

1434 NOTICE REQUIREMENTS

1434.05 NOTICE OF ADVERSE ACTION

EFF: 10/2008

A decision on continuing eligibility (prospectively) must be made as soon as it becomes known that a change in a family's income, resources, and/or circumstances will affect the payment (see Section 1426).

When it is determined that a change in the recipient's circumstances will result in a reduction, suspension, or discontinuance of a payment, the recipient must be notified by issuing a notice of adverse action at least ten (10) days prior to the effective date.

The notice must contain:

- the reason for the proposed action and the agency policy which requires the action;
- an explanation of the opportunity to discuss the action with the eligibility technician authorizing the discontinuance, suspension or reduction in payment;
- an explanation of the opportunity to have an Adjustment Conference with the Supervisor;
- an explanation of the provision for continuance of the payment if a hearing is requested in writing within the ten day period of the date of the notice; and
- an explanation of the opportunity to request a hearing within thirty (30) days of the date of the notice, along with the "Request for a Hearing" form (DHS-121).

1434.05.05 When Timely Notice Not Required

EFF: 10/2008

Where timely notice is not required, an adequate notice must be sent not later than the date of action when:

- the agency has factual information confirming the death of a recipient or of the payee when there is no relative available to serve as new payee;
- The agency receives a clear written statement signed by a recipient that s/he no longer wishes assistance, or that gives information which requires discontinuance or reduction of assistance, and the recipient has indicated, in writing, that s/he understands that this is the consequence of supplying such information;

- the recipient has been admitted or committed to an institution;
- the recipient has been placed in skilled nursing care, intermediate care or long-term hospitalization;
- the recipient's whereabouts are unknown and agency mail directed to her/him has been returned by the post office indicating no known forwarding address. The recipient's check must, however, be made available to her/him if the whereabouts becomes known during the payment period covered by a return check;
- a recipient has been accepted for assistance in another state and that fact has been established by the jurisdiction previously providing assistance;
- a child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his/her legal guardian;
- a change in level of medical care is prescribed by the recipient's physician; or
- a special allowance granted for a specific period is terminated and the recipient has been informed, in writing, at the time of initiation that the allowance shall automatically be discontinued at the end of the specified period.

1434.05.10 Acknowledgment of Client Understanding

EFF: 10/2008

When the client notifies the agency directly, either by phone or in person, of a change in circumstances, the agency representative must discuss with the client the effect that this change will cause and request an acknowledgment, in writing, that the client understands that this will result in the discontinuance or reduction of the assistance.

1434.10 REQUIRED ACTION

EFF: 10/2008

A client has a right to request a hearing within thirty (30) days of the agency's notice of action. If a request for a hearing is made within the ten (10) day advance notice period, no action for reduction, suspension, or discontinuance is taken until the hearing decision is issued except in the following instance:

- When the reduction, suspension, or discontinuance is caused by a change in either State or Federal law that requires automatic grant adjustment for classes of recipients. A timely notice of such grant adjustment can be issued by mass mailing, and the payment is not continued and no hearing

need be granted. However, a hearing is granted and the payment is continued when the reason for the appeal is incorrect grant computation. The Regional Manager will review the issue to determine this and will inform the recipient, in writing, of the action that will be taken.

If the payment is continued and, at the hearing, a determination is made that the sole issue is one of State or Federal law or policy or change in State or Federal law and not one of incorrect grant computation, assistance is reduced, discontinued, or suspended immediately and the recipient must be promptly informed, in writing, of the action. However, the formal hearing decision is issued within the time limits for hearing decisions.

When a second change occurs while the hearing decision is pending, and the recipient does not request a hearing within the advance notice period on the second issue, assistance is reduced, discontinued, or suspended, and the recipient must be promptly notified of this in writing.

At the end of the ten (10) day advance notice period, the action remains in force if the client has not responded and requested a hearing. The client continues to have a right to a hearing, however, on the issue for thirty (30) days following the notice of adverse action.