

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

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 policies in the Division of Social Services Manual (DSSM) regarding the Food Supplement Program regarding *Mandatory Verification*.

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 Friday, January 31, 2010.

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 CHANGES

The proposal described below amends policies in the Division of Social Services Manual (DSSM) regarding the Food Supplement Program, specifically, *Mandatory Verification*.

Statutory Authority

7 CFR §273.2(f)(1), *Mandatory verification*

Summary of Proposed Changes

DSSM 9032: *Mandatory Requiring Verification*: The purpose and effect of the proposed amendment is to change the policy to allow self-declaration of shelter, utility and dependent care expenses. Additional changes are proposed to rename this section to better describe its content and to reformat and reorganize original text to simplify language and improve readability.

**DSS PROPOSED REGULATION #10-54
REVISIONS:**

9032 ~~Mandatory~~ Requiring Verification

~~{7 CFR 273.2(f)(1)}~~

~~Verify the following information prior to certification of households initially applying:~~

~~9032.1~~ Income

~~Gross nonexempt income shall be verified for all households prior to certification.~~
~~Verify termination of employment. Acceptable documentation includes employer's statement, lay-off notice, etc. In addition, if the household reports no income, explore past management and potential sources of income, e.g., UC benefits, OASDI, Workmen's Compensation, etc.~~
~~When all attempts to verify income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and DSS, and all other sources of verification are unavailable, determine an amount to use based on the best available information.~~
~~Sometimes the best available information may be from a collateral contact or just from a client.~~

~~9032.2~~ Alien Eligibility

~~A. DSS must verify the eligible status of applicant aliens. If an alien does not wish DSS to contact INS to verify his or her immigration status, DSS will give the household the option of withdrawing its application or participating without that member.~~

~~The following information may be relevant to the eligibility of some aliens: date of admission or date status was granted; military connection; battered status; if the alien was lawfully residing in the United States on August 22, 1996; membership in certain Indian tribes; if the person was 65 or older on August 22, 1996; if a lawful permanent resident can be~~

credited with 40 qualifying quarters of covered work and if any Federal means tested public benefits were received in any quarter after December 31, 1996; or if the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time or is the spouse or unmarried dependent of such a person. DSS must verify these factors if applicable to the alien's eligibility.

The SSA Quarters of Coverage History System (QCHS) is used to verify whether a lawful permanent resident has earned or can receive credit for a total of 40 qualifying quarters. The QCHS may not show all qualifying quarters because SSA records do not show current year's earnings and in some cases the last year's earnings, depending on the time of request. Sometimes an applicant may have work from an uncovered employment that is not documented by SSA, but is countable toward the 40 quarters test. In both cases the individual, rather than SSA, will need to provide the evidence needed to verify the quarters.

B. An alien is ineligible until acceptable documentation is provided unless:

1. DSS has submitted a copy of a document provided by the household to INS for verification. Pending such verification, DSS cannot delay, deny, reduce, or terminate the individual's eligibility for benefits on the basis of the individual's immigration status; or

2. The applicant or DSS has submitted a request to SSA for information regarding the number of quarters of work that can be credited to the individual. SSA has responded that the individual has fewer than 40 quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited. DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original determination of insufficient quarters; or

3. The applicant or DSS has submitted a request to a Federal agency for verification of information which bears on the individual's eligible status. DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original request for verification.

C. DSS must provide alien applicants with a reasonable opportunity to submit acceptable documentation of their eligible status as of the 30th day following the date of application. A reasonable opportunity is at least 10 days from the date of DSS's request for an acceptable document. When DSS fails to provide an alien applicant with a reasonable opportunity as of the 30th day following the date of application, DSS must provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible.

9032.3 Utility Expenses

Verify only the utility (or utilities) needed for the household to receive one of the four Standard Utility Allowances.

Heating and Cooling SUA

- Verify the electric bill for air conditioning, or
- Verify the utility that provides the heat.

Limited SUA

- Verify only two utilities (non-heat and non-cooling).

One Utility SUA

- Verify the one utility (non-heat, non-cooling and non-phone).

Phone SUA

- Verify the phone expense.

Utilities for Unoccupied Homes per 9060 F(4)

- Verify the actual expenses for the unoccupied home.
- If the household has utility expenses at both homes, give the appropriate SUA.
- If the household has utility expenses only at the unoccupied home, the SUA is not permitted. Combine the actual utility expenses with the shelter costs.

9032.4 Medical Expenses

The amount of any medical expenses (including the amount of reimbursements) deductible under DSSM 9060 (C) shall be verified prior to initial certification. Verification of other factors, such as the allowability of services provided or the person incurring the cost shall be required if questionable.

9032.5 Social Security Numbers

[273.2(f)(1)(v)]; [273.6(c)]

DSS will verify Social Security Number(s) (SSN's) reported by the household by submitting them to the Social

Security Administration (SSA) for verification through the DCIS system.

When a SSN is returned from SSA as unverified, proceed as follows:

Recontact the household to determine if the information the household provided is correct. Obtain the correct information as appropriate. As SSN's are often unverified because surnames are unmatched due to marriage, death, or adoption, question these items if the cause of mismatch is not otherwise apparent.

Correct the client information on the DCIS database so that the SSN can be resubmitted to SSA.

DSS is required to pursue the unmatched information with the client. If the household refuses to provide the correct information, take action against the household for refusal to cooperate (See DSSM 9029).

If a household claims it cannot cooperate for reasons beyond its control, substantiate the household's inability to cooperate. The casefile must adequately document the household's inability to cooperate, or the household will be terminated. For example, a household may claim it cannot verify a name change because official records were destroyed in a fire. DSS would need to verify this claim to the point that it is satisfied that documentation of the name change no longer exists.

For example, a household applied for family of five and one child does not have a birth certificate available or a Social Security Number. In order to apply for a SSN, Social Security Administration requires an original certificate to verify name and birthdate. Document the record and set short term control to check for the SSN application, at a minimum at each redetermination. Getting copies of birth certificates from different states can take months to receive.

If the individual must appear at the SSA Office to provide the correct information and refuses to, such refusal is also grounds for termination per DSSM 9029.

When an individual household member has refused or failed without good cause to provide or apply for an SSN, that individual shall be ineligible to participate.

The disqualification applies only to the individual member not the entire household. The income and resources for the disqualified individual shall be treated as specified in DSSM 9076.2.

Do not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the SSN of a household member. Once a SSN has been verified, make a permanent annotation to the file to prevent the unnecessary recertification of the SSN in the future. Accept as verified a SSN which has been verified by another program participating in the Income and Eligibility Verification System (IEVS) (see DSSM 2013.1).

If an individual is unable to provide a SSN or does not have a SSN, require the individual to submit Form SS-5, Application for a Social Security Number, to the SSA in accordance with procedures in DSSM 9012.

A completed SSA Form 2853 (message from Social Security) shall be considered proof of application for a SSN for a newborn infant.

9032.6 Residency (Including Homelessness Definition)

[273.2(f)(1)(vi)]

The residency requirements of DSSM 9008 will be verified except in unusual cases where verification of residency cannot reasonably be accomplished. "Unusual cases" would include homeless households, some migrant farmworker households, or households newly arrived in a project area, where verification of residency cannot reasonably be accomplished. Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity. If verification cannot be accomplished in conjunction with the verification of other information, then use a collateral contact or other readily available documentary evidence. Documents used to verify other factors of eligibility should normally suffice to verify residence as well.

Any documents or collateral contacts which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed. No durational residency requirement will be established. An otherwise eligible household cannot be required to reside in a permanent dwelling or to have a fixed mailing address as a condition of eligibility.

"Homeless individual" means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);

A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized (applied to individuals released from institutions who still need supervision, not prisoners

considered to be detained under a Federal or State law while in a halfway house);

A temporary accommodation in the residence of another individual if the accommodation is for no more than 90 days.

The 90-day period starts at application or when a change is reported.

The 90-day period starts over when a household moves from one residence to another.

If a homeless household leaves, for whatever reason, and returns to the same residence, the 90-day period will start over again.

If a household has a break in receiving food stamps, the 90-day period will not start over if the household remains in the same residence. The 90-day period will start over if the household moved to another residence.

A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

9032.7 Identity

The identity of the person making application will be verified. Where an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household will be verified. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document may be imposed. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school ID, an ID for health benefits, or for other assistance or social services program, a voter registration card, wage stubs, or a birth certificate.

9032.8 Reserved

9032.9 Continuing Shelter Charges

Verify shelter expenses if the expense is a potential deduction.

9032.10 Dependent Care Costs

For those households claiming dependent care cost as specified in DSSM 9060(D), verify that the household actually incurs the costs and the actual amount of the costs, if allowing the expense could potentially result in a deduction. Verification is permitted on a one-time basis unless the provider has changed, the amount has changed and the change would potentially affect the level of the deduction, or unless questionable as defined in DSSM 9033.

9032.11 Reserved

9032.12 Disability

Verify disability as defined in DSSM 9013.1. For disability determinations which must be made relevant to the provisions of DSSM 9013.1(B), use the SSA's most current list of disabilities as the initial step for verifying if an individual has a disability considered permanent under the Social Security Act. However, only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of such disability will be considered disabled for the purpose of this provision.

If it is obvious that the individual is unable to purchase and prepare meals because (s)he suffers from a severe physical or mental disability, consider the individual disabled for the purpose of the provision even if the disability is not specifically mentioned on the SSA list.

If the disability is not obvious, verify the disability by requiring a statement from a physician or licensed or certified psychologist certifying that the individual (in the physician's/psychologist's opinion) is unable to purchase and prepare meals because (s)he suffers from one of the non-obvious disabilities mentioned in the SSA list or is unable to purchase meals because (s)he suffers from some other severe, permanent physical or mental disease or non-disease related disability.

The elderly and disabled individual (or his/her authorized representative) is responsible for obtaining the cooperation of the individuals with whom (s)he resides in providing the necessary income information about the

others to DSS.

TYPE OF DISABILITY BENEFIT	VERIFICATION METHOD
Title XVI (SSI) or Titles I, II, X, XIV, or XVI of Social Security Act (disability/blindness)	Household must provide proof of benefit receipt.
Title 38 USC (veteran with a service-connected disability)	Household must present a statement from the Veterans Administration which clearly indicates (1) that the disabled individual is receiving VA disability benefits for a service-connected disability, and (2) that the disability is rated as total or paid at the total rate.
Title 38 USC (veterans in need of regular aid and attendance or permanently housebound, or dependent surviving spouse/child) benefits.	Household must prove that the disabled individual is receiving VA disability
Title 38 USC and Section 221(i) of Social Security Act	Use SSA's most current list of disabilities considered permanent. If it is obvious that the individual has one of the listed disabilities, the item is considered verified. If disability is not obvious, the household must provide a statement from a physician or licensed or certified psychologist certifying that the individual has one of the non-obvious disabilities listed.

9032.13 Quality Control

Verify all factors of eligibility for households who have been terminated for refusal to cooperate with a State QC reviewer, and reapply after 95 days from the end of the annual review period. Verify all factors of eligibility for households who have been terminated for refusal to cooperate with a Federal QC reviewer and reapply after seven months from the end of the annual review period. The annual review period is the Federal Fiscal Year, October to September.

9032.14 Students

If a person claims to be physically or mentally unfit for purposes of the student exemption in DSSM 9040.1 and the unfitness is not evident, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licenses or certified psychologist.

9032.15 Legal Obligation and Actual Child Support Payments

Verify the household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays.

Documents that verify the legal obligation to pay child support cannot be used to verify the actual amount of child support payments made.

9032.16 Additional Verification for Able-bodied Adults without Dependents (ABAWDs)

A. Hours worked individual who are satisfying the ABAWD work requirements by working, by combining work and participation in a work program, or by participating in a work or workfare program that is not operated or supervised by the State, the individual's work hours shall be verified.

B. Countable months in another State – for individuals subject to the ABAWD provisions, DSS must verify the

number of countable months an individual has used in another State if there is an indication that the individual participated in that State.

This policy applies to applicants of the FSP.

Verification is the use of third party information or documentation to establish the accuracy of statements on the application.

1. DSS Requires Mandatory Verification of Eligibility Factors Before Certifying Applicants

The following verifications are mandatory:

A. Gross income (unless excluded)

If the client is unable to provide verification use other resources available to you including third party verification. If you are still unable to verify the income, determine an amount based on the best available information. Sometimes the best available information will be from a collateral contact or from the client him/herself.

B. Alien Eligibility Status

DSS must verify the eligible status of applicant aliens.

1. If an alien does not wish DSS to contact INS to verify his or her immigration status, give the household the option of withdrawing its application or participating without that member.

2. DSS must verify the following factors if applicable to the alien's eligibility:

i. date of admission

ii. date status was granted

iii. military connection

iv. battered status

v. if the alien was lawfully residing in the United States on August 22, 1996

vi. membership in certain Indian tribes

vii. if the person was age 65 or older on August 22, 1996

viii. 40 qualifying quarters of covered work (if the alien is a lawful permanent resident)

ix. if any Federal means-tested public benefits were received in any quarter after December 31, 1996

x. if the alien was a member of certain Hmong or Highland Laotian tribes during a certain period of time (or is the spouse or unmarried dependent of such a person)

Exceptions:

1. If DSS has submitted a copy of a document provided by the household to INS for verification, DSS cannot delay, deny, reduce, or terminate the individual's eligibility for benefits on the basis of the individual's immigration status while pending.

2. If SSA has responded that the individual has fewer than 40 quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited, DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original determination of insufficient quarters.

3. If the applicant or DSS has submitted a request to a Federal agency for verification of information which bears on the individual's eligible status, DSS will certify the individual pending the results of the investigation for up to 6 months from the date of the original request for verification.

3. DSS must provide alien applicants at least 10 days from the date of the request to submit acceptable documentation of their eligible alien status as of the 30th day following the date of application.

4. DSS must provide the household with benefits no later than 30 days following the date of application, provided the household is otherwise eligible, if DSS fails to give applicants at least 10 days to submit acceptable documentation.

5. DSS must verify a household member's citizenship or status as a non-citizen national.

i. DSS will accept participation in another program as acceptable verification if verification of citizenship or non-citizen national was obtained for that program.

ii. If the household cannot obtain acceptable verification, DSS must accept a signed third-party statement, under penalty of perjury, which indicates a reasonable basis for personal knowledge that the member in question is a U. S. citizen or a non-citizen national.

C. Utility Expenses for Unoccupied Homes

DSS will verify actual utilities for unoccupied homes per DSSM 9060.

1. Verify the actual expenses for the unoccupied home.

2. If the household has utility expenses at both homes, give the appropriate SUA.

3. If the household has utility expenses only at the unoccupied home, the SUA is not permitted. Combine the actual utility expenses with the shelter costs.

D. Medical Expenses

DSS will verify the medical expenses deductible under DSSM 9060.

Verification of other factors, such as whether a service provided is allowed, may be required if questionable.

E. Social Security Numbers

DSS will verify Social Security Numbers (SSNs) reported by the household by submitting them to the Social Security Administration (SSA) for verification through the DCIS system.

1. Contact the household to determine if the information the household provided is correct if the SSN returns from SSA as unverified. Obtain the correct information so that the SSN can be resubmitted to SSA.

2. Pursue all unmatched SSNs with the client. If the household refuses to provide the correct information, take action against the household for refusal to cooperate per DSSM 9029.

3. When a household claims it cannot cooperate for reasons beyond its control, verify and document the household's inability to cooperate.

4. If an individual must appear at the SSA Office to provide correct information and refuses to, the refusal is grounds for termination per DSSM 9029.

5. When an individual household member refuses or fails without good cause to provide or apply for an SSN, that individual shall be ineligible to participate.

6. Disqualifications apply only to individual members, not the entire household. Treat the income and resources for the disqualified individual according to DSSM 9076.2.

7. Do not delay the certification for or issuance of benefits to an otherwise eligible household solely to verify the SSN of a household member.

8. Once an SSN has been verified, enter the number as verified to prevent the unnecessary re-verification of the SSN in the future.

9. Accept as verified a SSN which has been verified by another program participating in the Income and Eligibility Verification System (IEVS).

10. If an individual is unable to provide an SSN or does not have an SSN, require the individual to apply for one with SSA and provide proof of the application.

F. Residency (Including Homelessness Definition)

DSS will verify residency (DSSM 9008).

<u>EXCEPTION: Do not require proof of residency in cases where verification of residency is not easily accomplished such as homeless households (as defined in DSSM 9094), migrant farm worker households, or households newly arrived in the state</u>

1. Verify residency with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses, and identity.

2. If verification cannot be accomplished with the verification of other information, use a collateral contact or other readily available documentary evidence.

3. Documents used to verify other factors of eligibility can sometimes verify residency.

4. Any documents or collateral contacts which reasonably establish the applicant's residency must be accepted.

5. Do not impose requirements for a specific type of verification.
6. Do not impose a durational residency requirement.
7. Household do not have to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

NOTE: According to DSSM 9094, a homeless individual is defined as someone who resides in a temporary accommodation for not more than 90 days in the residence of another individual.

"The 90-day period starts at application or when a change is reported.

"The 90-day period starts over when a household moves from one residence to another.

"If a homeless household leaves, for whatever reason, and returns to the same residence, the 90-day period will start over again.

If a household has a break in receiving food stamps, the 90-day period will not start over if the household remains in the same residence. The 90-day period will start over if the household moved to another residence.

G. Identity

DSS will verify the identity of the person making application.

1. Where an authorized representative applies on behalf of a household, verify the identity of both the authorized representative and the head of household.
2. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact.
3. Accept any documents which reasonably establish the applicant's identity. (Examples include a driver's license, a work or school ID, an ID for health benefits, or for other assistance or social services program, a voter registration card, wage stubs, or a birth certificate.)
4. Do not impose requirements for a specific type of document.

H. Disability

DSS will verify disability as defined under DSSM 9094 for individuals applying for food benefits as a separate household under DSSM 9013.

1. The disability must be one considered permanent under the Social Security Act.
2. Only those individuals who suffer from one of the disabilities mentioned in the SSA list who are unable to purchase and prepare meals because of such disability will be considered disabled for the purpose of this provision.
 - i. If it is obvious that the individual is unable to purchase and prepare meals because s/he suffers from a severe physical or mental disability, consider the individual disabled for the purpose of the provision even if the disability is not specifically mentioned on the SSA list.
 - ii. If the disability is not obvious, verify the disability by requiring a statement from a physician or licensed or certified psychologist certifying that the individual (in the physician's/psychologist's opinion) is unable to purchase and prepare meals because s/he suffers from one of the non-obvious disabilities mentioned in the SSA list or is unable to purchase meals because s/he suffers from some other severe, permanent physical or mental disease or non-disease related disability.
3. The elderly and disabled individual (or his/her authorized representative) is responsible for obtaining the cooperation of the individuals with whom s/he resides in providing the necessary income information about the others to DSS.

I. Quality Control (QC)

DSS will verify all factors of eligibility for households who refuse to cooperate with a QC review.

1. Verify all factors of eligibility for households who have been terminated for refusal to cooperate with a State QC reviewer and reapply after 95 days from the end of the annual review period.
2. Verify all factors of eligibility for households who have been terminated for refusal to cooperate with a Federal QC reviewer and reapply after seven months from the end of the annual review period.
3. The annual review period is the Federal Fiscal Year, October to September.

J. Students

DSS may verify a disability or medical unfitness for student exemptions (DSSM 9010.1) if the disability or medical condition is not obvious.

1. Appropriate verifications include receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

K. Legal Obligation and Actual Child Support Payments

DSS will verify the household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays.

Documents that verify the legal obligation to pay child support cannot be used to verify the actual amount of child support payments made.

L. Additional Verification For Able-bodied Adults Without Dependents (ABAWD)

DSS will verify work hours and countable months for ABAWD individuals.

1. Hours worked – verify the hours worked for individuals who are satisfying the ABAWD work requirements by working, by combining work and participation in a work program, or by participating in a work or workfare program that is not operated or supervised by the State.

2. Countable months in another state – verify the number of countable months for individuals subject to the ABAWD provisions if an individual has lived in another state and there is an indication that the individual participated in that state.

2. DSS Gives Households at Least 10 Days to Provide Requested Verifications.

14 DE Reg. 620 (01/01/11)