

agency shall make information on the complaint system and how to file a complaint available to participants, potential participants and other interested persons. The State agency may make the information available through written materials or posters at certification offices or other appropriate means.

(3) *Complaint analysis.* The State agency shall maintain records of complaints received and their disposition, and shall review records at least annually to assess whether patterns of problems may be present in local offices, project areas, or throughout the State. The results of this review shall be provided to the Performance Reporting System coordinator for appropriate action, and for inclusion, if appropriate, in the State Corrective Action Plan in accordance with § 275.16 of this chapter. The information provided to the Performance Reporting System Coordinator shall include the identification, if any, of potential or actual patterns of deficiencies in local offices, project areas, or throughout the State, and any identification of causes of these problems.

(4) *Monitoring.* FCS shall monitor State compliance with these requirements through the Performance Reporting System.

(b) *Regional office responsibility.* (1) Persons or agencies desiring program information or wishing to file a complaint may contact the appropriate FCS Regional Office.

(i) For Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, the Virgin Islands of the United States, and West Virginia: Mid-Atlantic Regional Office, U.S. Department of Agriculture, Food and Consumer Service, CN 02150, Trenton, NJ 08650.

(ii) For Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, U.S. Department of Agriculture, Food and Consumer Service, 77 Forsyth Street SW., suite 112, Atlanta, GA 30303-3427.

(iii) For Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, U.S. Department of Agriculture, Food and Consumer

Service, 77 West Jackson Blvd., 20th Floor, Chicago, IL 60604-3507.

(iv) For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, U.S. Department of Agriculture, Food and Consumer Service, 1100 Commerce Street, suite 5-C-30, Dallas, TX 75242.

(v) For Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon and Washington: Western Regional Office, U.S. Department of Agriculture, Food and Consumer Service, 550 Kearny Street, room 400, San Francisco, CA 94108.

(vi) For Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, U.S. Department of Agriculture, Food and Consumer Service, 10 Causeway St., Boston, MA 02222-1069.

(vii) For Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, U.S. Department of Agriculture, Food and Consumer Service, 1244 Speer Blvd., suite 903, Denver, CO 80204-3581.

(2) Complainants shall be advised of the appropriate State complaint handling and fair hearing procedures. Upon household request, other complaints shall be pursued by the Department rather than the State agency, unless the complaint is one upon which the complainant wishes to request a fair hearing.

[Amdt. 132, 43 FR 47882, Oct. 17, 1978, as amended at 45 FR 71350, Oct. 28, 1980; Amdt. 187, 45 FR 85699, Dec. 30, 1980; Amdt. 211, 47 FR 53315, Nov. 26, 1982; Amdt. 237, 47 FR 57668, Dec. 28, 1982; Amdt. 250, 48 FR 22130, May 17, 1983; Amdt. 269, 51 FR 10782, Mar. 28, 1986; Amdt. 356, 59 FR 29713, June 9, 1994]

§ 271.7 Allotment reduction procedures.

(a) *General purpose.* This section sets forth the procedures to be followed if the monthly food stamp allotments determined in accordance with the provisions of § 273.10 must be reduced, suspended, or cancelled to comply with section 18 of the Food Stamp Act of 1977, as amended. The best available data pertaining to the number of people participating in the program and the amounts of benefits being issued

shall be used in deciding whether such action is necessary.

(b) *Nature of reduction action.* Action to comply with section 18 of the Food Stamp Act of 1977, as amended, may be a suspension or cancellation of allotments for one or more months, a reduction in allotment levels for one or more months or a combination of these three actions. If a reduction in allotments is deemed necessary, allotments shall be reduced by reducing maximum food stamp allotments amounts for each household size by the same percentage. This results in all households of a given size having their benefits reduced by the same dollar amount. The dollar reduction would be smallest for one-person households and greatest for the largest households. Since the dollar amount would be the same for all households of the same size, the rate of reduction would be lowest for zero net income households and greatest for the highest net income households. All one- and two-person households affected by a reduction action shall be guaranteed the minimum benefit unless the action is a cancellation of benefits, a suspension of benefits, or a reduction of benefits of 90 percent or more of the total amount of benefits projected to be issued in the affected month.

(c) *Reduction method.* If a reduction in allotments is deemed necessary, the maximum food stamp allotments amounts for all household sizes shall be reduced by a percentage specified by FCS. For example, if it is determined that a 25 per cent reduction in the maximum food stamp allotments amount is to be made, the reduction for all four-person households would be calculated as follows: The maximum food stamp allotments amount for a four-person household (\$209 in November 1980) would be reduced by 25% to \$157. Then 30 percent of the household's net food stamp income would be deducted from the reduced maximum food stamp allotments amount. For example, 30 per cent of a net food stamp income of \$200, \$60, would be deducted from the reduced maximum food stamp allotments amount (\$157), resulting in a reduced allotment of \$97.

(d) *Implementation of allotment reductions—(1) Reductions.* (i) If a decision is

made to reduce monthly food stamp allotments, FCS shall notify State agencies of the date the reduction is to take effect and by what percentage maximum food stamp allotments amounts are to be reduced.

(ii) Upon receiving notification that a reduction is to be made in an upcoming month's allotment, State agencies shall act immediately to implement the reduction. Such action could differ from State to State depending on the nature of the issuance system in use. Where there are computerized issuance systems, the program used for calculating allotments shall be altered to reflect the appropriate percentage reduction in the maximum food stamp allotments for each household size and the computer program shall be adjusted to allow for the minimum benefit for one- and two-person households. The computer program shall also be adjusted to provide for the rounding of benefit levels of \$1, \$3 and \$5 to \$2, \$4 and \$6, respectively. FCS will provide State agencies with revised issuance tables reflecting the percentage reductions to be made in the maximum food stamp allotments amounts and reduce maximum food stamp allotments levels. In States where manual issuance is used, State agencies shall reproduce the issuance tables provided by FCS and distribute them to issuance personnel. State agencies shall ensure that the revised issuance tables are distributed to issuance agents and personnel in time to allow benefit reductions during the month ordered by FCS. In an HIR card system State agencies have the option of enacting the reduction in benefits either by changing all HIR cards before issuance activity for the affected month begins or by adjusting allotments at the point of issuance as each household appears at the issuance office.

(2) *Suspensions and cancellations.* (i) If a decision is made to suspend or cancel the distribution of food stamp benefits in a given month, FCS shall notify State agencies of the date the suspension or cancellation is to take effect. In the event of a suspension or cancellation of benefits, the provision for the minimum benefit for households with one or two members only shall be disregarded and all households shall have

their benefits suspended or cancelled. Upon receiving notification that an upcoming month's issuance is to be suspended or cancelled, State agencies shall take immediate action to effect the suspension or cancellation. This action would involve making necessary computer adjustments, and notifying issuance agents and personnel.

(ii) Upon being notified by FCS that a suspension of benefits is over, State agencies shall act immediately to resume issuing benefits to certified households and shall resume benefit issuance as soon as practicable.

(3) *Affected allotments.* Whenever a reduction of allotments is ordered for a particular month, reduced benefits shall be calculated for all households for the designated month. However, any household with one or two members whose reduced benefits would be less than the minimum benefit shall receive the minimum benefit except as provided in § 273.10(e)(2). Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled even though they are issued during an affected month.

(4) *Notification of eligible households.* Reductions, suspensions and cancellations of allotments shall be considered to be Federal adjustments to allotments. As such, State agencies shall notify households of reductions, suspensions and cancellations of allotments in accordance with the notice provisions of § 273.12(e)(1), except that State agencies shall not provide notices of adverse action to households affected by reductions, suspensions or cancellations of allotments.

(5) *Restoration of benefits.* Households whose allotments are reduced or cancelled as a result of the enactment of these procedures are not *entitled* to the restoration of the lost benefits at a future date. However, if there is a surplus of funds as a result of the reduction or cancellation, FCS shall direct State agencies to provide affected households with restored benefits unless the Secretary determines that the amount of surplus funds is too small to make this practicable. The procedures implemented by State agencies for reducing and cancelling benefits shall be de-

signed so that in the event FCS directs the restoration of benefits, such benefits are issued promptly.

(e) *Effects of reductions, suspensions and cancellations on the certification of eligible households.* (1) Except as provided in paragraph (e)(2) of this section, determinations of the eligibility of applicant households shall not be affected by reductions, suspensions or cancellations of allotments. State agencies shall accept and process applications during a month(s) in which a reduction, suspension or cancellation is in effect in accordance with the requirements of part 273. Determinations of eligibility shall also be made according to the provisions of part 273. If an applicant is found to be eligible for benefits and a reduction is in effect, the amount of benefits shall be calculated by reducing the maximum food stamp allotments amount by the appropriate percentage for the applicant's household size and then deducting 30 percent of the household's net food stamp income from the reduced maximum food stamp allotments amount. If an applicant is found to be eligible for benefits while a suspension or cancellation is in effect, no benefits shall be issued to the applicant until issuance is again authorized by FCS.

(2) *Expedited service.* (i) Households eligible to receive expedited processing who apply for program benefits during months in which reductions or suspensions are in effect, shall have their cases processed in accordance with the expedited processing provisions of § 273.2(i).

(A) Those households that receive expedited service in months in which reductions are in effect and that are determined to be eligible shall be issued allotments that are reduced in accordance with the reduction in effect. These reduced allotments shall be made available to the households within the benefit delivery timeframe specified in § 273.2(i).

(B) Those households that receive expedited service in months in which suspensions are in effect and that are determined to be eligible shall have benefits issued to them within the timeframe specified in § 273.2(i). However, if the suspension is still in effect at the time issuance is to be made, the

issuance shall be suspended until the suspension is ended.

(ii) Households eligible to receive expedited processing who apply for Program benefits during months in which cancellations are in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be five calendar days or the end of the month of application, whichever date is later. All other rules pertaining to expedited service, contained in §273.2(i), shall be applicable to these cases.

(3) The reduction, suspension or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households. Those participating households whose certification periods expire during a month in which allotments have been reduced, suspended or cancelled shall be recertified according to the provisions of §273.14. Households found eligible to participate during a month in which allotments have been reduced, suspended or cancelled shall have certification periods assigned in accordance with the provisions of §273.10.

(f) *Fair hearings.* Any household that has its allotment reduced, suspended or cancelled as a result of an order issued by FCS in accordance with these rules may request a fair hearing if it disagrees with the action, subject to the following conditions. State agencies shall not be required to hold fair hearings unless the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly under these rules or that the rules were misapplied or misinterpreted. State agencies shall be allowed to deny fair hearings to those households who are merely disputing the fact that a reduction, suspension or cancellation was ordered. Furthermore, since the reduction, suspension or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to a continuation of benefits pending the fair hearing. A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by

which the State agency was directed to reduce benefits.

(g) *Issuance services.* State agencies must have issuance services available to serve households receiving restored or retroactive benefits for a prior, unaffected month.

(h) *Penalties.* Notwithstanding any other provision of this subchapter, FCS may take one or more of the following actions against a State agency that fails to comply with a directive to reduce, suspend or cancel allotments in a particular month.

(1) If FCS ascertains that a State agency does not plan to comply with a directive to reduce, suspend or cancel allotments for a particular month, a warning will be issued advising the State agency that if it does not comply, FCS may cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month(s). If, after receiving such a warning, a State agency does not comply with a directive to reduce, suspend or cancel allotments, FCS may cancel 100 percent of the Federal share of the State agency's administrative costs for the affected month(s).

(2) If FCS ascertains after warning a State agency as provided in paragraph (h)(1) of this section, that the State agency does not plan to comply with a directive to reduce, suspend or cancel allotments, a court injunction may be sought to compel compliance.

(3) If a State agency fails to reduce, suspend or cancel allotments as directed, FCS will bill the State agency for all over issuances that result. If a State agency fails to remit the billed amount to FCS within a prescribed period of time the funds will be recovered through offsets against the Federal share of the State agency's administrative costs, or any other means available under law.

[Amdt. 146, 46 FR 1426, Jan. 6, 1981, as amended by Amdt. 207, 47 FR 52333, Nov. 19, 1982; Amdt. 211, 47 FR 53315, Nov. 26, 1982; Amdt. 233, 47 FR 53830, Nov. 30, 1982; Amdt. 269, 51 FR 10782, Mar. 28, 1986; 54 FR 24154, June 6, 1989; 56 FR 63596, Dec. 4, 1991; Amdt. 356, 59 FR 29713, June 9, 1994]