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| LOCAL COMMISSIONERS MEMORANDUM |
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DSS-4037EL (Rev. 9/89)

Transmittal No: 96 LCM-83

Date: September 13, 1996

Division: Temporary Assistance

TO: Local District Commissioners

SUBJECT: Food Stamp Impact of New Federal Welfare Law

ATTACHMENTS: Food Stamp Penalty Warnings - available on-line

CONTACTS: Region I (518) 473-0332; Region II (518) 474-9344;
Region III (518) 474-9307; Region IV (518) 474-9300;
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I. BACKGROUND

On August 22, 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193. Although the food stamp program was not made into a block grant, PL 104-193 makes a number of significant changes to the Food Stamp Program. These changes: limit or end eligibility for certain groups; reduce or slow the growth in benefits; increase penalties for fraud, abuse and non-compliance; eliminate some administrative requirements; and provide increased flexibility in program design and operation.

This LCM provides information on those food stamp provisions which must be implemented shortly after enactment and instructions how to do this.

This law also contains a number of provisions which limit or end the food stamp eligibility of many legally admitted aliens. Information about these provisions will be released shortly.

II. REQUIRED IMPLEMENTATION DATES

PL 104-193 does not contain any special provisions that extend the time frames for these new policies beyond the normal time frame specified in the Food Stamp Act for making changes. Therefore, the provisions of the new Law which were effective upon enactment must be implemented by September 21, 1996.

This applies to:

- a) all new food stamp applicants;
- b) all recipient households at earliest recertification for food stamps on or after September 21, 1996; and
- c) all changes to recipient cases during a certification period that require a new budget.

These provisions must be implemented by September 21, 1996, in order for the Department and local districts to avoid potential federal fiscal penalties for running a program that is not in compliance with federal law. By implementing these provisions by September 21, the Department and local districts will not be subject to federal quality control sanctions caused by misapplication of the new policies for 120 days.

It is recognized that local districts have a very short time-frame to inform workers about these changes. However, it is necessary to complete implementation at the local level in order to take advantage of the entire 120-day variance exclusion period. If a district fails to implement, errors must be cited during any part of the 120-day period in which the policy has not been implemented.

III. GENERAL SYSTEMS IMPLICATIONS

For many of the new policies, WMS changes will be in place by start of business Monday, September 23. Each policy change section contains a description of the WMS change or directions about what to do until system changes are complete.

For Upstate WMS, cases whose FS budget is recalculated on or after September 21 due to a change in their PA budget are subject to the provisions involving PA countable income as of the effective date of the new budget. ABEL will automatically calculate the PA income for the FS budget using the new budgeting logic for budgets with an effective date on or after September 21, 1996. For example, a PA budget change made on September 24 will result in a FS budget which includes the HEA and SHEA in the PA income amount.

Upstate ABEL changes will be covered in further detail in a forthcoming ABEL transmittal.

IV. FOOD STAMP PROVISIONS WITH SEPTEMBER 21, 1996 IMPLEMENTATION DATES

1. Income and Deductions

- 1.1 Exclusion of Student Earned Income
- 1.2 Count HEA and SHEA
- 1.3 Count Vendor Payments for Heat/Utilities for HR Cases
- 1.4 No Earned Income Deduction for Late Reporting
- 1.5 Count Vendor Payment to Homeless Shelters

2. Miscellaneous Provisions

- 2.1 No Separate Household for Under 22
- 2.2 Elimination of Homeless category from Entitlement to Expedited Service
- 2.3 Homeless Definition
- 2.4 Pro-rate Benefits for Late Recerts

3. Program Integrity and Penalties

- 3.1 Doubling Disqualification Periods
- 3.2 Disqualification for Trafficking in FS
- 3.3 Disqualification for Multiple Benefits
- 3.4 Disqualification for Fleeing Felons
- 3.5 No Benefit Increase When Non-compliant with Other Means-tested Programs
- 3.6 Disclosure of Info to Law Enforcement
- 3.7 Collection of Overissuance

1. INCOME AND DEDUCTION

1.1 Exclusion of Student Earned Income (Sec. 807 of PL. 104-193)

Policy Change

The age limit at which the earned income of an elementary or secondary student (including high school equivalency) can be excluded from the household's income has been lowered to 17. Once a student turns 18, the income is no longer excluded.

Required Action

Exclude the earned income of elementary or secondary school students only until they turn 18 years old. If the student turns 18 during the certification period, the change must be made at the next recertification.

Systems Impact

None

1.2 Count HEA and SHEA (Sec. 808)

Policy Change

The Home Energy Allowance (HEA) and Supplemental Home Energy Allowance (SHEA) provided as part of the public assistance (PA) grant are now counted in determining the amount of countable PA income in determining the FS benefit. These allowances were previously excluded when calculating the PA income for FS purposes.

Required Action

In calculating a FS budget, include the amounts of the HEA and SHEA payments when determining the amount of countable FS income.

Systems Impact

As of September 23, Upstate ABEL will include the HEA and SHEA when calculating the PA income for the FS budget. This change will affect the display of data on the FS input screen for any PA budgets stored and effective as of that date or later.

On September 23, downstate ABEL will also be modified to include the HEA and SHEA amounts when calculating the PA income included in the FS budget. A Mass Rebudget (MRB) of all saved Provisional Budgets is scheduled for the weekend of October 5.

1.3 Count Vendor Payments for Heat/Utilities for HR/PG-ADC Cases (Sec. 808)

Policy Change

In those cases where a HR or PG-ADC recipient's heat and/or utility bills are paid through vendor payment, the amount restricted from the grant for the vendor payment(s) is no longer excluded in the calculation of countable PA income for FS purposes.

Required Action

In calculating a FS budget, count as food stamp income amounts paid as vendor payments for heat and/or utility bill for HR or PG-ADC households.

Systems Impact

As of September 23, Upstate ABEL will include HR vendor payments for heat, utilities or water when calculating the PA income for the FS budget. This change will affect the display of data on the FS input screen for any PA budgets stored and effective as of that date or later.

This change has no Downstate systems impact.

1.4 No Earned Income Deduction for Late Reporting (Sec. 809)

Policy Change

The 20% earned income deduction will no longer be allowed when calculating the overissuance amount for FS cases when a household fails to report earned income in a timely manner, regardless of the reason for failure to timely report. Now, in determining claims for Inadvertent Household Errors (IHE), the 20% earned income deduction is not allowed. Previously, the deduction was allowed except when the failure to report was willful or fraudulent.

Required Action

In calculating the overissuance amount for any FS case that failed to report earned income in a timely manner, districts must no longer allow the 20% deduction, even if the failure to report was not willful or fraudulent.

Systems Impact

For both Downstate and Upstate, when calculating overissuance amounts for such cases, districts must enter the unreported income as "unearned income" with a source code of "99 - Other".

1.5 Count Vendor Payment to Homeless Shelters (Sec. 811)

Policy Change

This provision removes a portion of the income exemption for the amount of vendor payments made to providers of transitional housing for the homeless (hotels, motels and homeless shelters). Under the new policy, only the amounts of these payments which are over and above the maximum PA shelter allowance for the family size are still excluded as income. Any amount of PA vendor payments made below or equal to the maximum PA shelter allowance are counted as PA income in the FS budget.

Required Action

When a vendor payment is made to providers of transitional housing for the homeless, amounts of the payment that exceed the applicable PA shelter maximum with heat for the family size are excluded as food stamp income.

The amount of the non-excluded vendor payment that is counted as food stamp income is used as a shelter cost to calculate the excess shelter cost deduction. In some situations, the client may be paying some portion of the shelter cost from household income other than PA income. When this occurs, the amount paid by the household to the shelter provider is used, in addition to the non-excluded vendor payment amount, as a shelter cost to calculate the excess shelter cost deduction.

Systems Impact

As of September 23, Upstate ABEL will include the applicable shelter maximum when calculating the PA grant amount and display it as the FS shelter amount. When ABEL cannot determine the appropriate amounts, "999999" will be displayed in both the grant amount and shelter amount fields. The worker must enter in the FS Actual Shelter Amount any vendor payment amounts up to the appropriate shelter allowance plus any amount paid by the client. When entering the PA Grant Amount, the worker must exclude any vendor payment in excess of the PA shelter allowance.

On September 23, Downstate ABEL will compare the input Shelter Cost to the applicable shelter maximum. The lesser of the two amounts will be used in the Food Stamps calculation. If a zero cost is input by the worker, the system will apply the shelter maximum to the FS calculation. A Mass Rebudget (MRB) of all saved Provisional Budgets is scheduled for the weekend of October 5.

2. MISCELLANEOUS PROVISIONS

2.1 No Separate Household for Under 22 (Sec. 803)

Policy Change

Children under 22 years old who live with their parents, as well as with their own children or spouses, must now be included in the same food stamp household as their parents. All such individuals must be considered to be purchasing and preparing meals together, even if they do not do so.

Required Action

All children under age 22 living with their parents, regardless of whether they have children or a spouse, must be included in the same food stamp household with their parents.

Systems Impact

CNS language will be modified as of September 23, to delete reference to a child or spouse for Case Reason Codes "E76 - Living With a Child" and "E77 - Living with Parent".

2.2 Elimination of Homeless Category from entitlement to Expedited Services (Sec 838)

Policy Change

Homelessness is no longer considered a qualifying criteria for expedited service.

Required Action

Applicants who answer "yes" to Part Four, Section A, on the "Expedited Screening Checklist" should no longer be automatically considered eligible for expedited processing. Instead, the screener must consider all the remaining criteria to determine if the household is eligible for expedited processing.

System Impact

None

2.3 Homeless Definition (Sec. 805)

Policy Change

Persons whose primary nighttime residence is a temporary accommodation in the home of another may only be considered homeless if the accommodation is for 90 days or less.

The change in this definition effects who is eligible to receive the homeless shelter deduction.

Required Action

Persons who have resided in the home of another for more than 90 days may not receive the homeless shelter deduction.

Systems Impact

None

2.4 Pro-rate Benefits for Late Recertifications (Sec. 827)

Policy Change

Households that fail to submit a recertification application before the end of their certification period must receive prorated benefits for the first month of the new certification period.

Required Action

Prorate initial month's benefits for households that submit a recertification application after the end of their certification period.

Systems Impact

Upstate workers must enter the date the recertification application is received in the "Effective FROM Date" on the food stamp budget input screen. For district caused delays, workers should enter the first of the month in the "Effective FROM Date". Payment line effective dates should reflect any prorated benefits.

Downstate WMS will be modified to automatically create a prorated FS benefit upon processing a case reopening transaction, when the appropriate closing code was used.

3. PROGRAM INTEGRITY AND PENALTIES

3.1 Doubling IPV Disqualification Periods (Sec. 813)

Policy Change

The disqualification periods for individuals determined to have committed an IPV (Intentional Program Violation) have been increased.

For a first non-drug or non-firearms or non-explosives related IPV, the disqualification periods are:

| | |
|----------------|-----------|
| First Offense | 1 year |
| Second Offense | 2 years |
| Third Offense | permanent |

For a drug, firearms or explosives related IPV, the disqualification periods are:

| | |
|---|-----------|
| First finding by Court of controlled substance trafficking for coupons | 2 years |
| Second finding by Court of controlled substance trafficking for coupons | permanent |
| First finding by Court of trading of firearms, ammunition or explosives for coupons | permanent |

Required Action

These increased disqualification periods are effective for FS applicants, recipients, or former recipients who commit an IPV on or after September 21, 1996.

Applicants or recipients must be notified about the increased disqualification penalties before they can be imposed. We have prepared the attached notice (Attachment A) about these new penalties which must be posted conspicuously in client waiting rooms in each district social services office. Districts are also encouraged to reprint the attachment and use the notices as a handout to applicants and recipients at face-to-face recertifications and other contacts.

Section II of the "IPV Disqualification Notice for PA & FS Programs", (updated attachment to 93 ADM-8) must be modified by striking the old FS penalty periods and substituting the new periods. Other client notification forms attached to 93 ADM-8 must have the FS disqualification periods similarly changed.

Systems Impact

As of September 23, CNS language for closing and denials will reflect the new disqualification periods for IPVs.

3.2 Disqualification for Trafficking in FS (Sec. 814)

Policy Change

A new provision permanently disqualifies persons convicted of trafficking in Food Stamp benefits worth \$500 or more. Trafficking includes the illegal use, transfer, acquisition, alteration, or possession of food stamps, authorization cards, or access devices.

Required Action

This permanent disqualification becomes effective for FS applicants and recipients (or former recipients) who commit this offense on or after September 21, 1996.

See 3.1 for client notification, notice requirements and systems impact.

3.3 Disqualification for Multiple Benefits (Sec. 820)

Policy Change

Clients found guilty of fraudulently misrepresenting their identify or residence in order to receive multiple food stamp benefits are ineligible to receive food stamps for ten years.

Required Action

As of September 21, 1996, applicants, recipients (or former recipients), who make a false statement about identity or residence in order to receive multiple food stamp benefits are to be disqualified from receiving food stamps for ten years.

Also see 3.1 for client notification, notice requirements and systems impact.

3.4 Disqualification for Fleeing Felons (Sec. 821)

Policy Change

Clients are not eligible for food stamps if they are found to be fleeing felons.

Required Action

Clients who are found to be fleeing to avoid prosecution, custody or confinement for a felony, or who are violating a condition of probation or parole are ineligible for food stamps.

If suspicion exists that an applicant or recipient may be a fleeing felon, district workers must make an appropriate and reasonable inquiry in an attempt to determine whether or not an individual is a fleeing felon.

See 3.1 for client notification and notice requirements.

Systems Impact

None. No special denial code will be developed.

3.5 No Benefit Increase When Non-compliant with Other Means-tested Programs (Sec. 829)

Policy Change

This provision prohibits an increase in food stamp benefits when a household's income has been reduced because of a penalty imposed by another federal, State or local means-tested program. This means that when a household's income is reduced due to noncompliance with a program such as ADC, HR or SSI (or other means-tested program), that household's food stamp benefits will not increase solely because of the reductions in income due to the penalty in the other program.

This provision only applies when the reason for the adverse action taken in the other means-tested program does not also result in an adverse action in the food stamp program. If a food stamp adverse action is taken at the same time as the adverse action in the other means-tested program, no additional action is needed.

Required Action:

This policy applies in situations in which a household's income is reduced due to an adverse action in a PA program but no adverse action is taken in the food stamp program. This includes situations in which the recipient fails to:

sign a lien, pursue an SSN, meet certain employment requirements, participate in rehabilitation to restore employability, meet IV-D, FEDS or EVR requirements, or pursue other benefits such as UIB or SSI.

In these situations, the local district must:

1. Identify the amount of reduced income caused by the PA penalty. This is done by comparing the household's income before the penalty with the household income after the penalty is imposed.
2. Add the amount of the reduced income found in Step 1 to the household's food stamp income on the ABEL FS Input Screen using Unearned Income Type Code "40-PA Sanction Amount".

This will result in a proper FS budget.

It is important for local districts to develop procedures to insure that, in situations in which the PA case is being closed (e.g., a one person HR case), the food stamp case be assigned to the proper unit (usually the NPA FS unit) with sufficient information so that the food stamp case can be budgeted correctly.

Systems Impact

Upstate ABEL is scheduled to be modified as of September 23 to accept Unearned Income Code "40-PA Sanction Amount". CNS language that will appear in the section titled "How We Figure Your FS Benefits" will be included in the same migration. Workers downstate will use income source code "99-Other Unearned Income".

3.6 Disclosure of Information to Law Enforcement Officials (Sec. 837)

Policy Change

Previously, districts had to restrict the use or disclosure of information obtained from households to persons directly connected with the administration and enforcement of the FS program, or other Federal or State means-tested program.

Districts must now provide client information to any federal, state or local law enforcement officer in the circumstances described below.

Required Action

Districts must furnish the address, social security number and, if available, photograph of applicants/recipients to law enforcement officials who present a request for this information providing that:

1. the Federal, State or local law enforcement official furnish the district with the name of the individual being sought, and

2. a) the individual is fleeing to avoid prosecution, or custody or confinement after conviction for a felony, (or in the case of New Jersey, a high misdemeanor) or is violating a condition of probation or parole, or

b) the individual has information that is deemed necessary for law enforcement purposes related to provision 2. above, and
3. locating or apprehending the individual is in the exercise of an official duty, and
4. the request is being made in the proper exercise of an official duty.

Systems Impact

None

3.7 Collection of Overissuances (Sec. 844)

Policy Change

For FS claims established on or after September 21, 1996, FS recipients will no longer be able to select a method of repaying a FS claim amount. Under this new provision, districts will begin collecting IPV, IHE and AE overpayment amounts by means of allotment reduction, and by other means as mentioned below.

Required Action:

For Intentional Program Violation (IPV), Inadvertent Household Error (IHE) and Administrative Error (AE) claims determined after September 21, 1996, districts must collect overpayments from active cases as follows:

1. All collections must begin by allotment reduction. Benefit reduction amounts for IPV's remain at 20% of the pre-disqualification benefit amount for the household or \$10, whichever is greater and for IHE's and AE's, 10% of the household's monthly allotment or \$10, whichever is greater.
2. Districts must offset claims against any restored benefits the household receives.

Districts must discontinue using manually completed forms DSS-4053 "FS Repayment Agreement" and the DSS-3156 "Notice of FS Overissuance" for active cases determined to have an IHE or AE claim. In their place, districts must enter information on DSS-3620 "Notice of Intent to Change FS Benefits (Timely and Adequate)" to reflect the total dollar amount of overissuance, and why it occurred. For active cases informed about such an overpayment collection at recertification, the DSS-3152 "Action Taken on Your FS Case" notice should be similarly completed to reflect the previously mentioned claim collection information appearing on the DSS-3620.

PA/FS forms DSS-4015 "Notice of Intent to Change Benefits: PA, FS, MA and Services (Timely and Adequate)" and DSS-4014 "Action Taken on Your Recertification: PA, FS, MA and Services" must also be completed with the same information.

Notice of recoupment for IPV's must still be made on the "IPV Disqualification Notice for PA & FS" form (Updated Attachment V. to 93 ADM-8). Districts must make pen and ink changes to this form to reflect the new recoupment policy by striking the heading in Section III entitled "Food Stamp Repayment Agreement", and in check-box number two in that Section by striking all of the wording on line 2 after "food stamps".

For closed and denied cases, requests for repayment will continue to be generated and sent by CNS. For non-CNS districts, "FS Repayment Agreement(s)" should continue to be sent for these cases.

Systems Impact

None

IV. ADDITIONAL INFORMATION

PL 104-193 contains other provisions, many of which are State options. We will be providing districts with information on these provisions shortly.

We expect to receive a number of questions about the provisions in this release. We plan to consolidate these questions and issue a follow-up to provide addition clarification about the food stamp provisions in PL 104-193.

These policy changes will also be incorporated into the Food Stamp Source Book.

Patricia A. Stevens
Deputy Commissioner
Division of Temporary Assistance

FOOD STAMP PENALTY WARNING

AS OF SEPTEMBER 21, 1996...

The Personal Responsibility And Work Opportunity Reconciliation Act of 1996 made several changes to the Food Stamp Act of 1977 which may affect your eligibility for food stamps:

Intentional Program Violation (IPV)

Any member of your household who intentionally breaks any of the following rules can be barred from the food stamp program for 1 year after the first violation, 2 years after the second violation, and permanently after the third violation. The individual can be fined up to \$250,000, sent to jail for up to 20 years, or both. The individual may also be subject to further prosecution under other applicable federal laws.

Do not give false information, or hide information to get or continue to get food stamps.

Do not trade or sell food stamps (FS) or FS identification/benefit cards.

Do not alter food stamp identification/benefit cards to get food stamps you're not entitled to receive.

Do not use food stamps to buy ineligible items, such as alcoholic drinks and tobacco.

Do not use someone else's food stamps or food stamp identification/benefit cards for your household.

Any member of your household who is found guilty in a court of law for buying or selling controlled substances (illegal drugs or certain drugs for which a doctor's prescription is required) in exchange for food stamps will not be able to get food stamps for 2 years for the first offense and permanently for the second offense.

Any member of your household who is found guilty in a court of law of buying or selling firearms, ammunition or explosives in exchange for food stamps will never be able to get food stamps again.

Trafficking

Any member of your household who is found guilty in a court of law of trafficking in food stamps worth \$500 or more will never be able to get food stamps again. Trafficking includes the illegal use, transfer, acquisition, alteration, or possession of food stamps, authorization cards, or access devices.

False Statements About Identity or Residence

Any member of your household who makes a false statement about who he/she is or where he/she resides in order to receive multiple food stamp benefits will not be able to get food stamps for 10 years.

Fleeing Felons

Any member of your household who is fleeing to avoid prosecution, custody or confinement for a felony, or who is violating a condition of probation or parole is not eligible to receive food stamps.