

**DEPARTMENT OF HEALTH AND FAMILY SERVICES
DIVISION OF HEALTH CARE FINANCING
ADMINISTRATOR'S MEMO SERIES**

NOTICE: 07-01
(Replaces 06-01)

DATE: January 5, 2007
DISPOSAL DATE: Ongoing

RE: Local Agency
Compliance With DHFS
Requests For Records And
Case-Specific Corrective
Action

To: County Departments of Human Services Directors
County Departments of Social Services Directors
Tribal Chairpersons/Human Services Facilitators
Tribal Economic Support Directors

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Division of Health Care Financing

PURPOSE

This memo provides information about the implementation of contract language changes included in Appendix AL to the 2006 State and County Contract for Social Services and Community Programs. These provisions were effective January 1, 2006 for county agencies, and effective October 1, 2006 for tribes. Initial notification of these contract language changes was provided in Administrator's Memo 05-10.

INTRODUCTION

Two of the Income Maintenance (IM) contract changes in 2006 address liquidated damages when agencies do not comply with DHFS requests to submit records and take case specific corrective action. Procedures for implementation of these provisions are outlined below.

Case specific corrective action

Local agencies are notified in writing (including electronic mail) by the Department when eligibility errors are identified through the FoodShare Quality Assurance (FSQA) Review, Medicaid Eligibility Quality Control (MEQC) Review, and Payment Error Rate Measurement (PERM) Review. Notification is directed to the individual identified by the agency as their quality assurance contact.

IM case specific errors identified through FSQA reviews, MEQC reviews, and PERM reviews must be corrected. Corrective action can include termination of current and future benefits, the calculation of overpayment amounts and claims establishment, or restoration of benefits that were incorrectly under-issued, denied or terminated.

When the Department identifies an error in benefits, the IM agency will have thirty (30) calendar days from receipt of written notification of the error from the Department to correct the error or provide the Department with a good faith refutation of the corrective action needed. When an error in benefits is not corrected within thirty (30) calendar days and the Department provided verification to the agency, liquidated damages will be assessed in the amount of Two Hundred and Fifty Dollars (\$250) per case. For each additional thirty (30) days the IM agency fails to correct the case specific error, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case. If the Department takes action to correct the IM case specific error, additional liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case.

When the Department identifies an overpayment which requires claims establishment, the IM Agency will have thirty (30) calendar days from receipt of notification of the error from the Department to calculate the overpayment and establish a claim. When an overpayment claim is not established within thirty (30) calendar days, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case. For each additional thirty (30) days the agency fails to calculate the overpayment and establish a claim, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case. If the Department takes action to calculate the overpayment and establish a claim, additional liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case.

Although FSQA, MEQC and PERM reviews generally focus on one month of eligibility, errors often impact eligibility for additional months within the certification period. It is the Department's expectation that corrective action will be promptly taken for all months affected by the error. However, liquidated damages will only be assessed when the Department provides the agency with verification to support the error finding but corrective action is not taken within 30 days.

Examples:

In the course of a PERM review, the Department learned that the recipient incorrectly reported net (rather than gross) pension income. Therefore, the recipient's patient liability should have been higher than the amount determined by the agency. At the time the agency was notified of the error finding, the Department supplied verification of the current gross pension amount and the pension amount from the previous six month period. If the agency fails to correct the patient liability for future benefit months within 30 days, liquidated damages will be assessed. Further, if the agency fails to establish an overpayment claim for the entire six month period within 30 days, liquidated damages will be assessed.

In the course of an MEQC review, the Department discovers that the recipient failed to report a second job that began in January. The Department confirms that for the month of March, the recipient was ineligible because income exceeded program limits in both February and March. The agency is notified of the error in June and is supplied with income verification for February and March. It is expected that the agency will obtain income information for the months of April and May and take any necessary corrective action as soon as possible. However, if the agency fails to establish an overpayment claim for the month of March within 30 days, liquidated damages will be assessed.

Good cause reasons for non-compliance with case specific corrective action requests

Liquidated damages will not be assessed if the Department is notified within thirty days from the date of request that case specific corrective action cannot be taken because of a natural disaster or catastrophic incident such as flood or fire, or because of Department systems failures.

Compliance with records requests

The IM Agency shall provide information in a form and manner prescribed by the Department, using the CARES system and other systems designated by the Department. The IM Agency shall use the schedules for record retention in accordance with the Department's policies and procedures and state and federal law.

Upon request, the IM Agency shall make records available to the Department for inspection within ten (10) business days from date of notice from the Department. The IM Agency further agrees to transfer to the Department any original or copy of records that the Department requests during or after the contract term. Failure to provide requested records within ten business days may result in an assessment of liquidated damages in the amount of Two Hundred and Fifty Dollars (\$250) for each record requested that is not timely transferred.

This contract provision applies to any type of IM record and to both paper and electronic records. To be considered complete, an IM case record must minimally contain a signed application or review form and all verification and documentation required by program policy in the eligibility determination. Liquidated damages may be assessed for certain incomplete files as described below.

An assessment of liquidated damages in the amount of Two Hundred and Fifty Dollars (\$250) may result if an agency provides an incomplete file that:

- Does not contain **any** documentation (required by program policy) that is relevant to the eligibility determination under review; or
- **Only** contains information generated or obtained by the Department. Information generated or obtained by the Department includes unsigned CARES combined application forms (CAF) and electronic verification forms for earnings or health insurance information.

The Department will notify the agency of records requests in writing (including electronic mail). Requests will be directed to the individuals the agency has identified as their quality assurance and file coordinators.

Good cause reasons for non-compliance with records requests

Liquidated damages will not be assessed if the Department is notified within ten days of request that a record is unavailable because of a natural disaster or catastrophic incident such as flood or fire, or because the Department's carrier was unable to pick up or deliver records timely. Similarly, liquidated damages will not be assessed if an electronic record is unavailable due to Department systems failures.

Implementation

The Director of the county human services department will receive written notification from the Department of any pending adjustments to his/her agency's IM expense reimbursements. Notification of pending adjustments will be provided on a quarterly basis, beginning in 2007. The Director will also be provided with specific information about:

- Any agency records that were not provided or were provided more than ten business days after notification from DHFS;
- Any agency records that **only** contained information generated or obtained by the Department;
- Any agency records that do not contain **any** documentation (required by program policy) that is relevant to the eligibility determination under review;
- Any untimely case specific corrective actions and/or corrective actions taken by the Department; and
- The date when the adjustment is scheduled to occur.

