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0410.0000 Food Stamps

This chapter presents administrative policy.

0410.0100 CONFIDENTIALITY (FS)

All individuals have the right to a confidential relationship with the Department and its authorized community partners. Consider all information provided by participants, denied applicants and inactive individuals to be confidential state Department material; it is not subject to the Freedom of Information Act.

0410.0101 Confidential Information (FS)

Restrict the use or disclosure of confidential information to personnel directly connected with the administration and enforcement of federal or federally assisted state financial assistance programs who:

1. establish eligibility,
2. determine the amount of benefits,
3. provide services,
4. institute legal proceedings against individuals responsible for the support of children, and
5. prosecute individuals for fraudulently obtaining benefits.

Release confidential information only to representatives of federally assisted means-tested assistance programs subject to the standards of confidentiality comparable to Department standards as listed below:

1. Food Stamps (FS),
2. Temporary Cash Assistance (TCA),
3. Refugee Assistance Program (RAP),
4. Family-Related Medicaid (MFAM),
5. SSI-Related Medicaid (MSSI),
6. State Funded Programs (SFP),
7. Low Income Housing Energy Assistance Program (LIHEAP),
8. Child Support Enforcement (CSE),
9. Regional Workforce Boards (RWB),
10. Agency for Workforce Innovation (AWI),
11. Social Security Administration (SSA and SSI),
12. Food and Nutrition Education Program,
13. Family Safety/Community Based Care (FS/CBC),
14. Department of Health (DOH),
15. Department of Education (DOE).

Secure the SFU's or authorized representative's written consent to release information in all situations except for clearly administrative or enforcement purposes. When determining whether to release confidential information:

1. Consider the reason for the request as well as its proposed use.
2. Determine if the disclosure of information will fulfill a constructive purpose for the members of the SFU.
3. Determine if the individual receiving the information will safeguard it.

Consult the supervisor if unsure of any of the above.

Do not release any information obtained from the following confidential data sources: BEERS, IRS, BVS, AWI and DMV.

Do not disclose public assistance benefit information about noncitizens for purposes of determining a public charge (debt) to the participant, their authorized representative, or The Department of Justice, United States Citizenship and Immigration Services, including Immigration Law Judges.

0410.0102 Release of Confidential Information (FS)

Make appropriate information and material available for inspection or release at a prearranged time during normal business hours, if the applicant/recipient or authorized representative presents a written request that specifies:

1. the desired material,
2. how the material will be used, and
3. any individual authorized to review or receive the information.

Remove confidential information prior to case record examination and maintain staff presence at all times when an applicant/recipient or authorized representative is inspecting or photocopying the record. With the exception of medical reports identified as confidential, provide copies of case information the applicant/recipient needs to qualify for another program's benefits. Adhere to HIPPA regulations related to medical information.

Permit the release of the following information to an applicant/recipient or authorized representative:

1. information in connection with a request for a hearing, state or local;
2. information on receipt of child support or benefits, when requested to complete a federal or state income tax return, and when authorized in writing by the individual;
3. copies of any statements or forms signed by the individual regarding income or assets; and
4. budget worksheets used to determine eligibility for benefits.

No individual has the right to inspect information or documents provided by an unknown confidential source. This includes, but is not limited to, information such as:

1. out of wedlock births,
2. incest,
3. neglect and abuse of children or adults, or
4. marital discord.

0410.0103 Release of Confidential Information to Third Parties (FS)

Confidential case information may be disclosed to:

1. Employees of the Comptroller General's Office of the United States for audit examination authorized by law.
2. Local, state, or federal law enforcement officials, including the Federal Bureau of Investigation, upon its written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations.

The written request must include the identity of the individual requesting the information and the individual's authority to do so, the violation being investigated, and the identity of the individual on whom information is requested.

3. The Parent Locator Service.

4. Federal, state or local law enforcement officers requesting assistance in locating a recipient who is fleeing to avoid prosecution, custody or confinement for a felony; who is violating a condition of parole or probation; or who has information necessary for the officer to conduct an official duty related to a felony/parole violation.

When a law enforcement officer requests assistance and notifies the Department of a felony parole or probation violation and the recipient's name, provide the address, social security number and a photograph of the recipient, if available.

Prior to the Department's release of recipient information, any law enforcement official requesting the information must provide:

1. proper identification to establish him as a federal, state, county or local municipality law enforcement officer;
2. a document or warrant to indicate that he seeks an individual who is a fugitive felon, parole violator or the information is necessary to an investigation for one of these offenses;
3. the recipient's social security number, if available, or other demographic information to assist with identification of the recipient; and
4. a court order to request the information if one has been signed by a judge.

0410.0105 Issuance of Subpoena (FS)

If the Department receives a subpoena for case information or for a Department representative to testify concerning a recipient, contact the Circuit Legal Counsel who informs the court of the Department's policies related to confidentiality.

0410.0106 Personal Interest Cases (FS)

Personal interest cases include members that are friends, neighbors, social acquaintances, coworkers, known members of the same community organization or church, exspouses, relatives by blood or marriage, or family members of any of these examples of the Economic Self-Sufficiency (ESS) staff.

Do not assign an ESS employee a case of personal interest. If an employee accesses, takes action on, or views a personal interest case, the ESS employee may be subject to disciplinary action and/or prosecution for a second or third degree felony.

Staff must not access, view, or take action on any case, eligibility record, Child Support Enforcement case or screen, employment and training case or screen, data exchanges, any related computer screens, or any other related materials for personal use.

Staff must not take any action, or gather or provide any information from any case as a favor or because of personal influence, to any individual who has the same relationship as individuals in personal interest cases.

Staff have an obligation to report to their supervisor if they receive an assignment for a personal interest case and to report if they know of any staff violating this policy.

Maintain all cases with a Department of Children and Families (DCF) employee in the benefit or home and cases where a DCF employee is a designated representative in a confidential caseload. DCF employees must not be authorized representatives for food stamps unless no one else is available. To allow a DCF employee to be an Authorized Representative requires written approval of the DCF Regional Director or his/her designee. Restrict access to authorized personnel only.

0410.0200 NONDISCRIMINATION (FS)

Do not discriminate against any individual for reasons of age, race, sex, color, disability, national origin, religious creed, marital status or political beliefs in any aspect of program administration. For complete information on this policy refer to the Department's nondiscrimination operating procedures.

0410.0300 REPORT OF ABUSE (FS)

Florida Statutes require the reporting of suspected abuse, neglect, or exploitation of any child, aged person or disabled adult.

Also make a report when there is reasonable cause to suspect that:

1. A newborn is physically drug dependent;
2. A child, from birth to five years of age, is a drug-exposed child;
3. The parent/caregiver is unable to provide safe care for the child(ren); or
4. A male age 21 or older impregnates a female under the age of 16 (applicable to children conceived after 10/0/96).

Report suspected abuse, neglect or exploitation to the Central Abuse Hotline at 1-800-962-2873. Use Region or Circuit procedures to report impregnation of an underage girl by an older man to local law enforcement officials.

0410.0500 VERIFICATION (FS)

Verification is confirming the accuracy of information through a source other than the individual. Include all telephone, personal contacts and/or documentary evidence used as verification in the case record.

If a collateral contact is the source of verification, record the eligibility factors verified in detail; the name of the person contacted, the date of the contact and complete information obtained from the contact.

There is no requirement to retain paper copies of documents used to verify eligibility or ineligibility if all relevant information has been entered into the FLORIDA system and retained electronically. Electronic entries must be of sufficient detail to support the determination of eligibility or ineligibility.

0410.0501 Prohibition on Photocopying Certain Documents (FS)

It is a crime to photograph or otherwise reproduce a U.S. Treasury Note or other negotiable document, even though there is no intent to deceive the public.

Negotiable documents include, but are not limited to, the following:

1. currency;
2. postal money order;
3. checks or drafts for money drawn by or upon authorized offices of the United States (ex: Social Security checks, Veterans checks, Supplemental Security Income checks, Civil Service checks and IRS refund checks);
4. obligations or securities of the United States Government (ex: certificates, bonds and reserve notes); and
5. U.S. Treasury Notes.

There is also a prohibition against photocopying or otherwise reproducing certificates of Naturalization for United States citizenship.

If an individual provides DCF with an original or copy of a document, record the necessary information such as the document number, date, amount, payee or name. After recording, return the document to the individual and destroy facsimiles and other copies not needed by the individual.

0410.0600 FAIR HEARINGS (FS)

The Department must provide a fair hearing to any individual who disagrees with any decision, action, or proposed action affecting the individual's participation. The Office of Appeal Hearings conducts fair hearings.

0410.0601 Right to Fair Hearing (FS)

Inform all individuals in writing at the time of application or any other action of the right to a fair hearing, the method for requesting a hearing and that the case may be presented by the individual, legal counsel or an authorized representative.

Remind an individual verbally of the right to request a fair hearing any time he expresses a disagreement with any action taken. Do not limit or interfere with an individual's right to request a fair hearing.

0410.0602 Request for Fair Hearing (FS)

A request for a hearing is any clear expression, oral or written, by an applicant/recipient or authorized representative that he disagrees with the actions, decisions or requirements imposed by the Department or authorized community partner, and that the individual wishes to present his case to a higher authority. An individual must authorize in writing any third party's right to file a hearing request on his behalf. Supervisors must review hearing requests and provide a Department conference with the individual. Forward the hearing request within three business days to the Office of Appeal Hearings.

Provide bilingual staff or interpreters for non-English speaking participants to ensure that the hearing procedures are explained in the individual's language. Request clarification from the individual any time there is uncertainty about what action is being appealed.

An individual must submit a decision to withdraw a request for a hearing in writing. Forward the individual's decision to the Office of Appeal Hearings.

0410.0603 Time Limits to Request Hearing (FS)

The Department or its partner agency must receive the individual's appeal of an action, decision or current level of benefits within 90 days of the date a notice is mailed or hand delivered to the individual.

Exceptions:

1. The time limit does not apply when the Department fails to send required notification, takes no action on a specific request or denies a request without informing the individual appealing.
2. A hearing request made outside the 90-day limit may only be rejected or dismissed by the Office of Appeal Hearings.

Consider a request received after the 90-day time limit as a request for restoration of lost benefits.

0410.0604 Continuation of Benefits (FS)

When an individual requests a hearing by the end of the last day of the month prior to the effective date of the adverse action, reinstate the benefits to the prior level within 10 calendar days, unless the individual makes a written request to have the benefits terminated or reduced. If the last day of the month falls on a weekend or holiday, allow until the next working day for the request. Limit continuation of benefits to the current certification period.

Inform recipients that they are liable for any overpayment caused by the continuation of benefits, pending the hearing decision.

0410.0605 Reinstated Benefits (FS)

Do not reduce or terminate reinstated or continued benefits before the final hearing decision unless:

1. There is an additional cause for adverse action, and the individual does not request a subsequent hearing.
2. The certification period expires.
3. The hearing officer makes a preliminary written decision at the hearing that the sole issue is a question of policy interpretation, and the individual claims that the Department has applied the policy improperly.
4. A mass change affecting the AG's eligibility or basis for issuance occurs while the hearing decision is pending. or
5. Review indicates the individual is eligible for a new certification period and a new benefit amount.

Notify the individual or SFU in writing if the Department reduces or terminates benefits prior to the hearing decision. Notify the Office of Appeal Hearings of any changes affecting the individual's eligibility.

0410.0606 Individual's Hearing Rights (FS)

Allow the individual to examine the case record, including documents and records to be used at the hearing, at a reasonable time before the hearing and at any point during the hearing. Upon request by the individual, provide free copies of the relevant portions of the case record.

Exception: Do not release or provide examination of a case record when it contains information protected from release, such as status of pending criminal prosecutions. To avoid affecting the hearing officer's decision, the Department must not permit the introduction of this confidential information or any documents of records that cannot be contested or challenged at the hearing.

0410.0607 Burden of Proof (FS)

An individual who is applying or who is seeking increased benefits has the burden of proof. The Department has the burden of proof when it reduces or terminates benefits. The party with the burden of proof must establish his position to the satisfaction of the hearing officer by a preponderance of evidence.

0410.0608 Fair Hearings Decisions (FS)

A Final Order issued by the hearing officer is binding on the Department.

Denied Appeal:

Upon receipt of the Final Order, if benefits were continued as a result of the hearing request:

1. Refer overpayments made while the hearing decision was pending to BR. and
2. Issue a second notice of the reduction or termination in benefits with an effective date of the next month. Neither the 10-day adverse action notification nor the appeal rights apply to the second notice.

Granted Appeal:

Take case action within 10 calendar days following receipt of a Final Order.

0410.0609 Benefit Restoration (FS)

If judicial action finds that benefits have been wrongfully withheld, restore the benefits to the AG. If the judicial action is the first action the individual has taken to obtain restoration of lost benefits, restore benefits for a period of not more than 12 months from the date the court action was initiated. If the judicial action is a review of the Department's action, restore the benefits for a period of not more than 12 months from whichever of the following dates occurred first:

1. the date the Department receives a request for restoration, or
2. the date fair hearing action was initiated.

Do not restore benefits for any period more than one year from when the Department is notified of, or discovers, the loss of benefits.

0410.0700 ADMINISTRATIVE DISQUALIFICATION HEARINGS (FS)

The Office of Appeal Hearings conducts an administrative disqualification hearing with the AG member suspected of fraud, unless the individual signs a hearing waiver. A pending disqualification hearing does not affect the AG's or individual's right to be determined eligible and participate in the program. Calculate eligibility and benefit levels according to standard policy and procedures. The Department cannot disqualify an AG member for intentional program violation until the hearing officer finds that the individual has committed the violation.

If the Office of Appeal Hearings rules the AG member committed or attempted to commit fraud, or the individual signed a waiver of administrative disqualification, disqualify the member in accordance with the established disqualification periods.

Upon receipt of a system alert, take appropriate action to remove the member from the AG, recalculate the benefit level and notify the SFU.

0410.0701 Imposing an Administrative Disqualification Period (FS)

An imposed disqualification period begins the first month following the date the participant or the remaining AG members receive notification of the administrative disqualification hearing decision and continues uninterrupted until completed, regardless of the eligibility of the disqualified participant's AG. The disqualified participant's AG continues to be responsible for the repayment of any overissuance/overpayment.

The lengths of the disqualification period for an intentional program violation are as follows:

1. twelve months for the first violation or when a Disqualification Consent Agreement or waiver has been signed;
2. twenty four months for the second violation;
3. permanent disqualification for the third violation (unless disqualification is contrary to the court order); or
4. in accordance with the court order, when the order specifies a disqualification period that is not one of the above.

Whether it covers one or multiple acts, each finding of intentional program violation results in only one disqualification period.

The determination of intentional program violation made by a hearing officer cannot be reversed by a subsequent fair hearing decision. An individual may request a fair hearing to appeal the amount of any overpayment assessed, provided the overpayment was not addressed in the original disqualification hearing.

The period of disqualification may be subject to a stay or corrective action by a court having appropriate jurisdiction.

0410.0702 Reversed Disqualification (FS)

If a court of appropriate jurisdiction reverses a determination of intentional program violation, reinstate the individual, if eligible, and restore any benefits lost as a result of the reversed action. The period of restored benefits cannot exceed 12 months prior to the date of Department notification of the hearing decision reversal. Consider an individual's participation in an administrative disqualification hearing to contest the Department's assertion of an intentional program violation as notification that the AG is requesting restored benefits.

0410.0703 Court Imposed Disqualification (FS)

The Department must disqualify an individual found guilty of intentional program violation for the length of time specified by the court.

If the court imposes a disqualification period for an individual and does not specify the start date, initiate the disqualification period within 45 days of the date the disqualification was ordered. If the court fails to impose a disqualification period, impose a disqualification period according to policy for administrative disqualification.

If the individual is not eligible for the program at the time the disqualification period is to begin, postpone the period until the individual applies for and is determined eligible for benefits.

0420.0000 Temporary Cash Assistance

This chapter presents administrative policy.

0420.0100 CONFIDENTIALITY (TCA)

All individuals have the right to a confidential relationship with the Department and its authorized community partners. Consider all information provided by participants, denied applicants and inactive individuals to be confidential state Department material; it is not subject to the Freedom of Information Act.

0420.0101 Confidential Information (TCA)

Restrict the use or disclosure of confidential information to personnel directly connected with the administration and enforcement of federal, federally assisted and/or state needs-based programs who:

1. establish eligibility,
2. determine the amount of benefits,
3. provide services,
4. institute legal proceedings against individuals responsible for the support of children, and
5. prosecute individuals for fraudulently obtaining benefits.

Release confidential information only to representatives of state, federal or federally assisted programs subject to standards of confidentiality comparable to Department standards, as listed below:

1. Food Stamps (FS),
2. Temporary Assistance for Needy Families (TANF or TCA),
3. Refugee Assistance Program (RAP),
4. Child in Care (CIC),
5. Family-Related Medicaid (MFAM),
6. SSI-Related Medicaid (MSSI),
7. State Funded Programs (SFP),
8. Low Income Housing Energy Assistance Program (LIHEAP),
9. Child Support Enforcement (CSE),
10. Regional Workforce Boards (RWB),
11. Agency for Workforce Innovation (AWI),
12. Social Security Administration (SSA and SSI),
13. Agency for Health Care Administration (AHCA),
14. Family Safety/Community Based Care (FS/CBC),
15. Department of Health (DOH),
16. Department of Education (DOE),
17. Guardian Ad Litem.

Secure the SFU's or authorized representative's written consent to release information in all situations except for clearly administrative or enforcement purposes. When determining whether to release confidential information:

1. Consider the reason for the request as well as its proposed use.
2. Determine if the disclosure of information will fulfill a constructive purpose for the members of the SFU.
3. Determine if the individual receiving the information will safeguard it.

Consult the supervisor if unsure of any of the above.

Do not release any information obtained from the following confidential data sources: BEERS, IRS, BVS, AWI and DMV.

Do not disclose public assistance benefit information about noncitizens for purposes of determining a public charge (debt) to the participant, their authorized representative or the Department of Justice, United States Citizenship and Immigration Services, including Immigration Law Judges.

0420.0102 Release of Confidential Information (TCA)

Make appropriate information and material available for inspection or release at a prearranged time during normal business hours, if the applicant/recipient or authorized representative presents a written request that specifies:

1. the desired material,
2. how the material will be used, and
3. any individual authorized to review or receive the information.

Remove confidential information prior to case record examination and maintain staff presence at all times when the applicant/recipient is inspecting or photocopying the record. With the exception of medical reports identified as confidential, provide copies of case information the participant needs to qualify for another program's benefits. Adhere to HIPPA regulations related to medical information.

Permit the release of the following information to an applicant/recipient or authorized representative:

1. information in connection with a request for a hearing, state or local;
2. information on receipt of child support or benefits, when requested to complete a federal or state income tax return, and when authorized in writing by the individual;
3. copies of any statements or forms signed by the individual regarding income or assets; and
4. budget worksheets used to determine eligibility for benefits.

No individual has the right to inspect information or documents provided by an unknown confidential source. This includes, but is not limited to, information such as:

1. out of wedlock births,
2. incest,
3. neglect and abuse of children or adults, or
4. marital discord.

0420.0103 Release of Confidential Information to Third Parties (TCA)

Confidential case information may be disclosed to:

1. Employees of the Comptroller General's Office of the United States for audit examination authorized by law.
2. The Parent Locator Service.
3. Federal, state or local law enforcement officers requesting assistance in locating recipient who is fleeing to avoid prosecution, custody or confinement for a felony; who is violating a condition of parole or probation; or who has information necessary for the officer to conduct an official duty related to a felony/parole violation.

When a law enforcement officer requests assistance and notifies the agency of the felony parole or probation violation and the recipient's name, provide the address, social security number and a photograph of the recipient, if available.

Prior to the Department's release of any recipient information, any law enforcement official requesting the information must provide:

1. proper identification to establish him as a federal, state, county or local municipality law enforcement officer;
2. a document or warrant to indicate that he seeks an individual who is a fugitive felon, parole violator or the information is necessary to an investigation for one of these offenses;
3. the recipient's social security number, if available, or other demographic information to assist with identification of the recipient; and
4. a court order to request information if one has been signed by a judge.

0420.0105 Issuance of Subpoena (TCA)

If the Department receives a subpoena for case information or for a Department representative to testify concerning a recipient, contact the Circuit Legal Counsel who informs the court of the Department's policies related to confidentiality. Submit a copy of the public record or part thereof to the court to be examined in camera (i.e., not discussed in open court).

0420.0106 Personal Interest Cases (TCA)

Personal interest cases include members that are friends, neighbors, social acquaintances, coworkers, known members of the same community organization or church, exspouses, relatives by blood or marriage, or family members of any of these examples of the Economic Self-Sufficiency (ESS) staff.

Do not assign an ESS employee a case of personal interest. If an employee accesses, takes action on, or views a personal interest case, the ESS employee may be subject to disciplinary action and/or prosecution for a second or third degree felony.

Staff must not access, view, or take action on any case, eligibility record, Child Support Enforcement case or screen, employment and training case or screen, data exchanges, any related computer screens, or any other related materials for personal use.

Staff must not take any action, or gather or provide any information from any case as a favor or because of personal influence, to any individual who has the same relationship as individuals in personal interest cases.

Staff have an obligation to report to their supervisor if they receive an assignment for a personal interest case and to report if they know of any staff violating this policy.

Maintain all cases with a Department of Children and Families (DCF) employee in the benefit or home and cases where a DCF employee is a designated representative in a confidential caseload. DCF employees must not be authorized representatives for food stamps unless no one else is available. To allow a DCF employee to be an Authorized Representative requires written approval of the DCF Regional Director or his/her designee. Restrict access to authorized personnel only.

0420.0200 NONDISCRIMINATION (TCA)

Do not discriminate against any individual for reasons of age, race, sex, color, disability, national origin, religious creed, marital status or political beliefs in any aspect of program administration. For complete information on this policy refer to the Department's nondiscrimination operating procedures.

0420.0300 REPORT OF ABUSE (TCA)

Florida Statutes require the reporting of suspected abuse, neglect, or exploitation of any child, aged person or disabled adult.

Also make a report when there is reasonable cause to suspect that:

1. A newborn is physically drug dependent;
2. A child, from birth to five years of age, is a drug-exposed child;
3. The parent/caregiver is unable to provide safe care for the child(ren);
4. A male age 21 or older impregnates a female under the age of 16 (applicable to children conceived after 10/0/96); or
5. The participant has used the cash benefit for purposes other than the support of a child(ren).

Report suspected abuse, neglect, exploitation or misuse of funds to the Central Abuse Hotline at 1-800-962-2873. Use Region or Circuit procedures to report impregnation of an underage girl by an older man to local law enforcement officials.

0420.0400 CLAIMS AGAINST ESTATES (TCA)

Acceptance of TCA by an individual creates a debt, enforceable only after the death of the recipient and within the time prescribed by law. The state may file a claim against the recipient's estate for recovery of assistance subject to the claim law.

0420.0500 VERIFICATION (TCA)

Verification is confirming the accuracy of information through a source other than the individual. Include all telephone or personal contacts and documentary evidence used as verification in the case record.

If a collateral contact is the source of verification, record the eligibility factors verified in detail; the name of the person contacted, the date of the contact and complete information obtained from the contact.

There is no requirement to retain paper copies of documents used to verify eligibility or ineligibility if all relevant information has been entered into the FLORIDA system and retained electronically. Electronic entries must be of sufficient detail to support the determination of eligibility or ineligibility.

0420.0501 Prohibition on Photocopying Certain Documents (TCA)

It is a crime to photograph or otherwise reproduce a U.S. Treasury Note or other negotiable document, even though there is no intent to deceive the public.

Negotiable documents include, but are not limited to, the following:

1. currency;
2. postal money order;
3. checks or drafts for money drawn by or upon authorized offices of the United States (ex: Social Security checks, Veterans checks, Supplemental Security Income checks, Civil Service checks and IRS refund checks);
4. obligations or securities of the United States Government (ex: certificates, bonds and reserve notes); and
5. U.S. Treasury Notes.

There is also a prohibition against photocopying or otherwise reproducing certificates of Naturalization for United States citizenship.

If an individual provides DCF with an original or copy of a document, record the necessary information such as the document number, date, amount, payee or name. After recording, return the document to the individual and destroy facsimiles and other copies not needed by the individual.

0420.0600 FAIR HEARINGS (TCA)

The Department must provide a fair hearing to any individual who disagrees with any decision, action, or proposed action affecting the individual's participation. The Office of Appeal Hearings conducts fair hearings.

0420.0601 Right to Fair Hearing (TCA)

Inform all individuals in writing at the time of application or any other action of the right to a fair hearing, the method for requesting a hearing and that the case may be presented by the individual, legal counsel or an authorized representative.

Remind the individual verbally of the right to request a fair hearing any time he expresses a disagreement with any action taken. Do not limit or interfere with an individual's right to request a fair hearing.

0420.0602 Request for Fair Hearing (TCA)

A request for a hearing is any clear expression, oral or written, by an applicant/recipient or authorized representative that he disagrees with the actions, decisions or requirements imposed by the Department or authorized community partner, and that the individual wishes to present his case to a higher authority. An individual must authorize in writing a third party's right to file a hearing request on his behalf. Supervisors must review hearing requests and provide a Department conference with the individual. Forward the hearing request within three business days to the Office of Appeal Hearings.

Provide bilingual staff or interpreters for non-English speaking participants to ensure hearing procedures are explained in the individual's language. Request clarification from the individual any time there is uncertainty about what action is being appealed.

An individual must submit a decision to withdraw a request for a hearing in writing. Forward the individual's request to the Office of Appeal Hearings.

0420.0603 Time Limits to Request Hearing (TCA)

The Department or its partner agency must receive the individual's appeal of an action, decision or current level of benefits within 90 days of the date a notice is mailed or hand delivered to the individual.

Exceptions:

1. The time limit does not apply when the Department fails to send required notification, takes no action on a specific request or denies a request without informing the individual appealing.
2. A hearing request made outside the 90-day limit may only be rejected or dismissed by the Office of Appeal Hearings.
3. The Department must receive a recipient's fair hearing request in response to a notice of overpayment within 30 calendar days.

0420.0604 Continuation of Benefits (TCA)

When an individual requests a hearing by the end of the last day of the month prior to the effective date of the adverse action, reinstate the benefits to the prior level within 10 calendar days, unless the individual makes a written request to have the benefits terminated or reduced. If the last day of the month falls on a weekend or holiday, allow until the next working day for the request.

Inform recipients that they are liable for any overpayment caused by the continuation of benefits, pending the hearing decision.

0420.0605 Reinstated Benefits (TCA)

Do not reduce or terminate reinstated or continued benefits before the final hearing decision unless an additional cause for notice of adverse action occurs while the hearing decision is pending, and the individual fails to request a hearing after the subsequent notice of adverse action. Inform the SFU and/or authorized representative in writing if the Department reduces or terminates benefits prior to the hearing decision. Notify the Office of Appeal Hearings of any changes affecting the individual's eligibility.

0420.0606 Individual's Hearing Rights (TCA)

Allow the individual to examine the case record, including documents and records to be used at the hearing, at a reasonable time before the hearing and at any point during the hearing. Upon request by the individual, provide free copies of the relevant portions of the case record.

Exception: Do not release or provide examination of a case record when it contains information protected from release, such as status of pending criminal prosecutions. To avoid affecting the hearing officer's decision, the Department must not permit the introduction of this confidential information or any documents of records that cannot be contested or challenged at the hearing.

0420.0607 Burden of Proof (TCA)

An individual who is applying or who is seeking increased benefits has the burden of proof. The Department has the burden of proof when it reduces or terminates benefits. The party with the burden of proof must establish his position to the satisfaction of the hearing officer by a preponderance of evidence.

0420.0608 Fair Hearings Decisions (TCA)

A Final Order issued by the hearing officer is binding on the Department.

Denied Appeal:

Upon receipt of the Final Order, if benefits are continued as a result of the fair hearing request:

1. Refer overpayments made while the hearing decision was pending to BR. and
2. Issue a second notice of the reduction or termination in benefits with an effective date of the next month. Neither the 10-day adverse action notification nor the appeal rights apply to the second notice.

Granted Appeal:

Comply with the hearing decision within 10 calendar days following receipt of a Final Order.

0420.0700 ADMINISTRATIVE DISQUALIFICATION HEARINGS (TCA)

The Office of Appeal Hearings conducts an administrative disqualification hearing with the AG member suspected of fraud, unless the individual signs a hearing waiver. A pending disqualification hearing does not affect the AG's or individual's right to be determined eligible and participate in the program. Calculate eligibility and benefit levels according to standard policy and procedures. The Department cannot disqualify an AG member for intentional program violation until the hearing officer finds that the individual has committed the violation.

If the Office of Appeal Hearings rules the AG member committed or attempted to commit fraud, or the individual signed a waiver of administrative disqualification, disqualify the member in accordance with the established disqualification periods.

Upon receipt of a system alert, take appropriate action to remove the member from the AG, recalculate the benefit level and notify the SFU.

0420.0701 Imposing a Disqualification Period (TCA)

The imposed disqualification period begins the first month following the date the participant or the remaining AG members received the notification of the hearing decision and continues uninterrupted until completed, regardless of the eligibility of the disqualified participant's AG. The disqualified participant's AG continues to be responsible for the repayment of any overpayment.

The lengths of the disqualification period for an intentional program violation are as follows:

1. twelve months for the first violation or when a Disqualification Consent Agreement or waiver has been signed;
2. twenty-four months for the second violation;
3. permanent disqualification for the third violation (unless disqualification is contrary to the court order); or
4. in accordance with the court order, when the order specifies a disqualification period that is not one of the above.

Whether it covers one or multiple acts, each finding of intentional program violation results in only one disqualification period.

The determination of intentional program violation made by a hearing officer cannot be reversed by a subsequent fair hearing decision. An individual may request a fair hearing to appeal the amount of any overpayment assessed, provided the overpayment was not addressed in the original disqualification hearing.

The period of disqualification may be subject to a stay or corrective action by a court having appropriate jurisdiction.

0420.0702 Reversed Disqualification (TCA)

If a court of appropriate jurisdiction reverses a determination of intentional program violation, reinstate the individual, if eligible, and restore any benefits lost as a result of the reversed action. Consider an individual's participation in an administrative disqualification hearing to contest the Department's assertion of an intentional program violation as notification that the AG is requesting restored benefits.

0420.0703 Court Imposed Disqualification (TCA)

The Department must disqualify an individual found guilty of intentional program violation for the length of time specified by the court.

If the court imposes a disqualification period for an individual and does not specify the start date, initiate the disqualification period within 45 days of the date the disqualification was ordered. If the court fails to impose a disqualification period, impose a disqualification period according to policy for administrative disqualification.

If the individual is not eligible for the program at the time the disqualification period is to begin, postpone the period until the individual applies for and is determined eligible for benefits.

0430.0000 Family-Related Medicaid

This chapter presents administrative policy.

0430.0100 CONFIDENTIALITY (MFAM)

All individuals have the right to a confidential relationship with the Department and its authorized community partners. Consider all information provided by participants, denied applicants and inactive individuals to be confidential state Department material; it is not subject to the Freedom of Information Act.

0430.0101 Confidential Information (MFAM)

Restrict the use or disclosure of confidential information to personnel directly connected with the administration and enforcement of the Medicaid Program who:

1. establish eligibility,
2. determine the amount of benefits,
3. provide services,
4. institute legal proceedings against individuals responsible for the support of children, and
5. conduct or assist in an investigation, prosecution or civil or criminal proceeding related to Medicaid.

Release confidential information to representatives of agencies subject to standards of confidentiality comparable to the Department's standards as listed below:

1. Child in Care (CIC),
2. Family-Related Medicaid (MFAM),
3. SSI-Related Medicaid (MSSI),
4. State Funded Programs (SFP),
5. Social Security Administration (SSI),
6. Agency for Health Care Administration (AHCA),
7. Child Support Enforcement (CSE),
8. Medicaid providers for processing claims (not collection agencies).
9. Florida KidCare,
10. Federally Facilitated Marketplace

Secure the SFU's or designated representative's written consent to release information in all situations except for clearly administrative or enforcement purposes. Ensure all the following criteria are met prior to releasing confidential information:

1. Consider the reason for the request as well as its proposed use.
2. Determine if the disclosure of information will fulfill a constructive purpose for the members of the SFU.
3. Determine if the individual receiving the information will safeguard it.

Consult the supervisor if unsure of any of the above.

Do not release any information obtained from the following confidential data sources: BEERS, IRS, BVS, AWI and DMV.

Do not disclose public assistance benefit information about noncitizens for purposes of determining a public charge (debt) to the participant, their authorized representative, or the Department of Justice, United States Citizenship and Immigration Services, including Immigration Law Judges.

0430.0102 Release of Confidential Information (MFAM)

Make appropriate information and material available for inspection or release at a prearranged time during normal business hours, if the applicant/recipient or designated representative presents a written request that specifies:

1. the desired material,
2. how the material will be used, and
3. any individual authorized to review or receive the information.

Remove confidential information prior to case record examination and maintain staff presence at all times when the applicant/recipient or designated representative is inspecting or photocopying the record. With the exception of medical reports identified as confidential, provide copies of case information the applicant/recipient needs to qualify for another program's benefits.

Permit the release of the following information to an applicant/recipient, designated representative or other authorized individual:

1. information in connection with a request for a hearing, state or local;
2. information on receipt of child support or benefits, when requested to complete a federal or state income tax return, and when authorized in writing by the individual;
3. copies of any statements or forms signed by the individual regarding income; and
4. budget worksheets used to determine eligibility for benefits.

No individual has the right to inspect information or documents provided by an unknown confidential source. This includes, but is not limited to, information such as:

1. out of wedlock births,
2. incest,
3. neglect and abuse of children or adults, or
4. marital discord.

0430.0104 Request from Legal Authorities (MFAM)

Apply the same policies that govern any request from an outside source to requests for information from a governmental authority, the courts, or a law enforcement official.

0430.0105 Issuance of Subpoena (MFAM)

If the Department receives a subpoena for case information or for a Department representative to testify concerning a recipient, contact the Circuit Legal Counsel who informs the court of the Department's policies related to confidentiality.

0430.0106 Personal Interest Cases (MFAM)

Personal interest cases include members that are friends, neighbors, social acquaintances, coworkers, known members of the same community organization or church, exspouses, relatives by blood or marriage, or family members of any of these examples of the Economic Self-Sufficiency (ESS) staff.

Do not assign an ESS employee a case of personal interest. If an employee accesses, takes action on, or views a personal interest case, the ESS employee may be subject to disciplinary action and/or prosecution for a second or third degree felony.

Staff must not access, view, or take action on any case, eligibility record, Child Support Enforcement case or screen, employment and training case or screen, data exchanges, any related computer screens, or any other related materials for personal use.

Staff must not take any action, or gather or provide any information from any case as a favor or because of personal influence, to any individual who has the same relationship as individuals in personal interest cases.

Staff have an obligation to report to their supervisor if they receive an assignment for a personal interest case and to report if they know of any staff violating this policy.

Maintain all cases with a Department of Children and Families (DCF) employee in the benefit or home and cases where a DCF employee is a designated representative in a confidential caseload. DCF employees must not be authorized representatives for food stamps unless no one else is available. To allow a DCF employee to be an Authorized Representative requires written approval of the DCF Regional Director or his/her designee. Restrict access to authorized personnel only.

0430.0200 NONDISCRIMINATION (MFAM)

Do not discriminate against any individual for reasons of age, race, sex, color, disability, national origin, religious creed, marital status or political beliefs in any aspect of program administration. For complete information on this policy refer to the Department's nondiscrimination operating procedures.

0430.0300 REPORT OF ABUSE (MFAM)

Florida Statutes require the reporting of suspected abuse, neglect, or exploitation of any child, aged person or disabled adult.

Also make a report when there is reasonable cause to suspect that:

1. A newborn is physically drug dependent;
2. A child, from birth to five years of age, is a drug-exposed child;
3. The parent/caregiver is unable to provide safe care for the child(ren); or
4. A male age 21 or older impregnates a female under the age of 16 (applicable to children conceived after 10/0/96).

Report suspected abuse, neglect or exploitation to the Central Abuse Hotline at 1-800-962-2873. Use Region or Circuit procedures to report impregnation of an underage girl by an older man to local law enforcement officials.

0430.0400 CLAIMS AGAINST ESTATES (MFAM)

Acceptance of Medicaid by individual creates a debt, enforceable only after the death of the recipient and within the time prescribed by law. The state may file a claim against the recipient's estate for recovery of assistance subject to the claim law.

0430.0500 VERIFICATION (MFAM)

Verification is confirming the accuracy of information through a source other than the individual, including documentary and electronic sources. Include all telephone or personal contacts and documentary evidence used as verification in the case record.

If a collateral contact is the source of verification, record the eligibility factors verified in detail; the name of the person contacted, the address and phone number, the date of the contact and complete information obtained from the contact.

There is no requirement to retain paper copies of documents used to verify eligibility or ineligibility if all relevant information has been entered into the FLORIDA system and retained electronically.

Electronic entries must be of sufficient detail to support the determination of eligibility or ineligibility.

0430.0501 Prohibition on Photocopying Certain Documents (MFAM)

It is a crime to photograph or otherwise reproduce a U.S. Treasury Note or other negotiable document, even though there is no intent to deceive the public.

Negotiable documents include, but are not limited to, the following:

1. currency;
2. postal money order;
3. checks or drafts for money drawn by or upon authorized offices of the United States (ex: Social Security checks, Veterans checks, Supplemental Security Income checks, Civil Service checks and IRS refund checks);
4. obligations or securities of the United States Government (ex: certificates, bonds and reserve notes); and
5. U.S. Treasury Notes.

There is also a prohibition against photocopying or otherwise reproducing certificates of Naturalization for United States citizenship.

If an individual provides DCF with an original or copy of a document, record the necessary information such as the document number, date, amount, payee or name. After recording, return the document to the individual and destroy facsimiles and other copies not needed by the individual.

0430.0600 FAIR HEARINGS (MFAM)

The Department must provide a fair hearing to any individual who disagrees with any decision, action, or proposed action affecting the individual's participation. The Office of Appeal Hearings conducts fair hearings.

0430.0601 Right to Fair Hearing (MFAM)

Inform all individuals in writing at the time of application or any other action of the right to a fair hearing, the method for requesting a hearing and that the case may be presented by the individual, legal counsel or an authorized representative.

Remind an individual verbally of the right to request a fair hearing any time he expresses a disagreement with any action taken. Do not limit or interfere with an individual's right to request a fair hearing.

0430.0602 Request for Fair Hearing (MFAM)

A request for a hearing is any clear expression, oral or written, by an applicant/recipient or designated representative that he disagrees with the actions, decisions or requirements imposed by the Department or authorized community partner, and that the individual wishes to present his case to a higher authority. An individual must authorize in writing any third party's right to file a hearing request on his behalf. Supervisors must review hearing requests and provide a Department conference with the individual. Forward the hearing request within three business days to the Office of Appeal Hearings.

Provide bilingual staff or interpreters for non-English speaking participants to ensure hearing procedures are explained in the individual's language. Request clarification from the individual any time there is uncertainty about what action is being appealed.

An individual must submit a decision to withdraw a request for a hearing in writing. Forward the individual's decision to the Office of Appeal Hearings.

0430.0603 Time Limits to Request Hearing (MFAM)

The Department or its partner agency must receive the individual's appeal of an action, decision or current level of benefits within 90 days of the date the notice is mailed or hand delivered to the individual.

Exceptions:

1. The time limit does not apply when the Department fails to send required notification, takes no action on a specific request or denies a request without informing the individual appealing.
2. A hearing request made outside the 90-day limit may only be rejected or dismissed by the Office of Appeal Hearings.

0430.0604 Continuation of Benefits (MFAM)

If an individual requests a hearing by the end of the last day of the month prior to the effective date of the adverse action, reinstate the benefits to the prior level within 10 calendar days, unless the individual makes a written request to have the benefits terminated or reduced. If the last day of the month falls on a weekend or holiday, allow until the next working day for the request.

Inform recipients that they are liable for any overpayment caused by the continuation of benefits, pending the hearing decision.

0430.0605 Reinstated Benefits (MFAM)

Do not reduce or terminate reinstated or continued benefits before the final hearing decision unless an additional cause for notice of adverse action occurs while the hearing decision is pending, and the individual fails to request a hearing after the subsequent notice of adverse action. Inform the SFU and/or designated representative in writing if the Department reduces or terminates benefits prior to the hearing decision. Notify the Office of Appeal Hearings of any changes affecting the individual's eligibility.

0430.0606 Individual's Hearing Rights (MFAM)

Allow the individual to examine the case record, including documents and records to be used at the hearing, at a reasonable time before the hearing and at any point during the hearing. Upon request by the individual, provide free copies of the relevant portions of the case record.

Exception: Do not release or provide examination of a case record when it contains information protected from release, such as status of pending criminal prosecutions. To avoid affecting the hearing officer's decision, the Department must not permit the introduction of this confidential information or any documents of records that cannot be contested or challenged at the hearing.

0430.0607 Burden of Proof (MFAM)

An individual who is applying or seeking increased benefits has the burden of proof. The Department has the burden of proof when it reduces or terminates benefits. The party with the burden of proof must establish his position to the satisfaction of the hearing officer by a preponderance of evidence.

0430.0608 Fair Hearings Decisions (MFAM)

A Final Order issued by the hearings officer is binding on the Department.

Denied Appeal:

Upon receipt of the Final Order, if benefits were continued as a result of the hearing request:

1. Refer overpayments made while the hearing decision was pending to BR and
2. Issue a second notice of the reduction or termination in benefits with an effective date of the next month. Neither the 10-day adverse action notification nor the appeal rights apply to the second notice.

Granted Appeal:

Comply with the hearing decision within 10 calendar days following receipt of a Final Order.

0430.0610 Reevaluating Medicaid Adverse Actions (MFAM)

The Department must reevaluate any Medicaid determination where there is evidence of good cause that the previous determination was incorrect.

The request for reevaluation applies to the following situations:

1. benefits terminated or denied in error;
2. an overstated patient responsibility/share of cost; and
3. an error in the calculation of the level of benefits.

If a participant requests a reevaluation:

1. within 90 days of the mailing date of the notice, follow hearing policy and continue to work on resolution.
2. after 90 days from the mailing date of the notice but no more than 12 months following the effective date of the adverse action, review the request to determine if good cause exists.
3. after 12 months from the effective date of the notice, complete the Notice of Review of Case Action to deny the reevaluation and inform the participant of hearing rights.

Good cause exists when:

1. The Department made mistakes in mathematical computations.
2. The Department made an error in the determination.
3. The participant presents new information that was not considered when the previous determination was completed, and it may result in a different conclusion. The information must have been unavailable due to circumstances beyond the participant's control.

Once good cause is established, determine eligibility, authorize benefits as appropriate and send a new notice of case action. Notify the participant of the decision for all months as required below.

For applications: Review eligibility each month and authorize as appropriate back to the month of application, including any requested retroactive months.

For active cases: Review eligibility each month and authorize as appropriate back to the effective date of the action under review.

When good cause does not exist:

Send the Notice of Review of Case Action notifying the participant of the reevaluation denial and hearing rights. The determination that good cause does not exist cannot be reevaluated.

0430.0611 Reimbursement (MFAM)

The area AHCA Medicaid office staff are responsible for determining if an applicant or recipient is eligible for direct reimbursement of paid medical services incurred after a case is denied and the decision is subsequently reversed. Refer inquiries to the AHCA area Medicaid office.

0440.0000 SSI-Related Medicaid, State Funded Programs

This chapter presents administrative policy.

0440.0100 CONFIDENTIALITY (MSSSI, SFP)

All individuals have the right to a confidential relationship with the Department and its authorized community partners. Consider all information provided by participants, denied applicants and inactive individuals to be confidential state Department material; it is not subject to the Freedom of Information Act.

0440.0101 Confidential Information (MSSSI, SFP)

Restrict the use or disclosure of confidential information to personnel directly connected with the administration and enforcement of the Medicaid Program who:

1. establish eligibility,
2. determine the amount of benefits,
3. provide services,
4. institute legal proceedings against individuals responsible for the support of children, and
5. conduct or assist in an investigation, prosecution or civil or criminal proceeding related to Medicaid.

Release confidential information to representatives of agencies subject to standards of confidentiality comparable to the Department's standards as listed below:

1. Child in Care (CIC),
2. Family-Related Medicaid (MFAM),
3. SSI-Related Medicaid (MSSSI),
4. State Funded Programs (SFP) from other states,
5. Social Security Administration (SSI),
6. Agency for Health Care Administration (AHCA),
7. Child Support Enforcement (CSE),
8. Medicaid providers for processing claims (not collection agencies).

Secure the SFU's or designated representative's written consent to release information in all situations except for clearly administrative or enforcement purposes. Ensure all the following criteria are met prior to releasing confidential information:

1. Consider the reason for the request as well as its proposed use.
2. Determine if the disclosure of information will fulfill a constructive purpose for the members of the SFU.
3. Determine if the individual receiving the information will safeguard it.

Consult the supervisor if unsure of any of the above.

Do not release any information obtained from the following confidential data sources: BEERS, IRS, BVS, AWI and DMV.

Do not disclose public assistance benefit information about noncitizens for purposes of determining public charge (debt) to the participant, their authorized representative, or The Department of Justice, United States Citizenship and Immigration Services, including Immigration Law Judges.

0440.0102 Release of Confidential Information (MSSI, SFP)

Make appropriate information and material available for inspection or release at a prearranged time during normal business hours, if the applicant/recipient or designated representative presents a written request that specifies:

1. the desired material,
2. how the material will be used, and
3. any individual authorized to review or receive the information.

Remove confidential information prior to case record examination and maintain staff presence at all times when the applicant/recipient or designated representative is inspecting or photocopying the record. With the exception of medical reports identified as confidential, provide copies of case information the participant needs to qualify for another program's benefits.

Permit the release of the following information to an applicant/recipient or designated representative:

1. information in connection with a request for a hearing, state or local;
2. information on receipt of child support or benefits, when requested to complete a federal or state income tax return, and when authorized in writing by the individual;
3. copies of any statements or forms signed by the individual regarding income or assets; and
4. budget worksheets used to determine eligibility for benefits.

No individual has the right to inspect information or documents provided by an unknown confidential source. This includes, but is not limited to, information such as:

1. out of wedlock births,
2. incest,
3. neglect and abuse of children or adults, or
4. marital discord.

0440.0104 Request from Legal Authorities (MSSI, SFP)

Apply the same policies that govern any request from an outside source to requests for information from a governmental authority, the courts, or a law enforcement official.

0440.0105 Issuance of Subpoena (MSSI, SFP)

If the Department receives a subpoena for case information or for a Department representative to testify concerning a recipient, contact the Circuit Legal Counsel who informs the court of the Department's policies related to confidentiality.

0440.0106 Personal Interest Cases (MSSI, SFP)

Personal interest cases include members that are friends, neighbors, social acquaintances, coworkers, known members of the same community organization or church, exspouses, relatives by blood or marriage, or family members of any of these examples of the Economic Self-Sufficiency (ESS) staff.

Do not assign an ESS employee a case of personal interest. If an employee accesses, takes action on, or views a personal interest case, the ESS employee may be subject to disciplinary action and/or prosecution for a second or third degree felony.

Staff must not access, view, or take action on any case, eligibility record, Child Support Enforcement case or screen, employment and training case or screen, data exchanges, any related computer screens, or any other related materials for personal use.

Staff must not take any action, or gather or provide any information from any case as a favor or because of personal influence, to any individual who has the same relationship as individuals in personal interest cases.

Staff have an obligation to report to their supervisor if they receive an assignment for a personal interest case and to report if they know of any staff violating this policy.

Maintain all cases with a Department of Children and Families (DCF) employee in the benefit or home and cases where a DCF employee is a designated representative in a confidential caseload. DCF employees must not be authorized representatives for food stamps unless no one else is available. To allow a DCF employee to be an Authorized Representative requires written approval of the DCF Regional Director or his/her designee. Restrict access to authorized personnel only.

0440.0107 Release of Disability Information (MSSI, SFP)

The eligibility specialist, the individual, the designated representative or the hearing officer may not open materials in a sealed envelope marked confidential from the Division of Disability Determinations or a medical provider.

Upon receipt of a request for confidential medical information, contact the Region or Circuit Program Office. Do not release medical records marked confidential to anyone unless the records were clearly provided by the individual.

0440.0200 NONDISCRIMINATION (MSSI, SFP)

Do not discriminate against any individual for reasons of age, race, sex, color, disability, national origin, religious creed, marital status or political beliefs in any aspect of program administration. For complete information on this policy refer to the Department's nondiscrimination operating procedures.

0440.0300 REPORT OF ABUSE (MSSI, SFP)

Florida Statutes require the reporting of suspected abuse, neglect, or exploitation of any child, aged person or disabled adult.

Also make a report when there is reasonable cause to suspect that:

1. A newborn is physically drug dependent;
2. A child, from birth to five years of age, is a drug-exposed child;
3. The parent/caregiver is unable to provide safe care for the child(ren), or
4. A male age 21 or older impregnates a female under the age of 16 (applicable to children conceived after 10/0/96).

Report suspected abuse, neglect, or exploitation to the Central Abuse Hotline at 1-800-962-2873. Use Region or Circuit procedures to report impregnation of an underage girl by an older man to local law enforcement officials.

0440.0400 CLAIMS AGAINST ESTATES (MSSI, SFP)

Acceptance of Medicaid by an individual age 55 or over or cash assistance at any age creates a debt enforceable only after the death of the recipient and within the time prescribed by law. The state may file a claim against the estate of the individual for recovery of assistance subject to the claim law.

0440.0500 VERIFICATION (MSSI, SFP)

Verification is confirming the accuracy of information through a source other than the individual. Include all telephone or personal contacts and documentary evidence used as verification in the case record.

If a collateral contact is the source of verification, record in detail the eligibility factors verified; the name of the person contacted, the date of the contact and complete information obtained from the contact.

There is no requirement to retain paper copies of documents used to verify eligibility or ineligibility if all relevant information has been entered into the FLORIDA system and retained electronically. Electronic entries must be of sufficient detail to support the determination of eligibility or ineligibility.

0440.0501 Prohibition on Photocopying Certain Documents (MSSI, SFP)

It is a crime to photograph or otherwise reproduce a U.S. Treasury Note or other negotiable document, even though there is no intent to deceive the public.

Negotiable documents include, but are not limited to, the following:

1. currency;
2. postal money order;
3. checks or drafts for money drawn by or upon authorized offices of the United States (ex: Social Security checks, Veterans checks, Supplemental Security Income checks, Civil Service checks and IRS refund checks);
4. obligations or securities of the United States Government (ex: certificates, bonds and reserve notes); and
5. U.S. Treasury Notes.

There is also a prohibition against photocopying or otherwise reproducing certificates of Naturalization for United States citizenship.

If an individual provides DCF with an original or copy of a document, record the necessary information such as the document number, date, amount, payee or name. After recording, return the document to the individual and destroy facsimiles and other copies not needed by the individual.

0440.0600 FAIR HEARINGS (MSSI, SFP)

The Department must provide a fair hearing to any individual who disagrees with any decision, action or proposed action affecting the individual's participation. The Office of Appeal Hearings conducts fair hearings.

0440.0601 Right to Fair Hearing (MSSI, SFP)

Inform all individuals in writing at the time of application or any other action of the right to a fair hearing, the method for requesting a hearing and that the case may be presented by the individual, legal counsel or an authorized representative.

Remind an individual verbally of the right to request a fair hearing any time he expresses a disagreement with any action taken. Do not limit or interfere with an individual's right to request a fair hearing.

0440.0602 Request for Fair Hearing (MSSSI, SFP)

A request for a hearing is any clear expression, oral or written, by an applicant/recipient or designated representative that he disagrees with the actions, decisions or requirements imposed by the Department or authorized community partner, and that the individual wishes to present his case to a higher authority. An individual must authorize in writing any third party's right to file a hearing request on his behalf. Supervisors must review hearing requests and provide a Department conference with the individual. Forward the hearing request within three business days to the Office of Appeal Hearings.

Provide bilingual staff or interpreters for non-English speaking participants to ensure that the hearing procedures are explained in the individual's language. Request clarification from the individual any time there is uncertainty about what action is being appealed.

An individual must submit a decision to withdraw a request for a hearing in writing. Forward the individual's decision to the Office of Appeal Hearings.

0440.0603 Time Limits to Request Hearing (MSSSI, SFP)

The Department or its partner agency must receive the individual's appeal of an action, decision or current level of benefits within 90 days of the date the notice is mailed or hand delivered to the individual.

Exceptions:

1. The time limit does not apply when the Department fails to send required notification, takes no action on a specific request or denies a request without informing the individual appealing.
2. A hearing request made outside the 90-day limit may only be rejected or dismissed by the Office of Appeal Hearings.

0440.0604 Continuation of Benefits (MSSSI, SFP)

If an individual requests a hearing by the end of the last day of the month prior to the effective date of the adverse action, reinstate the benefits to the prior level within 10 calendar days, unless the individual makes a written request to have the benefits terminated or reduced. If the last day of the month falls on a weekend or holiday, allow until the next working day for the request.

Inform recipients that they are liable for any overpayment caused by the continuation of benefits, pending the hearing decision.

0440.0605 Reinstated Benefits (MSSSI, SFP)

Do not reduce or terminate reinstated or continued benefits before the final hearing decision unless an additional cause for notice of adverse action occurs while the hearing decision is pending, and the individual fails to request a hearing after the subsequent notice of adverse action. Inform the SFU and/or designated representative in writing if the Department reduces or terminates benefits prior to the hearing decision. Notify the Office of Appeal Hearings of any changes affecting the individual's eligibility.

0440.0606 Individual's Hearing Rights (MSSI, SFP)

Allow the individual to examine the case record, including documents and records to be used at the hearing, at a reasonable time before the hearing and at any point during the hearing. Provide free copies of the relevant portions of the case record upon request by the individual.

Exception: Do not release or provide examination of a case record when it contains information protected from release, such as status of pending criminal prosecutions. To avoid affecting the hearing officer's decision, the Department must not permit the introduction of this confidential information or any documents of records that cannot be contested or challenged at the hearing.

0440.0607 Burden of Proof (MSSI, SFP)

An individual who is applying or seeking increased benefits has the burden of proof. The Department has the burden of proof when it reduces or terminates benefits. The party with the burden of proof must establish his position to the satisfaction of the hearing officer by a preponderance of evidence.

0440.0608 Fair Hearings Decisions (MSSI, SFP)

A Final Order issued by the hearings officer is binding on the Department.

Denied Appeal:

Upon receipt of the Final Order, if benefits were continued as a result of the hearing request:

1. Refer overpayments made while the hearing decision was pending to BR. and
2. Issue a second notice of the reduction or termination in benefits with an effective date of the next month. Neither the 10-day adverse action notification nor the appeal rights apply to the second notice.

Granted Appeal:

Comply with the hearing decision within 10 calendar days following receipt of a Final Order.

0440.0610 Reevaluating Medicaid Adverse Actions (MSSI, SFP)

The Department must reevaluate any Medicaid determination where there is evidence of good cause that the previous determination was incorrect.

The request for reevaluation applies to the following situations:

1. benefits terminated or denied in error;
2. an overstated patient responsibility/share of cost; and
3. an error in the calculation of the level of benefits.

If a participant requests a reevaluation:

1. Within 90 days of the mailing date of the notice, follow hearing policy and continue to work on resolution.
2. After 90 days from the mailing date of the notice but no more than 12 months following the effective date of the adverse action, review the request to determine if good cause exists.
3. After 12 months from the effective date of the notice, deny the eligibility on FLORIDA and inform the individual of hearing rights on the electronic notice.

Good cause exists when:

1. The Department made mistakes in mathematical computations.
2. The Department made an error in the determination.
3. The participant presents new information that was not considered when the previous determination was completed and it may result in a different conclusion. The information must have been unavailable due to circumstances beyond the participant's control.

Once good cause is established, determine eligibility, authorize benefits as appropriate and send a new notice of case action. Notify the participant of the decision for all months as required below.

For applications: Review eligibility each month and authorize as appropriate back to the month of application, including any requested retroactive months.

For active cases: Review eligibility each month and authorize as appropriate back to the effective date of the action under review.

When good cause does not exist:

Notify the individual of the reevaluation denial and hearing rights. The determination that good cause does not exist cannot be reevaluated.

0440.0611 Reimbursement (MSSI, SFP)

The area AHCA Medicaid office staff are responsible for determining if an applicant or recipient is eligible for direct reimbursement of paid medical services incurred after a case is denied and the decision is subsequently reversed. Refer inquiries to the AHCA area Medicaid office.

0440.0612 Community Spouse Resource Allowance (MSSI)

If an applicant is denied eligibility due to excess assets, a hearings officer may increase the Community Spouse Resource Allowance (CSRA) to an amount that would generate income to bring the community spouse's income up to the Minimum Monthly Maintenance Needs Allowance (MMMNA).

During a fair hearing when the spouse requests an increase in the CSRA, the amount of resources adequate to provide the community spouse the MMMNA shall be based on the cost of a single premium lifetime annuity with monthly payments equal to the difference between the MMMNA and the amount the community spouse's income is expected to be upon approval of institutional care benefits for the institutional spouse.

In making this determination, the hearing officer considers the community spouse's actual income at the time of the fair hearing and any income that would be available from the institutional spouse upon approval of institutional care benefits, less income produced by the couple's assets. This ensures that all income that will actually be available to the community spouse, excluding income generated by the couple's actual assets, is considered before the CSRA is revised.

0450.0000 Child in Care

This chapter presents administrative policy.

0450.0100 CONFIDENTIALITY (CIC)

All individuals have the right to a confidential relationship with the Department and its authorized community partners. Consider all information provided by participants, denied applicants and inactive individuals to be confidential state Department material; it is not subject to the Freedom of Information Act.

0450.0101 Confidential Information (CIC)

Restrict the use or disclosure of confidential information to personnel directly connected with the administration and enforcement of the Medicaid and Title IV-E Programs who:

1. establish eligibility,
2. determine the amount of benefits,
3. provide services,
4. institute legal proceedings against individuals responsible for the support of children, and
5. conduct or assist in an investigation, prosecution or civil or criminal proceeding related to Medicaid.

Release confidential information only to other entities that are responsible for the administration and enforcement of the Medicaid Program, including:

1. Child in Care (CIC),
2. Family-Related Medicaid (MFAM),
3. SSI-Related Medicaid (MSSI),
4. State Funded Programs (SFP),
5. Social Security Administration (SSI),
6. Agency for Health Care Administration (AHCA),
7. Child Support Enforcement (CSE),
8. Medicaid providers for processing claims (not collection agencies).

Secure the AG's written consent to release information in all situations except for clearly administrative or enforcement purposes. When determining whether to release confidential information:

1. Consider the reason for the request as well as its proposed use.
2. Determine if the disclosure of information will fulfill a constructive purpose for the members of the AG.
3. Determine if the individual receiving the information will safeguard it.

Consult the supervisor if unsure of any of the above.

Do not release any information obtained from the following confidential data sources: BEERS, IRS, BVS, AWI and DMV.

Do not disclose public assistance benefit information about noncitizens for purposes of determining public charge (debt) to the participant, their authorized representative, or the Department of Justice, United States Citizenship and Immigration Services, including Immigration Law Judges.

0450.0102 Release of Confidential Information to the Representative (CIC)

Make appropriate information and material available to the counselor acting on behalf of the child.

Remove confidential information prior to case record examination and maintain staff presence at all times when the counselor, acting on behalf of the child, is inspecting or photocopying the record. With the exception of medical reports identified as confidential, provide copies of case information the child needs to qualify for another program's benefits.

Permit the release of the following:

1. information in connection with a request for a hearing, state or local;
2. information on receipt of child support or benefits, when requested to complete a federal or state income tax return, and when authorized in writing by the individual;
3. copies of any statements or forms signed by the individual regarding income or assets; and
4. budget worksheets used to determine eligibility for benefits.

No individual has the right to inspect information or documents provided by an unknown confidential source. This includes, but is not limited to, information such as:

1. out of wedlock births,
2. incest,
3. neglect and abuse of children or adults, or
4. marital discord.

0450.0104 Request from Legal Authorities (CIC)

Apply the same policies that govern any request from an outside source to requests for information from a governmental authority, the courts, or a law enforcement official.

0450.0105 Issuance of Subpoena (CIC)

If the Department receives a subpoena for case information or for a Department representative to testify concerning a recipient, contact the Circuit Legal Counsel who informs the court of the Department's policies related to confidentiality.

0450.0106 Personal Interest Cases (CIC)

Personal interest cases include members that are friends, neighbors, social acquaintances, coworkers, known members of the same community organization or church, exspouses, relatives by blood or marriage, or family members of any of these examples of the Economic Self-Sufficiency (ESS) staff.

Do not assign an ESS employee a case of personal interest. If an employee accesses, takes action on, or views a personal interest case, the ESS employee may be subject to disciplinary action and/or prosecution for a second or third degree felony.

Staff must not access, view, or take action on any case, eligibility record, Child Support Enforcement case or screen, employment and training case or screen, data exchanges, any related computer screens, or any other related materials for personal use.

Staff must not take any action, or gather or provide any information from any case as a favor or because of personal influence, to any individual who has the same relationship as individuals in personal interest cases.

Staff have an obligation to report to their supervisor if they receive an assignment for a personal interest case and to report if they know of any staff violating this policy.

Maintain all cases with a Department of Children and Families (DCF) employee in the benefit or home and cases where a DCF employee is a designated representative in a confidential caseload. DCF employees must not be authorized representatives for food stamps unless no one else is available. To allow a DCF employee to be an Authorized Representative requires written approval of the DCF Regional Director or his/her designee. Restrict access to authorized personnel only.

0450.0200 NONDISCRIMINATION (CIC)

Do not discriminate against any individual for reasons of age, race, sex, color, disability, national origin, religious creed, marital status or political beliefs in any aspect of program administration. For complete information on this policy refer to the Department's nondiscrimination operating procedures.

0450.0300 REPORT OF ABUSE (CIC)

Florida Statutes require the reporting of suspected abuse, neglect or exploitation of any child, aged person or disabled adult.

Also make a report when there is reasonable cause to suspect that:

1. A newborn is physically drug dependent;
2. A child, from birth to five years of age, is a drug-exposed child;
3. The parent/caregiver is unable to provide safe care for the child(ren); or
4. A male age 21 or older impregnates a female under the age of 16 (applicable to children conceived after 10/0/96).

Report suspected abuse, neglect, or exploitation to the Central Abuse Hotline at 1-800-962-2873. Use Region or Circuit procedures to report impregnation of an underage girl by an older man to local law enforcement officials.

0450.0500 VERIFICATION (CIC)

Verification is confirming the accuracy of information through a source other than the individual. Include all telephone or personal contacts and documentary evidence used as verification in the case record.

If a collateral contact is the source of verification, record in detail the eligibility factors verified; the name of the person contacted, the date of the contact and complete information obtained from the contact.

There is no requirement to retain paper copies of documents used to verify eligibility or ineligibility if all relevant information has been entered into the FLORIDA system and retained electronically. Electronic entries must be of sufficient detail to support the determination of eligibility or ineligibility.

0450.0501 Prohibition on Photocopying Certain Documents (CIC)

It is a crime to photograph or otherwise reproduce a U.S. Treasury Note or other negotiable document, even though there is no intent to deceive the public.

Negotiable documents include, but are not limited to, the following:

1. currency;
2. postal money order;
3. checks or drafts for money drawn by or upon authorized offices of the United States (ex: Social Security checks, Veterans checks, Supplemental Security Income checks, Civil Service checks and IRS refund checks);
4. obligations or securities of the United States Government (ex: certificates, bonds and reserve notes); and
5. U.S. Treasury Notes.

There is also a prohibition against photocopying or otherwise reproducing certificates of Naturalization for United States citizenship.

If an individual provides DCF with an original or copy of a document, record the necessary information such as the document number, date, amount, payee or name. After recording, return the document to the individual and destroy facsimiles and other copies not needed by the individual.

0450.0600 FAIR HEARINGS (CIC)

The Department must provide a fair hearing to any individual who disagrees with any decision, action or proposed action affecting the individual's participation. The Office of Appeal Hearings conducts fair hearings.

0450.0601 Right to Fair Hearing (CIC)

Inform all individuals in writing at the time of application or any other action of the right to a fair hearing, the method for requesting a hearing and that the case may be presented by the individual, legal counsel or an authorized representative.

Remind an individual verbally of the right to request a fair hearing any time he expresses a disagreement with any action taken. Do not limit or interfere with an individual's right to request a fair hearing.

0450.0602 Request for Fair Hearing (CIC)

A request for a hearing is any clear expression, oral or written, by an applicant/recipient or counselor that he disagrees with the actions, decisions or requirements imposed by the Department or authorized community partner, and that the individual wishes to present his case to a higher authority. An individual must authorize in writing any third party's right to file a hearing request on his behalf. Supervisors must review hearing requests and provide a Department conference with the individual. Forward the hearing request within three business days to the Office of Appeal Hearings.

Provide bilingual staff or interpreters for non-English speaking participants to ensure that the hearing procedures are explained in the individual's language. Request clarification from the individual any time there is uncertainty about what action is being appealed.

An individual must submit a decision to withdraw a request for a hearing in writing. Forward the individual's decision to the Office of Appeal Hearings.

0450.0603 Time Limits to Request Hearing (CIC)

The Department or its partner agency must receive the individual's appeal of an action, decision or current level of benefits within 90 days of the date the notice is mailed or hand delivered to the individual.

Exceptions:

1. The time limit does not apply when the Department fails to send required notification, takes no action on a specific request, or denies a request without informing the individual appealing.
2. A hearing request made outside the 90-day limit may only be rejected or dismissed by the Office of Appeal Hearings.

0450.0604 Continuation of Benefits (CIC)

If an individual requests a hearing by the end of the last day of the month prior to the effective date of the adverse action, reinstate the benefits to the prior level within 10 calendar days unless the individual makes a written request to have the benefits terminated or reduced. If the last day of the month falls on a weekend or holiday, allow until the next working day for the request.

Inform recipients that they are liable for any overpayment caused by the continuation of benefits, pending the hearing decision.

0450.0605 Reinstated Benefits (CIC)

Do not reduce or terminate reinstated or continued benefits before the final hearing decision unless an additional cause for notice of adverse action occurs while the hearing decision is pending and the individual fails to request a hearing after the subsequent notice of adverse action. Inform the individual or AG in writing if the Department reduces or terminates benefits prior to the hearing decision. Notify the Office of Appeal Hearings of any changes affecting the individual's eligibility.

0450.0606 Individual's Hearing Rights (CIC)

Allow the individual to examine the case record, including documents and records to be used at the hearing, at a reasonable time before the hearing and at any point during the hearing. Upon request by the individual, provide free copies of the relevant portions of the case record.

Exception: Do not release or provide examination of a case record when it contains information protected from release, such as status of pending criminal prosecutions. To avoid affecting the hearing officer's decision, the Department must not permit the introduction of this confidential information or any documents of records that cannot be contested or challenged at the hearing.

0450.0607 Burden of Proof (CIC)

An individual who is applying or seeking increased benefits has the burden of proof. The Department has the burden of proof it reduces or terminates benefits. The party with the burden of proof must establish his position to the satisfaction of the hearing officer by a preponderance of evidence.

0450.0608 Fair Hearings Decisions (CIC)

A Final Order issued by the hearing officer is binding on the Department.

Denied Appeal:

Upon receipt of the Final Order if benefits were continued as a result of the hearing request:

1. Refer overpayments made while the hearing decision was pending to BR. and
2. Issue a second notice of the reduction or termination in benefits with an effective date of the next month. Neither the 10-day adverse action notification nor the appeal rights apply to the second notice.

Granted Appeal:

Take case action within 10 calendar days following receipt of a Final Order.

0460.0000 Refugee Assistance Program

This chapter presents administrative policy.

0460.0100 CONFIDENTIALITY (RAP)

All individuals have the right to a confidential relationship with the Department and its authorized community partners. Consider all information provided by participants, denied applicants and inactive individuals to be confidential state Department material; it is not subject to the Freedom of Information Act.

0460.0101 Confidential Information (RAP)

Restrict the use or disclosure of confidential information to personnel directly connected with the administration and enforcement of the refugee cash and medical programs who:

1. establish eligibility,
2. determine the amount of benefits,
3. provide services,
4. institute legal proceedings against individuals responsible for the support of children, and
5. prosecute individuals for fraud in obtaining aid.

Release confidential information only to representatives of agencies subject to standards of confidentiality comparable to Department standards, as listed below:

1. Child in Care (CIC),
2. Family-Related Medicaid (MFAM),
3. SSI-Related Medicaid (MSSI),
4. State Funded Programs (SFP) from other states,
5. Social Security Administration (SSI),
6. Agency for Health Care Administration (AHCA),
7. Child Support Enforcement (CSE),
8. Medicaid providers for processing claims (not collection agencies).

Secure the SFU's or authorized representative's written consent to release information in all situations except for clearly administrative or enforcement purposes. When determining whether to release confidential information:

1. Consider the reason for the request as well as its proposed use.
2. Determine if the disclosure of information will fulfill a constructive purpose for the members of the AG.
3. Determine if the individual receiving the information will safeguard it.

Consult the supervisor if unsure of any of the above.

Do not release any information obtained from the following confidential data sources: BEERS, IRS, BVS, AWI and DMV.

Do not disclose public assistance benefit information about noncitizens for purposes of determining public charge (debt) to the participant, their authorized representative, or the Department of Justice, United States Citizenship and Immigration Services, including Immigration Law Judges.

0460.0102 Release of Confidential Information (RAP)

Make appropriate information and material available for inspection or release at a prearranged time during normal business hours, if the applicant/recipient or designated representative presents a written request that specifies:

1. the desired material,
2. how the material will be used, and
3. any individual authorized to review or receive the information.

Remove confidential information prior to case record examination and maintain staff presence at all times when the applicant/recipient or designated representative is inspecting or photocopying the record. With the exception of medical reports identified as confidential, provide copies of case information the applicant/recipient needs to qualify for another program's benefits. Adhere to HIPPA regulations related to medical information.

Permit the release of the following information to the applicant/recipient or authorized representative:

1. information in connection with a request for a hearing, state or local;
2. information on receipt of child support or benefits, when requested to complete a federal or state income tax return, and when authorized in writing by the individual;
3. copies of any statements or forms signed by the applicant/recipient regarding income or assets; and
4. budget worksheets used to determine eligibility for the Department's programs.

No individual has the right to inspect information or documents provided by an unknown confidential source. This includes, but is not limited to, information such as:

1. out of wedlock births,
2. incest,
3. neglect and abuse of children or adults, or
4. marital discord.

0460.0104 Request from Legal Authorities (RAP)**Cash:**

Prior to the Department's release of recipient information, any law enforcement official requesting the information must provide:

1. proper identification to establish him as a federal, state, county or local municipality law enforcement officer;
2. the recipient's social security number, if available, or other demographic information to assist with identification of the recipient; and
3. a court order to request information if one has been signed by a judge.

Medicaid:

Apply the same policies that govern any request from an outside source to requests for information from a governmental authority, the courts, or a law enforcement official.

0460.0105 Issuance of Subpoena (RAP)

If the Department receives a subpoena for case information or for a Department representative to testify concerning a recipient, consult the Circuit Legal Counsel who informs the court of the Department's policies related to confidentiality.

0460.0106 Personal Interest Cases (RAP)

Personal interest cases include members that are friends, neighbors, social acquaintances, coworkers, known members of the same community organization or church, exspouses, relatives by blood or marriage, or family members of any of these examples of the Economic Self-Sufficiency (ESS) staff.

Do not assign an ESS employee a case of personal interest. If an employee accesses, takes action on, or views a personal interest case, the ESS employee may be subject to disciplinary action and/or prosecution for a second or third degree felony.

Staff must not access, view, or take action on any case, eligibility record, Child Support Enforcement case or screen, employment and training case or screen, data exchanges, any related computer screens, or any other related materials for personal use.

Staff must not take any action, or gather or provide any information from any case as a favor or because of personal influence, to any individual who has the same relationship as individuals in personal interest cases.

Staff have an obligation to report to their supervisor if they receive an assignment for a personal interest case and to report if they know of any staff violating this policy.

Maintain all cases with a Department of Children and Families (DCF) employee in the benefit or home and cases where a DCF employee is a designated representative in a confidential caseload. DCF employees must not be authorized representatives for food stamps unless no one else is available. To allow a DCF employee to be an Authorized Representative requires written approval of the DCF Regional Director or his/her designee. Restrict access to authorized personnel only.

0460.0200 NONDISCRIMINATION (RAP)

Do not discriminate against any individual for reasons of age, race, sex, color, disability, national origin, religious creed, marital status or political beliefs in any aspect of program administration. For complete information on this policy refer to the Department's nondiscrimination operating procedures.

0460.0300 REPORT OF ABUSE (RAP)

Florida Statutes require the reporting of suspected abuse, neglect, or exploitation of any child, aged person or disabled adult.

Also make a report when there is reasonable cause to suspect that:

1. A newborn is physically drug dependent;
2. A child, from birth to five years of age, is a drug-exposed child;
3. The parent/caregiver is unable to provide safe care for the child(ren); or
4. A male age 21 or older impregnates a female under the age of 16 (applicable to children conceived after 10/0/96).

Report suspected abuse, neglect, or exploitation to the Central Abuse Hotline at 1-800-962-2873. Use Region or Circuit procedures to report impregnation of an underage girl by an older man to local law enforcement officials.

0460.0500 VERIFICATION (RAP)

Verification is confirming the accuracy of information through a source other than the individual. Include all telephone or personal contacts and documentary evidence used as verification in the case record.

If a collateral contact is the source of verification, record in detail the eligibility factors verified; the name of the person contacted, the date of the contact and complete information obtained from the contact.

There is no requirement to retain paper copies of documents used to verify eligibility or ineligibility if all relevant information has been entered into the FLORIDA system and retained electronically. Electronic entries must be of sufficient detail to support the determination of eligibility or ineligibility.

0460.0501 Prohibition on Photocopying Certain Documents (RAP)

It is a crime to photograph or otherwise reproduce a U.S. Treasury Note or other negotiable document, even though there is no intent to deceive the public.

Negotiable documents include, but are not limited to, the following:

1. currency;
2. postal money order;
3. checks or drafts for money drawn by or upon authorized offices of the United States (ex: Social Security checks, Veterans checks, Supplemental Security Income checks, Civil Service checks and IRS refund checks);
4. obligations or securities of the United States Government (ex: certificates, bonds and reserve notes); and
5. U.S. Treasury Notes.

There is also a prohibition against photocopying or otherwise reproducing certificates of Naturalization for United States citizenship.

If an individual provides DCF with an original or copy of a document, record the necessary information such as the document number, date, amount, payee or name. After recording, return the document to the individual and destroy facsimiles and other copies not needed by the individual.

0460.0600 FAIR HEARINGS (RAP)

The Department must provide a fair hearing to any individual who disagrees with any decision, action or proposed action affecting the individual's participation. The Office of Appeal Hearings conducts fair hearings.

0460.0601 Right to Fair Hearing (RAP)

Inform all individuals in writing at the time of application or any other action of the right to a fair hearing, the method for requesting a hearing and that the case may be presented by the individual, legal counsel or an authorized representative.

Remind the individual verbally of the right to request a fair hearing any time he expresses a disagreement with any action taken. Do not limit or interfere with an individual's right to request a fair hearing.

0460.0602 Request for Fair Hearing (RAP)

A request for a hearing is any clear expression, oral or written, by an applicant/recipient or authorized representative that he disagrees with the actions, decisions or requirements imposed by the Department or authorized community partner, and that the individual wishes to present his case to a higher authority. An individual must authorize in writing any third party's right to file a hearing request on his behalf. Supervisors must review hearing requests and provide a Department conference with the individual. Forward the hearing request within three business days to the Office of Appeal Hearings.

Provide bilingual staff or interpreters for non-English speaking participants to ensure that the hearing procedures are explained in the individual's language. Request clarification from the individual any time there is uncertainty about what action is being appealed.

An individual must submit a decision to withdraw a request for a hearing in writing. Forward the individual's decision to the Office of Appeal Hearings.

0460.0603 Time Limits to Request Hearing (RAP)

The Department or its partner agency must receive the individual's appeal of an action, decision or current level of benefits within 90 days of the date the notice is mailed or hand delivered to the individual.

Exceptions:

1. The time limit does not apply when the Department fails to send required notification, takes no action on a specific request or denies a request without informing the individual appealing.
2. A hearing request made outside the 90-day limit may only be rejected or dismissed by the Office of Appeal Hearings.
3. The Department must receive a recipient's fair hearing request in response to a notice of cash overpayment within 30 calendar days.

0460.0604 Continuation of Benefits (RAP)

If an individual requests a hearing by the end of the last day of the month prior to the effective date of the adverse action, reinstate the benefits to the prior level within 10 calendar days, unless the individual makes a written request to have the benefits terminated or reduced. If the last day of the month falls on a weekend or holiday, allow until the next working day for the request.

Inform recipients that they are liable for any overpayment caused by the continuation of benefits, pending the hearing decision.

0460.0605 Reinstated Benefits (RAP)

Do not reduce or terminate reinstated or continued benefits before the final hearing decision unless an additional cause for notice of adverse action occurs while the hearing decision is pending, and the individual fails to request a hearing after the subsequent notice of adverse action. Inform the individual in writing if the Department reduces or terminates benefits prior to the hearing decision. Notify the Office of Appeal Hearings of any changes affecting the individual's eligibility.

0460.0606 Individual's Hearing Rights (RAP)

Allow the individual to examine the case record, including documents and records to be used at the hearing, at a reasonable time before the hearing and at any point during the hearing. Upon request by the individual, provide free copies of the relevant portions of the case record.

Exception: Do not release or provide examination of a case record when it contains information protected from release, such as status of pending criminal prosecutions. To avoid affecting the hearing officer's decision, the Department must not permit the introduction of this confidential information or any documents of records that cannot be contested or challenged at the hearing.

0460.0607 Burden of Proof (RAP)

An individual who is applying or who is seeking increased benefits has the burden of proof. The Department has the burden of proof when it reduces or terminates benefits. The party with the burden of proof must establish his position to the satisfaction of the hearing officer by a preponderance of evidence.

0460.0608 Fair Hearings Decisions (RAP)

A Final Order issued by the Hearings Officer is binding on the Department.

Denied Appeal:

Upon receipt of the Final Order, if benefits were continued as a result of the hearing request:

1. Refer overpayments made while the hearing decision was pending to BR. and
2. Issue a second notice of the reduction or termination in benefits with an effective date of the next month. Neither the 10-day action notification nor the appeal rights apply to the second notice.

Granted Appeal:

Comply with hearing decision within 10 calendar days following receipt of a Final Order.