Integrity Unit: Frank Carioto, 1-518-432-8216  
 Fair Hearings: Judith Ball, extension 6-5887  
 Food Stamps: District Representative,  
 extension 4-9225

ATTACHMENTS: Attachment - Questions and Answers - available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
93 ADM-8		348 352.30(h) 352.31(d) 359	145 145-C Chapter 41 of the Laws of 1992	PASB Section V-F-all FSSB Section VI-E-all Section XV-all	90 LCM-204

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During the IPV Regional Meetings held during September and October 1993, certain questions arose which needed further review and clarification. The purpose of this letter is to provide you with responses to those questions.

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Oscar R. Best, Jr.  
Deputy Commissioner  
Division of Economic Security

1. Q. Must recoupments begin immediately for PA cases once an overpayment has been identified, or can the onset of a recoupment be delayed as in the FS program?
  - A. The onset of a recoupment can be delayed if it is determined that collection action may negatively impact the possibility of obtaining an IPV determination. This is a revision of what was stated at the regional meetings and in 93 ADM-8, page 3, first paragraph under B. Referral to the Investigation Unit. Subsequent to the regional meetings, HHS provided us with this clarification.
2. Q. Are Public Work Project (PWP) hours worked deducted from overpayments?
  - A. No, the hours worked are not considered nor used to reduce the overpayment amount. A recipient can not work off assistance to which they were not entitled.
3. Q. Who can sign the order confirming the Disqualification Consent Agreement (DCA)?
  - A. The judge or judge's designee, e.g., clerk of the court, may sign the order. The order cannot be signed for the judge by the district attorney or the prosecutor.
4. Q. When a household member who has been disqualified has satisfied his/her disqualification period, is that person automatically reinstated?
  - A. No, that person must reapply and be found eligible.
5. Q. What FS forms have been eliminated by the new six page notice "IPV Disqualification Notice for PA and FS Programs" (Attachment V of 93 ADM-8)?
  - A. The following FS forms have been made obsolete by the new notice:  
  
DSS-4050 FS Notice To Household of Disqualified Individual  
DSS-4051 FS Notice To Disqualified Individual(s)  
DSS-4052 Notice of FS Overissuance IPV
6. Q. When one member of a multi-person HR case is sanctioned for fraud and the case type changes to ADC during the sanction period, does the sanctioned client continue his period of ineligibility while in the ADC case?
  - A. No. The client is disqualified from receiving HR during the disqualification period which, once started, is a continuous period that continues to run without interruption, regardless of whether or not the client is receiving HR during the disqualification period. If the client becomes eligible to

receive ADC during this HR-IPV disqualification period, he is not disqualified from receiving ADC, even though he remains disqualified from receiving HR. Federal Laws and regulations governing ADC-IPVs do not contemplate or allow non-ADC (i.e., HR) sanctions to be considered.

7. Q. A client's history shows one instance of HR fraud for which the client was disqualified for six months. After the disqualification period is over, the client is now active on an ADC case and commits another act of fraud for which he is disqualified. The ineligibility period for this person is twelve months for HR and six months for ADC. Does the clocking of the HR ineligibility period start immediately or only if that client subsequently applies for HR assistance?
- A. If the client is receiving ADC when the disqualification period begins, both the ADC six month period and the HR twelve month ineligibility period begin running simultaneously from the same date and run continuously until both periods expire.
8. Q. An HR client commits a fraud violation, is sanctioned for six months and the HR case is closed. Before the six month ineligible period is completed, the client applies and is accepted for ADC. Should the six month period continue to clock while the client is receiving ADC benefits?
- A. If a client has committed an HR-IPV and is disqualified for six months, the client is not disqualified from receiving ADC if he or she is otherwise eligible to receive ADC. Because the six month HR disqualification period runs continuously without interruption once it has started, it will continue to run even while the client is receiving ADC benefits.
9. Q. How should the ADC and HR sanction periods be tracked?
- A. Disqualification periods can begin only when the sanctioned individual is determined to be otherwise eligible to receive ADC or HR benefits. If a case is closed when the disqualification should begin, the imposition of the disqualification sanction is pended until the individual reapplies for and is found otherwise eligible for ADC or HR benefits.
10. Q. A mother of three children in an ADC case is disqualified for six months for an IPV. Three months into the disqualification period, her living situation requires that she enter a Domestic Violence Shelter. She is ineligible for any emergency assistance, but the shelter requests that payment be made for the placement of four persons. How should this circumstance be handled?
- A. The mother should file a public assistance application for which she will be denied. The denied application and the PA budget can then be sent to Services and can serve as the application for a Title XX overclaim payment for the disqualified individual. The children are covered under ADC.

11. Q. For PA and FS cases where an IPV has been established but where the disqualification period has not yet been imposed, must a district give a client a timely (10 day) notice prior to imposition of the disqualification?
- A. No, an adequate notice (less than 10 days) is sufficient in this case.
12. Q. Can a DCA be confirmed by a NYSDSS administrative law judge?
- A. No. The administrative law judge does not represent a court of appropriate jurisdiction.
13. Q. Does an Adjournment in Contemplation of Dismissal (ACD) preclude referring a case for an Administrative Disqualification Hearing (ADH)?
- A. Yes. If there is no Disqualification Consent Agreement (DCA) and all conditions placed on the client are fulfilled, then there can be no IPV as the case has been settled and there can be no further prosecution.
14. Q. If an individual has received ADC for three months and HR for three months and the district determines that an IPV occurred during all six months, is the resulting disqualification considered an ADC or an HR disqualification?
- A. In this particular case, the disqualification should be considered an ADC disqualification because an ADC disqualification results in a concurrent simultaneous disqualification from both the ADC and HR programs. This is true of any situation in which there is a choice between ADC and HR. However, if the violation occurred only when the client was in the HR program, the client could only be disqualified from receiving HR.
15. Q. On page 4 of the "IPV Disqualification Notice for PA and FS Programs" (Attachment V of 93 ADM-8) under the Public Assistance Repayment Agreement section, third selection, it states: "You are not currently receiving assistance, but you will be responsible to repay the overpayment if you reapply and are found eligible for public assistance in the future." Does this mean that we cannot collect the overpayment on a closed case until it is reopened?
- A. No, the overpayment can be collected on a closed case. See 90 LCM-204: Collection of Overpayment from Closed Public Assistance Cases. This section of the notice will be rewritten and clarified in the near future when enhancements are made to this document.
16. Q. Will the State establish local district targets for PA/IPVs as was done in the Food Stamp program?

- A. There are no plans at this time to establish local district targets for PA/IPVs.
17. Q. When an individual enters a guilty plea before the court, is it necessary to use the forms "Statement for the Record" and "Order Entering Statement Into Record" (Attachments VII-A and VII-B of 93 ADM-8) in order to advise the individual on the record of the disqualification provisions?
- A. No, the specific forms found in the ADM do not have to be used. They are examples of what may be used and were included as a convenience for local districts.
18. Q. When submitting an evidence packet to NYSDSS for review and consideration of scheduling an ADH, is verification of actual benefits (PA and FS) received required?
- A. Yes, verification of benefits received when submitting the evidence packet should be included.
19. Q. Under what specific conditions can a LDSS withdraw a referral to the local district attorney?
- A. A LDSS can withdraw a referral to the local district attorney when the district attorney declines to prosecute or fails to take action on the referral within a reasonable period of time.
- When a withdrawal is initiated by an investigator, the investigator must formally withdraw the referral in writing to the local prosecuting official before referring the case to State DSS. If the local district fails to present evidence of the withdrawal, it may not be able to proceed with the ADH.
20. Q. What method is used to ensure that the client receives written notification of a scheduled ADH?
- A. The client may be notified by NYS DSS-Office of Administrative Hearings by either a certified letter or hand delivery by a personal service agent.
21. Q. How will a district know that an outstanding IPV penalty exists when a client relocates to a new county within NYS?
- A. Upstate, the following PA and FS Reason Codes will appear on the WMS Clearance Report:
- |     |  |
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| WA  | ADC Intentional Program Violation                        |
| 1-3 | (Must add 1, 2 or 3 to WA code to show which occurrence) |
| WD  | Pended ADC Intentional Program Violation                 |
| 1-3 | (Must add 1, 2 or 3 to WD code to show which occurrence) |

WH HR Intentional Program Violation  
1-9 (Must add 1, 2, 3, 4, 5, 6, 7, 8 or 9 to WH code to show which occurrence)

WR Pended HR Intentional Program Violation  
1-9 (Must add 1, 2, 3, 4, 5, 6, 7, 8 or 9 to WR code to show which occurrence)

WF FS Intentional Program Violation:  
1-3 Disqualification Starts or Continues (Must add 1, 2 or 3 to WF code to show which occurrence)

WS1 FS Intentional Program Violation:  
Disqualification is Pended-1st occurrence

WS2 FS Intentional Program Violation: Disqualification  
Pended-2nd occurrence.

For NYC, the PA and FS Reason Codes will be provided under separate cover when they become available.

22. Q. Must the "Notification of Disqualification Penalties for IPV" (Attachment VI of 93 ADM-8) still be given to applicants and recipients?
- A. No. The Notice language appears in the 9/92 version of the DSS-4148A: What You Should Know About Your Rights and Responsibilities (When Applying for or Receiving Social Services) (Book I of the client information booklets). Receipt of this booklet by applicants and recipients is considered notification. It is important to note that only fraudulent acts which took place subsequent to receipt of this notice by an applicant or recipient should be considered for an IPV.
23. Q. Does there have to be an overpayment for there to be an IPV?
- A. No. For example, an applicant may claim not to have any resources, but may actually have \$600 in a savings account. Since this money is within the resource limit, there is no overpayment. If this indiscretion is proven to be intentional, there is an IPV.