

DEPARTMENT OF HUMAN RESOURCES FAMILY INVESTMENT ADMINISTRATION	FOOD SUPPLEMENT PROGRAM MANUAL	
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430.1 Notice of Adverse Action

Local departments must (except as provided in Section 430.4) provide a household timely and adequate notice prior to taking any action to reduce or terminate a household's program Food Supplement Program (FSP) benefits within the certification period.

430.2 Timely Advance Notice

The notice of adverse action is considered timely if it includes at least **10 calendar days** from the date the notice is mailed to the date upon which the action becomes effective.

The local department will consider the request timely received if the adverse action period ends on a weekend or a holiday, and a request for an administrative hearing and continuation of FSP benefits is received the day after the weekend or holiday.

430.3 Adequate Advance Notice

- A. The notice of adverse action is considered adequate if it explains in easily understandable language the following:
1. The proposed action;
 2. The reason for the proposed action;
 3. The household's right to request an administrative hearing;
 4. The telephone number and the name of a contact person at the local department;
 5. The household's liability for any over-issuances received while awaiting an administrative hearing if the Administrative Law Judge's (ALJ) decision is unfavorable to the household; and
 6. The availability of continued FSP benefits.
- B. The local department may send an adequate notice not later than the date the household receives or would have received its allotment if:
1. The household reports the information which results in the termination or reduction of FSP benefits.

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430.3 Adequate Advance Notice (continued)

2. The reported information is in writing and signed by the household.
3. The local department can determine the household's allotment or ineligibility based solely on the information provided by the household.
4. The household retains its right to an administrative hearing.
5. The household retains its right to continued FSP benefits if it requests an administrative hearing within 10 days of the date the notice is sent.
6. The local department continues the household's previous FSP benefit level, if required, within 5 days of the household's request for an administrative hearing.

EXAMPLE: Mrs. Smith sends the local department a Change Report Form to report she has gone to work and wants her case closed. The local department receives the Change Report Form on April 25th. With adequate notice, the local department may close the case effective May 1.

430.4 Exemptions from Notice Requirements

Individual notices of adverse action are not required under the following circumstances:

- A. The state initiates a mass change as described in Section 420.9 (Mass Changes) of this manual.
- B. The local department receives notification of the death of all members of a household based on reliable information.
- C. The local department determines (based on reliable information) that the household has moved from the project area.
- D. The restoration of lost FSP benefits is complete.

NOTE: This exemption applies only in situations where the household was previously notified in writing of when the increased allotment terminates.

- E. The household's allotment varies from month to month within the certification period making it difficult to account for changes anticipated at the time of certification.

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430.4 Exemptions from Notice Requirements (continued)

- F. The household is receiving FSP benefits pending the approval of a cash assistance grant and was notified at the time of certification that FSP benefits would be reduced upon approval of the cash assistance grant.

NOTE: The exemptions listed in 430.4 E and F above apply only in situations where the household was notified in writing at the time of certification.

- G. A household member is disqualified for an intentional program violation, in accordance with Section 480 (Intentional Program Violations) of this manual. This includes the termination or reduction of FSP benefits for the remaining household members.
- H. The local department converts a household from cash and/or FSP benefit repayment to allotment reduction as a result of the household's failure to make the agreed upon repayment as described in Section 490 (Claims) in this manual.
- I. When a household contains a member subject to a lockout or strike, and signs a waiver of its right to notice of adverse action to enable the local department to reduce or terminate FSP benefits when the circumstance is resolved and the household begins receiving income again.
- J. When a longer certification period is given to an expedited household for whom verification was postponed, provided the household is sent written notification that the receipt of FSP benefits beyond the initial month is contingent on the household providing the verification that was postponed.
- K. The household makes a voluntary request for termination, either in writing or in the presence of the case manager. If the household does not provide a written withdrawal, send the household a written confirmation of its withdrawal or termination request that explains to the household why no FSP benefits are to be received and its right to reapply.
- L. The local department determines (based on reliable information) that the household will not be residing in the project area at the time of its next allotment. Notice may be provided before the issuance date, but do not delay the termination in order to provide a notice of adverse action. Local departments must act upon notification that the household moved from the project area within the same 10-day timeframe as for any other reported change.

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430.4 Exemptions from Notice Requirements (continued)

- M. The local department terminates the eligibility of a resident of a drug or alcohol treatment center or a group living arrangement (GLA) if the facility either loses its certification from the appropriate State agency or has its authorized representative status suspended by the Food and Nutrition Service.

NOTE: Residents of GLAs applying on their own behalf are still eligible to participate. They are treated as a roomer.

- N. The local department initiates recoupment of a claim against a household that has previously received notice of adverse action with respect to the claim.

430.5 Cash Assistance (CA) or Supplemental Security Income (SSI) Households (Categorical Eligibility)

On the notice of denial for non-public assistance FSP benefits for a household that is potentially eligible in accordance with Section 115 (Categorical Eligibility), the local department must ask the household to inform it if the household is subsequently approved to receive CA or SSI benefits.

430.6 Optional Adequate Notice

- A. When local department mail is sent to a household and it is returned by the post office indicating no forwarding address, it is not necessary to send a notice of adverse action to an address that is known to be incorrect.
- B. The local department may, at its option, send the household a notice of adverse action.
- C. A household whose benefits are terminated without receiving a notice of adverse action is still entitled to an administrative hearing and restoration of benefits if appropriate.

NOTE: The local department must make all reasonable efforts to contact the household (e.g. via telephone) before terminating FSP benefits when the adequate notice is returned by the post office indicating no known forwarding address.