

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code, Chapter 5, Section 512 (31 Del.C. §512)

ORDER

DSSM 9026.1, Food Stamp Program

FINAL

Nature Of The Proceedings:

Delaware Health and Social Services (“Department”) / Division of Social Services initiated proceedings to amend the Division of Social Services Manual (DSSM) as it relates to the Food Stamp Program. The Department’s proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the October 2004 **Delaware Register of Regulations**, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by October 31, 2004 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary Of Proposed Changes

Previous regulations required States to impose voluntary quit sanctions only on active individuals. When an individual was not getting benefits, States had to wait until the individual reapplied for benefits to impose the sanction. The regulations were changed to allow States to impose voluntary quit sanctions even if the household’s certification had ended and the household did not reapply for benefits. This means the sanctions can be applied while the case is closed.

Citation 7 CFR 273.7(j): Certification of Eligible Households – Work Provisions – Voluntary Quit and Reduction of Work Effort

Summary Of Comments Received With Agency Response

The Governor’s Advisory Council for Exceptional Citizens (GACEC) and the State Council for Persons with Disabilities (SCPD) endorse the proposed regulation based upon the following observations summarized below.

As background, Federal regulations require states to disqualify Food Stamp applicants and beneficiaries who voluntarily quit employment (or reduce employment) without good cause. We understand that each state may adopt a period of ineligibility between 30 and 60 days.

Under the repealed regulation, beneficiaries who withdrew from the program prior to imposition of the sanction would have the sanction applied upon reapplication. Under the new regulation, a “voluntary quit” during the last month of certification results in application of the 60-day disqualification period effective with the end of the last certification period. This is actually a more favorable result for consumers. The sanction period will often run out prior to application rather than “waiting” for the consumer to reapply.

Agency Response: Thank you for the endorsement.

Findings Of Fact

The Department finds that the proposed changes as set forth in the October 2004 Register of Regulations should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Food Stamp Program is adopted and shall be final effective December 10, 2004.

Vincent P. Meconi, Secretary, DHSS, 11/15/2004

REVISIONS:

9026 Voluntary Quit [273.7(n)]

No individual who voluntarily quit his/her most recent job or reduced work hours to less than 30 hours per week, without good cause will be eligible to participate in the Food Stamp Program as specified below.

At the time of application, explain to the applicant the consequences of the individual quitting his or her job without good cause.

9026.1 Application Processing

1) When a household files an application for participation or when a participating household reports the loss of a source of income, determine whether any household member voluntarily quit a job. Benefits will not be delayed beyond the normal processing times specified in DSSM 9028 pending the outcome of this determination. This provision applies only if the employment involved 30 hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by 30 hours; the quit occurred within 60 days prior to the date of application or anytime thereafter; and the quit was without good cause. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for the purpose of this subsection.

An employee of the Federal Government or of a state or local government, who participates in a strike against such government and is dismissed from his or her job because of participation in the strike, will be considered to have voluntarily quit a job without good cause.

2) In the case of an applicant household, determine whether any currently unemployed (i.e., employed less than 30 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 30 hours) household member who is required to register for work has voluntarily quit his or her most recent job within the last 60 days. If DSS learns that a household has lost a source of income after the date of application but before the household is certified, determine whether a voluntary quit occurred.

3) In the case of a participating household, determine whether any household member voluntarily quit his or her job or reduced work his or her hours, while participating in the Program.

4) If the determination of voluntary quit is established, determine if that member is the head of the household per DSSM 9014 or another household member.

5) Upon a determination that the head of household/individual voluntarily quit employment, determine if the voluntary quit was with good cause as defined in DSSM 9026.3. In the case of an applicant household, if the voluntary quit was without good cause, the household's application for participation will be denied and the appropriate period of ineligibility imposed per DSSM 9021.2.

Provide the applicant household with a notice of denial informing the household of the following items:

- The proposed disqualification period,
- Its right to reapply at the end of the period of ineligibility,
- Its right to a fair hearing.

If DSS determines that the head of a participating household/individual voluntarily quit his/her job or reduced his/her work hours while participating in the program or discovers a quit or reduction of work hours which occurred within sixty (60) days prior to application or between application and certification, provide a notice of adverse action within ten (10) days after the determination of a voluntary quit is made. The notification must contain the proposed period of ineligibility and must specify that the household may reapply at the end of the sanction. The periods of ineligibility are imposed according to DSSM 9021.2, and is effective upon the issuance of the notice of denial.

~~For those households which leave the program before the sanction can be levied, do not impose the sanction until the household returns to the program.~~

If a voluntary quit or reduction in work effort occurs in the last month of a certification period, or it is determined in the last 30 days of the certification period, the individual must be denied recertification for a period equal to the appropriate mandatory disqualification period. The beginning of the disqualification starts with the first day after the last certification period ends and continues for the length of the disqualification period, regardless of whether the individual reapplies for food stamps.

Example:

It is determined that a participating individual quit his job without good cause in the last month of the

certification period. The individual does not reapply for benefits. The individual is disqualified for three months starting with the first day after the certification period ended.

- If the individual reapplies before the three month period has ended, the individual is denied benefits due to the voluntary quit sanction.
- If the individual reapplies after the three month period has ended, the disqualification period has been served and eligibility can be determined.

Each household has a right to a fair hearing to appeal a reduction or termination of benefits due to a determination that the household's head voluntarily quit his/her job without good cause. If the participating household requests a fair hearing and the Division's determination is upheld, the disqualification period begins with the first month after the hearing decision is rendered.

Household heads who have been disqualified for quitting a job will carry their sanction with them if they join a new household as its head. The new household will be ineligible for the remainder of the sanction period unless the person who caused the disqualification ends it per DSSM 9021.4.

6) If an application for participation is filed in the third month of disqualification, use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

9026.2 Exemptions From Voluntary Quit Provisions

Persons exempt from the full-time work registration provisions are also exempt from voluntary quit provisions (See DSSM 9018.3).

9026.3 Good Cause

Good cause for leaving employment includes the good cause provisions found in DSSM 9025 and resigning from a job that does not meet the suitability criteria specified at DSSM 9022. Good cause for leaving employment also includes:

- 1) Discrimination by an employer based on age, race, sex, color, disability, religious beliefs, national origin, or political beliefs;
- 2) Work demands or conditions that under continued employment would be unreasonable, such as working without being paid on schedule;
- 3) Acceptance by the head of household of employment, or enrollment at least halftime in any recognized school, training program or institution of higher education, that requires the head of household to leave employment;
- 4) Acceptance by another household member of employment or enrollment at least half time in any recognized school, training program, or institution of higher education in another county which requires the household to move and thereby requires the head of household to leave employment;
- 5) Resignations by persons under the age of 60 which are recognized by the employer as retirement;
- 6) Employment which becomes unsuitable by not meeting the criteria specified in DSSM 9022 after the acceptances of such employment;
- 7) Acceptance of a bona fide offer of employment of more than 30 hours a week or in which the weekly earnings are equivalent to the federal minimum wage multiplied by 30 hours which, because of circumstances beyond the control of the head of household, subsequently either does not materialize or results in employment of less than 30 hours a week or weekly earnings of less than the federal minimum wage multiplied by 30 hours; and
- 8) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs, particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of previous employment will be considered as with good cause if it is part of the pattern of that type of employment.

9026.4 Voluntary Quit Verification

To the extent that the information given by the household is questionable as defined in DSSM 9033, request verification of the household's statements. The primary responsibility for providing verification as provided in DSSM 9035 rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, assistance will be offered to the household to obtain the needed verification. Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives, and grievance committees or organizations. Whenever documentary evidence cannot be obtained, substitute a collateral contact.

The Division is responsible for obtaining verification from acceptable collateral contacts provided by the household. If the household and the Division are unable to obtain requested verification from these or other sources

because the cause for the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Food Stamp Program.

9026.5 Ending a Voluntary Quit Or A Reduction In Work Hours Disqualification

Following the end of the disqualification period, as defined in DSSM 9021.2, a household may begin participation in the program if it applies again and is determined eligible.

Eligibility may be reestablished during a disqualification period and the household will, if otherwise eligible, be permitted to resume participation if the violator becomes exempt from the work registration requirements through DSSM 9018.3, other than through exemptions based on items (3) and (5) of that sections. Should a household which has been determined to be non-compliant without good cause split into more than one household, the sanction will follow the member who caused the disqualification. If a head of household who committed the violation joins another food stamp household as head of the household, that household is ineligible for the balance of the period of ineligibility.

8 DE Reg. 901 (12/01/04)