

each component of the system is identified and explained in subparts B through F of this part. The components of the State agency's performance reporting system shall be:

- (i) Data collection through management evaluation (ME) reviews and quality control (QC) reviews;
- (ii) Analysis and evaluation of data from all sources;
- (iii) Corrective action planning;
- (iv) Corrective action implementation and monitoring; and
- (v) Reporting to FCS on program performance.

(2) The State agency must ensure corrective action is effected at the State and project area levels.

(b) *Staffing standards.* The State agency shall employ sufficient State level staff to perform all aspects of the Performance Reporting System as required in this part of the regulations. The staff used to conduct QC reviews shall not have prior knowledge of either the household or the decision under review. Where there is prior knowledge, the reviewer must disqualify her/himself. Prior knowledge is defined as having:

- (1) Taken any part in the decision that has been made in the case; (2) any discussion of the case with staff who participated in the decision; or (3) any personal knowledge of or acquaintance with persons in the case itself. To ensure no prior knowledge on the part of QC or ME reviewers, local project area staff shall not be used to conduct QC or ME reviews; exceptions to this requirement concerning local level staff may be granted with prior approval from FCS. However, local personnel shall not, under any circumstances, participate in ME reviews of their own project areas.

[Amdt. 160, 45 FR 15898, Mar. 11, 1980, as amended by Amdt. 266, 52 FR 3407, Feb. 4, 1987]

§ 275.3 Federal monitoring.

The Food and Consumer Service shall conduct the review described in this section to determine whether a State agency is operating the Food Stamp Program and the Performance Reporting System in accordance with program requirements. The Federal reviewer may consolidate the scheduling

and conduct of these reviews to reduce the frequency of entry into the State agency. FCS regional offices will conduct additional reviews to examine State agency and project area operations, as considered necessary to determine compliance with program requirements. FCS shall notify the State agency of any deficiencies detected in program or system operations. Any deficiencies detected in program or system operations which do not necessitate long range analytical and evaluative measures for corrective action development shall be immediately corrected by the State agency. Within 60 days of receipt of the findings of each review established below, State agencies shall develop corrective action addressing all other deficiencies detected in either program or system operations and shall ensure that the State agency's own corrective action plan is amended and that FCS is provided this information at the time of the next formal semiannual update to the State agency's Corrective Action Plan, as required in § 275.17.

(a) *Reviews of State Agency's Administration/Operation of the Food Stamp Program.* FCS shall conduct an annual review of certain functions performed at the State agency level in the administration/operation of the program. FCS will designate specific areas required to be reviewed each fiscal year.

(b) *Reviews of State Agency's Management Evaluation System.* FCS will review each State agency's management evaluation system on a biennial basis; however, FCS may review a State agency's management evaluation system on a more frequent basis if a regular review reveals serious deficiencies in the ME system. The ME review will include but not be limited to a determination of whether or not the State agency is complying with FCS regulations, an assessment of the State agency's methods and procedures for conducting ME reviews, and an assessment of the data collected by the State agency in conducting the reviews.

(c) *Validation of State Agency error rates.* FCS shall validate each State agency's payment error rate and under-issuance error rate, as described in § 275.23(c), during each annual quality

control review period. Federal validation reviews shall be conducted by reviewing against the Food Stamp Act and the regulations, taking into account any FCS-authorized waivers to deviate from specific regulatory provisions. FCS shall validate the State agency's negative case error rate, as described in §275.23(d), only when the State agency's payment and underissuance error rates for an annual review period appear to entitle it to an increased share of Federal administrative funding for that period as outlined in §277.4(b)(2), and its reported negative case error rate for that period is less than the national weighted mean negative case error rate for the prior fiscal year. Any deficiencies detected in a State agency's QC system shall be included in the State agency's corrective action plan. The findings of validation reviews shall be used as outlined in §275.23(e)(6).

(1) *Payment error rate.* The validation review of each State agency's payment error rate shall consist of the following actions:

(i) FCS will select a subsample of a State agency's completed active cases. The Federal review sample for completed active cases is determined as follows:

State annual active case sample size	Federal annual sample size
1,200 and over	n=400.
300-1,199	n=150+0.277 (N-300).
Under 300	n=150

(A) In the above formula, n is the minimum number of Federal review sample cases which must be selected when conducting a validation review, except that FCS may select a lower number of sample cases if:

(1) The State agency does not report a change in sampling procedures associated with a revision in its required sample size within 10 days of effecting the change; and/or

(2) The State agency does not complete the number of case reviews specified in its approved sampling plan.

(B) The reduction in the number of Federal cases selected will be equal to the number of cases that would have been selected had the Federal sampling interval been applied to the State agency's shortfall in its required sam-

ple size. This number may not be exact due to random starts and rounding.

(C) In the above formula, N is the State agency's minimum active case sample size as determined in accordance with §275.11(b)(1).

(ii) FCS Regional Offices will conduct case record reviews to the extent necessary to determine the accuracy of the State agency's findings using the household's certification records and the State agency's QC records as the basis of determination. The FCS Regional Office may choose to verify any aspects of a State agency's QC findings through telephone interviews with participants or collateral contacts. In addition, the FCS Regional Office may choose to conduct field investigations to the extent necessary.

(iii) FCS Regional Offices will assist State agencies in completing active cases reported as not complete due to household refusal to cooperate.

(iv) FCS will also review the State agency's sampling procedures, estimation procedures, and the State agency's system for data management to ensure compliance with §275.11 and §275.12.

(v) FCS validation reviews of the State agency's active sample cases will be conducted on an ongoing basis as the State agency reports the findings for individual cases and supplies the necessary case records. FCS will begin the remainder of each State agency's validation review as soon as possible after the State agency has supplied the necessary information regarding its sample and review activity.

(2) *Underissuance error rate.* The validation review of each State agency's underissuance error rate shall occur as a result of the Federal validation of the State agency's payment error rate as outlined in paragraph (c)(1) of this section.

(3) *Negative case error rate.* The validation review of each State agency's negative case error rate shall consist of the following actions:

(i) FCS will select a subsample of a State agency's completed negative cases. The Federal review sample for completed negative cases is determined as follows:

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State annual negative case sample size	Federal annual sample size
800 and over	n=160.
150–799	n=75 + 0.130 (N–150).
Under 150	n=75.

(A) In the above formula, n is the minimum number of Federal review sample cases which must be selected when conducting a validation review, except that FCS may select a lower number of sample cases if:

(1) The State agency does not report a change in sampling procedures associated with a revision in its required sample size within 10 days of effecting the change; and/or

(2) The State agency does not complete the number of case reviews specified in its approved sampling plan.

(B) The reduction in the number of Federal cases selected will be equal to the number of cases that would have been selected had the Federal sampling interval been applied to the State agency's shortfall in its required sample size. This number may not be exact due to random starts and rounding.

(C) In the above formula, N is the State agency's minimum negative case sample size as determined in accordance with §275.11(b)(2).

(ii) FCS Regional Offices will conduct case record reviews to the extent necessary to determine whether the household case record contained sufficient documentation to justify the State agency's QC findings of the correctness of the State agency's decision to deny or terminate a household's participation.

(iii) FCS will also review each State agency's negative case sampling and review procedures against the provisions of §§275.11 and 275.13.

(iv) FCS will begin each State agency's negative sample case validation review as soon as possible after the State agency has supplied the necessary information, including case records and information regarding its sample and review activity.

(4) *Arbitration.* Whenever the State agency disagrees with the FCS regional office concerning individual QC case findings and the appropriateness of actions taken to dispose of an individual case, the State agency may request that the dispute be arbitrated on a case-by-case basis. The arbitration re-

view shall be limited to the point(s) within the Federal findings that the State agency disputes. However, if the arbitrator in the course of the review discovers a mathematical error in the computation sheet, the arbitrator shall correct the error while calculating the allotment. There are two levels of FCS arbitration.

(i) *Regional level.* The first level of arbitration is the FCS regional office. The regional arbitrator shall be an individual who is not directly involved in the validation effort.

(A) The State agency shall request regional office arbitration within 28 calendar days of the date of receipt by the State agency of the regional office case findings. In the event the last day of this time period falls on a Saturday, Sunday, or Federal or State holiday, the period runs to the end of the next work day.

(B) Full documentation of the case and the policy(s) in question should be submitted with the request for arbitration. However, the State agency may submit additional documentation, provided it can do so within the 28 days allowed in §275.3(c)(4)(i)(A). Further, the State agency has 15 days from the date of receipt of a request to submit any additional information requested by the arbitrator. The regional arbitrator shall only consider information submitted after the 28-day timeframe has ended if it is submitted in response to the arbitrator's request and it is received within the 15-day timeframe.

(C) The regional arbitrator shall have 30 days to review the case and make a decision or to notify the State agency of the status of the case. If the arbitrator requests additional information from the State agency, this 30-day timeframe shall be suspended from the date the arbitrator requests the additional information until the information is received or the State's time period for submittal in §275.3(c)(4)(i)(B) has expired.

(D) The State agency shall have until June 18, 1990, to request regional arbitration of regional office case findings which the State received before February 22, 1988.

(ii) *National level.* The second level of arbitration is the FCS national office. The Deputy Administrator for Family

Nutrition Programs shall designate the national arbitrator.

(A) The State agency shall request national office arbitration within 28 calendar days of the date of receipt by the State agency of the regional arbitrator's decision. In the event the last day of this time period falls on a Saturday, Sunday, or Federal or State holiday, the period runs to the end of the next work day.

(B) The state agency shall submit the case directly to the national arbitrator. Full documentation of the case and the policy(s) in question should be submitted with the request for arbitration. However, the State agency may submit additional documentation, provided it can do so within the 28 days allowed in § 275.3(c)(4)(ii)(A). Further, the State agency has 15 days from the date of receipt of a request to submit any additional information requested by the arbitrator. The national arbitrator shall only consider information submitted after the 28 day timeframe has ended if it is submitted in response to the arbitrator's request and it is received within the 15-day timeframe.

(C) The State agency shall have until June 18, 1990, to request national office arbitration of regional arbitration decisions which the State agency received before February 22, 1988.

(5) *Household cooperation.* Households are required to cooperate with Federal QC reviewers. Refusal to cooperate shall result in termination of the household's eligibility. The Federal reviewer shall follow the procedures in § 275.12(g)(1)(ii) in order to determine whether a household is refusing to cooperate with the Federal QC reviewer. If the Federal reviewer determines that the household has refused to cooperate, as opposed to failed to cooperate, the household shall be reported to the State agency for termination of eligibility.

(d) *Assessment of Corrective Action.* (1) FCS will conduct will conduct a comprehensive annual assessment of a State agency's corrective action process by compiling all information relative to that State agency's corrective action efforts, including the State agency's system for data analysis and evaluation. The purpose of this assessment and review is to determine if:

identified deficiencies are analyzed in terms of causes and magnitude and are properly included in either the State or Project Area/Management Unit corrective action plan; the State agency is implementing corrective actions according to the appropriate plan; target completion dates for reduction or elimination of deficiencies are being met; and, corrective actions are effective. In addition, FCS will examine the State agency's corrective action monitoring and evaluative efforts. The assessment of corrective action will be conducted at the State agency, project area, and local level offices, as necessary.

(2) In addition, FCS will conduct on-site reviews of selected corrective actions as frequently as considered necessary to ensure that State agencies are implementing proposed corrective actions within the timeframes specified in the State agency and/or Project Area/Management Unit corrective action plans and to determine the effectiveness of the corrective action. The on-site reviews will provide State agencies and FCS with a mechanism for early detection of problems in the corrective action process to minimize losses to the program, participants, or potential participants.

[Amdt. 160, 45 FR 15898, Mar. 11, 1980, as amended by Amdt. 237, 47 FR 57669, Dec. 28, 1982; Amdt. 260, 49 FR 6303, Feb. 17, 1984; Amdt. 266, 52 FR 3407, Feb. 4, 1987; 53 FR 1604, Jan. 21, 1988; 54 FR 23951, June 5, 1989; Amdt. 309, 55 FR 1672, Jan. 18, 1990; Amdt. 328, 56 FR 60051, Nov. 27, 1991]

§ 275.4 Record retention.

(a) The State agency shall maintain Performance Reporting System records to permit ready access to, and use of, these records. Performance Reporting System records include information used in data analysis and evaluation, corrective action plans, corrective action monitoring records in addition to ME review records and QC review records as explained in paragraphs (b) and (c) of this section. To be readily accessible, system records shall be retained and filed in an orderly fashion. Precautions should be taken to ensure that these records are retained without loss or destruction for the 3-year period