

Article 8
Eligibility and Payment Manual

Part I
General Provisions

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§1801. Introduction. The purpose of this manual is to provide the Bureau of Economic Security (BES) staff with requirements and procedures for determining eligibility and authorizing assistance in the administration of Public Assistance Programs under Guam's Public Assistance State Plan. Programs covered in this manual are: Title I - Old Age Assistance, Title IV-A - Aid to Families with Dependent Children, Title X - Aid to the Blind, and Title XIV - Aid to the Permanently and Totally Disabled as described in the Social Security Act and Federal Regulations contained in the code of Federal Regulations (45 CFR). Additionally, procedures for administering the Guam General Assistance Program as authorized under 10 GCA §2601.

(a) **Organization of the Manual.** This manual is organized into four (4) parts. Part I contains general provisions and applies to all Guam Public Assistance Programs administered by the Bureau of Economic Security (BES). Part II outlines eligibility and administration of Aid to Families with Dependent Children (AFDC). Part III outlines eligibility and administration of adult programs i.e., Old Age Assistance (OAA), Aid to the Blind (AB) and Aid to the Permanently and Totally Disabled (APTD). Part IV outlines eligibility and administration of the **Guam General Assistance Program (GA)**.

(b) **Responsibilities for Updating Manual.** The Program Management Section (PMS), Policy Development Unit (PDU), will be responsible for updating and control of the manual and also keeping it current. Information regarding changes will be sent to all BES staff and official holders of the manual via memorandum.

(c) **Federal Requirements.** The Federal Requirements for Public Assistance Programs are contained in Public Welfare parts 200 to 499, 45 CFR.

(d) **Program Coordinations.** The Bureau of Economic Security (BES) requires close cooperation and coordination with the Bureau of Management Support/Investigation and Recovery Office, Bureau of Health Care Financing, Bureau of Social Services Administration and other related sections within the Department of other agencies in order to assure proper administration.

§1802. Discrimination Complaint and Resolution Procedures. The Department of Public Health and Social Services (DPH&SS) as the administrative entity for the Social Services Programs including Food Stamp Program (FSP), Public Assistance (PA), Women, Infant and Children (WIC) Programs, hereby establishes the following Discriminating Complaint Resolution Procedures pursuant to the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Food Stamp Act of 1977, the Age Discrimination Act of 1975 (PL 94-135), the Rehabilitation Act of 1973 (PL 93-112 sec. 504), Title IX of the Education Amendments of 1972 and Departmental policy and regulations.

(a) **General Policies.** The Department is committed to assuring that program benefits are made available to all persons and provided to all eligible individuals and shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of benefits, the conduct of fair hearings, or the conduct of any other program services for reasons of age, race, color, sex, handicap, religion, creed, national origin, or political beliefs. Enforcement action may be brought under any applicable Federal laws.

(1) **Civil Rights Coordinator.** The Equal Employment Officer of the Department of Public Health and Social Services shall serve as the Civil Rights Coordinator for the Department.

(2) The duties and responsibilities of the Civil Rights Coordinator include but are not limited to the following:

- (A) Receive and record complaints;
- (B) Conduct investigation and determine validity of complaints;

(C) Compile data, maintain records, and submit reports of each complaint to the Region IX Office within 90 days of the date the complaint is filed;

(D) Monitor the implementation of procedures of this chapter to assure civil right compliance within the Department;

(5) Conduct training to Departmental staff on regulations and provisions governing "Civil Rights Procedures"; and

(6) Assist individuals in the complaint process and provide resolutions.

(b) Right to File a Complaint.

(1) Individuals who believe that they have been subjected to discrimination as specified in sections 200 and 201 of this chapter, may file a written complaint with the Civil Rights Coordinator of this Department.

(2) Only a complaint which alleges a violation of the Civil Rights provisions and regulations specified in Sections 200 and 201 of this chapter may be filed under this procedure. Complaints of criminal and fraudulent acts shall be handled separately with the appropriate agencies.

(3) Complaints may be brought by any individual or organization, including but not limited to program participants or other interested party.

(4) With the exception of complaints alleging fraud or criminal activity, the filing of a complaint must be made no later than 180 days from the alleged discrimination.

(c) Filing of Complaint.

(1) A complaint may be filed by mail or in person with the Civil Rights Coordinator, Department of Public Health and Social Services, Government of Guam, Post Office Box 2816, Agana, Guam 96910. The complaint may also be filed with the Secretary of Agriculture or Administrator, and appropriate regional office.

(2) The Civil Rights Coordinator or his representative will be available to assist in the preparation and completion of any written complaint, and provide information regarding the procedures of

filing of complaints with the Department or at the Secretary of Agriculture, or Administrator, and appropriate regional office.

(3) All complaints written or verbal shall be handled at the Departmental level first. Those not resolved at the Departmental level shall be accepted and forwarded by the Department to the Director, Civil Rights Division, through the appropriate regional office.

(4) **Verbal Complaints.** In the event a complainant makes an allegation in person or through a telephone conversation and refuses or is not inclined to put such allegation in writing, the person to whom the allegation is made must put the elements of the complaint in writing.

(5) **Written Complaints.** Efforts shall be made to have the complainant provide the following information:

(i) Full name, address, and telephone number or other means of contacting the complainant.

(ii) The full name, address and telephone number of the respondent or person against whom the complaint is made.

(iii) The specific location and name of the entity delivering the services or benefits.

(iv) The nature of the incident or action that led the complainant to feel discrimination was a factor, and an example of the method of administration which is having a disparate effect on the public, applicant, or participants.

(v) The basis on which the complainant feels discrimination exists (race, color, national origin, age, sex, handicap, political beliefs, or religion).

(vi) The names, titles, and business addresses of persons who may have knowledge of the discriminatory action.

(d) **Processing Complaints of Discrimination.** (a) **Informal Review.** Upon the acceptance of the complaint, the Department's Civil Rights Coordinator or his/her designee shall be responsible to gather facts and shall attempt to resolve the issue(s) of dispute, within fifteen (15) calendar days of the acceptance of the complaint.

Should the resolution be reached during the informal review process, the Coordinator or his/her designee shall prepare a written report to the Director of the Department. A copy of the report shall be forwarded to the Director of the Civil Rights Division, Regional IX Office. The report shall contain basic information of the complaint, the action taken, recommendation and resolution results. A copy of such report must be kept on file. Copies shall also be provided to the parties involved.

If reaching a resolution is not possible during the informal review period (15 days) at the Departmental level, the coordinator shall promptly forward the complaint to the Director, Civil Rights Division of the Regional IX Office for further action.

(e) Notification of Decision. Upon completion of the investigation on the complaint referrals, the Civil Rights Director, Regional IX Office shall provide a written notification of the decision or resolution to the Department within 90 days. The Department shall provide a copy of the decision to the parties involved.

(1) Closing Letter to Complainant The closing letter should contain the following:

- (i) A brief description of the allegation(s).
- (ii) The scope of the inquiry or investigation conducted.
- (iii) Facts and information from the inquiry or investigation report refuting each allegation.
- (iv) Closing statement summarizing the basis on which the determination was made.

(f) Examples of Discrimination.

(1) Denial of an individual or household of any services or benefits provided under programs on the basis of race, color, national origin, age, sex, handicap, political beliefs, or religion.

(2) Distinction in the quality, quantity, or manner in which the benefits are provided on the basis of race, color, national origin, age, sex, handicap, political beliefs, or religion.

(3) Segregation or separate treatment of individuals in any manner related to the receipt of program benefits on the basis of race, color, national origin, age, sex, handicap, political beliefs, or religion.

(4) Use of criteria or methods of administration which have the effect of defeating or impairing the objectives of the Programs or Services according to race, color, national origin, age, sex, handicap, political beliefs, or religion.

(5) Selection of the site for certification and issuance office that has the effect of excluding individuals based on race, color, national origin, age, sex, handicap, political beliefs, or religion.

(g) Civil Rights Compliance Review. The Department shall ensure an effective implementation of the Civil Rights Complaint Procedures. Bureau of Management Services, Division of Public Welfare shall conduct annual Management Evaluation Reviews (MER) to ensure the compliance of such procedures within the Division.

(1) The result of the annual reviews shall be written up as part of the ME Review process or as a separate report. Information regarding civil rights problems shall be documented on the ME Review Worksheet or in a separate report.

(2) The report shall indicate the following: the number of minority casefiles reviewed that were active, pending, denied, or terminated.

(3) The report shall also include an evaluation statement by the reviewer in reference to any unusual circumstances or patterns of disparate treatment.

(4) The report shall be submitted to the Chief Administrator with recommendations for corrective action plan within 60 days of the review. Such reports shall be maintained on file and are subject to review by the Regional IX Office.

(5) Region IX Office or representatives of the Office of Minority Affairs (OMA) may conduct compliance review on the Department's procedures.

(h) Corrective Action.

All efforts shall be made to achieve compliance of the Civil Rights procedures. The Department shall develop corrective action plans when non-compliance or deficiencies are noted either through MER or Special Compliance Review by the Regional IX Office. The corrective action plan should identify specific steps to be taken, and specific time frames within which compliance will be achieved.

§1803. Systematic Alien Verification for Entitlement (SAVE). (a) **Background.** On November 6, 1986, the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99-603 was signed into law. Section 121 of this legislation provides for verification of alien status through the Immigration and Naturalization Service (INS) designated SAVE system as a mandate beginning October 1, 1988 (unless a waiver is granted). For this purpose, the Guam State Plan and Eligibility and Payment Manual was revised to include the Systematic Alien Verification for Entitlement (SAVE).

(b) **Purpose.** The purpose of exchanging information through SAVE is to verify the immigration status of aliens applying for the Food Stamp, Public Assistance and Medicaid Programs.

(c) **Access Method.** The State agency (Bureau of Economic Security (BES), Department of Public Health and Social Services) accesses the Alien Status Verification Index (ASVI) through Secondary Verification. INS maintains the SAVE system and makes it available to BES.

(d) Types of Aliens to be Referred to INS:

(1) Applicants who are permanent resident aliens and whose entry date is less than THREE (3) YEARS from the date of application for aid. (In this case, the sponsor's Affidavit of Support and any data regarding the sponsor(s) and sponsor's spouse's income and resources are also needed).

(2) Applicants whose immigration status is questionable due to a lack of proper documents. When a non-INS document is accepted, a photo-copy of that document must be sent to INS for verification.

(3) Illegal aliens who are applying for program assistance.

(e) Applicant Household Responsibilities.

(1) **Providing Verification:** The applicant has the primary responsibility in providing documents to verify alien immigration status within the specified time period - TEN (10) CALENDAR DAYS from the date the document is requested.

(2) **Declaration of US Citizenship or Lawful Alien Status:** As a condition of eligibility, all adult household members applying for assistance must sign, under penalty of perjury, the declaration of U.S.

Citizenship or lawful alien status in the certification office, witnessed by the BES Eligibility Specialist (ES), unit supervisor(s), or certification supervisor(s). Adult household members must sign for members less than 18 years of age.

Should any applicant experience difficulty in reporting to the certification office due to illness, disability or handicap, work hours, or other extreme circumstances, he/she is responsible for informing the ES or the certification office of his/her circumstances. In this case, an alternative method shall be used in obtaining the applicants' signature(s). (See section 300.8 of this manual).

(f) Bureau of Economic Security (BES) Responsibilities:

(g) Procedures in Obtaining Alien Verification from INS: The following guidelines shall be used to verify an alien applicant's immigration status with the Immigration and Naturalization Service (INS).

(1) The BES Eligibility Specialist (ES) shall complete the G-845 Form, Document Verification Request, numbers 1 through 8, which provides the Immigration and Naturalization Service (INS) with the following data:

- (i) Alien Registration or I-94 Number;
- (ii) Applicant's full name;
- (iii) Nationality;
- (iv) Date of Birth;
- (v) Social Security Number;
- (vi) Types of Benefits and case number(s);
- (vii) Copy of documents to be verified shall be attached to the G-845 when necessary (i.e. alien registration cards, alien sponsor's affidavit of support, passport, etc).

The G-845 form shall be used to verify alien status and/or to verify documents related to alien verification.

(2) The BES ES shall ensure that the Consent of Disclosure Form is signed by the applicant and is in the applicant's case record.

(3) The BES ES shall forward the G-845 Form with the accompanying documents attached to the Program Compliance and Coordination Unit (PCCU).

(4) PCCU shall forward the G-845 Form to INS every Tuesdays and Thursdays. In the event INS encounters a problem with the referral, INS shall notify PCCU immediately. The PCCU Program Coordinator shall inform the appropriate ES or unit supervisor of the problem and reason for the delay.

(5) Immediately upon receipt of the G-845 Form from INS, PCCU Program Coordinator shall return the G-845 Form to the appropriate EW or unit supervisor(s).

(6) Upon receipt of the completed G-845 Form, the ES shall take case action and file it in the appropriate case record.

(7) ESs may contact PCCU to follow-up on the status of their referrals if PCCU does not give them any feedback within 11-12 work days from the date of referral to PCCU. (Refer to "INS Processing Time frames" on section 300.11 of this manual).

(h) **Guidelines in Obtaining the Signature of Adult Members:** All adult applicants in the household must sign the declaration of U.S. Citizenship or lawful alien status, which is incorporated in the application form, in the certification office witnessed by the BES ES or unit supervisor. The ES must verify the identity of the person signing the program application form by checking his or her identification card (such as Driver's License, Guam ID, Alien Registration Card, Passport, etc.).

In cases where all members in household are elderly and/or disabled or handicapped, and experience difficulty in reporting to the certification office, the ES shall conduct a HOME VISIT in order to obtain the applicants' signatures.

In cases where some household members experience difficulty in coming to the certification office to sign the declaration due to illness, disability or handicap, work hours, or other extreme circumstances, the ES shall permit the household to take the application form home for that member's signature. However, such application shall be notarized. The ES should always keep a copy of the application form in file prior to giving the application form back to the household.

(i) **Verification Time Frames:** The ES must give the household TEN (10) CALENDAR DAYS, from the date the document is requested, to provide acceptable verification of alien status prior to taking any action to deny, delay, reduce, or terminate program benefits.

On the day verifications are being requested (interview day), the ES shall issue the "Pending Document" form to the applicant when more documents are needed. This "Pending Document" form also serves as an advance notice of adverse action. The ES shall inform the client that failure to submit the requested document(s) within the date specified on the Pending form will result in delay or reduction of program benefits, or denial of their application for aid.

(j) Immigration and Naturalization Service (INS) Responsibilities:

(1) INS shall provide BES the following information upon each alien inquiry as available:

- (i) Current immigration status;
- (ii) INS's position on active/inactive deportation proceedings against certain classes/categories of aliens;
- (iii) Amnesty applicant's status;
- (iv) Alien sponsor(s) name and copy of sponsor's Affidavit of Support.

(2) INS shall provide secondary verification units who are responsible for processing referred INS G-845 forms and to process such forms within the specified time period (see subsection k).

(3) INS shall provide staff assistance to BES on any of the following concerns and problems:

- (i) INS policy;
- (ii) Safeguards/disclosure policy;
- (iii) System (secondary/primary);
- (iv) Administrative problems encountered through performing immigration status verification.

(4) INS shall safeguard all information concerning Food Stamp, Public Assistance, and Medicaid applicants/recipients provided by BES in accordance with the Privacy Act restrictions, 5 U.S.C. 552a, and in

accordance with the safeguards limiting release or re-disclosure as required by local law and Federal law or regulations and as may be required by other guidelines published by the U.S. Department of Agriculture.

(k) **INS PROCESSING TIME FRAMES:** INS shall process the G-845 referrals within TEN (10) WORK DAYS from the date of receipt.

Emergency cases shall be expedited, meaning the referral shall be processed in ONE (1) DAY. The reason for the emergency should be indicated.

Should INS need to request for off-island records, the referral may take THREE (3) WEEKS TO PROCESS.

(l) **Fair Hearing.** On a pre-arranged and pre-approved basis, INS shall provide the appropriate immigration technical consultation and witness support necessary to BES. This assistance is needed to provided individuals denied program benefits with a fair hearing or with judicial review of agency action. These requests shall be based on information received from INS on the immigration status of an individual denied program benefits.

(Refer to Section 400 of this manual for more Fair Hearing regulations).

(m) **Treatment of a Household Member who fails or refuses to sign the Declaration and/or fails to provide acceptable Alien Verification.**

(1) **Public Assistance.** When a household member, who is required to be included in the filing unit, fails or refuses to sign the declaration, or fails to provide acceptable verification of alien immigration status within the required time period (10 calendar days from date of request), he/she shall be treated as an ineligible alien. HIS/HER NEEDS ARE EXCLUDED. However, the ENTIRE INCOME AND RESOURCES of the member is counted as income and resources of the filing unit.

(2) In an Unemployed Parent (04) case, if the head of household/Principal Wage Earner fails to comply, he/she is treated as an ineligible alien. Therefore, the ENTIRE HOUSEHOLD is INELIGIBLE for Public Assistance.

(2) **Food Stamps:** When a member fails or refuses to sign the declaration in the Food Stamp Application Form, and/or fails to provide acceptable verification of alien status, he/she is treated as a non-household member. That member is EXCLUDED from the Food Stamp household. However, the ENTIRE RESOURCES of that member is counted as resources of the household. The INCOME of that member is PRO-RATED and his share of his income excluded but the remaining amount is counted as the household's income.

EXAMPLE: Household size 5. Non-compliant member has income of \$500.00. $500 \div 5 = 100$. $500 - 100 = 400$. The \$400.00 pro-rated share shall be considered as income to the household.

(n) **Treatment of an Adult Member Who Cannot Sign the Declaration or the Application.** A witness signature is necessary when the applicant attests to his/her citizenship or alien status with an "X". The witness may be another adult household member.

§1804. Fair Hearing. (a) **Notification of Right to Request for a Hearing.** The household shall be informed in writing of its right to a hearing during program orientation, interviews, and when its eligibility/benefit is denied, reduced or terminated, or during a denial or delay of a replacement issuance. The household shall be informed of the method by which a hearing may be requested, and that its case may be presented by legal counsel, a relative, friend or other persons. Whenever the household expresses to the eligibility specialist (ES) that it disagrees with an action the ES shall remind the household of its right to request a fair hearing.

The household shall be informed of the availability of free legal representation.

(b) **Time Period for Requesting a Fair Hearing.** The Agency shall provide a notice of adverse action to the household at least 10 days prior to effective date of agency's action to terminate or reduce its benefits. For collection of overpayment purposes, a demand letter must be provided to the household at least 30 days prior to the collection action. A household shall be allowed to request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, any time within a certification period, a household may request a fair hearing to dispute its current level of benefits.

(c) **Request for a Fair Hearing.** A request for a hearing is a clear expression, oral or written, by the household or its authorized representative that the household wants the opportunity to present its case to a higher authority. The household shall complete the appropriate "Request for a Fair Hearing" form (DPW89-2).

If it is unclear from the household's request what action the household wishes to appeal, the eligibility specialist will request the household to clarify its grievance. The right to make a request for a hearing shall not be limited or interfered with in any way.

(d) **Availability of Fair Hearings.**

(1) **Food Stamps.** A household may request a Fair Hearing when it is aggrieved by any action of the ES which affects the participation of the household or the collection of the overpayment in the Program.

(2) **Financial Assistance and Medical Assistance.** When any applicant's claim for financial assistance or medical assistance is denied or is not acted upon within the required time frame of the respective programs (please refer to appropriate manual), or

When an agency action results in suspension, reduction, discontinuance, or termination of assistance or determination that a protective, vendor or two-party payment should be made or continued; or

When the reason for an individual appeal is an incorrect grant computation.

When any agency action results in suspension, reduction, discontinuance, or termination of assistance or determination that a protective, vendor or two-party payment should be made or continued; or

When the reason for an individual appeal is an incorrect grant computation.

(e) **Timely Action on Hearings.** The agency must take final administrative action whereby a fair hearing is conducted, a decision is reached, and the household is notified of the decision in writing within:

(1) Ninety (90) days from the date of the hearing request for Financial Assistance, Medicaid, Free Care, Catastrophic Illness Assistance or the Medically Indigent Programs; and,

(2) Sixty (60) days from the date of the request for a fair hearing for the Food Stamp Program.

(f) **Request for Postponement of Hearing.** The household may request a postponement of a hearing in writing not to exceed thirty (30) days and the time limit for action on the decision may be extended for good cause as many days as the hearing is postponed.

(g) **Agency Conference.** The agency shall:

(1) Offer agency conferences ten (10) days prior to the Fair Hearing scheduled date, to any household who wishes to appeal an action or contest a denial of expedited service and to any household adversely affected by an agency action.

(2) Advise all households that use of an agency conference is optional, and that it will in no way delay or replace the fair hearing process.

The agency conference shall be attended by the program representative(s), the household and/or its representative and may be attended by any other persons with relevant responsibilities.

An agency conference may lead to an if normal resolution of the dispute. However, a fair hearing must still be held unless the household completes and submits to the agency a "Withdrawal of Request for a Fair Hearing" form (DPW89-03).

An agency conference for any household contesting a denial of expedited services for Food Stamps shall be scheduled within two (2) working days from the complaint, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

(h) **Consolidated Hearings.** The agency may respond to a series of individual requests for hearing by conducting single group hearings. The agency may consolidate only cases in which the sole issue involved is one of local and/or federal law, regulation or policy. In all group hearings, the policies/regulations governing individual hearings must be followed. Each household shall be permitted to present its own case or be represented by an authorized representative.

(i) **Agency's Responsibilities on Hearing Requests.** Upon request, the agency shall make available without charge to the household or its representative, the specific

materials necessary to determine whether a hearing should be requested or to prepare for a fair hearing.

If the individual making the request speaks a language other than English, the agency shall provide bilingual staff or an interpreter who speaks the appropriate language and ensure that the hearing procedures are verbally explained in that language. The household shall be advised of legal services available that can provide representation at the hearing.

A medical assessment must be obtained at the agency's expense and made part of the record if the hearing involves medical issues such as those concerning a diagnosis, an examining physician's report, or a medical review team's decision; and, if the hearing officer considers it necessary to have a medical assessment other than that of the individual involved in making the original decision.

The agency shall expedite hearing requests from households that plan to move due to an emergency or special circumstances from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be processed faster than others if necessary to enable the household to receive a decision and restorations of benefits before leaving the area, if the decision indicates.

(j) **Denial or dismissal of Request for Hearing.** The agency may deny or dismiss a request for a hearing if:

(1) The request is withdrawn in writing by the household; or

(2) The request is not received within the time period specified in Section II of this procedure outline; or

(3) The household fails without good cause to appear at the schedule hearing; or

(4) Under the AFDC program, the sole issue is one of local or federal law requiring automatic grant adjustments for classes of recipients; or the decision has been rendered after JOBS hearing and the participant has, without good cause, refused to accept employment, participate in the JOBS program or has failed to request such a hearing after notice of intended action for such refusal.

(k) **Continuation of Benefits and/or Services.** If a household requests a hearing within ten (10) days

following the date of action or ten (10) days of the mailing notice, the agency shall not terminate, reduce, or suspend the authorized benefits/services unless:

- (1) It is determined at the hearing that the sole issue or change is a local or federal law or policy, and that the household claim that the State Agency improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid;
- (2) The certification period expires;
- (3) A change affecting the household's eligibility or basis of benefits/services occurs while the hearing decision is pending and the household failed to request a hearing after the subsequent notice;
- (4) The household specifically request that assistance be discontinued pending the hearing decision; or
- (5) A mass change affecting the household's eligibility occurs while the hearing decision is pending.

The agency shall promptly inform the household in writing if benefits/services are to be terminated or reduced pending the hearing decision.

If the FH request is based on the disagreement of a claim amount, Claims collection activity shall be suspended until a Fair Hearing Decision is reached.

(1) **Notification of Time and Place of Hearing.** The time, date and place of the hearing shall be arranged so that the hearing is accessible to the household. Advance written notice of at least ten (10) calendar days shall be provided to all parties involved to permit adequate preparation of the case. However, the household may request less advance notice to expedite the scheduling of the hearing. The notice shall:

- (1) Inform the household of the time, date and place of the hearing;
- (2) Advise the household or its representative of the name, address and phone number of the person to notify if the household or its representative can not attend the scheduled hearing;
- (3) Specify that the agency will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause;

(4) Include the agency's hearing procedures and other information that would provide the household with an understanding of the proceedings and contribute to the effective presentation of the household's case;

(5) Explain to the household or its representative that the casefile may be examined prior to the hearing;

(6) Advise the household of the availability of legal services.

(m) **Hearing Official.** Hearings shall be conducted by the Department of Law or its designee.

(n) **Powers and Duties of the Hearing Official.** The hearing official shall:

(1) Administer required oaths or affirmations;

(2) Insure that all relevant issues are considered;

(3) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

(5) Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the agency; and

(6) Provide a hearing record and recommendation for final decision by the hearing authority.

(o) **Hearing Authority.** The hearing authority shall be the Director of the Department of Public Health and Social Services or some other agency official designated by the Director to render the final administrative decision in a hearing.

The hearing authority shall consult the program affected by the fair hearing prior to rendering the final decision.

(p) **Attendance at Hearing.** The hearing shall be attended by the program representative(s) and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The hearing official shall have the

authority to limit the number of persons in attendance at the hearing if space limitations exists.

If the Fair Hearing request is based on action taken on JOBS registration or ETP related requirements, a representative from JOBS or ETP service agency shall participate in the hearing.

(q) **Rights of the Household.** The household or their representative, must be given an opportunity to:

(1) Examine all documents and records (casefile included) to be used before and at the hearing. Confidential information such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions must be protected from release;

(2) Present their case or have it presented by legal counsel or other person;

(3) Bring witnesses; and

(4) Present arguments without undue interference; and

(5) Question or refuse any testimony or evidence, including an opportunity to confront and cross-examine witnesses; and

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(r) **Hearing Decisions.** The decision of the hearing authority shall comply with local and federal law and regulations and shall be based exclusively on evidence introduced at the hearing.

The record must be maintained for a period of one (1) year after the right to appeal has elapsed and must consist of:

(1) The recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing;

(2) All documents filed in the proceeding; and

(3) The recommendation or decision of the hearing officer.

This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

A decision by the hearing authority shall be binding on the agency and shall:

- (1) Summarize the facts of the case;
- (2) Specify the reasons for the decisions; and
- (3) The recommendation or decision of the hearing officer.

The household shall be notified in writing of:

- (1) The decision;
- (2) The reasons for the decision;
- (3) The available appeal rights;
- (4) Whether the household's benefits will be issued or terminated as decided by the hearing authority;
- (5) That an appeal may result in a reversal of an unfavorable decision; and
- (6) The right to pursue judicial review of an unfavorable decision and that a reversal of the decision may result in the restoration of lost benefits to the household.

(A) Implementation of Hearing Decision. The agency must take final administrative action within ninety (90) days for Financial Assistance, Medicaid, and MIP programs and sixty (60) days for the Food Stamp program, from the date of the request for a hearing, unless an extension was granted.

All agency hearing decisions or statistical information derived from such decisions may be accessible to the public (subject to provisions of safeguarding Food Stamp, Financial Assistance, and all Medical Assistance program information), however, the identification of names and addresses of household members and other members of the public and other confidential information shall be kept confidential.

Information can be disclosed concerning households for purposes directly connected with the administration of all Medical Assistance programs. Such purposes include:

- (1) Establishing eligibility;
- (2) Determining the amount of medical assistance;
- (3) Providing services for recipients; and

(4) Conducting or assisting an investigation, prosecution, civil or criminal proceeding related to the administration of the plan.

When the hearing authority upholds the agency's action, a claim against the household shall be established within 30 days.

When the hearing authority determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, the household shall be restored the lost benefits by the next issuance month.

(B) Timeframe for Implementation of Hearing Decision. Decisions which result in an increase in household benefits shall be reflected in the coupon allotment within 10 days of receipt of the hearing decision. However, the Department may take longer than if it elects to make the decision effective in the household's normal issuance cycle, provided the issuance will occur within 60 days from the household's request for the hearing.

Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

A copy of the FH Decision Action Report shall be prepared by each appropriate bureau.

(s) Central Registry.

Purpose: To receive, coordinate and maintain all documents and information on all Fair Hearing requests pertaining to Food Stamps, Public Assistance, Medicaid, Free Care, Catastrophic Illness Assistance and the Medically Indigent Program.

The Division of Public Welfare, Chief Administrator's Office, is responsible for coordinating referrals, activities and scheduling of all Fair Hearing requests. Each Bureau shall ensure that it has adequate supply for the Fair Hearing forms to meet the needs for its clientele. the procedural operation shall include but is not limited to the following steps:

Bureau Responsibilities:

(1) All written and oral requests for fair hearing shall be forwarded to Central Registry within two days from the date the fair hearing request was received. Each responsible bureau shall prepare a

summary report of the basis of the fair hearing request. The documents must include:

(A) Fair Hearing Request Form (DPW89-02)

(B) Copy of Notice of Adverse Action sent to the household.

(C) Copy of the Fair Hearing Request Case Summary Form (DPW 89-01).

(2) The Fair Hearing Coordinator, designee of the Chief Administrator, shall be responsible for:

(A) Maintaining control of Fair Hearing Log (use of computer and Form No. DPW 89-02 data)

(B) Monitoring hearing decision time frame requirements and scheduling fair hearing date and Agency Conference (at least 10 working days prior to the hearing) - Form No. DPW 89-04; ensuring that all requirements are complete (tape recorder, documents etc.).

(C) Arranging administrative support for recording and participation at the hearing; informing the Department of Law and respective program representatives.

(D) Preparing monthly activity (statistical) reports regarding the number of Fair Hearing requests which will be the basis for the preparation of the annual report (FNS-366, Part B, Section D for FS Program; and, FSA 4100 for PA Programs). The FNS 366-B is due November 15th of each month to the Regional Office.

(E) Handling of fair hearing decisions from the Department of Law:

(1) All fair hearing decisions must be approved and signed by the Director of PH&SS or the Director's designee.

(2) The decision must be stamped with the date received and initialed.

(3) The Fair Hearing Coordinator shall prepare the notice of Fair Hearing Decision (form DPW 89-05).

(4) The Notice of the Fair Hearing Decision shall be signed and dated by the Fair Hearing Coordinator.

(5) Copies of the decision will be provided to:

(a) Client - original (Notice of Fair Hearing Decision Form)

(b) Fair Hearing Administrative File

(c) Program Representative

(d) Program Casefile

(F) Ensuring that fair hearing decisions/reports are received. Coordinator may assign respective Bureau to pick-up decisions/reports from the Department of Law.

(G) Fair Hearing Coordinator shall ensure that each bureau have a designated staff to prepare an implementation report which shall include the action taken on the Fair Hearing Decision (Form DPW 89-06). A copy of the report shall be provided to the Fair Hearing Coordinator and another to the Fair Hearing Officer no later than ten (10) days after the Fair Hearing Decision is received.

(H) The Fair Hearing Coordinator shall prepare a Fair Hearing analysis on an annual basis which shall include the identification of the problem area(s) that may need improvement in terms of policy and procedure applications. The report shall also include recommendations for corrective action in addressing the problem areas. This report shall be prepared no later than 30 days after the closing of the fiscal year.

§1805. Needs Standards. (a) Overview.

Whereas, Public Law 20-76, "AN ACT TO REVISE THE STANDARDS OF ASSISTANCE" authorizes the Department of Public Health and Social Services to implement the revisions recommended in the Standards of Assistance Study issued by the Department in June 1983.

Whereas, the Department of Public Health and Social Services shall perform a Standard of Assistance Study every five (5) years and transmit the results to the Guam Legislature. The first study shall be completed one (1) year after the effective date of Public Law 20-76 (September 14, 1989);

NOW, THEREFORE, by virtue of the foregoing, the attached rules and regulations entitled "Standards of Assistance" are hereby approved and promulgated by Executive Order, and shall be in force and effect. All prior rules and regulations are superseded by this order.

(b) **Purpose.** The purpose of these rules and regulations is to set up standards of assistance in connection with the administration of Social Services under 10 GCA Chapter 2.

(c) **Definitions.**

(1) *STANDARDS OF ASSISTANCE:* means the quality, quantity or cost of food, clothing, household supplies, personal needs and other needs established by the Department of Public Health and Social Services for payment to eligible recipients of the Public Assistance programs.

(2) *BASIC REQUIREMENTS:* These consist of necessities common to all individuals which must be included in the budget of all recipients. These include food, clothing, personal needs and household supplies. If such items are provided through other sources, the amount designated is considered as income, except the amount of food stamp coupons received under the program.

1) Food; 2) Clothing; 3) Personal Needs; 4) Household Supplies (Comprise those items which are necessary for the day-to-day maintenance of a household such as soap, cleaning supplies, brooms, etc.).

(d) **Standard Monthly Schedule for Basic Individual Requirements.**

FAMILY MEMBERS IN ASSISTANCE UNIT	MEMBERS IN ASSISTANCE UNIT				TOTAL
	IN FOOD	CLOTHING	PERSONAL	HOUSEHOLD	
1	94.00	33.00	7.00	17.00	151.00
2	187.00	41.00	9.00	21.00	258.00
3	246.00	49.00	10.00	25.00	330.00
4	312.00	61.00	13.00	31.00	417.00
5	371.00	73.00	16.00	37.00	497.00
6	445.00	85.00	19.00	43.00	592.00
7	492.00	96.00	21.00	49.00	658.00
8	562.00	107.00	23.00	54.00	746.00
9	633.00	117.00	25.00	59.00	834.00
10	703.00	126.00	27.00	64.00	920.00
11	773.00	136.00	29.00	70.00	1,008.00

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12	843.00	146.00	31.00	76.00	1,096.00
13	913.00	156.00	33.00	82.00	1,184.00
14	983.00	166.00	35.00	88.00	1,272.00
15	1,053.00	176.00	37.00	94.00	1,360.00
For each additional member add	+70.00	+10.00	+ 2.00	+ 6.00	+ 88.00

NOTE: Recipients who are institutionalized will be provided \$40.00 only for clothing and personal needs in lieu of the above standards.

(e) Special Needs.

(1) Shelter

Number of Persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	\$ 200
3 - 6	\$ 250
7 and over	\$325

Shelter payments shall be authorized for rental/mortgage payments based on the actual cost up to the maximum allowance for each family size, when proper verification is provided. In no event shall payment exceed the maximum standard.

A shelter allowance shall be provided only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter allowance even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not provided for, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

For Non-Reporting households, the shelter and utility allowance shall be based on the documents or verification provided in the case record as of last recertification. ESs are not required to contact the household to determine the amounts to be budgeted until next recertification.

For GHURA rental contracts, the ES shall at the time of new application, recertification or reapplication, use the contract to determine what rental amount the recipient is

responsible for paying. If the recipient has not yet paid for rent, he shall be required to obtain from the landlord, a statement indicating the rental amount due from the recipient for which month.

One time expense such as Land Lease or Real Property Tax payments which is charged on annual basis, shall be budgeted as shelter allowance in the month the expense incurred or otherwise becomes due. ES shall no longer prorate such shelter allowance within the 12 or 6 months period. Tickler code "G" shall be used to flag the on-line system to ensure that such actual shelter allowance shall be provided only in the month the expense incurred or becomes due. In order for such expense to be allowed, the ES shall require applicant or recipient to submit payment receipts or a copy of Land Use Permit Agreement, signed by the Department of Land Management.

(2) **Utility Allowance.** Allowable utility expenses include power, water, gas, telephone, sewer and kerosene. Such utility allowance shall be provided in the budget for actual cost incurred up to the maximum amount authorized by the Agency, for each family size.

Utility allowance shall be given only in the month the utility is billed or otherwise becomes due, regardless of when the household intends to pay the bill. For example, a utility such as power which is due each month shall be included in the household's utility allowance even if the household has not yet paid the bill. Amounts carried forward from past billing periods are not provided for, even if included with the recent billing and actually paid by the household. In any event, a particular bill may only be deducted once.

When any of the utility needs are subsidized by the Guam Housing and Urban Renewal Authority (GHURA), the ES shall include the subsidy amount as unearned income and give the allowances for utility needs when determining need and amount of the public assistance grant.

For example:

Mr. Cruz, a recipient of OAA, has a power expense of \$45.00, and water/sewer expense of \$12.00 and \$8.00 respectively. When computing Mr. Cruz's total needs, the ES shall provided:

BASIC NEEDS:	\$151.00
POWER ALLOWANCE	\$ 35.00
WATER ALLOWANCE	\$ 8.00
TOTAL NEEDS	\$202.00

NOTE: Because actual power and water expenses are greater than the maximum standard for a household size of one (1), the maximum amount was provided to Mr. Cruz.

(1) POWER (Electricity):

Number of persons in Assistance Unit	Maximum Monthly Allowance
1	\$ 35.00
2	\$ 43.00
3	\$ 51.00
4	\$ 64.00
5	\$ 77.00
6	\$ 89.00
7	\$ 101.00
8	\$ 112.00
9	\$ 122.00
10 and over plus \$10.00 for each additional member.	\$ 132.00

(2) WATER:

Number of persons in Assistance Unit	Maximum Monthly Allowance
1	\$ 8.00
2	\$ 10.00
3	\$ 12.00
4	\$ 15.00
5	\$ 18.00
6	\$ 21.00

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7	\$ 24.00
8	\$ 27.00
9	\$ 29.00
10 and over plus \$3.00 for each additional member.	\$ 31.00

3) **GAS:**

Number of Persons in Assistance Unit	Maximum Monthly Allowance
1 - 2	\$ 6.00
3 - 4	\$10.00
5	\$12.00
6 - 7	\$13.00
8 and over	\$21.00

Gas allowance shall only be provided to the assistance unit if such expense is incurred. In no event such allowance exceeds the maximum standard for each family size.

(4) **TELEPHONE:** The basic (flat) rate for a single-line telephone is \$12.00. This shall be the allowance provided to all households which have this expense. Any additional expenses which exceed the basic rate for telephone is not entitled to such allowance.

(5) **SEWER:** The basic (flat) rate for this utility is \$8.00. This shall be provided only to households which claim and present verification for this expense. Any additional expenses which exceed the basic rate for sewer is not entitled to such allowance.

(6) **KEROSENE:** There is no standard established for "kerosene". However, if a household incurred such expense, the allowance for kerosene will be provided up to the actual amount incurred.

(f) **Standard Utility Allowance Table.**

Household Size	Power	Water	Sewer	Gas	Telephone	Shelter
01	35.00	8.00	8.00	6.00	12.00	200.00
02	43.00	10.00	8.00	6.00	12.00	200.00
03	51.00	12.00	8.00	10.00	12.00	250.00
04	64.00	15.00	8.00	10.00	12.00	250.00
05	77.00	18.00	8.00	12.00	12.00	250.00

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06	89.00	21.00	8.00	13.00	12.00	250.00
07	101.00	24.00	8.00	13.00	12.00	325.00
08	112.00	27.00	8.00	21.00	12.00	325.00
09	122.00	29.00	8.00	21.00	12.00	325.00
10	132.00	31.00	8.00	21.00	12.00	325.00
11	142.00	34.00	8.00	21.00	12.00	325.00
12	152.00	37.00	8.00	21.00	12.00	325.00
For each additional member add	+10.00	+3.00	+0.00	+0.00	+0.00	+0.00

NOTE: When living arrangements are shared with non-eligible persons, only the recipient's actual share of cost (up to the maximum allowance) will be computed.

(g) Eligibility and Benefit Level.

(h) DEFINITIONS. The following definitions apply to this chapter:

(1) *Prospective budgeting* means determination of eligibility and benefit levels based on the best estimate of income and circumstances which will exist for the first two months of eligibility. This estimate shall be based on the ES's reasonable expectation and knowledge of current, past and future circumstances.

(2) *Retrospective budgeting* means computation of the amount of assistance for a payment month based on actual income or circumstances which existed in a previous month, the budget month.

(3) *Budget month* means the calendar month from which the ES shall use income or circumstances of the family to compute the amount of assistance.

(4) *Payment month* means the calendar month for which the agency shall pay assistance. Payment is based upon income or circumstances in the budget month and the payment are the same. In retrospective budgeting, the payment month follows the budget month.

(i) Determination of Eligibility and Benefit Levels. All factors of eligibility shall be determined prospectively and the amount of the assistance payment shall be computed prospectively.

(1) The ES shall provide PA benefits to the households from the date of application provided that the household was to determine eligible. This means that the ES shall provide and pro-rate the PA benefits from the date of applications.

(2) The ES shall round down both the standard of need and the payment amount, when not a whole dollar amount to the next lower whole dollar amount. For the need standard, rounding is required after completing all steps necessary to determine the applicable standard of need (including special needs).

(3) **Application for Renewals.** SAR Eligibility and the level of benefits for renewals shall be determined based on circumstances anticipated for the eligibility period of six (6) months starting the month following the expiration of the current eligibility period. If an application for renewal is submitted after the assistance unit's eligibility period has expired, then that application shall be considered an initial shall be considered an initial application and payment for that month is pro-rated using the standard 30-day pro-ration table.

(4) **Anticipated Changes.** Because of anticipated changes, an assistance unit may be eligible for the month of application, but ineligible in the subsequent month. The assistance unit shall be entitled to benefits for the month of application even if the processing of its application results in the payment being issued in the subsequent month. Similarly, an assistance unit may be ineligible for the month of application but eligible in the subsequent month due to anticipated changes in circumstances. The application will not be needed, and payment will not be made during the month of ineligibility. However, the determination of eligibility for subsequent months shall be made from the application filed.

(5) **Treatment of Reapplication Inactive Less than Thirty (30) Days.** If the AFDC assistance is terminated due to failure to submit a monthly report form, the recipient may reapply the following month and receive benefits, if eligible. When the system-terminated reapplying applicant has been inactive less

than 30 days, the following procedures should be carried out:

(A) The ES obtains a new application form, MRF, and required documents.

(B) Prospective Budgeting is applied. This means that the computation of grant amount is based on the budget month's income and circumstances.

(C) The ES shall compute applicants' payments without benefit of the following income disregards unless there is a good cause for filing late:

(i) First \$90.00 (standard deduction);

(ii) \$175.00 (maximum) per dependent (dependent care deduction);

(iii) \$30.00 plus one-third (1/3) of remainder;

(iv) Earned income disregards of AFDC child who is a full-time student or part-time student and not a full-time employee.

§1806. Income and Eligibility Verification System (IEVS). (a) **Introduction.** The Deferred Reduction Act of 1984 (P.L. 98-369) requires establishments of an Income and Eligibility Verification System (IEVS) for agencies that administer Public Assistance, Medicaid, and Food Stamp (FSP) Programs. This requirement provides that agencies exchange IEVS information for purposes of conducting computer matches or other types of automated analysis to determine eligibility and benefit payments to applicants/recipients of the programs.

(b) **Purpose of IEVS.** Agencies shall safeguard and maintain the confidentiality of all information received under the agreement. Such information shall be used for the following purposes:

(1) To verify a household's eligibility;

(2) To verify the proper amount of benefits;

(3) To investigate (in determining) whether participating households received benefits to which they were not entitled.

(c) **Data Exchange/Request Agreement.** The Department of Public Health and Social Services (PH&SS) has agreement with the following agencies in order to ensure IEVS requirements are met.

(1) Internal Revenue Services (IRS)

- Earned income information
- Unearned income information

(2) Department of Revenue and Taxation (DRT)

- Earned income information
- Unearned income information

(3) Social Security Administration (SSA)

- Federal retirement information
- Survivors benefits
- Disability benefits
- Other related information

The agreement establishes mutual interest in improving the efficiency and effectiveness of computer matching efforts to identify ineligible recipient.

(d) **How to Use IEVS Information:** IEVS obtained information is used to determine the eligibility and benefit level of applicant/recipients of participating household. When the IEVS - obtained information is questionable the information shall be considered unverified; the agency (PCCU) shall independently verify the information before taking adverse action against the household. The verification is conducted in the following manner:

(1) Contact the household to request verification of the amount of asset or income involved.

(2) Verify whether the household actually had/has access to such asset or income.

(3) Verify the period access to asset or income occurred.

(4) Contact appropriate source by obtaining a written consent from household for release of information for purpose of resolving discrepancies.

(e) **Agency Responsibilities (PCCU).** Upon receipt of information from the system (PCCU) shall take the following actions:

(1) analyze income/benefit with program information in the case records to determine errors/non-errors.

(2) If no error is found - document findings in the case record. If there is a discrepancy between the computer match information and the case information, PCCU shall send notice to household requesting household to contact PCCU within ten (10) days to resolve the discrepancy.

(3) PCCU shall send notice of adverse action to terminate benefits effective the following issuance month if a household does not respond and resolve the discrepancy.

(4) The agency shall properly notify the household of the action it intends to take and provide the household with an opportunity to request a fair hearing prior to such adverse action.

(f) **Household Responsibilities:**

(1) If the household responds within ten (10) days household will be given five (5) days after responding to resolve the discrepancy. A pending notice will be given to the household for documentation unless only a verbal response was made.

(2) If the household does not resolve the discrepancy within five (5) days and the household

and has no good cause for not resolving discrepancy, PCCU will then terminate or deny benefits.

(3) The household may request a fair hearing during ten (10) days prior to the adverse action with or without continued benefits.

(g) Agency's Responsibilities (Certification).

(1) Review case referred from PCCU to determine the amount of benefits over-issued.

(2) Establish a claim determination (CD) on cases where appropriate.

(3) Transmit CD report to IRS via PCCU within 30 days from the date referred.

(h) Monitoring and Evaluation (PCCU).

(1) Review 10% of the matched cases to ensure IEVS requirements are complied with monthly.

(2) Identify activities not complied in the process.

(3) Analyzed data for evaluations.

(4) Prepare corrective actions for activities not complied.

(5) Prepare activity report based on the results of the 10% review which includes:

(A) Number of errors identified

(B) Type of corrective action

(C) Status of corrective action

(D) Recommendations

(i) Report.

(1) IEVS activity report to FNS.

- 20th day of the month

(2) IEVS activity report to PDU.

- 5th day of the month

(3) IEVS monitoring and evaluation activity progress report to administration.

- Quarterly (written)

(j) **Computer Matching.**

(1) **Activity Time Frames.** Computer tape for each issuance month shall be transmitted to the Social Security Administration (SSA) and Internal Revenue Services (IRS) on or before the 10th of each month.

Diskettes from Commonwealth of Northern Mariana Islands Nutrition Assistance Program are received the first week of each month and process matched with current food stamp files.

Department of Administration prepares print out of all possible dual participants in the food stamp program at the first week of each month.

DAY 1 TO DAY 2

(A) The Program Compliance and Coordination Unit (PCCU) shall:

(i) Transmit upon receipt the Wage Matching/BEER or BENDEX computer tape to the Department of Administration (DOA).

(ii) Request a printout for reference and a printout of cases resulting from the match between the computer tape and the Food Stamp (FS) files, Public Assistance and Medicaid files.

DAY 3 TO DAY 6

(B) Department of Administration (DOA) shall:

(i) Print out data on the computer tapes received from the Social Security Administration for reference.

(ii) Run the computer tape against current FS files for matches.

(iii) Print out the cases that are possible valid "hits" (matched by Social Security Number and name) within five (5) days of the request.

DAY 6 TO DAY 15

(C) PCCU shall:

(i) Pick-up the printout from DOA.

(ii) Prepare for initial screening:

(a) Identify cases with income/benefits.

(b) Analyze cases that are possible valid hits (on the CRT) to verify Social Security Numbers.

(c) Categorize the cases listed as possible valid hits according to priority (high, medium, or low), if necessary.

(iii) Analyze the matched cases and complete the worksheet to identify those with discrepancies of \$5.00 or more per month.

(iv) Prepare and send letters to the households (cases) with such discrepancies requesting income verification for the previous 12 to 24 months. Give the household 10 days to respond and 5 days to resolve after reporting the discrepancy.

(v) Keep copies of such letters and transmit copies to Certification for filing in the case folder.

DAY 16 TO DAY 30

(D) Household shall:

(i) Respond to PCCU's request to resolve the income/benefit discrepancy within ten (10) days.

(ii) Obtain verification of all income/benefits received and submit it to PCCU within fifteen (15) days to resolve income/benefits discrepancies.

(iii) Terminate households that do not respond to the IEVS Compliance Letter within ten (10) days to resolve the discrepancy after notice of adverse action was issued.

(iv) Terminate households that do not resolve such discrepancy within five (5) days after responding to PCCU's request.

DAY 31 TO DAY 40

(E) Conduct a secondary screening on households that do comply:

(i) Analyze the income verifications received with the case folder information to more positively determine discrepancies exist.

(ii) Transmit cases with possible claims discrepancies to Certification for claims action.

DAY 41 TO DAY 70

(F) Certification shall:

(I) Review information received to verify discrepancy months.

(ii) Establish claims on cases which resulted in over- issuances.

(iii) Complete all claims actions within 30 days after receipt.

(iv) Transmit all claims established to PCCU.

DAY 55 TO DAY 80

(G) PCCU shall:

(i) Remind certification of the cases that are due for claims actions.

(ii) Review claims for accuracy and completeness,

(iii) Refer all claims established for collection to BIBR.

(iv) Maintain copies of all claims referred to BIBR.

(v) Compile the information received on the cases referred.

(vi) Follow-up on cases still pending as of day 71.

(vii) Compile the data for reporting to FNS within 10 days after the wage matching activity month.

(k) **SWICA**

(1) **Specific Match Procedures.**

(A) **Responsibilities:**

(i) Coordinate preparation (by ADP) and transmit the computer tapes for each issuance month to the Department of Revenue and Taxation (DRT) on or before the 10th of each month. A hard copy (printout) of the data from the computer tape must be reviewed to help ensure proper preparation of the tapes. Such review will determine that the correct

data are entered in the proper format. This will enable DRT to match the data transmitted by Guam with the existing DRT wage and benefits information. The resultant matches are then transmitted to Guam.

(ii) Review tapes from DRT as they are received. Review of tapes is to determine whether safeguards have been maintained in receipt and handling.

(iii) Log all tapes received for Tracking System and transmit to the Department of Administration's Automated Data Processing (ADP) for "dumping" and "process matching". Review the process matching to ensure that ADP properly matches the DRT data with the current issuance month. (i.e. any tape received will be matched in the month it's received unless it is to near the end of the month. Since ATP printings are done near the end of the month, it may delay the process match at times.

(iv) Monitor the process matching to ensure completion by the targeted due date. Also, notify the PCCU Supervisor when a processing delay is experienced.

(v) Review the "dump" and "process match" received from ADP to determine accuracy and completion in the processing of the DRT data.

(vi) Analyze the resultant matches to determine whether the match is a valid or an invalid "hit". Such matches shall be validated in the following manner:

(a) Identify the cases with income.

(b) Identify high risk cases to prioritize for review.

This criteria shall be used:

(1) Social Security Number and name of a current recipient match with the IRS data received.

(2) Earnings from employers that are on-island.

(3) Other hits.

(c) Verify the SSN using case record information on the CRT except when written case file data is necessary.

(vii) Use the IEVS review worksheet in the following manner:

(a) Identify those hits (cases) that are "non-error". Those determined as having incorrect SSNs and were verified as such through client documentation and case information are considered non-error cases, thus invalid hits.

(b) Case identified as error cases shall be prepared for analysis. Individual files shall be maintained for such possible error cases.

(viii) Prepare and transmit certified letters (IEVS Discrepancy Letter) to households with an income benefit discrepancy. The letter shall request the household to respond within 10 days or be terminated. As the household responds, they shall be given five (5) days to resolve the discrepancy or also be terminated for non-compliance.

(ix) As households respond, they are notified as to how the discrepancies shall be resolved and the consequences for not complying. A CSR will then be transmitted to Certification for documentation and filing of the non-compliance.

(x) When a household resolves the discrepancy through appropriate document verification, etc., the IRS Coordinator shall analyze the documentation and determine whether there is a possible claim by doing the following:

(a) Compare the income/benefits verifications received with the case file information to identify the actual discrepancies of unreported income/benefits.

(xi) Refer the possible claim to Certification with all pertinent documents for an appropriate claim determination. Then coordinate and monitor the possible claims until referral has been made to the Investigations and Recovery Office (IRO).

(xii) The SWICA Coordinator shall also follow-up to ensure collective procedures are ongoing. Such collections or other corrective action should be documented in the case file.

(l) Wage Matching (B.E.E.R./BENDEX)

(1) Specific Match Procedures.

(A) Responsibilities: The W.M. Coordinator, PCCU shall:

(1) Coordinate the preparation of computer tapes by the Department of Administration's Automated Data Processing (ADP) and transmit the computer tapes for each issuance month to the Social Security Administration (SSA) on or before the 10th of each month. A hard copy (printout) of data from the computer tapes must be reviewed to help ensure the proper preparation of the tapes. Such review will determine that the correct data is entered in the proper format. This will enable (SSA) to match the data transmitted by Guam with their existing SSA wage (B.E.E.R.) and benefits (BENDEX)

information. The resultant matches are then transmitted to Guam.

(2) Review tapes to determine whether safeguards have been maintained in receipt and handling.

(3) Log all tapes (one for B.E.E.R.; one for BENDEX) received for Tracking System and transmit to the Department of Administration's Automated Data Processing (ADP) for "dumping" and "process matching". Review the process matching to ensure that ADP properly matches the SSA data with the current issuance month. (i.e., any tape received will be matched in the month it's received unless it is near the end of the month. Since ATP printings are done near the end of the month, it may delay the process match at times.

(4) Monitor the process matching to ensure completion by the targeted due date. Also notify the PCCU Supervisor when a processing delay is experienced.

(5) Review the "dump" and "process match" received from ADP to determine accuracy and completion in the processing of the SSA data.

(6) Analyze the resultant matches to determine whether the match is a valid or an invalid "hit". Such matches shall be validated in the following manner:

(a) Identify the cases with income.

(b) Identify high risk cases to prioritize for review.

This criteria shall be used:

(1) Social Security Number and name of a current recipient match with the IRS data received.

(2) Earnings from employers that are on-island.

(3) Other hits.

(c) Verify the SSN using case record information on the CRT except when written case file data is necessary.

(7) Use the (IEVS) Review Worksheet in the following manner:

(a) Identify those hits (cases) that are "non-error". Those determined as having incorrect SSNs and were verified as such through client documentation and case information are considered non-error cases, thus invalid hits.

(b) Case identified as error cases shall be prepared for analysis. Individual files shall be maintained for such possible error cases.

(8) Prepare and transmit certified letters (IEVS Discrepancy Letter) to households with an income benefit discrepancy. The letter shall request the household to respond within 10 days or be terminated. As the household responds, they shall be given 5 days to resolve the discrepancy or be terminated for non-compliance.

(9) As a household responds it is advised that the discrepancy should be resolved in the following manner by the coordinator:

When the household responds, the coordinator shall request the household to explain the reason for the discrepancy between the BEER and the case information. The coordinator shall obtain from the household the appropriate documents needed to resolve the discrepancy. If the household is unable to comply, the coordinator shall average the

discrepancy amount over the reported BEER period (12 months) and refer the case to certification for claims review.

(10) When a household resolves the discrepancy through appropriate document verification, etc., the W.M. Coordinator shall analyze the documentation and determine whether there is a possible claim by doing the following:

(a) Compare the income/benefits verifications received with the case file information to identify the actual discrepancies of unreported income/benefits.

(11) Refer the possible claim to Certification that are identified as having unreported income in a month with all pertinent documents for appropriate claim determination. Then coordinate and monitor the possible claims until referral has been made to the Investigations and Benefits Recovery Office (IRO).

(12) The W.M. Coordinator shall also follow-up to ensure collective procedures are on-going. Such collections or other corrective action should be documented in the case file.

(m) **Safeguarding of Information.** The State provides safeguards which restrict the use or disclosure of information concerning applicants or recipients of services to public officials who requires information in connection with:

(1) Administration of the Plan such as establishing eligibility.

(2) Any investigation and prosecution in connecting with the administrations of the Plans or programs.

(3) The Administration of any other programs that provide federal assistance in cash, or in-kind, in services directly to the individual's needs.

(4) The certification of receipt of AFDC for the purpose of claiming Tax Credit under Public Law 94-12, the Tax Reduction Act of 1975.

(5) Any audit or similar activity in connection with the administration of the State Plan.

(6) The verification to the Employment Security Agency that an individual has been an AFDC recipient for at least 90 days or is a JOBS Demonstration Participant pursuant to P.L. 9734, the Economic Recovery Tax Act of 1981.

Only the names and address of applicants and recipients and amounts of assistance provided unless exempted under paragraph (a) (1) (iv) of CFR 205.50 (10-85 edition). An exception to this rule is an enforcement of local legislation prescribing any conditions under which public access maybe granted to records of the disbursement of funds.

§1807. Disqualification for Intentional Program Violation (IPV). Definition of Intentional Program Violation.

As defined under Title X, Chapter X, Chapter II, Section 2107 of the Government of Guam Code specified under 45 CFR Section 235.112-113.

For purposes of determining through administrative disqualification hearing whether or not a person has committed an Intentional Program Violation, Intentional Program Violations shall consist of having intentionally:

(1) Made a false or misleading statement, or misrepresented, concealed or withheld facts, or;

(2) Committed any act that constitutes a violation of Public Assistance Act, the Public Assistance Program Regulations, or any territorial statute relating to the use, presentation, transfer, acquisition, receipt, or of a Public Assistance grant.

(a) **Administrative Responsibility.** The Agency shall be responsible for investigating any case of alleged Intentional Program Violation, and ensuring that appropriate cases are referred through administrative disqualification hearing or referral to a court of appropriate jurisdiction.

Administrative disqualification procedures or referral for prosecution action should be initiated by the Agency in cases which the Agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of Intentional Program Violation.

If the Agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overpayment caused by a suspected act of Intentional Program Violation, the Agency shall take action to recoup the overpayment against the household in accordance with the procedures in Chapter III of this Manual.

The Agency shall conduct administrative disqualification hearings in cases which the Agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the Agency.

The Agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or to a court of appropriate jurisdiction, if the factual issues of the case arise out of the same circumstances.

The Agency shall initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

The disqualification period for nonparticipant at the time of the administrative disqualification or court decision shall be deferred until the individual applies for and is determined eligible for Program benefits.

The Agency shall base administrative disqualifications for Intentional Program Violations on the determinations of hearing authorities arrived through administrative disqualification hearings or reached by court of appropriate jurisdiction. However, the Agency has the option of allowing accused individuals either to waive their rights to administrative disqualifications hearings or to sign disqualification consent agreements for cases of deferred adjudication.

The Agency may base administrative disqualifications for Intentional Program Violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

(b) Disqualification Penalties. Individuals found guilty of Intentional Program Violation through administrative disqualification hearing or by a court of appropriate jurisdiction, shall be ineligible to participate in the program for six months for the first violation, 12 months for the second violation, and permanently for the third violation.

However, one or more Intentional Program Violation disqualifications which occurred prior to the implementation of these penalties shall not be considered when determining the appropriate penalty to impose in a case under consideration.

If a court fails to impose a disqualification period for the Intentional Program Violation, the Agency shall impose the disqualification penalties specified in this section unless it is contrary to the court order.

The Agency shall disqualify only the individual found to have committed Intentional Program violation, or who signed the waiver of right to an administrative disqualification hearing or disqualification consent agreement in cases referred for prosecution.

When the head of the household or principal wage earner (PWE) is disqualified from the program due to any of the following reasons, the entire unit may be ineligible to receive benefits if IPV:

(1) was due to absent parent(s) was in the home and deprivation no longer exists;

(2) was due to fraudulent documents were provided attesting to his/her incapacity;

(3) was due to failure to report employment in excess of 100 hours a month for AFDC UP cases;

(4) was due to failure to report his/her employment income and resources which exceeded the income and resources limitation.

(c) **Notification to Applicant Households.** The Agency shall inform the household in writing of the disqualification penalties for Intentional Program Violation each time it applies for Program benefits.

(d) **Disqualification Hearings.** The Agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation in accordance with the requirements outlined in this section.

(1) Consolidating of administrative disqualification hearing with fair hearing. The Agency shall combine a fair hearing and an administrative disqualification hearing into a single hearing if there are issues arising out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. The Department shall follow the time frames for conducting disqualification hearings. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not Intentional Program Violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim. However, the Agency shall, upon household request, allow the household to waive the 10-day advance notice period when the disqualification hearing and fair hearing are combined.

(2) Disqualification Hearing Procedures.

(3) The Director of Public Health and Social Services shall designate hearing officials to conduct disqualification hearings.

(4) At the disqualifications hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(5) Within 90 days of the date the household member is notified in writing that a hearing initiated by the Agency has been scheduled, the Agency shall conduct the hearing, and notify the household member of the decision. The household member or representative is entitled to a postponement of the scheduled hearing, provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing. However, the hearing shall not be postponed for more than a total of 30 days and the Agency may limit the number of postponements to one.

(6) The Agency shall publish written rules of procedure for disqualification hearings, and shall make these procedures available to any interested party.

(e) **Advance Notice of Hearing.** The Agency shall provide written notice to the household member at least 30 days in advance of the date a disqualification hearing initiated by the Agency has been scheduled. The notice shall be mailed certified mail-return receipt requested or provided to the accused household by any other method as long as proof of receipt is obtained, and shall at a minimum, include:

- (1) The date, time, and place of the hearing;
- (2) The charge(s) against the household member;
- (3) A summary of the evidence, and how and where the evidence can be examined;
- (4) A warning that the decision will be based solely on information provided by the Public Assistance office if the household member fails to appear at the hearing;
- (5) A statement that the household member or representative will have 10 days from the date of the

scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

(6) A warning that a determination of Intentional Program Violation will result in a six-month disqualification for the first violation, 12 month disqualification for the second violation, and permanent disqualification for the third violations;

(7) A listing of the household member's rights as contained in Section 704.50;

(8) A statement that the hearing does not preclude the Local or Federal Government from prosecuting the household member for Intentional Program Violation in a Civil or Criminal court action, or from collecting the overpayments and

(9) If there is an individual or organization available that provides free legal representation, the notice shall advise the household member of the availability of the service.

A copy of the Agency's published hearing procedures shall be attached to the 30-day advance notice or the advance notice and shall inform the household of its right to obtain a copy of the Agency's published hearing procedures upon request.

The Agency shall develop an advance notice form which contains the information required by this section.

(f) **Scheduling of Hearings.** The time and place of the hearing shall be accessible to the household member suspected of Intentional Program Violation. If the household member or its representative fails to appear at a hearing initiated by the Agency without good cause, the hearing shall be conducted without the household member being represented. The hearing official is required to carefully consider the evidence and determine if Intentional Program Violation was committed based on clear and convincing evidence. If the household member is found to have committed an Intentional Program Violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain

valid and the Agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear.

(g) Participation While Awaiting a Hearing. A pending disqualification hearing shall not affect the individual's or the household's right to participate in the Program. Since the Agency cannot disqualify a household member for Intentional Program Violation until the hearing official finds that the individual has committed Intentional Program Violation, the agency shall determine the eligibility and benefit level of the household. For example, if the misstatement or action for which the household member is suspected of Intentional Program Violation does not affect the household's current circumstances, the household would continue to receive its grant based on the latest certification action or on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and, after receiving its notice of expiration fails to reapply. The Agency shall also reduce or terminate the household's benefits if the Agency has documentation which substantiates that the household is ineligible or eligible for benefits (even if these facts led to the suspicion of Intentional Program Violation and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the agency may have facts which substantiate that a household failed to report a change in its circumstances even though the Agency has not yet demonstrated that the failure to report involved an intentional act of Program violation.

(h) Criteria for determining Intentional Program Violation. The hearing official shall base the determination of Intentional Program Violation that the household member(s) committed, and found guilty of Intentional Program Violation as defined in Section 700.

(i) Decision Format. The hearing official's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent OFA regulation, and respond to reasoned arguments made by the household member or representative.

(j) Imposition of Disqualification Penalties

(1) If the hearing official rules that the household member has committed Intentional Program Violation, the household member shall be disqualified in accordance with the disqualification periods beginning with the first month which follows the date the household member receives written notification of the hearing decision. However, if the act of Intentional Program Violation occurred prior to notification of the disqualification periods, the household member shall be disqualified at the time of the offense. The same act of Intentional Program Violation repeated over a period of time shall not be separated so that separate penalties can be imposed.

(2) No further administrative appeal procedure exists after an adverse hearing. The determination of Intentional Program Violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(3) If the individual is not eligible for the Program at the time disqualification period begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) Once the disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted until the eligibility of the disqualified member's household. However, the disqualified member shall continue to be responsible for repayment of the overpayment which resulted from Intentional Program Violation.

(k) Notification of Hearing Decision

(1) If the hearing official finds that the household member did not commit Intentional Program Violation, the Agency shall provide a written notice which informs the household member of the decision.

(2) If the hearing official finds that the household member committed Intentional Program Violation, the Agency shall provide written notice to the household member prior to disqualification. The notice shall inform the household member of the decision, the reason and the effective date of disqualification. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until such time as the individual again applies and determined eligible for Program benefits. The Agency shall also provide a written notice of the benefit level they will receive during the period of disqualification or that the household must reapply because the certification period has expired.

(3) The Agency shall develop a form for notifying individuals that they have been found by an administrative disqualification hearing to have committed Intentional Program Violation. The form shall contain the information required by this section.

(l) **Waived Hearings.** The Agency shall establish procedures to allow accused individuals to waive their rights to an administrative disqualification hearing. The procedures shall conform to the requirements outlined in this section.

(1) **Advance Notification.** The Agency shall provide written notification to the household member suspected of Intentional Program Violation (IPV) that he/she can waive his/her right to an administrative disqualification hearing. Prior to providing this written notification to the household member, the Agency shall ensure that the evidence against the household member is reviewed by someone other than the Eligibility Specialist assigned.

The written notification provided to the household member which informs him/her of the possibility of waiving the administrative disqualification hearing shall include, at a minimum:

(A) The date that the signed waiver must be received by the Agency to avoid the holding of a hearing and a signature block for the accused individual, along with a statement that the head

of household must also sign the waiver if the accused individual is not the head of the household.

(B) A statement of the accused individual's right to remain silent concerning the charges(s), and that anything said or signed by the individual concerning the charge(s) can be used against him/her in a court of law;

(C) The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits even if the accused individual does not admit to the facts as presented by the Agency;

(D) An opportunity for the accused individual to specify whether or not he/she admits to the facts as presented by Agency. This opportunity shall consist of the following statement, developed by the Agency which have the same effect, and a method for the individual to designate his/her choice:

(i) I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver; and

(ii) I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result;

(E) The telephone number and, if possible, the name of the person to contact for additional information; and

(F) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.

The Agency shall develop a waiver of right to an administrative disqualification hearing forms, the information required in Section 905.11 for advance notice of a hearing. However, if the household member is notified of the possibility of waiving

his/her right to an administrative disqualification hearing before the Agency has scheduled a hearing, the Agency is not required to notify the household member of the date, time and place of the hearing.

(2) Imposition of Disqualification Penalties. If the household member suspected of Intentional Program Violation signs the waiver of right to an administrative within the time frame specified by the Agency, the household member shall be disqualified based on the disqualification periods.

The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. However, if the act of Intentional Program Violation which led to the disqualification occurred prior to the written notification of the disqualification periods, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense.

No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by subsequent fair hearing decision. The household member, is entitled to seek relief in a court of appropriate jurisdiction.

If the individual is not eligible for the Program at the time the disqualification begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

Once a disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted until the disqualification period is completed.

(2) Notification of Disqualification. The Agency shall provide written notice to the household member prior to disqualification and provide written notice to any remaining household members of the allotment they will receive or that they must reapply because the

certification period has expired. The notice(s) of a hearing decision shall conform to the requirements for notification and a written demand letter for restitution shall also be provided.

(m) **Court Referrals.** The Agency is exempted from the requirement to establish an administrative disqualification system and may refer appropriate cases for prosecution by the Prosecution Division of the Attorney General Office in a court of the appropriate jurisdiction.

(1) **Appropriate Cases.** The Agency shall refer cases of alleged Intentional Program Violation for prosecution under Territorial law. The prosecution of Intentional Program Violation cases will be pursued according to an agreement with the Prosecutors in cases where appropriate. This agreement shall also include information on how, and under what circumstance cases will be accepted for possible prosecution and any other criteria for accepting cases for prosecution, such as a minimum amount of overpayment which resulted from Intentional Program Violation.

(2) **The Statutes of Limitation on Felony Cases.** A felony must be charged by the Prosecutor within three (3) years of when the crime was committed and a misdemeanor must be charged within one (1) year of when the crime was committed.

The agency is encouraged to refer for prosecution those individuals suspected of committing Intentional Program Violation, or individuals suspected for committing more than one act of Intentional Program Violation. The agency shall determine the types of cases which will be referred for possible prosecution. The agency shall also encourage local prosecutors to recommend a disqualification penalty for such violations.

(3) **Imposition of Disqualification Penalties.** The Agency shall disqualify an individual found guilty of Intentional Program Violation by the court. If the court fails to impose, the Agency shall impose a disqualification period, unless contrary to the court order. If the disqualification is ordered but a date for initiating the disqualification period is not specified,

the agency shall initiate the disqualification period for currently eligible individuals within 45 days of the date the disqualification was ordered.

If the individual is not eligible at the time the disqualification period begins, the period shall be postponed until the individual applies for and is determined eligible for benefits.

Once a disqualification penalty has been imposed against a household member, the period of disqualification shall continue uninterrupted regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overpayment which resulted from the disqualified member's Intentional Program Violation regardless of its eligibility for Program benefits.

(d) **Notification of disqualification.** If the court finds that the household member committed Intentional Program Violation, the Agency shall provide written notice to the household member. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date disqualification will take effect. The Agency shall provide written notice to the remaining household members, of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member and written demand letter shall be provided.

(n) **Deferred Adjudication.** The Agency shall establish procedures to allow individuals to sign disqualification consent agreement for cases of deferred adjudication. The Agency is encouraged to use this option when a determination of guilt is not obtained from a court order or when the individuals having met the terms of an agreement with the prosecutor.

(1) **Advance Notification.** The Agency shall make and agreement with the Attorney General's Office for advance written notification to the household member

of the consequences of disqualification in cases of deferred adjudication.

(2) The written notification provided to the household member which informs him/her of the consequences of consenting to disqualification as a part of deferred adjudication shall include, at a minimum:

(A) A statement for the accused individual to sign that the accused individual understands the consequences of consenting to disqualification along with a statement that the head of household must also sign the consent agreement if the accused individual is not the head of household, and appropriately designated signature block.

(B) A statement that disqualification and a reduction in benefits for the period of disqualification, shall not, even though the accused individual was not found guilty of Intentional Program Violation.

(C) A warning that the disqualification penalties for Intentional Program Violation under the Public Assistance Program are a six-month disqualification for the first violation, 12 month disqualification for the second violation, and permanent disqualification for the third violation.

(D) A statement of the fact that the remaining household members, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

The Agency shall develop a disqualification consent agreement, reached between the prosecutors and accused individuals which contains the information notifying a household member suspected of Intentional Program Violation.

If the household member suspected of Intentional Program Violation signs the disqualification consent agreement, the household member shall be

disqualified in accordance with the disqualification with the disqualification periods specified in Section 902.10. The period of disqualification shall begin within 45 days of the date the household member signed the disqualification consent agreement. However, the Agency shall disqualify the household member in accordance with the court order.

If the individual is not eligible for the Program at the time the disqualification period begins, the period shall be postponed until the individual applies for and is determined eligible for benefits.

(4) Notification of Disqualification. If the household member suspected of Intentional Program Violation signs the disqualification consent agreement, the Agency shall provide written notice to the household member prior to disqualification. The notice shall inform the household member of the date the disqualification will take effect. The Agency shall also provide written notice to household of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member and the demand letter for restitution shall be provided.

(o) Reporting Requirements. The Agency shall report to OFA those individuals disqualified for Intentional Program Violation, based on the determination of an administrative disqualification hearing. This information shall be submitted to ACF no later than 30 days after the date the disqualification took effect.

The Agency shall report information for each individual disqualified for Intentional Program Violation in a format designed by ACF. This format shall include:

- (1) Full Name
- (2) Social Security Number
- (3) Date of Birth
- (4) Number of Disqualification (1st, 2nd, and 3rd)

(5) Certification Office which the disqualification took place

(6) Length of disqualification period imposed.

The Agency shall submit the required information on each individual disqualified for Intentional Program Violation through a procedures specified by ACF.

All data submitted by the Agency will be available for use by any State Welfare Agency.

The Agency shall use the data for the following:

(1) To determine the eligibility of applicants prior to certification in cases where the Agency has reason to believe a household member is subject to disqualification in another political jurisdiction, and

(2) To ascertain the appropriate penalty to impose, based on past disqualifications, in a case under consideration.

The Agency may also use the data in other ways, such as the following:

(1) To screen all program applicants prior to certification, and

(2) To periodically match the entire list of disqualified individuals against their current case loads.

The disqualification of an individual for Intentional Program Violation in one political jurisdiction may be considered in determining disqualification in another. However, one or more disqualifications for fraud which occurred prior to the implementation of the penalties shall be considered as only one previous disqualification when determining the appropriate penalty regardless of where the disqualification(s) took place. The Agency is required to identify any individuals disqualified for fraud prior to implementation of this rule and to submit the information required by this section.

In cases where the imposition of a disqualification penalty is being held pending the eligibility of a household member found to have committed Intentional Program Violation, the Agency shall submit a report revising the original disqualification report once the individual begins the period of disqualification in accordance with instructions provided by ACF.

In cases where the disqualification for Intentional Program Violation is reversed by a court of appropriate jurisdiction, the Agency shall submit a report to purge the file of the information relating to the disqualification which was reversed in accordance with instructions provided by ACF.

(p) **Reversed Disqualifications.** In cases where the determination of Intentional Program Violation is reversed by a court of appropriate jurisdiction, the Agency shall reinstate the individual in the program if the household is eligible. The Agency shall restore benefits that were lost as a result of the disqualification procedures.

(r) **Treatment of Income and Resources of a Disqualified Member for Intentional Program Violation (IPV).** Any member of an assistance unit who is found guilty of Intentional Program Violation as a result of Administrative Disqualification Hearing, shall be disqualified from participating in any of the Public Assistance Programs.

The available income and resources of the IPV member shall be counted entirely towards the remaining eligible members. However, the needs of the IPV member shall be excluded when determining the benefit amount.

EXAMPLE:

Household size of five (5) including the IPV member, the basic needs for such household should be using the standard for four (4) to exclude the IPV member's needs. For shelter and utility allowance, ES shall use standard for household of 5, prorate to five (5) members and multiplied by four (4) for the remaining members.

NOTE: Further, the disqualified member is not entitled for Medicaid benefits. He/she shall be referred to MIP program.