

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF SOCIAL SERVICES**

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

**PROPOSED**

**PUBLIC NOTICE**

**FOOD SUPPLEMENT PROGRAM**

**9029 Household Cooperation**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend Food Supplement Program policies in the Division of Social Services Manual (DSSM) regarding *Household Cooperation*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4425 by January 31, 2009.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**SUMMARY OF PROPOSED CHANGE**

The proposed change described below amends Food Supplement Program policies in the Division of Social Services Manual (DSSM) regarding *Household Cooperation*.

**Statutory Authority**

- 7 CFR §273.12(c)(3), *State agency action on changes – unclear information;*
- 7 CFR §273.16 (e)(2)(iii), *Disqualification hearing procedures;*
- 7 CFR §273.16 (f)(1)(ii)(B), *Advance notification.*

**Summary of Proposed Change**

**DSSM 9029, Household Cooperation:** The United States Department of Agriculture/Food and Nutrition Service (USDA/FNS) published an administrative notice informing the Division of Social Services (DSS) that States cannot close client food supplement benefits due to non-cooperation with fraud investigators. FNS requested that DSS remove this language from state policy.

Management has already advised staff that they cannot close a food supplement case due to non-cooperation with Audit and Recovery Management Services (ARMS). If staff closes a food supplement case for non-cooperation with ARMS, it causes a negative error if reviewed by Quality Control. The worker must send the client a *Request for Contact* form and allow the client ten days to clarify or verify the information that is in question. The client must cooperate with the DSS worker in providing the information.

**9029 Household Cooperation**

**[7 CFR 273.2(d)]**

~~To determine eligibility, the application form must be completed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate in completing this process, the application will be denied at the time of refusal.~~

~~To be denied, the household must refuse to cooperate, not merely fail to cooperate or be unable to do so. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process.~~

~~The household shall be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility. A subsequent review of eligibility includes, but is not limited to, reviews generated by reported changes, applications for recertifications, reviews of cases certified under disaster food stamp procedures and current eligibility reviews conducted by Audit and Recovery Management Services (ARMS). Benefits will not be terminated for refusal to cooperate with ARMS investigations of past eligibility.~~

~~Once denied or terminated for refusal to cooperate, the household may reapply but will not be determined eligible until it cooperates. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household should not be denied, and DSS shall provide assistance.~~

~~The household may voluntarily withdraw its application at any time prior to the determination of eligibility. Such action will be documented in the case record to include the reason for withdrawal and that contact was made with the household to confirm the withdrawal. Advise the household of its right to reapply at any time.~~

~~Do not determine the household to be ineligible when a person outside of the household fails to cooperate with a request for verification. Do not consider individuals identified as non-household members in DSSM 9013 as individuals outside the household.~~

The household or its authorized representative must complete the application, have an interview, and verify certain information on the application before DSS can determine eligibility. If the household refuses to cooperate in completing this process, DSS will deny the application at the time the household refuses to cooperate.

DSS will not deny a case because a household merely failed to cooperate or was unable to cooperate. DSS must determine that the household refused to cooperate. Before DSS can make a determination of refused to cooperate, the household must:

- "be able to cooperate,
- "clearly demonstrate that it will not take actions that it can take, and
- "fail to take required actions to complete the application process.

DSS will determine the household ineligible if it refuses to cooperate in any subsequent review of its eligibility. A subsequent review of eligibility includes, but is not limited to:

- "reviews generated by reported changes,
- "applications for recertification, and
- "reviews of cases certified under disaster FSP procedures.

After DSS a denial or termination for refusal to cooperate, the household may reapply and must cooperate before determined eligible. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the DSS worker will not deny the household. The worker must provide assistance.

The household may voluntarily withdraw its application at any time before the determination of eligibility. The worker will document the case record to include the reason for withdrawal. The worker will contact the household to confirm the withdrawal and document the case record. The worker will advise the household of its right to reapply at any time.

When a person, organization or agency outside of the household fails to cooperate with request for verification, DSS will not determine the household to be ineligible. The worker will document the case record.

For individuals identified as non-household members in DSSM 9013.2, DSS will not consider them as individuals outside the household.

**12 DE Reg. 918 (01/01/09) (Prop.)**