

# Maryland Register

Issue Date: February 7, 2014  
Volume 41 • Issue 3 • Pages 179-266

## **Title 07** **DEPARTMENT OF HUMAN RESOURCES** **Subtitle 03 FAMILY INVESTMENT ADMINISTRATION**

### **Notice of Proposed Action** [14-052-P]

The Secretary of the Department of Human Resources proposes to amend:  
(1) Regulations **.01— .06** and **.08** under **COMAR 07.03.10 Administrative Disqualification Hearings—Food Supplement and Family Investment Programs**; and  
(2) Regulation **.56** under **COMAR 07.03.17 Food Supplement Program**.

### **Statement of Purpose**

The purpose of this action is to provide consistency regarding Family Investment and Food Supplement Program requirements for intentional program violations, administrative disqualifications and penalties. In addition, the obsolete references to the Food Stamp Program are updated to refer to the Food Supplement Program.

### **Comparison to Federal Standards**

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

### **Estimate of Economic Impact**

The proposed action has no economic impact.

### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Andrea Shuck, Regulations Coordinator, Department of Human Resources, 311 W. Saratoga St., Room 265, Baltimore, MD 21201, or call 410-767-2149, or email to [andrea.shuck@maryland.gov](mailto:andrea.shuck@maryland.gov), or fax to 410-333-0637. Comments will be accepted through March 10, 2014. A public hearing has not been scheduled.

## **07.03.10 Administrative Disqualification Hearings—Food [Stamp] Supplement and Family Investment Programs**

Authority: Authority: [Article 88A, §§44-A-62 and 88] Human Services Article §§5-207, 5-501 and 5-604, Annotated Code of Maryland;  
Agency Note: Federal Regulatory Reference—7 CFR §273.16

### **.01 Purpose.**

The purpose of this chapter is to establish the procedures to be used by the Administration to disqualify individuals for the Food [Stamp] Supplement Program or Family Investment [Program] Programs, when there is sufficient evidence to substantiate the decision that the individual has committed an intentional violation of the Food [Stamp] Supplement Program or Family Investment Program regulations.

### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

[(4)] (4) “Division of Special Investigations” means the unit of the Department’s Office of the Inspector General that provides investigative resources for local departments in the investigation of suspected fraud in TCA and food stamp applications, redeterminations, and open cases.]

[(5)] (4) (text unchanged)

[(6)] (5) “Intentional program violation” means an intentional:

(a) False or misleading statement or misrepresentation, concealment, or withholding of facts:

(i) Concerning food [stamps] *supplement*, or

(ii) (text unchanged)

(b) Act that constitutes a violation of the Food Stamp Act, the Food [Stamp] *Supplement* Program regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food [stamp] *supplement* benefits or electronic benefit transfer (EBT) card.

[(7)] (6)—[(8)] (7) (text unchanged)

(8) “Program Fraud Division” means the unit of the Office of the Inspector General’s Bureau of Investigative Services that provides investigative resources for local departments in the investigation of suspected fraud in Department programs including but not limited to TCA, the Office of Home Energy Programs (OHEP), and food supplement benefit application, redetermination, and open cases.

(9) (text unchanged)

### **.03 Notification to an Applicant Household.**

The local department shall inform the household, in the case of food [stamps,] *supplement benefits* and [the individual applicant in the case of] TCA, of the disqualification penalties for intentional program violations in clear, prominent, and boldface lettering on the application form each time the household or individual applies for food [stamps] *supplement benefits* or TCA.

### **.04 Local Department Responsibilities.**

A. When [the local department receives] information *is received* that an individual may have committed an intentional program violation, the local department shall refer the information to the [Division of Special Investigations] *Office of the Inspector General* which shall:

(1)—(3) (text unchanged)

B. *The local departments for OHEP shall refer the information to the OHEP central office for review and investigation.*

[B.] C.—[F.] G. (text unchanged)

### **.05 Waiver of Administrative Disqualification Hearing.**

A.—B. (text unchanged)

C. Advance Notification. When the local department decides to allow an individual to waive the individual’s right to an administrative disqualification hearing, the local department shall notify the individual in writing. The notice shall include:

(1) (text unchanged)

(2) Information regarding the administrative disqualification hearing including:

(a)—(b) (text unchanged)

(c) The requirement that, for charges [relating to food stamps,] the head of household shall also sign the waiver if the individual is not the head of household,

[(d)] The requirement that, for charges relating to TCA, the individual shall sign the waiver and, if the individual is not the payee of the TCA benefit, the payee shall also sign the waiver,]

[(e)](d)—[(f)](e) (text unchanged)

(3)—(6) (text unchanged)

D. (text unchanged)

### **.06 Referral for Disqualification Hearing.**

A. (text unchanged)

B. The referral shall include:

(1)—(3) (text unchanged)

(4) Documentation that the individual has been:

(a) (text unchanged)

(b) Convicted by a court of fraud involving food [stamps] *supplement* or TCA.

### **.08 Disqualification Penalties.**

A. Food [Stamps] *Supplement Program and Family Investment Programs.*

(1) An individual who has waived the right to an administrative hearing, or was found to have committed an intentional program violation [concerning the food stamp program], is ineligible to participate in the [Food Stamp] *specified* Program, as described in §B of this regulation and COMAR [07.03.17.56]07.03.03.19.

(2) The disqualification period begins for *Food Supplement and Family Investment Program*, with the first month following the month in which the household receives written notification of the disqualification.

(3) (text unchanged)

B. [Temporary Cash Assistance.

(1) An assistance unit in which an individual waived the right to an administrative hearing, or was found to have committed an intentional program violation concerning TCA, is ineligible to participate in the TCA program as described in COMAR 07.03.03.19B.

(2) The disqualification period begins with the first month following the month in which the assistance unit receives written notification of the disqualification.

(3) Once a disqualification penalty has been imposed, the period of disqualification continues uninterrupted until the benefit is fully repaid or the time period is completed, whichever occurs first.]

*An individual disqualified for an IPV is ineligible for the following period of time:*

(1) *One year for the first violation;*

(2) *Two years for the:*

(a) *Second violation; or*

(b) *First finding by a court of the trading of Program benefits for an illegal drug;*

(3) *Permanently for the:*

(a) *Third violation;*

(b) *Second finding by a court of the trading of Program benefits for an illegal drug;*

(c) *First finding by a court of the trading of Program benefits for firearms, ammunition, or explosives; or*

(d) *First finding by a court of trafficking Program benefits of \$500 or more; and*

(4) *Ten years if an individual is found guilty of making a fraudulent statement or misrepresentation with respect to the individual's identity or residence to receive multiple benefits at the same time.*

C. *The local department shall disqualify only the individual in the household found to have committed an IPV or who signed the waiver of the right to an administrative hearing.*

D. *The disqualification period begins with the first month following the month in which the individual receives written notification of the decision.*

E. *Once a disqualification penalty has been imposed, the:*

(1) *Period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household; and*

(2) *Disqualified member's household shall continue to be responsible for the repayment of the overissuance resulting from the disqualified member's IPV regardless of the household's eligibility for program benefits.*

F. *When an individual is disqualified, the local department shall send the household a demand letter for restitution. This letter shall inform the household of:*

(1) *The amount owed;*

(2) *The reason for the claim;*

(3) *The period of time the claim covers;*

(4) *Any offsetting done to reduce the claim;*

(5) *The ways in which the claim may be paid;*

(6) *The household's right to a fair hearing if the household disagrees with the amount of the claim, except if the household already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing;*

(7) *The household's right to request renegotiation of any agreed to repayment schedule if the household's economic circumstance change; and*

(8) *The requirements to:*

(a) *Indicate by signature the household's agreement to make restitution;*

(b) *Select the method of repayment; and*

(c) *Return the repayment notice within 30 days of the date of the notice.*

[C.] G. *The local department shall provide written notice:*

(1) (text unchanged)

(2) [In the case of a disqualification concerning food stamps to] *To the remaining household members, if any:*

(a) *Of the [allotment] benefit they will receive during the period of disqualification [,]; or*

(b) (text unchanged)

[D.] H. — [E.] I. (text unchanged)

## 07.03.17 Food Supplement Program

Authority: Authority: [Article 88A, §§44-A-62 and 88] Human Services Article §§5-207, 5-501 and 5-604, Annotated Code of Maryland;  
Agency Note: Federal Regulatory Reference—7 CFR §273.16

### .56 Disqualification for Intentional Program Violation (IPV).

[A.] The local department shall investigate and refer any suspected cases of an IPV for an administrative disqualification hearing according to COMAR 07.03.10.

[B. An IPV is established by:

- (1) An order of a court of competent jurisdiction;
- (2) Signing of a disqualification consent agreement by the household;
- (3) A decision of an administrative law judge of the Office of Administrative Hearings; or
- (4) Signing of a waiver of the right to a disqualification hearing.

C. The local department shall inform the household in writing of the penalties for an IPV each time the household applies for program benefits.

D. Disqualification Penalties. An individual disqualified for IPV is ineligible for the following periods of time:

- (1) 1 year for the first violation;
- (2) 2 years for the:
  - (a) Second violation; or
  - (b) First finding by a court of the trading of Program benefits for an illegal drug;
- (3) Permanently for the:
  - (a) Third violation;
  - (b) Second finding by a court of the trading of Program benefits for an illegal drug;
  - (c) First finding by a court of the trading of Program benefits for firearms, ammunition, or explosives; or
  - (d) First finding by a court of trafficking Program benefits of \$500 or more; and
- (4) 10 years if an individual is found guilty of making a fraudulent statement or misrepresentation with respect to the individual's identity or residence to receive multiple benefits at the same time.

E. The local department shall disqualify only the individual in the household found to have committed an IPV or who signed the waiver of the right to an administrative hearing.

F. The disqualification period begins with the first month following the month in which the individual receives written notification of the decision.

G. Once a disqualification penalty has been imposed, the:

- (1) Period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household; and
- (2) Disqualified member's household shall continue to be responsible for the repayment of the overissuance resulting from the disqualified member's IPV regardless of the household's eligibility for program benefits.

H. When an individual is disqualified, the local department shall send the household a demand letter for restitution. This letter shall inform the household of:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time the claim covers;
- (4) Any offsetting done to reduce the claim;
- (5) The ways in which the claim may be paid;
- (6) The household's right to a fair hearing if the household disagrees with the amount of the claim, except if the household already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing;
- (7) The household's right to request renegotiation of any agreed to repayment schedule if the household's economic circumstances change; and
- (8) The requirements to:
  - (a) Indicate by signature the household's agreement to make restitution,
  - (b) Select the method of repayment, and
  - (c) Return the repayment notice within 30 days of the date of the notice.]

TED DALLAS  
Secretary of Human Resources