

## Food and Nutrition Service, USDA

## § 283.3

will be published in the FEDERAL REGISTER at least 30 days prior to the initiation of the demonstration project, except where good cause exists supporting a shorter effective date. The explanation for the determination of good cause will be published with the amended General Notice. The amended General Notice will also explain the basis and purpose of the change.

[Amdt. 371, 61 FR 60012, Nov. 26, 1996]

### § 282.2 Funding.

Federal financial participation may be made available to demonstration, research, and evaluation projects awarded by FNS through grants and contracts. Funds may not be transferred from one project to another. FNS will pay all costs incurred during the project, up to the level established in the grant, or in the terms and conditions of the contract. FNS may grant time extensions of the project upon approval. Funding for additional costs is subject to existing Federal grant and contract procedures.

[Amdt. 371, 61 FR 60012, Nov. 26, 1996]

## PART 283—APPEALS OF QUALITY CONTROL (“QC”) CLAIMS

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AUTHORITY: 7 U.S.C. 2011–2036.

SOURCE: Amdt. 348, 59 FR 34561, July 6, 1994, unless otherwise noted.

### Subpart A—General

#### § 283.1 Meaning of words.

As used in this part, words in the singular form shall be deemed to import the plural, and vice versa, as the case may require.

#### § 283.2 Scope and applicability.

The rules of practice in this part, shall be applicable to appeals by State agencies of Food and Nutrition Service quality control (QC) claims for Fiscal Year (“FY”) 1986 and subsequent fiscal years pursuant to sections 14(a) and 16(c) of the Food Stamp Act of 1977, as amended, 7 U.S.C. 2023(a) and 2025(c).

#### § 283.3 Definitions.

As used in this part, the terms as defined in the Food Stamp Act of 1977, as amended, 7 U.S.C. 2011–2032 (“Act”), and in the regulations, standards, instructions or orders issued thereunder, shall apply with equal force and effect. In addition, and except as may be provided otherwise in this section:

*Administrator* means the Administrator, Food and Nutrition Service, U.S. Department of Agriculture (“USDA”).

*ALJ* means any Administrative Law Judge in USDA appointed pursuant to 5

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U.S.C. 3105 or detailed to the USDA pursuant to 5 U.S.C. 3344 and assigned to the appeal.

*Appeal* means the appeal to the ALJ.

*Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include procedural matters.

*Filing.* A pleading or other document allowed or required to be filed in accordance with this part shall be considered filed when postmarked, if mailed, or when received, if hand delivered.

*FNS* means the Food and Nutrition Service, USDA.

*Hearing* means that part of the appeal which involves the submission of evidence before the ALJ for the record in the appeal.

*Hearing Clerk* means the Hearing Clerk, USDA, Washington, DC 20250.

*Judicial Officer* means an official of the USDA delegated authority by the Secretary of Agriculture, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c-459g) and Reorganization Plan No. 2 of 1953 (5 U.S.C. 1970 ed., Appendix, P. 550), as amended by Public Law 97-35, title I, sec. 125, 95 Stat. 357, 369 (1981) (7 U.S.C. 2201 note), to perform the adjudicating function involved (7 CFR 2.35(a)), or the Secretary of Agriculture if the authority so delegated is exercised by the Secretary.

*OC claim* means a claim made pursuant to 7 U.S.C. 2025(c).

*Secretary* means the Secretary of the USDA.

*State agency* means:

(1) The agency of State government, including the local offices thereof, which is responsible for the administration of the federally aided public assistance programs within the State, and in those States where such assistance programs are operated on a decentralized basis, it includes the counterpart local agencies which administer such assistance programs for the State agency; and

(2) The Indian tribal organization of any Indian tribe determined by the Secretary to be capable of effectively administering a Food Stamp Program in accordance with the Food Stamp Act of 1977, as amended, 7 U.S.C. 2011-2032.

## 7 CFR Ch. II (1-1-08 Edition)

### Subpart B—Appeals of QC Claims of \$50,000 or More

#### § 283.4 Filing appeals for QC claims of \$50,000 or more.

(a) *Time.* A State agency may appeal the bill for collection from FNS for a QC claim of \$50,000 or more for a food stamp QC error rate in excess of the tolerance level. A State agency shall file a written notice of appeal, in accordance with this subpart, within 10 days of receipt of the bill for collection from FNS for a QC claim of \$50,000 or more. The State agency may request an extension to the 10-day filing requirement in accordance with § 283.22(f). FNS shall issue the bill for collection by certified mail or personal service.

(b) *Exhaustion of administrative remedies.* The State agency must appeal the bill for collection to the ALJ, pursuant to this subpart, and exhaust the available administrative remedies before filing suit in the Federal District Courts.

(c) *Filing.* The notice of appeal shall be filed with the Hearing Clerk in accordance with § 283.22(b).

(d) *Content of the notice.* (1) A notice of appeal, in order to be considered acceptable, must contain the following information:

(i) A brief and clear statement that it is an appeal from a QC claim of \$50,000 or more identifying the period the claim covers, the date and amount of the bill for collection, and the date of receipt of the bill for collection;

(ii) Identification of the State agency as the appellant and FNS as the appellee;

(iii) A statement that the notice of appeal is filed pursuant to section 14(a) of the Food Stamp Act;

(iv) A copy of the bill for collection which constitutes the basis for the filing of the notice of appeal shall be attached to the notice.

(2) Failure to file an acceptable notice of appeal may result in a challenge by FNS to the notice, dismissal of the notice by the ALJ and a waiver of the opportunity for further appeal or review by the Judicial Officer unless the State agency pursues the options as discussed in §§ 283.17(d) and 283.20.