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## Chapter 13

### Notice of Adverse Action

#### 1300 Use of Notice

Prior to any action to reduce or terminate a household's benefits within the certification period, the county department shall provide the household a timely and adequate Notice of Adverse Action, PSD-BPA-657, Notice of Action, except:

- ❖ Semi-annual reporting households who report on their six month report changes which cause a reduction or termination of benefits are not entitled to a Notice of Adverse Action in accordance with this section; and
- ❖ Households described in [Section 1301](#) below are not entitled to Notices of Adverse Action.

The Notice of Adverse Action shall be considered timely when:

There are at least 10 days from the date the notice is mailed to the date upon which the action becomes effective. If the 10th day falls on a weekend or holiday, and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the State agency shall consider the request timely received.

The Notice of Adverse Action shall be considered adequate if it explains in easily understandable language the following items:

1. The proposed action.
2. The reason for the proposed action.
3. The household's right to request a fair hearing. \*
4. The telephone number and, if possible, the name of the person to contact for additional information.
5. The availability of continued benefits. \*
6. The liability of the household for any over-issuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. \*
7. When there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service.

\* The items numbered 3, 5, & 6 above are preprinted on the PSD-BPA-657. See the [Forms Manual](#) for instructions on completing the form.

#### **Special Conditions for Notification of a Reduction or Termination of Benefits**

Under the following conditions, the county department shall notify a household that its benefits will be reduced or terminated, WITHOUT 10 DAYS NOTICE; however, the notification shall not be later than the date the household receives, or would have received its allotment. Following are the conditions which must be met for this procedure:

1. The household reports the information which results in the reduction or termination.
2. The reported information is in writing and signed by the household.
3. The county department can determine the household's allotment or ineligibility based solely on the above information as provided by the household.
4. The household retains its right to a fair hearing.
5. The household retains its right to continued benefits if the fair hearing is requested within 10 days from the date the notification is mailed or given to the household.
6. The county department continues household's previous benefit level, if required, within five working days of the household's request for a fair hearing if timely made.

### **1301 Exemptions from Notice**

Form PSD-BFA-657 (Individual Notice of Timely and Adequate Adverse Action) shall not be provided when:

1. The State initiates a mass change as described in [Section 1201](#).
2. The county department determines, based on reliable information that all members of a household have died.
3. The county department determines, based on reliable information that the household has moved from the project area.
4. The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.
5. The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.
6. A household member is disqualified for Intentional Program Violation or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.<sup>1</sup>
7. The county department has elected to assign a longer certification period to a household certified on an expedited basis and for whom verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the verification which was initially postponed and that the State agency may act on the verified information without further notice.
8. Converting a household from cash and/or food stamp coupon repayment to benefit reduction as a result of failure to make agreed upon repayment.

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<sup>1</sup> Rev 5-13-10

9. The county department is terminating the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement if the facility loses either its certification from the Alabama Department of Mental Health or has its status as an authorized representative suspended due to FNS disqualifying it as a retailer. However, residents of group living arrangements applying on their own behalf are still eligible to participate.
10. The household voluntarily requests, in writing or in the presence of a caseworker, that its participation be terminated.  
If the household does not provide a written request, the State agency shall send the household a letter confirming the voluntary withdrawal. Written confirmation does not entail the same rights as a Notice of Adverse Action except that the household may request a fair hearing.
11. The county department determines based on reliable information that the household will not be residing in the project area and, therefore, will be unable to obtain its next allotment.  
The county department shall inform the household of its termination no later than its next scheduled issuance date. While the county department may inform the household before its next issuance date, the county shall not delay terminating the household's participation in order to provide advance notice.

The Notice of Adverse Action shall not be used to require households to provide additional information the procedure in [Section 1706](#) shall be used.