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Region: ALL REGIONS
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SUBJECT: Telephone Administrative Disqualification Hearings

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Historically, States have encountered problems with the administrative disqualification hearings system. To help States we have been exploring alternatives which would be more efficient and effective and increase the number of cases pursued.

To resolve similar problems in the fair hearings system, States have been using telephone fair hearings. Based on the results of studies of telephone fair hearings and their apparent acceptance we are giving states the option to use telephone administrative disqualification hearings.

We foresee four main advantages to this system: cost savings, timeliness, maintenance of due process and increased State flexibility. Although we do not have conclusive data on the cost of disqualification hearings, the telephone fair hearing study indicated that fair hearings cost between \$15-30, depending on the telephone system used. An in-person fair hearing costs about \$70. Besides being less costly to hold, telephone hearings can be conducted in a more timely manner which would reduce the time that a recipient could be participating before the decision. A recipient's due process rights would continue to be met. States would have flexibility in developing a system which meets their own needs.

There are basic requirements which must be met for the State to use telephone disqualification hearings. The system must comply with the pertinent sections of 7 CFR 273.15 and 273.16. The State must submit its procedures for approval. The recipient must receive a copy of the approved procedures. The household must be given the option to choose a face-to-face hearing.

The accused individual must be advised in writing of the following: (1) the accused may insist on a face-to-face hearing with the hearing officer; (2) the decision not to request a face-to-face hearing should be carefully considered and (3) that the potential penalties for a telephone hearing are the same as for the face-to-face hearing.

If the accused agrees to a telephonic fraud hearing that person should be required to sign a form indicating that he or she has freely consented to having a telephonic fraud hearing and that the person understands that he or she has the same rights as at a face-to-face hearing to present his or her defense, to bring legal counsel, to examine documentary evidence, to cross-examine adverse witnesses and to submit evidence.

In addition to the above requirements, we must mandate that States adopt the hearing configuration that was previously required for telephone fair hearings. That configuration of the hearing officer at one location and all parties and witnesses at another location

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would provide added legal projections. This is necessary because of the severe disqualification consequences of a guilty decision.

Paul L. Stobaugh, Jr.
Acting Director
State Operations Division