**Title 07 DEPARTMENT OF HUMAN RESOURCES**

**Subtitle 03 FAMILY INVESTMENT ADMINISTRATION**

**Chapter 10 Administrative Disqualification Hearings — Food Supplement and Family Investment *Administration* Programs**

**Authority: Human Services Article, §§5-207, 5-501, and 5-604, Annotated Code of Maryland; Agency Note: Federal Regulatory Reference—7 CFR §273.16**

*7.03.10.04*

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Family Investment Administration of the Department of Human Services.

(2) "Administrative disqualification hearing" means a hearing held by an administrative law judge (ALJ) of the Office of Administrative Hearings to determine if an intentional program violation has occurred.

(3) "Caretaker relative" means an individual related by blood or marriage who is the parent or is acting on behalf of the parent of a dependent child.

(4) "Hearing" means a contested case hearing as defined in State Government Article, §10-202(d), Annotated Code of Maryland.

(5) "Intentional program violation" means an intentional:

(a) False or misleading statement or misrepresentation, concealment, or withholding of facts:

(i) Concerning food supplement; or

(ii) For the purposes of establishing or maintaining the assistance unit's eligibility for TCA *or TDAP* or for increasing or preventing a reduction of the amount of TCA *or TDAP*; or

(b) Act that constitutes a violation of the Food Stamp Act, the Food Supplement Program regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food supplement benefits or electronic benefit transfer (EBT) card.

(6) "Local department" means a department of social services in a county or Baltimore City, or the Montgomery County Department of Health and Human Services.

(7) "Office of Administrative Hearings (OAH)" means the unit within the Executive Branch established by State Government Article, §9-1602, Annotated Code of Maryland.

(8) “Program Fraud Division” means the unit of the Office of the Inspector General’s Bureau of Investigative Services that provides investigative resources for local departments in the investigation of suspected fraud in Department programs including but not limited to TCA *and TDAP*, the Office of Home Energy Programs (OHEP), and food supplement benefit application, redetermination, and open cases.

(9) "Temporary cash assistance (TCA)" means benefits received under COMAR 07.03.03.

*(10) “Temporary Disability Assistance Program (TDAP)” means benefits received under COMAR 07.03.05.*

**.04 Local Department Responsibilities.**

A. When information is received that an individual may have committed an intentional program violation, the local department shall refer the information to the Office of the Inspector General[which shall] *or the local department may* conduct an investigation. *The local department or the Office of the Inspector General* shall:

(1) Conduct an investigation of the suspected intentional program [violators] *violation*;

(2) Prepare a report on the completed investigation showing the methods used to obtain information; and

(3) Make the report available to the director of the local department *or to the Office of the Inspector General when the local department completes the investigation.*

B. (text unchanged)

*C.* When the local department *or the Office of the Inspector General* decidesthat there issufficient documentary evidence that an individual has committed an intentional program violation, the local department *or the Office of the Inspector General shall* refer the individual to the:

(1) Local State's attorney if the alleged facts in the case meet the guidelines established by the State's Attorney for prosecution; or

(2) OAH for an administrative disqualification hearing.

D.–G (text unchanged)

*07.03.10.05*

**.05 Waiver of Administrative Disqualification Hearing.**

A.–B. (text unchanged)

C. Advance Notification. When the local department decides to allow an individual to waive the individual's right to an administrative disqualification hearing, the local department shall notify the individual in writing. The notice shall include:

(1) A summary of the charge against the individual and the evidence to support it;

(2) Information regarding the administrative disqualification hearing including:

(a) A statement that the individual may waive the right to an administrative disqualification hearing,

(b) The date, not later than [20] *seven* days after the mailing of the notice, after which the local department will refer the case to OAH for a hearing if the local department has not received the signed waiver,

(c)–(d) (text unchanged)

D. (text unchanged)

*07.03.10.06*

**.06 Referral for Disqualification Hearing.**

A. If the local department does not receive a signed waiver of the right to an administrative disqualification hearing within [20] *seven* days of providing advance notification in accordance with Regulation .05C of this chapter, the local department shall refer the individual to OAH for a hearing in accordance with COMAR 07.01.04.

B. (text unchanged)

*07.03.10.08*

**.08 Disqualification Penalties.**

A. Food Supplement Program *and Family Investment Administration Programs.*

(1) An individual who has waived the right to an administrative hearing, or was found to have committed an intentional program violation, is ineligible to participate in the specified Program, as described in §B of this regulation*,* *COMAR 07.03.05.15 and .16* and COMAR 07.03.03.19.

(2) The disqualification period begins for Food Supplement and Family Investment[Program] *Administration Programs*, with the first month following the month in which the household receives written notification of the disqualification.

(3) Once a disqualification penalty has been imposed, the period of disqualification continues uninterrupted until the disqualification period is completed.

B. An individual disqualified for an IPV is ineligible for the following period of time *for all Food Supplement and Temporary Cash Assistance disqualifications:*

(1) One year for the first violation;

(2) Two years for the:

(a) Second violation; or

(b) First finding by a court of the trading of Program benefits for an illegal drug;

(3) Permanently for the:

(a) Third violation;

(b) Second finding by a court of the trading of Program benefits for an illegal drug;

(c) First finding by a court of the trading of Program benefits for firearms, ammunition, or explosives; or

(d) First finding by a court of trafficking Program benefits of $500 or more; and

(4) Ten years if an individual is found guilty of making a fraudulent statement or misrepresentation with respect to the individual’s identity or residence to receive multiple benefits at the same time.

*C. The penalty for intentional program violations in Temporary Disability Assistance Program (TDAP) is 36 months for each occurrence as described in Regulation 07.03.05.15.*

(C).—(I.) (text unchanged)