



March 27, 2007

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

SUBJECT: Deadline for Issuing a Notice of Adverse Action

TO: All Regional Directors
Food Stamp Program

The Program Development Division has recently received questions about the meaning of 7 CFR 273.12(c)(2)(i), which states in part:

(2) *Decreases in benefits.* (i) If the household's benefit level decreases or the household becomes ineligible as a result of the change, the State agency shall issue a notice of adverse action within 10 days of the date the change was reported unless one of the exemptions to the notice of adverse action in §273.13 (a)(3) or (b) applies.

The purpose of this memorandum is to clarify the meaning of **within 10 days**.

Question One

If the tenth day for issuing a notice of adverse action falls on a weekend or holiday, does the State agency have until the end of the next working day to issue the notice?

Answer One

No.

The regulations require the State agency to issue the notice of adverse action within ten days. Neither the regulations nor any Food Stamp policy provides for an extension that depends on when the tenth day falls.

In order to comply with this regulation the State agency would have to determine when the tenth day would fall for a particular case. Should that day be a weekend or holiday, the State agency would issue the notice of adverse action earlier than the tenth day.

Question Two

Suppose the State agency's computer system requires the State agency to request the notice of adverse action on the day before the system would actually mail it. Does the State agency meet the requirement of 7 CFR 273.12(c)(2)(i) by instructing the computer on the tenth day and actually mailing the notice of adverse action on the eleventh day?

Answer Two

No.

In the regulations, the word **issue** means **mail** or **give**. The State agency has not issued a notice of adverse action just because they have instructed their automated system to print and mail the notice. At that point, the :

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The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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(which is to say that it does not even exist yet) or the State agency still possesses it. Either way, the State agency has not issued the notice.

If you have any questions about this memorandum, please contact your region's policy liaison in the Certification Policy Branch.

/s/ John J. Knaus for

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