

Administrative Procedures

449-05

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Definitions Administration Procedures 449-05-05

(Revised 04/01/04 ML #2914)

The following definitions apply to all the 449 chapters.

"Alien" means an individual who is still a subject or citizen of a foreign country and who has not been granted U.S. citizenship.

"Appeal" means a specific request for departmental review, by a dissatisfied, recipient, registrant, provider, resident, or licensee concerning a decision made by a county social service office, nursing facility, or by a division of the department.

"Appeal hearing" means an administrative procedure by which the department reviews a decision by considering evidence and argument presented by a recipient, by the entity that made the decision appealed from, or by representatives of either.

"Appeals supervisor" means the official designated by the department.

"Authorized representative" means an individual, including an attorney at law, who has been authorized by the recipient to act for and represent the recipient in any and all aspects of a hearing. The recipient need not designate an authorized representative.

"Barter exchange" means any person with members or clients that contract either with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis.

"BENDEX" means the Beneficiary and Earnings Data Exchange System. This information is received from Social Security Administration.

"Broker" means a person that, in the ordinary course of a trade or business, stands ready to effect sales to be made by others.

"Claimant" means a person who has requested a fair hearing and is an applicant or recipient of assistance.

"Collateral contact" means knowledgeable individuals or sources who can support or

verify information.

"County agency" means a county social service office.

"Date of action" means the date upon which an action is intended to become effective.

"Department" means the North Dakota Department of Human Services.

"Direct threat" means a significant risk of substantial harm to the health or safety of the employee with a disability or others that cannot be eliminated or reduced by reasonable accommodation.

"Disclosure" means communication of any information from the recipient's record to anyone other than the recipient. It does not include the transfer or exchange of information between or among units within the Economic Assistance Policy Division for the purpose of administration of a program.

"Disparate effect" means equal treatment but the result of the treatment is unequal.

"Disparate treatment" means different treatment of one person over another person or one group over another group that basically requires similar treatment.

"Fair hearing" means an appeal hearing, established pursuant to (7 CFR 273.15, 42 CFR Part 431, subpart D, 42 U.S.C. (b)(13), 45 CFR 255.2(h), 45 CFR 256.4(d) and 45 CFR 205.10) federal law or regulation that specifically requires the department to provide a dissatisfied recipient an opportunity for a hearing that meets the requirements for due process of law.

"Federal Financial Assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guarantee), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of funds, services of federal personnel for real and personal property or any interest in the use of such property.

"Fiduciary" means a trustee of a trust; or an executor, executrix, administrator, administratrix, personal representative, or person in possession of property of a decedent's estate.

"Filing date" of the claimant's appeal, in all cases except food stamp appeals, means the postmark date of mailed appeals, the date of a faxed or e-mailed request, the delivery date of delivered appeals, or if an oral appeal is permitted, the date of an

oral appeal. The filing date of a request for fair hearing or administrative disqualification hearing in food stamp matters means the date the request is received in the office of the executive director of the department.

"Household" means an individual or group of individuals receiving or applying for benefits.

"IEVS" means Income Eligibility Verification System.

"INS" means Immigration and Naturalization Services.

"Intentional program violation" means any:

1. Intentionally made a false or misleading statement, or misrepresented, concealed, or withheld fact; or
2. Intentionally committed act that constitutes a violation of the Food Stamp Act (7 U.S.C. 2011-2027), the Food Stamp Program regulation (7 CFR parts 270-282), or any provision of the North Dakota Century Code or North Dakota Administrative Code relating to the use, presentation, transfer, acquisition, or receipt or possession of Food Stamp benefits; or
3. Action by an individual, for the purpose of establishing or maintaining a family's eligibility for TANF or for increasing or preventing a reduction in the amount of the grant, which is intentionally:
 1. A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
- b. Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

"Intentional program violation hearing" means a hearing conducted for individuals or households accused of intentional program violations, who do not waive their rights to such a hearing, to determine if the individuals or household members committed, and intended to commit, intentional program violations.

"Is regarded as having an impairment" means has a physical or mental impairment that does not substantially limit major life activities, but that is treated by a recipient as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairments; or has none of the impairments defined in this chapter but is treated by a recipient as having such an impairment.

"Numident" means a system interface with Social Security Administration that verifies

social security numbers.

"Partnership" means a relationship between two or more persons who join to carry on a trade or business, with each person contributing money, property, labor, or skill and each expecting to share in the profits and losses of the business whether or not a formal partnership agreement is made.

Prudent Person Concept" refers to an eligibility worker who consistently exhibits good judgment in requesting, reviewing, and weighing information provided by a recipient. A prudent person by definition is attentive, vigilant, cautious, perceptive, and generally governed by common sense.

"Recipient" means an individual who may receive, is receiving, or has received benefits under Economic Assistance Programs.

"Regulation" as used in 42 CFR 431.210,431.244 and 435.912, and 45 CFR 205.10(a)(4)(i)(B), includes any written statement of federal or state law or policy, including federal and state constitutions, statutes, regulations, rules, policy manuals or directions, policy letters or instructions, and relevant controlling decisions of federal or state courts.

"Request for an intentional program violation hearing" means a written statement from a county agency, filed at the office of the appeals supervisor, which contains the name, mailing address, and telephone number (if any) of the charged household members, a detailed statement of charges against household members, and copies of all available evidence.

"Request for fair hearing" means a specialized appeal consisting of any clear written expression or in the case of a request in a food stamp matter under 7 CFR 273.15, any clear oral expression, from a claimant, or the claimants duly authorized representative, filed in the office of appeals supervisor, that the claimant wants the Department to conduct a fair hearing to take action concerning the claimant's expressed reasons for dissatisfaction.

"Safeguarding Information" means the protection of confidential information entrusted to the Department by recipients and other agencies.

"SAVE" stands for Systematic Alien Verification for Entitlement Program. The system is used to verify citizenship and immigration status of recipients of benefits.

"SDX" means a system interface with Social Security Administration that verifies supplemental security income (SSI).

"SVES" means the State Verification and Exchange System. This includes verification

of social security number to all recipients of federally funded aid and to obtain and use the data provided by the Social Security Administration to establish eligibility/ineligibility.

"Timely notice period" means that period beginning on the date a timely notice is mailed and concluding on the date of action.

"TPQY" means Third Party Query Procedure; the on-line method of requesting verification of Social Security benefits.

"US Department" means the US Department of Health and Human Services for purposes of this chapter.

Introduction 449-05-10

(Revised 04/01/04 ML #2914)

The purpose of this manual is to provide the administrative procedures that are common to the administration of the Basic Care Assistance Program, Child Care Assistance Program, Food Stamps, LIHEAP, Medicaid, Quality control, and Temporary Assistance for Needy Families.

The procedures throughout this manual are written within the boundaries established by related state and federal regulations.

Certain methods and procedures are considered fundamental to the proper and efficient administration of economic assistance programs in North Dakota. These methods and procedures reflect basic principles concerning the rights and responsibilities of individuals and of governmental agencies in a democracy. They are necessary to ensure that an individual's basic rights are respected and protected during the eligibility determination process and that only individuals legally entitled to assistance actually receive it. A public agency's consistent adherence to these principles tends to inspire public confidence.

The procedures within this manual do not attempt to address every possible situation. When an eligibility worker encounters an unusual situation, prudent judgment, consultation with their supervisor or regional representative and documentation of the reasoning and decision are necessary. Eligibility workers must expect to work with considerable independence, to make reasonable judgments, and to record the reasons for their judgments.

Responsibilities 449-05-15

State Responsibilities 449-05-15-05

(Revised 04/01/04 ML #2914)

The North Dakota Department of Human Services (state office) is the designated single state agency responsible to t h e federal government for receipt of federal money and to administer all programs partially or totally federally funded within the specified federal guidelines. The department is responsible to administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance and services to eligible individuals and families who do not have sufficient income, assets, or other resources to provide a reasonable subsistence compatible with decency and health. The state office is responsible to direct and supervise county social service office activities.

County Responsibilities 449-05-15-10

(Revised 04/01/04 ML #2914)

The county social service offices are responsible for the administration of economic assistance programs within the guidelines established by the state office. The county office is responsible for submitting accurate and timely financial and program reports as required by the state office for its direction and supervision of the programs.

County eligibility staff are responsible to determine initial and continued eligibility for assistance programs, compute budgetary need, conduct interviews, verify appropriate information, and provide information to recipients and to the public regarding specific human service programs.

County staff are encouraged to provide individual and family assessment and the counseling information and referral services necessary for them to become fully or partially self-sufficient or resolve other disabling problems.

Basic Principles in Eligibility Determination 449-05-20

Right to be Treated with Courtesy and Respect 449-05-20-05

(Revised 04/01/04 ML #2914)

Recipients of assistance programs are entitled to be treated with courtesy and consideration, consistent with maintaining and improving self-respect, self-reliance, and family life.

"Prudent Person" Concept 449-05-20-10

(Revised 01/01/08 ML #3123)

1. A "prudent person" is one who consistently exhibits good judgement in requesting, reviewing, and weighing information provided by an applicant or recipient, or a person representing an applicant or recipient. The concept also requires the capacity to quickly and accurately determine that the information is adequate for making an eligibility decision or that further exploration of the circumstances is necessary. A prudent person is attentive, vigilant, cautious, perceptive, and generally governed by common sense. A prudent person is alert for disabling conditions that may impact the ability of a person to accurately and timely provide information necessary for an eligibility determination. Proper application of "prudent person" concepts and practices are important to the successful administration of assistance programs.
2. An eligibility worker must clearly state in the case record any "prudent person" judgment or decision.
3. An eligibility worker finds it "prudent" to make a further inquiry into an individual's eligibility status if:
 - A. The individual's situation indicates potential resources such as medical insurance, sick leave benefits, or eligibility for social security benefits, veteran's benefits, or unemployment compensation; or
 - B. The individual's condition or circumstances indicate that some, if not all, of the eligibility factors need further inquiry or verification.
4. In addition to other questionable eligibility factors, an individual's condition or circumstances indicate that some or all eligibility factors need further inquiry or verification if the individual:
 - A. Appears to be mentally or physically ill or disabled and unable to participate adequately in the eligibility determination process;
 - B. Appears to be untruthful, or has reputation for being untruthful or for failures or delays in furnishing information necessary for official action; or
 - C. Changes his or her address frequently or who has no permanent place of residence.
5. A prudent person applies these principles in determining if an individual appears to be untruthful, or has a reputation for being untruthful or for failures or delays in furnishing information necessary for official action:
 - A. Uncorroborated statements of fact are less believable than corroborated statements.
 - B. Statements by individuals with a reputation for being untruthful are less believable than similar statements by individuals without that reputation.

- D. A reputation for being untruthful exists if the records maintained by the department, the county agency, or an agency whose records are relied on by the department or the county agency, contain evidence of untruthful statements made by the individual.
- E. Statements by an individual with a reputation for failures or delays in furnishing information necessary for official action are less believable than similar statements by an individual without that reputation.
- F. A reputation for failures or delays in furnishing information necessary for official action exists if the records maintained by the department, the county agency, or an agency whose records are relied on by the department or the county agency, contain evidence of any unreasonable failure to or delay in furnishing reports or necessary verifications, or a failure to attend, or delay in attending, meetings or interviews intended to secure information necessary for official action.
- G. A statement of fact, made by an individual with something to gain if that statement is regarded as true, is less believable than a contrary statement made by an individual with little or nothing to gain.
- H. A statement of fact is not presumed to be either truthful or untruthful. Rather, a statement of fact must be evaluated to determine if it is more or less likely than not to be true.

Policy Manuals – Availability to Public 449-05-20-15

(Revised 04/01/04 ML #2914)

State and county social service offices are required to maintain program manuals and policies and to make them available for examination by the public upon request. The right of the public to such a review extends to rules and regulations governing eligibility, need and amount of assistance, recipient rights and responsibilities, and types of services offered. Agencies have the right to insist that examination of policies be restricted to regular hours during normal workdays.

Public social service offices are required to reproduce without charge or at reasonable cost certain policy materials reasonably requested by a recipient to help decide whether to appeal for a fair hearing or to prepare for a fair hearing. Agencies must also be willing to reproduce policies, without charge or at a charge related to actual cost, for other individuals or organizations appearing to have a legitimate interest in them.

Non-Discrimination 449-05-25

(Revised 04/01/04 ML #2914)

The Department of Human Services makes available all services and assistance without regard to race, color, religion, national origin, age, sex, political beliefs, disability, or status with respect to marriage or public assistance, in accordance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and the North Dakota Human Rights Act of 1983. Persons who contract with or receive funds to provide services for the North Dakota Department of Human Services are obligated to abide by the provisions of these laws. The Department of Human Services makes its programs accessible to persons with disabilities. Persons needing accommodation or who have questions or complaints regarding the provision of services according to these Acts may contact the following Civil Rights Officer:

Civil Right Officer

North Dakota Department of Human Services, State Capitol - Judicial Wing

600 E. Boulevard Dept. 325

Bismarck, ND 58505

701-328-1816 voice or

701-328-3480 TDD

US Department of Health and Human Services

Office for Civil Rights, Region VIII, Federal Office

Building 1961 Stout Street

Denver Colorado 80294

303-844-4774 (voice) or

303-844-3439 (TDD)

USDA Director, Office of Civil Rights Room
326-W, Whitten Building 1400 Independence Avenue SW
Washington, D.C. 20250-9410
(202) 720-5964 (voice or TDD)

OR

Health and Human Services Director, Office of Civil Rights
Room 506-F 200 Independence Avenue SW
Washington, D.C. 20201
202 619-0403 (voice) or
202 619-3257 (TDD).

COMMUNICATIONS:

To ensure that communications with individuals who have hearing, vision, or speech impairments are as effective as communications with others, the North Dakota Department of Human Services will provide appropriate auxiliary aids. The provisions of these aids will not result in a fundamental alteration in the nature of the service, program or activity the Department provides and cannot result in an undue financial and administrative burden to the Department of Human Services. Individuals with a disability will not be charged for the use of such auxiliary aids.

Auxiliary aids may include but are not limited to: qualified interpreters, note takers, telephone handset amplifiers, telecommunication devices for deaf persons (TDD's), qualified readers, brailled materials, large print materials, acquisition or modification of equipment or devices.

Regarding the use of qualified interpreters for persons with sensory impairments or persons having limited English proficiency, the Department will notify recipients of services or benefits that the Department will provide interpreter services at no cost to the individual. If the recipient of services, however, prefers to utilize a friend or family member as the interpreter, that request may be honored.

Confidentiality and Safeguarding of Information 449-05-30

General Statement 449-05-30-05

(Revised 04/01/04 ML #2914)

Federal and state laws and regulations strictly limit the use and disclosure of confidential information concerning recipients of economic assistance programs to purposes directly related to the administration of those programs, including, though not necessarily limited to:

1. Establishing eligibility, determining amount of assistance, and providing needed services for recipients; and
2. Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of such programs.

Staff members at both state and county levels of government have access to conversation, files, records, reports, and mail that reflect information of a highly private nature. This information deals with such human problems as illegitimacy, mental illness and deficiency, conflicts with the law, economic distress, marital discord, and congenital deformities or other medical handicaps. Extreme discomfort, embarrassment, and harm can result for the individual or family if such information falls into the hands of unauthorized persons. For this reason, strict standards for safeguarding this information are defined in federal and state statutes and their violation has potentially serious legal consequences.

Wherever the information is entered/transposed it must be safeguarded, inclusive of case files that contains verification letters, case history notes, and referrals.

During the course of determining eligibility, the eligibility worker shall use prudent methods for gathering information. Only factual information relevant to the determination of eligibility will be sought and entered in the case file. The workers shall identify themselves by name, position, and purpose at each public contact.

Protecting System Information 449-05-30-10

(Revised 04/01/04 ML #2914)

In each of our unique job functions, we are granted access to information or data that is considered confidential. Information security is everyone's responsibility. Following are requirements for keeping the information stored in the computer system secured:

- When leaving your workstation for any reason, secure your computer by activating the password-protected screen saver or logging off the information systems.
- When leaving your workstation, place confidential information in locked storage.
- Do not share passwords with co-workers.
- Do not write down a password where they are easily discovered.
- Position your monitor so unauthorized personnel cannot easily view the screen or turn your monitor off when unauthorized personnel enter your work area to avoid displaying sensitive information.
- Practice good housekeeping and keep your work area well organized. Leaving sensitive documents in open view where unauthorized personnel can see, invites mischievous conduct.
- During an evacuation drill or real world emergency, such as fire, tornado, or flood, ensure your surroundings are secure before leaving your workstation.
- Save information to an appropriate network drive. This procedure protects vital information from being lost in the event of a hard disk crash at your computer. Information stored in the network is backed-up every night.
- Emails containing client information (name and/or social security number) should include one of the following disclaimers and the subject line of the email should not include client identifying information:

General Disclaimer -----Confidentiality Statement-----

This transmission is intended only for the use of the individual to whom it is addressed and may contain information that is made confidential by law. If you are not the intended recipient, you are hereby notified any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please respond immediately to the sender and then destroy the original transmission as well as any electronic or printed copies. Thank you.

Drug and Alcoholic Disclaimer -----Confidentiality Statement--

This transmission is intended only for the use of the individual to whom it is addressed and may contain information that is made confidential by law. If you are not the intended recipient, you are hereby notified any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please respond immediately to the sender and then destroy the original

transmission as well as any electronic or printed copies. Thank you.

This notice accompanies a disclosure of information concerning a client in alcohol or drug treatment, made to you with the consent of such a client. This information has been disclosed to you from records protected by Federal confidentiality rules (42 C.F.R Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

- Shred or otherwise dispose of sensitive information in accordance with office procedures or as otherwise instructed.
- Promptly report any virus activity to your area's computer technician.
- Close all your programs and properly shut down your computer at the end of each day.
- Report any suspicious activity to the Division of Information Technology.

Certain Practices Prohibited 449-05-30-15

(Revised 04/01/04 ML #2914)

The determination of a person's initial or continued eligibility for assistance shall be conducted in a manner consistent with the individual's rights under the United States Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964, and in accordance with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. Thus any practice that violates an individual's privacy or personal dignity, subjects the individual to any form of harassment, or infringes on the individual's constitutional rights, is forbidden.

By way of illustration, county social service offices must guard against such violations as entering a home by force, without permission, or under false pretenses. The search of rooms, closets, drawers, or papers for the purpose of uncovering clues to possible deception or fraud is not permitted. Home visits should not be made outside of normal working hours unless arranged for by appointment. As a matter of courtesy, recipients should receive prior notice of a planned visit, including those made during working hours.

The following practices are strictly prohibited:

1. Publication of lists of names of recipients; and
2. Disclosure to any committee or legislative body (federal, state, or local) of any information that identifies an individual as a recipient of public assistance.

Information to be Safeguarded 449-05-30-20

(Revised 06/18/10 ML #3223)

Other types of information that are confidential and must be safeguarded include, but are not necessarily limited to:

1. The names and addresses of recipients and amounts of assistance paid, except as provided in Section [449-05-30-30](#);
2. Social and economic conditions or circumstances that are identified with a particular individual. This restriction also applies to information obtained from North Dakota Job Service or from the Social Security Administration;
3. County social service offices and/or other professional evaluations of information about a particular individual;
4. Protected health information including diagnosis and past history of a disease or disability, concerning a recipient;
5. Federal tax return and Social Security Administration information received through the computer database; and
6. The Vital Records Interface is owned by the Vital Records office at the ND State Health Department. Information received through the Vital Records interface is to be used by eligibility workers to verify birth information received from applicants and recipients. This information is for eligibility workers only and must not be shared, even with the individual's signed release.

If the interface has information that is inconsistent with what the household has provided, the household needs to be referred to the Vital Records office at the ND State Health Department. Workers should not say what information does not match, but tell them it cannot be verified and that the individual needs to contact the Vital Records office to obtain a certified copy.

Methods for Safeguarding 449-05-30-25

(Revised 04/01/04 ML #2914)

The care exercised by an agency or a staff member in safeguarding the confidential nature of the information with which they deal is an important measure of their professional competence and performance. This promotes a relationship of confidence between agency and client, essential to the administration of any program.

Case records, hard copy verifications, reports, medical and psychological evaluations, lists of recipients, and other materials of a confidential nature should be protected in locked files.

Confidentiality should be maintained while consulting outside collateral sources for information with which to verify eligibility. Discussions and exchanges of information between staff members about individuals and families receiving assistance and services should be limited to professional purposes and not subjected to rumors and idle conversation.

Information that Need Not be Safeguarded 449-05-30-30

(Revised 04/01/04 ML #2914)

Information of a general nature concerning caseloads, number of recipients by program, social and statistical data resulting from studies, surveys and reports, expenditures for programs and for administration, etc., that cannot be used to identify specific individuals or families is public information and can safely be released to the news media or other interested parties.

Release of Information to Public Officials 449-05-30-35

(Revised 04/01/04 ML #2914)

Recipients of assistance programs sometimes approach their legislators, members of the congressional delegation, or other elected or appointed official to complain or seek information about some aspect of their assistance status. On their behalf, the official may in turn seek clarification from county or state staff. When such inquiry is clearly made at the request of the recipient, there is an implied consent on the latter's part to release the requested information. In this instance, the facts can be safely provided without a signed [SFN 1059, "Authorization for Release of Information"](#) (212 kb pdf) (see Confidentiality Manual Chapter 110-01-03-70.)

Release of Information for Research Projects 449-05-30-40

(Revised 04/01/04 ML #2914)

The release of information for purposes of research projects is covered by North Dakota Administrative Code [75-01-02-02](#), Confidentiality in Research Projects, and the North Dakota Department of Human Services Chapter [400-32](#). Questions on this topic should be addressed to those sources.

Research projects involving information from the State Hospital records are further subject to the requirements of N.D.C.C. -03.1-43, which includes the obtaining of patient consent.

Release of Information from Case File to Recipient 449-05-30-45

(Revised 06/18/10 ML #3223)

It is the policy of the Department that a client have access to his or her case records, subject to limitations to protect the confidentiality of information regarding individuals other than the recipient. The request for access must be made in writing by the recipient or their legal representative. Case file information may be inspected by the recipient or his legal representative and copies of case materials, if requested, should be provided free or at reasonable cost. The file in some instances may contain medical or psychological information that, if inadequately explained and interpreted, could be harmful to the recipient. When such is the case, the recipient should be advised that the information would best be provided to an appropriate professional who, in turn, could interpret the material. If, however, the recipient persists in their demand for personally receiving the information, it should be provided. In such situations, a narrative entry should clearly indicate that the request for information was granted but against agency recommendation.

The Vital Records Interface is owned by the Vital Records office at the ND State Health Department. Information received through the Vital Records interface is to be used by eligibility workers to verify birth information received from applicants and recipients. This information is for eligibility workers only and must not be shared, even with the individual's signed release.

For further information see Service Chapter 110-01, Confidentiality; Section [449-20](#), IEVS; and Section [449-45](#), Social Security Administration.

Release/Disclosure of Information to Other Agencies 449-05-30-50

(Revised 06/18/10 ML #3223)

View Archives

In addition to purposes directly related to the administration of assistance programs, information concerning recipients is available to individuals and/or agency representatives of federal or federally assisted programs that provide aid, in cash or in-kind, to people on the basis of need. However, protected health information and information received through the computer database from the Internal Revenue Service and Social Security Administration and information from the Vital Records interface in TECS cannot be disclosed to agencies outside the Economic Assistance Policy or Medicaid Eligibility Policy Divisions.

Supplemental Nutrition Assistance Program (SNAP) and TANF Program information may be disclosed to individuals administering SSI, the Jobs Opportunities and Basic Skills Program, BEST Program, Food Distribution Program (commodities) for households on or near Indian reservations, and may include agreements included in Memorandum of Understandings between the Department and other agencies.

Information may be released if there is a Memorandum of Understanding with the Economic Assistance Policy Division with the exception of information received through the database from the Internal Revenue Service and Social Security Administration and the Vital Records interface with the ND State Health Department.

Release of other information to other individuals or agencies may be made with the recipient's signed consent, via [SFN 1059, "Authorization to Release Information."](#) (212 kb pdf)

Use of Public Records Without Client Knowledge or Consent 449-05-30-55

(Revised 04/01/04 ML #2914)

[View Archives](#)

Public records may be consulted for documentary evidence without requesting an individual's consent. Additionally, no consent is required when seeking essential information from the Social Security Administration, Job Service North Dakota, Unemployment Insurance Division, courts, Bureau of Indian Affairs, county courthouse records, or credit bureau publications.

Release of Info to Law Enforcement Authorities, Court, & Court Subpoenas 449-05-30-60

(Revised 04/01/04 ML #2914)

Refer to Service Chapter 110-01 Confidentiality and the individual service chapters as follows:

Service Chapter 400-29 – Basic Care Assistance

Service Chapter 400-26 – Child Care Assistance

Service Chapter 430 – Food Stamps

Service Chapter 400-20 – Job Opportunity and Basic Skills Program

Service Chapter 415 – Low Income Home Energy Assistance Program

Service Chapter 510-05 – Medicaid

Service Chapter 400-17 – Temporary Assistance for Needy Families

Privacy During Interviews 449-05-30-65

(Revised 04/01/04 ML #2914)

All reasonable precautions should be taken to ensure that interviews are conducted in private surroundings. Whenever possible, a private office shall be used. Likewise, office procedures should be such that confidential information is not inadvertently revealed to bystanders or others having no legitimate interest in the affairs of the recipient.

Mailing or Distribution of Materials 449-05-30-70

(Revised 04/01/04 ML #2914)

Any materials sent or distributed to recipients or vendors, including material enclosed in envelopes containing checks, will be limited to those directly related to the administration of the program. Such materials may not have political implications.

The following may not be mailed or distributed:

1. Holiday greetings;
2. General public announcements;
3. Voting information; and
4. Alien registration notices.

However, materials in the immediate interest of the health and welfare of recipients and their families, such as announcements of free medical examinations, availability of surplus foods, and consumer protection information, may be mailed or distributed.

Request for Information from Outside Sources 449-05-30-75

(Revised 04/01/04 ML #2914)

Community fraternal and charitable organizations sometimes request the names of individuals and families for the purpose of distributing Christmas baskets, toys, etc. Families and individuals should be informed of such requests from outside sources and their permission obtained before the information is released. [SFN 1059, "Authorization for Release of Information,"](#) (212 kb pdf) should be used to record the recipient's permission. Only necessary information should be provided in these situations such as name, address, telephone number, household size, etc.

If the request for information involves a genuine emergency in which the life or health of a member of the family may be in jeopardy and the individual's consent for the release of information cannot be obtained, the needed information should be provided and the individual notified as quickly thereafter as possible.

Penalty 449-05-30-80

(Revised 04/01/04 ML #2914)

There are several statutes establishing penalties for the unauthorized disclosure of confidential information. Different penalties apply depending on the nature of the information or record, which is disclosed. NOTE: The term "Department" used in this section means the North Dakota Department of Human Services and county social service agencies.

For example, N.D.C.C. § 50-06-15 provides that unauthorized disclosure of confidential information derived from Department records regarding individuals applying for or receiving assistance or services from the Department is a class A misdemeanor, which is punishable by a maximum of one year imprisonment, a fine of \$2,000, or both. It applies to any individual, making all employees of the Department, and even non-employees, subject to the penalty.

An employee of the Department who knowingly discloses confidential information from records other than those specifically enumerated in N.D.C.C. § 50-06-15 may violate N.D.C.C. § 12.1-13-01 which is punishable as a class C felony. A class C felony carries a maximum of five years' imprisonment, a fine of \$5,000, or both.

Any person who violates the federal law regarding confidentiality of substance abuse treatment records may be fined not more than \$500 for the first offense and not more than \$5,000 in the case of each subsequent offense. 42 U.S.C. §§ 290ee-3(f) and 290dd-3(f), 42 C.F.R. § 2.4.

Unauthorized Disclosure of Social Security Information 449-05-30-80-05

(Revised 04/01/04 ML #2914)

In addition, the following may apply:

An individual who discloses social security information received through a computer match (IEVS, BENDEX, SDX, or TPQY) without authorization shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine not to exceed \$10,000 for each disclosure, or by imprisonment not exceeding five years, or both.

Whoever, with the intent to defraud an individual shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both. Whoever, with the intent to elicit information as to the social security account number, date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Commissioner of Social Security or Secretary that he is such individual, or wife, husband, widow, widower, divorced wife, husband, surviving divorced mother, surviving divorced father, child, or parent of such individual, or the duly authorized agent of such individual, or (2) falsely represents to any person that he is an employee or agent shall be, upon conviction, punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

Unauthorized Disclosure of Internal Revenue Service Information 449-05-30-80-10

(Revised 04/01/04 ML #2914)

Unauthorized disclosure of taxpayer information received from the Internal Revenue Service through the computer database system (UFO's and BENDEX) shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense. In addition, civil damages for unauthorized disclosure of returns and return information by an individual who knowingly, or by reason of negligence, discloses information, may be brought a civil action damages by the taxpayer in a district court of the United States. The penalty under a civil damages action may result in: 1) the greater of \$1,000 for each act of unauthorized disclosure of return or return information or the sum of the actual damages sustained by the taxpayer as a result of the unauthorized disclosure plus punitive damages; and 2) the costs of the action.

Case File Maintenance 449-10

(Revised 04/01/04 ML #2914)

The county social service office shall establish and maintain individual case files on behalf of all families and persons served by the economic assistance programs administered by county social service offices. In general, a case file shall contain all materials and supporting documents, which are relevant to decisions made regarding eligibility and amount of benefits.

A list of all paper case files containing Federal tax return information received through the computer database shall be maintained by each county office. This list will contain the case number, recipient's name, and if the case is open, closed, or disposed.

Purpose of Case Files 449-10-05

(Revised 04/01/04 ML #2914)

The case file and/or the information in the computer systems must always contain the pertinent facts necessary to support a decision of eligibility or ineligibility made on behalf of recipients. As a means of assuring fiscal responsibility, the case file represents the best evidence that claims for state and federal funds by the county social service office, as the administrative agency, are proper and are supported by adequate and reliable records.

The case file also:

1. Provides a basis for supervision by county social services offices and Department of Human Services supervisory staff;
2. Facilitates administrative reviews conducted periodically by federal personnel and the gathering of information for special surveys and reports as may be requested by the state or federal department;
3. Facilitates the Quality Control review by providing field reviewers with easy access to eligibility data that may already have been documented;
4. Provides accurate, up-to-date information for use in making referrals to other agencies;
5. Facilitates the transfer of responsibility for an assistance case from one worker to another;
6. Facilitates the transfer of administrative responsibility for Basic Care Assistance, Child Care Assistance, Food Stamps, Medicaid, or TANF cases from one county to another; and
7. Provides an additional method for identifying staff training needs.

Effective Case Management 449-10-10

(Revised 04/01/04 ML #2914)

Effective case management consists of:

1. Providing the client with as much knowledge as possible of the program, its benefits and requirements, and the client's own responsibilities within it, at each client contact by such means as information handouts, oral instruction and advice, etc. A fully informed client is the best protection against case error;
2. Establishing personnel and office practices and systems that ensure easy client access for reporting changes and obtaining or giving status information about their case, and ensuring that each recipient contact is pleasant and courteous;
3. Maintaining and using computer systems for tracking ongoing case work and anticipating changes;
4. Utilizing central office computer generated reports; and
5. Maintaining internal office workload management systems to ensure that all reports of change, complaints, and inquiries are responded to and acted upon promptly and accurately.

Care of Case File 449-10-15

(Revised 04/01/04 ML #2914)

Case files become the property of the county or state government that created them. As such, they deserve the care and attention due any government property. Locked metal files may provide the best safeguard against loss or damage of confidential files, although open shelf files are acceptable if appropriate steps are taken to assure that unauthorized persons do not have access to them.

Case files containing Federal tax return information and/or Social Security Administration information received through a computer must be safeguarded during office hours and when the office is closed.

Supervisory personnel should promote among their staff a respect for case files. All staff members should refrain from leaving them on desks overnight, stuffing them into drawers, removing portions of the records from their folders, etc. Case files should not be removed from the office unless:

1. A staff member has been subpoenaed to appear in court and the case record is a necessary source of data;
2. They are being sent to counties to which recipients have moved;
3. An appeal hearing is held elsewhere, other than the county office; or
4. Quality Control or the State office requests the file.

Establishing the Case File 449-10-20

(Revised 04/01/04 ML #2914)

Once an application has been received in the county office, a case file must be constructed to contain that application and all other documents related to it. This case file becomes the recipient's permanent record. Each case number is unique to that recipient's case and is assigned by the computer system.

Each case file folder must be labeled using the name of the primary information (PI) person to accommodate the alphabetical filing system.

In accordance with federal guidelines, the outer case jackets of case files with tax data received through a computer match shall be labeled to clearly state "Caution: This file contains confidential Federal tax return information" (IEVS).

Client's Access to Files 449-10-25

(Revised 04/01/04 ML #2914)

Any recipient who can identify themselves are entitled access to their case file if the request is made in writing. A client's duly authorized representative is entitled to the same access, as is any other person or organization to whom the client authorizes access by means of a written, signed, and dated authorization. Clients, their court appointed representatives, and their legal guardians cannot have access to the client's Federal tax return information received through a computer match. Clients are not able to authorize release of Federal tax return information received through IEVS.

Care must be taken to be certain that the client in fact made the authorization, and precautions must be taken to prevent a person who is authorized to access a file from inadvertently viewing other unrelated identifying information to which they are not entitled. No client should be allowed unsupervised access to their own file and employees of the county social service office should be present during the entire time of the access. The county social service office must provide the client with copies of each file document upon nothing more than a verbal request for copies.

The client is entitled to a prompt, full and courteous explanation of why each piece of information in the file was gathered, and to explanations of the purpose of each form in the file.

If a client objects to the entry in their file of a particular piece of information, and if a supervisor determines that the objectionable entry was, and is, unrelated to determination of eligibility, the entry should be totally and permanently deleted from the record.

Case File Organization 449-10-30

(Revised 4/01/04 ML #2914)

All levels of agency staff should recognize and appreciate the importance of adequate, well-organized case files. Materials in case files should be maintained in such a manner as to be conveniently accessible for examination. Uniformly organized case files are indispensable when administrative responsibility for an assistance case is being transferred from one county to another.

The case file must always contain pertinent facts necessary to support a decision of eligibility or ineligibility. If necessary a narrative should be used to record the following:

1. Circumstances surrounding the use of the 'prudent person' concept to seek additional or substantiating data because the information provided by the recipient is incomplete, inconsistent, inconclusive, or doubtful;
2. Any change in a recipient's circumstances which gives rise to a change in eligibility or entitlement (unless pertinent facts are clearly indicated on the "Monthly Report"); or
3. Circumstances relating to overpayments, over issuance, and questions of suspected fraud, actions taken, and how resolved.

To facilitate the use of case files by agency staff as well as by outside supervisory, auditing, and Quality Control staff, county social service offices are urged to file documents, separated by tabbed dividers, into the following classifications. Please note that this illustration does not include all forms in use.

RECOMMENDED CASE FILE ORGANIZATION

LEFT SIDE

BUDGET

MONTHLY REPORT APPLICATION

REDETERMINATION/ RECERTIFICATION

MED-SOC

VERIF

LEGAL

RIGHT SIDE

NARRATIVE

CORRES.

JOBS WORK/TRNG

ADDTL. FORMS

FEDERAL TAX RETURN

(IEVS)

MISC.

Transfer to Another County 449-10-35-05

(Revised 04/01/04 ML #2914)

Timely transfer of a case file is essential if receiving counties are to have an opportunity to review their "new case" and assign them to staff. The sending county should make certain that the case file is up to date (i.e. IEVS, claims, overpayments) before it is sent to the receiving county. However, the sending county and receiving county should take into consideration what is in the best interest of the recipient(s).

When transferring a case file, include a summary narrative containing any current pending actions, overpayments, and urgent instructions to help the receiving county to review the case and ensure that eligibility and benefit levels can be accurately determined in a timely manner. Send all case specific case files/volumes to the receiving county but excluding unnecessary information before sending. Narratives in the system should be up to date before transferring the case negating the necessity to send hard copy narratives with the case files unless there is an outstanding appeal. When transferring case files, do not send notices or budgets that have been copied because these are available in TECS and Vision. The worker in the sending county will alert the receiving county of any special circumstance.

In each instance, the entire case file should be forwarded. [SFN 700, "Case Transfer Log,"](#) (1055 kb pdf) must accompany each transferred case file.

At the same time a case file is transferred the system generated notice for Basic Care Assistance, Child Care Assistance, Food Stamps, LIHEAP, Medicaid, and/or TANF **must** be sent to the recipient advising that the case file has been sent to the receiving county and that all information relating to eligibility shall henceforth be reported to that county. The notices should include the telephone number of the receiving county to assist the recipient with any questions regarding procedure or eligibility.

County social service offices should maintain an up-to-date log or inventory of incoming and outgoing cases.

Case files will normally be transferred between counties by certified mail, although a physical transfer may be cost effective in some instances.

Case File Destruction 449-10-40

Destruction of Case File Materials 449-10-40-05

(Revised 01/01/08 ML #3123)

Because filing space is often limited, a systematic method for disposing of outdated case documents and files is essential. The method of disposal must ensure that the confidential contents of a file will not fall into the hands of unauthorized individuals. Materials and documents selected for destruction must therefore be rendered illegible. The only acceptable methods are burning or shredding, done under the supervision of a representative of the county social service office.

The county office must maintain a destruction record of case files containing Federal tax return information received through a computer match (IEVS – UFO and BENDEX) for five years, all other case files have a three years retention time period. The destruction record must include the material disposed of, date and method of disposal, and names of employees who witnessed destruction, and their title. A copy of the destruction record must be sent to the State Office IEVS coordinator.

Case files, including all documents pertinent to determining eligibility and benefit amount, must be retained for three

(3) years after a case is closed, or for Medicaid cases involving a community spouse, three (3) years after both spouses are deceased. The closed case files may, at county option, be destroyed. Subsequent reopening of cases does not alter the allowable destruction of materials for the prior period of eligibility once the three years has lapsed. Verification materials such as birth, SSN, etc. required for the current open case must be retained.

Example: Family Smith's TANF/Food Stamp/Medicaid is closed 12-31-02. Family Smith reapplies and is eligible in 07-04. At county option on or after 12-31-05 (three years has elapsed) the case materials for the period of eligibility ending 12-31-02 may be destroyed.

Example: John Jones received Medicaid benefits under spousal impoverishment prevention rules from January 1999 until he died July 10, 2001. Jane Jones, his widow, never received benefits of any kind, and died September 20, 2005. At county option on or after September 20, 2008 (three years have elapsed since the widow's death) the case materials for the eligibility period ending July 10, 2001 may be destroyed.

If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year period, whichever is later.

Verifications 449-15

Verification Responsibility 449-15-05

(Revised 04/01/04 ML #2914)

The household has primary responsibility for providing documentary evidence to support its statements and resolve any questionable information. Households may supply documentary evidence in person, through the mail, e-mail, fax, or through an authorized representative. If the information is e-mailed, retain a copy of the e-mail that includes the individual's name, the date of the e-mail, and the content of the e-mail. The worker shall accept any reasonable documentary evidence provided by the household and shall primarily be concerned with how adequately the verification proves the statements on the application. The worker shall offer assistance to the household in obtaining the documentary evidence if needed.

Verification is the use of third party information or documentation to establish the accuracy of statements on the application. The following sections set forth the requirements for verification of financial and non-financial eligibility factors.

Verification Sources 449-15-10

Documentary Evidence 449-15-10-05

(Revised 04/01/04 ML #2914)

Workers shall use documentary evidence as the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to a single document or source. Where information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy. Whenever documentary evidence cannot be obtained, the worker may use alternate sources of verification such as collateral contact and home visits. In all cases, the method of verification shall be recorded in the case file.

Collateral Contacts 449-15-10-10

(Revised 04/01/04 ML2914)

Use of Collateral Contacts

A collateral contact is a verbal confirmation of a household's circumstances by an individual outside the household and is used when documentary evidence is insufficient or incomplete. The collateral contact may be either in person or over the telephone. The worker must rely on the household to provide the name of any collateral contact. The household may request assistance in naming a collateral contact.

A collateral contact can be any third-party verification of the household's statements. The worker is responsible for obtaining verification from acceptable collateral contacts.

The county should only disclose the information that is absolutely necessary to get the information being sought. The county should avoid disclosing that a household has applied for assistance and should not disclose any information provided by the household. Counties should not suggest that a household is suspected of any wrongdoing.

The household may designate or may request assistance in designating a collateral contact. However, the worker is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide accurate third party verification. When the collateral contact is unacceptable, the worker must select a collateral contact. Once an acceptable collateral contact is designated, the worker is responsible for obtaining verification from the collateral contact.

Verification obtained in non-written form must be documented in the case file.

Confidentiality and Verification

In directly contacting a collateral source of verification, the worker must always identify him/herself by name, position, and the name of the county social service office. In so doing and then inquiring about a particular client by name, the contact may be able to know that the client is applying for assistance. This does not constitute a violation of confidentiality regulations.

If, however, the contact desires any more than this information about the recipient's status, the worker must refuse the inquiry and briefly explain the confidentiality requirements.

Home Visits

Home visits are to be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility, or there are no collateral contacts, or verification cannot be obtained, and the home visit is scheduled in advance with the household.

Suggested Collateral Sources

Landlord
Community Action Agencies
Employer
Housing Agencies

School District
Department of Motor Vehicles
Prior Employer
Prior Land-lord

Banks
Nonrelatives
Job Service
Social Service
Agencies

Verification Source Listing 449-15-10-15

(Revised 04/01/04 ML #2914)

The following is a list of some of the possible sources of verification that can be used to demonstrate whether certain technical eligibility factors are met. For further discussion of all eligibility factors and their separate special verification requirements, refer to the program manual.

Verification of Age

When verification of age is needed, the following are some of the acceptable sources of verification:

- Birth Certificate
- Passport
- Baptismal Certificate
- Numident
- Confirmation Record
- Hospital Birth Certificate
- Military Service Records
- Marriage License
- Immigration Papers
- Driver's License
- Naturalization Papers
- Employment I.D. Card
- Adoption Record
- Life Insurance Policy
- Vital Statistics
- Marriage Records
- Physician's Records
- Vaccination Record
- Hospital Records
- Midwife's Record of Birth
- School Records

Labor Union Records
Immigration Record
Insurance Company Records
Naturalization Record
Employer's Records
Church Records

The recipient should be the primary source of verifying documents. In unusual cases in which the recipient cannot provide such documents, the worker may use [SFN 419, "Request to Division of Vital Statistics for Confidential Verification of Birth,"](#) (57 kb pdf) to request a record of birth from the North Dakota State Department of Health, Division of Vital Records. The fees vary from state to state; contact the Division of Vital Records for information on individual state fees.

In rare cases in which a person's birth year can be established, but the precise day of birth cannot be established by documents or by a responsible collateral contact, the date of birth shall be established as July 1.

Verification of Identity 449-15-10-20
(Revised 04/01/04 ML #2914)

Personal knowledge by the county staff

School, hospital, nursing home personnel

Banks

Board members

Utility records

Mortgage/Rent receipt

Specific Verifications 449-15-15

Social Security Number 449-15-15-05

(Revised 01/01/08 ML #3123)

The following are acceptable methods of

verification: Social Security Card

The SDX or BENDEX TPQY

NUMIDENT - Once a month, around the 4th, a file is sent to Social Security Administration in Baltimore and Baltimore returns the information around the 15th of each month. The information contains social security number, last name, first name, sex of the individual, and date of birth (mm/yy). Numident verifies if client information in TECS and Vision matches with SSA's information for social security number, date of birth, gender, and name. The following indicators display on Client Profile in TECS or Vision to inform us of the result of the match:

- Blank – means the information has not been sent to Social Security Administration
- I– Invalid match for social security number
- S – Sent to Social Security Administration for verification
- V– Valid match for social security number

If the indicator is 'I' (invalid) on client profile, the county worker will receive one of the following alerts, based on information that does not match. In addition, the county worker will receive a hard copy monthly report of all invalid clients.

Situation #1: Impossible SSN/never issued to anyone, or no SSN found if all 0's submitted.

Alert to Worker for TECS

- Alert Message: SSN Invalid

Alert to Worker for Vision

- Alert Name: SSN Invalid
 - Description: SN Invalid for (keyword – client name). The SSN entered was never issued to anyone by SSA.

Situation #2: Name and DOB match, sex code does not.

Alert to Worker for TECS

- Alert Message: SSN Invalid – sex does not match

Alert to Worker for Vision

- Alert Name: SSN does not match
 - Description: SSN does not Match because (Keyword – client name) sex does not match the Name and Date of Birth on the SSA records.

Situation #3: Name and sex code match, DOB does not.

Alert to Worker for TECS

- Alert Message: SSN Invalid – DOB does not match

Alert to Worker for Vision

- Alert Name: SSN does not match
 - Description: SSN does not Match because (Keyword – client name) Date of Birth does not match the Name and Sex on the SSA records.

Situation #4: Name matches, sex code and DOB do not.

Alert to Worker for TECS

- Alert Message: Sex & DOB do not match SSA

Alert to Worker for Vision

- Alert Name: SSN does not match
 - Description: SSN does not Match because (Keyword – client name) Sex and Date of Birth do not match the Name on the SSA records.

Situation #5: Name does not match, DOB and sex code checked.

Alert to Worker for TECS

- Alert Message: Name does not match SSN

Alert to Worker for Vision

- Alert Name: SSN does not match
 - Description: SSN does not Match because (Keyword – client name) Name does not match the Date of birth and Sex on the SSA records.

Situation #6: SSA located an SSN different from what was entered into Vision or TECS based on Name and DOB.

Alert to Worker for TECS

- Alert Message: SSA has different SSN for client

Alert to Worker for Vision

- Alert Name: SSN Invalid
 - Description: SSN is Invalid for (Keyword – client name). Social Security has a different SSN.

Situation #7: SSA located an SSN different from what was entered into Vision or TECS based on Name only.

Alert to Worker for TECS

- Alert Message: SSA has different SSN for client

Alert to Worker for Vision

- Alert Name: SSN Invalid
 - Description: SSN is Invalid for (Keyword – client name). Social Security has a different SSN.

Situation #8: More than 1 SSN found that matched on name and DOB only.

Alert to Worker for TECS

- Alert Message: More than 1 SSN at SSA

Alert to Worker for Vision

- Alert Name: Multiple SSNs
 - Description: Social Security has more than one SSN on file for (Keyword – client name), based on the name and Date of Birth'.

Situation #9: More than 1 SSN found that matched on name only.

Alert to Worker for TECS

- Alert Message: More than 1 SSN at SSA

Alert to Worker for Vision

- Alert Name: Multiple SSNs
 - Description: Social Security has more than one SSN on file for (Keyword – client name), based on the name only’.

To change information for dual eligibles (Medicare and Medicaid), you must contact Pat Patch at 328-4121.

Following are policy directives on how to handle clients and cases with an ‘I’ indicator on the Client Profile window:

Food Stamp Policy

Food stamp policy at 430-05-20-60-10 requires that all households participating in or applying for participation in the program must furnish the SSN of each household member, or apply for one, before certification. If individuals have more than one number, all numbers are required. It must be explained to applicants who refuse or are unable to provide a SSN that the individual for whom a SSN is not obtained will be disqualified.

For alerts received in Situations 1, 6 and 7, a valid SSN has not been provided. The worker must send Notice F442 to the household giving the household 10 days to provide verification of a valid social security number. If the household does not respond or provide the required verification within 10 days of the notice, the individual is disqualified from participation in the program (DI on the SSDO) screen until such time that a valid social security number is obtained. A 10-day advance notice is required.

For alerts received in Situations 2,3, 4, and 5, the SSN may be valid and therefore eligibility cannot be terminated. However, information entered may be incorrect or the individuals Numident record at SSA has incorrect information. The worker should check the information entered into TECS for accuracy. If the worker is unable to determine if the information in TECS is accurate, the worker must contact the household (via phone or correspondence notice) to determine the correct date of birth or sex and then correct the information in TECS.

For alert Situations 8 and 9, the worker must contact the household (via phone or correspondence notice) and instruct them to contact the SSA to determine the active social security number. The individual should then provide this information to the county social service office and the worker must check TECS to ensure that the active social security number is entered.

If the household fails to provide an active social security number, it must be provided at the household’s next recertification. If it not provided at recertification, the individual is disqualified from participation in the program (DI on the SSDO)

screen until such time as an active social security number is provided.

Medicaid and Healthy Steps

Medicaid Policy at 510-05-35-80 states: 'A valid social security number (SSN), or verification of application for SSN, must be furnished as a condition of eligibility, for each individual for whom Medicaid benefits are sought except a newborn child for the first sixty days, beginning on the date of birth and for the remaining days of the month in which the sixtieth day falls, and an illegal alien seeking emergency services.

Healthy Steps Policy at 510-07-25-50 states: 'A valid social security number (SSN), or verification of application for SSN, must be furnished as a condition of eligibility, for each individual for whom Healthy Steps benefits are sought except a newborn child, beginning on the date of birth and for the remaining days of the Healthy Steps case eligibility period.

Based on these policies, for alerts received in Situations #1, 6 and 7, a valid SSN has not been received. Notice must be sent to the applicant/recipient informing them to submit a valid SSN within 10 days. Failure to do so will result in their eligibility being terminated. For alerts received in Situations # 2, 3, 4, 5, 8 and 9, the SSN may be valid and therefore eligibility cannot be terminated. However information we have entered may be incorrect, or the applicant/recipient's Numident record at SSA has incorrect information. Check information that has been entered into TECS/Vision for accuracy. If TECS/Vision information is correct, inform client to contact SSA to correct their Numident file. No further action is required.

Temporary Assistance For Needy Families Policy – Invalid Social Security Numbers

Before any person can be included in the TANF benefit, he or she must furnish verification of a social security number (SSN) or proof that one has been applied for (400-17-15-85).

Invalid SSN

1. Individuals are required to provide verification of a social security number for TANF. If the verification provided is other than the social security card, send an advance notice requesting hard copy verification from the individual. If the requested information is not provided, close the case for not providing requested information.
2. If the social security number in the system matches the acceptable verification (400-17-25-55) provided by the recipient, request the individual contact Social Security Administration for correction. Document in the case file the information on file is correct for the individual and the individual has been sent to Social Security Administration to correct their records.

Invalid Name

This most often occurs if individuals marry or were adopted.

1. Individuals are required to provide verification of a identity for TANF. If the verification provided is other than from an acceptable source (400-17-25-55), send an advance notice requesting hard copy verification from the individual. If the requested information is not provided, close the case for not providing requested information.
2. If the name in the system matches the verification provided by the recipient, request the individual contact Social Security Administration for correction. Document in the case file the information on file is correct for the individual and the individual has been sent Social Security Administration with the correct name.

Invalid Date of Birth

1. Individuals are required to provide verification of birth for TANF. If the individual did not provide verification of birth or the verification is not from an acceptable source (400-17-25-55), request hard copy verification from an acceptable source by sending a notice requesting information. If the verification is not provided, close the case for failure to provide information. If the date of birth in the system matches the verification provided by the recipient, request the individual contact Social Security Administration for correction. Document in the case file the information on file is correct for the individual and the individual has been sent to Social Security Administration to correct their records.

Invalid Sex

1. If the sex of the individual is in question, the worker must contact the household, and then correct the information. Do not close the case for not providing information on the correct sex. If the household does not respond to the request from the worker, and the sex of the individual is not available, use prudent judgment and clarify during the next face-to-face review.
2. If the correct sex is already known, change it in the system. Document in the case file the information on file is correct for the individual and the individual has been sent to Social Security Administration to correct their records.

Sources of Income Verification 449-15-15-10

(Revised 04/01/04 ML2914)

Following are some of the most common documents and sources for verifying income:

Documents that Client May Have:

SSA/SSI Benefit

Payment Check SSA/SSI

Award Letter

Correspondence from

SSA on Benefits Job

Insurance Award Letter

Pension Award Notice

Veterans Administration Award

Notice Pay Stub

Income Tax Record - State and

Federal Railroad Retirement Award

Letter Divorce or Separation Papers

Court Order

Contribution Check

Support Agreements

Correspondence on Support Payments

Child Support Enforcement FACSES computer system

Verification from Other Sources:

Beneficiary Data Exchange (BENDEX) System

State Data Exchange (SDX) System

Social Security TPQY

Social Security District Office Files

Job Service North Dakota - Unemployment Insurance Division

Employer's Records Union Records

Veterans Administration Lawyer's Records

Worker's Compensation Bureau

Records Insurance Company

Records Commanding Officer of a

Military Base Railroad Retirement

Board Records

United Mine Workers Union (Black Lung Benefits)

Social Security Administration (Black Lung Benefits)

Court Records

Statement of Person Making Contribution

Canceled Checks of Person Making

Contribution Receipts from Contribution

IIM Ledger

Bureau of Indian Affairs

Housing Assistance Program

Vocational Rehabilitation

Veterans Administration

Records

Verification of Assets:

Common means of verifying the value of assets, including land, buildings, life insurance, other personal property, and financial assets are shown below:

Documents that Client May Have:

Deed

Sales Agreement

Mortgage

Estate Data

Articles of Agreement

Real Estate Tax

Income Tax Return

Insurance Policies

Burial Agreement with Funeral Director

Bank Books

Stock Certificate

Bond Certificates

Notes

Securities

Credit Union Statements

Savings and Loan Statements

Bank Statements

Car Title and Registration Trust

Agreements Auto Financing Data

Verification from Other Sources:

Court House Records

Estate Transfer

Veterans Administration Records Real

Court Records

Title Search

Utility Company Records

Charge Accounts

Insurance Agency Records

Insurance Records

Attorney's Records

Real Estate Agent or Broker Records

Stockbroker Records

Motor Vehicle Registration Employer's

NADA Official Used Car Guide IIM Ledger

Income and Eligibility Verification System (IEVS) 449-20

Authority Reference 449-20-05

(Revised 04/01/04

ML #2914)

1. Public Law 98-369, Deficit Reduction Act of 1984
2. 7 CFR Parts 271, 272, 273 & 275 for Food Stamps
3. 42 CFR Parts 431 & 435 for Medicaid
4. 45 CFR Part 264.11 for TANF

Purpose (IEVS) 449-20-10

(Revised 04/01/04 ML #2914)

Congress amended sections of the law to require some federally funded assistance programs to obtain income data from the Internal Revenue Service; (interest, dividends, gambling winnings, agriculture subsidies, capital gains, sale of stocks and bonds, etc); pension, wage, and self-employment income from the Social Security Administration and quarterly wages and unemployment insurance benefits (UIB) from Job Service for the purpose of making more accurate eligibility determinations and benefit payments in the Economic Assistance Programs.

Matching Method 449-20-15

(Revised 04/01/04 ML #2914)

Computer tapes or interface systems are used to send all recipients to the interface sources. TECS and Vision have been enhanced to provide the matched response information from these sources to the county social service office staff, who in turn will report the results of the matched information via TECS or Vision. The TECS "Field Office Users Manual" (Section 6.14 through 6.23) describes how to work and report information on the matched individuals.

The tax return information received through IEVS is extracted from the Wage and Information Returns for the current tax year. A tape is created at the end of each month for all new and existing recipients and sent to Internal Revenue Service (IRS). IRS processes the data and returns the information to the Department. Federal tax returns information received through a computer match is confidential and must be safeguarded. The information received through the database from the Internal Revenue Service is the property of the IRS and remains the property of the IRS. Access to the records matched through the computer system and to any records created by the match from the computer system must be restricted to only those authorized employees and officials who need it to perform their official duties.

The Social Security Administration information received through a computer match on IEVS (BEER-BENDEX wage, self-employment, and pensions) must be restricted to only those authorized employees and officials who need it to perform their official duties. A file containing new recipients, deleted recipients or changes in recipients is sent on deadline date of each month to Social Security Administration. The files are processed approximately twice a month.

In addition, the Department receives an enforcement file three to four times a year for processing.

The Department send files to Job Service of North Dakota (wages) on the 15th of each month; the end of each month; and in January, April, July, and October for all clients.

The Department sends files to Job Service of North Dakota (unemployment benefits) on the 15th of each month for all new recipients and the end of each month for all recipients.

Notification of Recipients 449-20-20

(Revised 04/01/04 ML #2914)

All recipients must be notified at the time of application and at recertification/redetermination, that information available through IEVS will be requested, used, and may be verified through collateral contact when discrepancies are found, and that such information may affect eligibility and level of benefits.

General Statement (IEVS) 449-20-25

(Revised 04/01/04 ML #2914)

Federal and state laws and regulations strictly limit the use and disclosure of confidential information concerning recipients of Economic Assistance Programs to purposes directly related to the administration of those programs, including, though not necessarily limited to:

1. Establishing eligibility, determining amount of assistance, and providing needed services for applicants and recipients; and
2. Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of such programs.

Staff members at both state and county levels of government have access to conversation, files, records, reports, and mail that reflect information of a highly private nature. This information deals with such human problems as illegitimacy, mental illness and deficiency, conflicts with the law, economic distress, marital discord, and congenital deformities or other medical handicaps. Extreme discomfort, embarrassment, and harm can result for the individual or family if such information falls into the hands of unauthorized persons. For this reason, strict standards for safeguarding this information are defined in federal and state statutes and their violation has potentially serious legal consequences.

Whenever the information is entered/transposed, it must be safeguarded, inclusive of case files that contains verification letters, case history notes, and referrals.

During the course of determining eligibility, the eligibility worker shall use prudent methods for gathering information. Only factual information relevant to the determination of eligibility will be sought and entered in the case file. The workers shall identify themselves by name, position, and purpose at each public contact.

Protecting System Information 449-20-30

(Revised 04/01/04 ML #2914)

In each of our unique job functions, we are granted access to information or data that is considered confidential. Information security is everyone's responsibility. Following are requirements for keeping the information stored in the computer system secured:

- When leaving your workstation for any reason, secure your computer by activating the password-protected screen saver or logging off the information systems.
- When leaving your workstation, place confidential information in locked storage.
- Do not share passwords with co-workers.
- Do not write down a password where they are easily discovered.
- Position your monitor so unauthorized personnel cannot easily view the screen or turn your monitor off when unauthorized personnel enter your work area to avoid displaying sensitive information.
- Practice good housekeeping and keep your work area well organized. Leaving sensitive documents in open view where unauthorized personnel can see, invites mischievous conduct.
- During an evacuation drill or real world emergency, such as fire, tornado, or flood, ensure your surroundings are secure before leaving your workstation.
- Save information to an appropriate network drive. This procedure protects vital information from being lost in the event of a hard disk crash at your computer. Information stored in the network is backed-up every night.
- Emails containing client information (name and/or social security number) should include one of the following disclaimers and the subject line of the email should not include client identifying information:

1. General Disclaimer -----Confidentiality Statement-----

This transmission is intended only for the use of the individual to whom it is addressed and may contain information that is made confidential by law. If you are not the intended recipient, you are hereby notified any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please respond immediately to the sender and then destroy the original transmission as well as any electronic or printed copies. Thank you.

2. Drug and Alcohol Disclaimer -----Confidentiality Statement--

This transmission is intended only for the use of the individual to whom it is addressed and may contain information that is made confidential by law. If you

are not the intended recipient, you are hereby notified any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please respond immediately to the sender and then destroy the original transmission as well as any electronic or printed copies. Thank you.

This notice accompanies a disclosure of information concerning a client in alcohol or drug treatment, made to you with the consent of such a client. This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

- Shred or otherwise dispose of sensitive information in accordance with office procedures or as otherwise instructed.
- Promptly report any virus activity to your area's computer technician.
- Close all your programs and properly shut down your computer at the end of each day.

Report any suspicious activity to the Division of Information Technology.

Release of Information to Public Officials 449-20-35

(Revised 04/01/04 ML #2914)

Recipients of assistance programs sometimes approach their legislators, members of the congressional delegation, or other elected or appointed official to complain or seek information about some aspect of their assistance status. On their behalf, the official may in turn seek clarification from county or state staff. Information received on recipients through a computer match from the Internal Revenue Service cannot be released under any circumstances to public officials.

Release or Disclosure of Information to Other Agencies 449-20-37 (Revised 4/1/2004 ML #2914)

In addition to purposes directly related to the administration of assistance programs, information concerning recipients is available to individuals and/or agency representatives of federal or federally assisted programs that provide aid, in cash or in-kind, or people on the basis of need. However, protected health information and information received through the computer database from the Internal Revenue Service and Social Security Administration cannot be disclosed to agencies outside the Economic Assistance Policy Division.

Food Stamp Program and TANF Program information may be disclosed to individuals administering SSI, the Jobs Opportunities and Basic Skills Program, BEST Program, Food Distribution Program (commodities) for households on or near Indian reservations, and may include agreements included in Memorandum of understandings between the Department and other agencies.

Information may be released if there is a Memorandum of Understanding with the Economic Assistance Policy Division with the exception of information received through the data base from the Internal Revenue Services and Social Security Administration.

Release of information to other individuals or agencies may be made with the recipient's signed consent, via [SFN 1059, "Authorization to Release Information."](#) (212 kb pdf)

Release of Information for Research Projects 449-20-40

(Revised 04/01/04 ML #2914)

Information concerning individuals applying for or receiving assistance or services through any program administered or supervised by the Department of Human Services may be released to a individual conducting bona fide research, provided that all conditions outlined in Section 75-01-02-02 of the North Dakota Administrative Code are met.

Information received through a computer match from the Internal Revenue Service cannot be released under any circumstances.

Release of Information from Case File to Recipient 449-20-45

(Revised 04/01/04 ML #2914)

The recipient or his or her legal representative may inspect case file information and copies of case materials, if requested, should be provided free or at reasonable cost. The file in some instances may contain medical or psychological information that, if inadequately explained and interpreted, could be harmful to the individual. When such is the case, recipient should be advised that the information would best be provided to an appropriate professional who, in turn, could interpret the material. If, however, the individual persists in his demand for personally receiving the information, it should be provided. In such situations, a narrative entry should clearly indicate that the request for information was granted but against agency recommendation.

Clients cannot authorize release of tax data information received through the computer match from the Internal Revenue Service. Clients, their court appointed representatives, and their legal guardians cannot have access to the client's tax information received through a computer match without the consent of the Internal Revenue Service.

Records Usage, Duplication, Redisclosure Restrictions, & Retention 449-20-50

(Revised 04/01/04 ML #2914)

1. The computer matches provided by Social Security Administration and the tax return information received as a UFO and BEER IEVS hits from the Internal Revenue Services must not be redisclosed or used for any purpose other than to determine eligibility or for the amount of benefits.
2. The department or county may disclose the Social Security Administration (SDX, BENDEX, and TPQY) information provided with the consent of the recipient.
3. The information provided by Social Security Administration cannot be used to extract information concerning individuals who are not recipients of the programs.
4. Information provided by Social Security Administration may not be duplicated or disseminated within or outside of the approved Economic Assistance Programs.
5. Information provided by Internal Revenue Service or Social Security Administration remains the property of the Internal Revenue Service or Social Security Administration and cannot be disclosed without the agencies consent.
6. Case files containing Social Security Administration information must be retained for three years after the closing date of the case or five years if the information has been redisclosed.
7. Complete records will be kept of any redisclosure of information obtained from Social Security Administration through a computer match. Redisclosure means Social Security Administration information given, without the

consent of the recipient, to another agency or individual who does not require the information to determine eligibility for an Economic Assistance Program. Records pertaining to redisclosures will be retained for a five- year period, or the life of the records, whichever is longer. These records will show:

1. What information was redisclosed;
 2. To whom the redisclosure was made;
 3. The purpose for redisclosure;
 4. The legal basis for redisclosure; and
 5. The name of the State agency official who authorized the redisclosure.
8. Breaches of access and disclosure of Social Security Administration must immediately be reported to Social Security Administration.
9. The Department will maintain fully automated audit trail of Social Security Administration information obtained through TPQY. The audit trail track the reason for the inquiry (Food Stamps, Medicaid, and/or TANF); the individual making the query; errors that result from the query (incorrect password); queries on recipients who are not known on the common database file; and queries on recipients who exist on the common database but does not have any history in TECS or Vision.

Interface Information and TECS Information Agree 449-20-55
(Revised 04/01/04 ML #2914)

If the income of an individual is within the established tolerance levels (see [449-20-70](#) for further information on tolerance levels), the computer system will report these findings automatically on a report in TECS. Staff will not be required to take any action on these individuals; however, the worker should review those alerts to determine whether possible fraudulent activities exist for non-reporting.

Verification Procedures 449-20-60

(Revised 04/01/04 ML #2914)

Information received through the IEVS should serve as a lead in exploring if income or an asset is currently available. In exploring the other leads, it is recommended that the following verification sequence be utilized, if necessary:

- (1) Case file
- (2) Contact with recipient
- (3) The third party reporting the income or asset
- (4) Other as deemed appropriate by county social service office

If a notice is sent to the recipient requesting to verify an IEVS hit that was received from the Internal Revenue Service, the security for the disclosures, storage, and disposal applies to the notice. IEVS match information is considered IRS tax return information up until the material is verified by the agency and all reference to the IRS information has been destroyed.

Documentation of Verification Results 449-20-65

(Revised 04/01/04 ML #2914)

A brief explanation of the verification findings must be documented in the case file. In many instances the explanation may be as simple as the following example: June 2002 UIB difference due to date check received or wage mismatch - person not employed after date, etc.

IEVS Tolerance Levels 449-20-70

(Revised 06/01/04 ML #2928)

Tolerance levels are established for UIB, Quarterly Report from Job Services, and wage matches from SSA, to reduce the number of interfaces that the eligibility worker will need to work in a 30 day period of time. These levels are described in the appropriate manual sections in this chapter.

Wage Match - Tolerance level all programs -- \$299.99.

UIB Match - Tolerance level all programs -- \$42.00.

UFO - Tolerance level for UFO -- \$49.99.

BEER - Tolerance level for BEER -- \$1199.99 per recipient per year.

Unemployment Insurance Benefit (UIB) 449-20-75

(Revised 04/01/04 ML #2914)

All TANF, Food Stamp, and Medicaid recipients will be matched against the Job Service UIB file on a monthly basis. Recipients being added to an existing case will be submitted for UIB information twice a month. The date of the UIB check is the date the check is written. The checks are always mailed the next working day; therefore, the "received date" needs to be considered according to the mailing date.

When the comparison of the UIB information is complete, document the findings in the case file and enter the findings on the IEVS tracking screen in TECS (IETR).

The established tolerance level for those individuals in receipt of unemployment benefits will not exceed \$42 per recipient per month. The reason for this level is because the minimum benefits are \$43 per week. If the information is within the tolerance level, it will automatically show on tracking screen in TECS as being correct. The eligibility worker will not be required to take action on those individuals; however, the eligibility worker should review those alerts to determine whether possible fraudulent activities exist for non-reporting. If the UIB amount is greater than the tolerance level, the worker must work the IEVS alert.

Overpayments/overissuances, as well as underpayments and underissuances need to be adjusted according to the TANF and Food Stamp policies.

If the recipient liability changed or a case was found ineligible for Medicaid, it is necessary to review the amount of Medicaid to determine if an error resulted. If an overpayment or underpayment existed, enter the amount into the computer system. (Then follow the usual procedures for correcting over/underpayments in the Medicaid policy manual.)

Wage Information - Job Service 449-20-80
(Revised 06/01/04 ML #2928)

All recipients that were included, as eligible, in a case during any month of the quarter will be submitted to Job Service on a quarterly basis to obtain wage information. All new recipients will be submitted on a semi-monthly frequency. Job Service will provide the latest available quarterly wage total, employer name(s) and address(es).

The established tolerance level for those individuals will be up to \$299.99 per recipient per quarter. If the information is within the tolerance level, it will automatically show on tracking screen as being correct. The eligibility worker will not be required to take action on those individuals; however, the eligibility worker should review those alerts to determine whether possible fraudulent activities exist for non-reporting. If the wage information is greater than the tolerance level, the worker must work the IEVS alert.

When the comparison of the wage quarterly report information is complete, document the findings in the case file and enter the findings on the IEVS tracking screen in TECS (IETR).

EVS UFO Resources 449-20-85

(Revised 06/01/04 ML #2928)

Interest amounts received in any amount less than \$49.99 for the reporting year per recipient will be excluded. This translates into accounts generally less than \$500 when applying the interest rate of 5%. If the information is within the tolerance level, it will automatically show on tracking screen as being correct. The eligibility worker will not be required to take action on those individuals; however, the eligibility worker should review those alerts to determine whether possible fraudulent activities exist for non-reporting. If the UFO information is greater than the tolerance level, the worker must work the IEVS alert.

Also, the following data elements will be excluded:

State/Local Tax Refund

Discharge of Indebtedness

Debt Outstanding

Debt Satisfied

Stocks and Bonds

Unemployment Compensation (for in-state payees only)

IEVS BENDEX - Wage, Self-Employment, and Pensions 449-20-90
(Revised 06/01/04 ML #2928)

Recipients will be matched with the Social Security Administration (BENDEX) to secure annual wage amounts, annual self-employment, and annual pension amounts. This information is received from the SSA but originated with the Internal Revenue Service. The Social Security Administration will keep all of the individuals on their computer file and will submit a tape, known as "BENDEX" to the state containing the calendar year totals as the new information is updated in their records. This information must be safeguarded, inclusive of case files that contain verification letters, case history notes, and referrals.

Ineligible/denied individuals will be deleted on a monthly basis from the IEVS BENDEX.

The Medicaid program will continue to use the data from the Social Security Administration with regards to in-state and out-of-state employers. The TANF and Food Stamp programs will use only the out-of-state information for annual wage matches from the Social Security Administration.

The established tolerance level for this match is up to \$1199.99 per year per client. For Medicaid, in-state and out-of-state employers will be shown. For TANF and Food Stamps, only out-of-state employers will be shown.

If the match is within the tolerance level, it will automatically show on the tracking screen as being correct. The eligibility worker will not be required to take action on those individuals; however, the eligibility worker should review those alerts to determine whether possible fraudulent activities exist for non-reporting. For Medicaid individuals, the alerts will need to be worked on the tracking screen as they will not be done automatically.

Notices and Use of IEVS 449-20-95

(Revised 05/01/08 ML #3138)

Benefit information received on Internal Revenue Service (UFO and BEER), Social Security benefits, SSI, wage match with Job Service North Dakota, and UIB shall be considered verified unless there is a discrepancy. If a discrepancy is found between these sources and what the recipient reported, proper notice must be given to recipients prior to closing or reducing benefits.

Information obtained on potential assets or incomes listed above are considered "leads only" and may require additional information not contained in the case file.

In these situations, for TANF and Medicaid, the IEVS Assets Verification notice or IEVS Income Verification notice should be mailed to the household informing them that they must clarify the potential assets or incomes within 30 days.

If the household fails to respond within these 30 days, a notice of adverse action, IEVS Notice to Reduce or Close Case, must be sent advising the household that their case will be closed; however, the verification process will continue. The county social service office should directly contact the reporting third party to assist in determining the proper payment amount or to arrive at the correct amounts of overpayment.

If the county social service office is unable to obtain the information requested, the worker is able to use the quarterly wage match, for example, and divide that figure by three to determine the amount of overpayment for those months.

For Food Stamps, quarterly wage matches through IEVS alerts are only acted on if verification is obtained for Medicaid or TANF.

Reporting 449-20-100

(Revised 04/01/04 ML #2914)

Federal requirements include the number of individuals sent to each interface source, individual applications denied, recipients whose benefits were terminated or modified and the dollar value of each, and the number of days used to review the matched individuals.

Some of these reporting requirements will be done automatically. A tracking screen has been designed to report all findings, which in turn, will be placed on the report by the system.

Recoupments/Underpayments 449-20-105

(Revised 04/01/04 ML #2914)

The procedures written in the policy manuals for each program must be followed in determining how each recoupment is to be made or how to correct any underpayments.

Time to Complete IEVS Alerts 449-20-110

(Revised 04/01/04 ML #2914)

Verification of at least 80% of the alerts that exceed the established tolerance levels must be completed within 30 calendar days after the receipt of the computer tape. This federal requirement will be tracked by TECS using the tape date and the completion of the IEVS tracking screen (IETR) in TECS.

Record Keeping (IEVS) 449-20-115

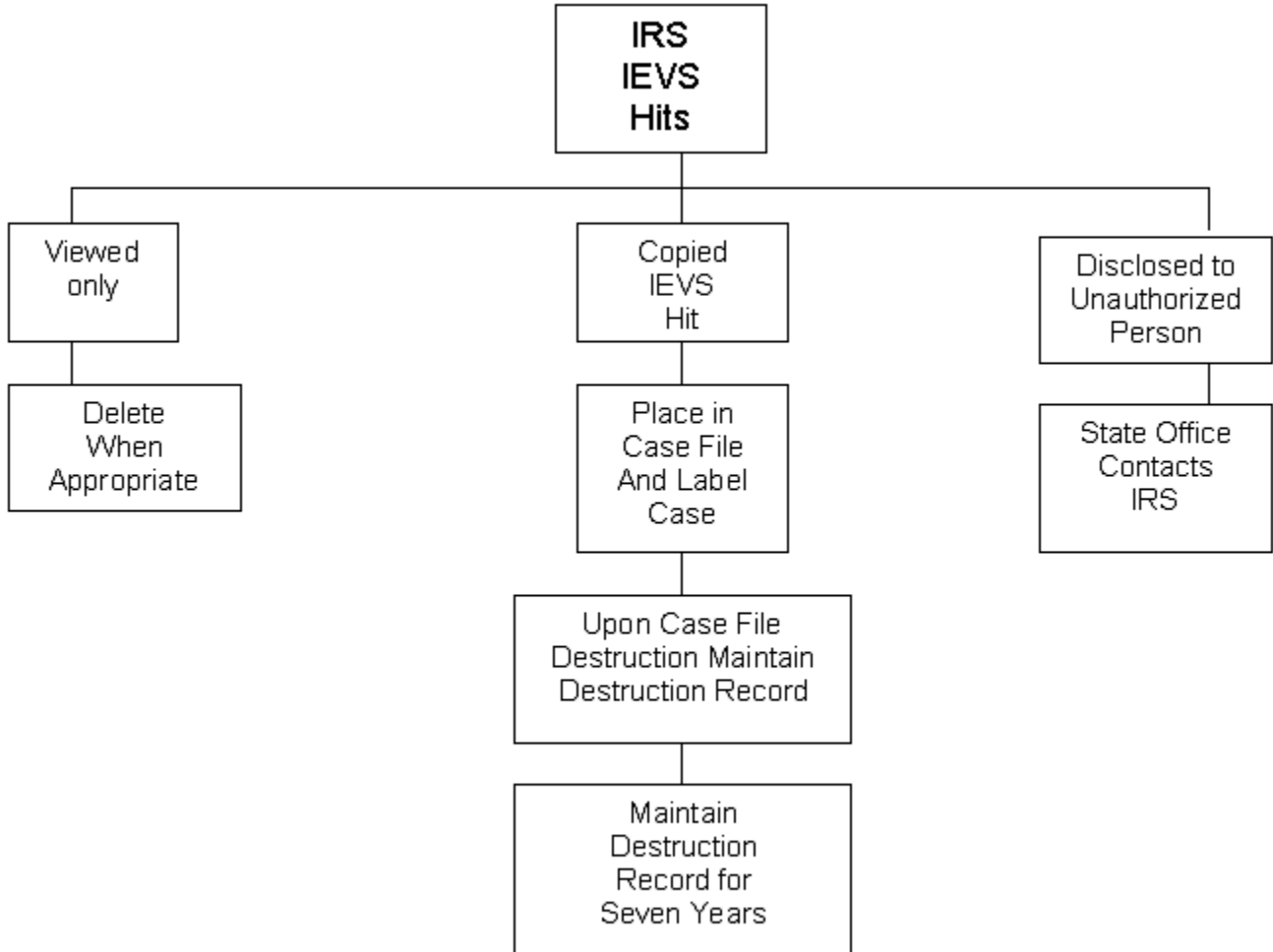
(Revised 04/01/04 ML #2914)

The county social service office shall maintain a system of standardized records of case files containing Federal tax return information received through a computer match. Each county social service office shall maintain a permanent system of records that documents all paper case files with IEVS 'hits' information.

Local county offices are to maintain destruction records that identify what Federal tax information (UFO or BENDEX-wage, self-employment, and pension) received through a computer match were destroyed, the date, and method of destruction. Also, the name of the employee who destroyed or witnessed actual destruction of the tax data should be recorded. These records must be kept by county social service offices for five years. Destruction records that do not contain federal tax information received through a computer match should be kept for three years.

Workers will lock-up their case files that contain Federal tax return information received through a computer match during office hours and when gone from their offices for significant periods of time.

FLOW CHART IRS IEVS Hits



Unauthorized Disclosure 449-20-120

(Revised 04/01/04 ML #2914)

Federal law requires that each employee be aware of the unauthorized disclosure of taxpayer information received through a computer match from Internal Revenue Service and Social Security Administration.

Data received through a computer match from Internal Revenue Service and Social Security Administration is confidential and must be safeguarded. Wherever that information is entered/transposed it must be safeguarded, inclusive of case files that contains verification letters, case history notes, and referrals.

Civil Damages for Unauthorized Disclosure of Returns & Return Information (IRC Section 7431) 449-20-120-05

(Revised 04/01/04 ML #2914)

1. In general:

(1) Disclosure by employee of United States: If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Disclosure by a person who is not an employee of United States: If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

2. No liability for good faith but erroneous interpretation: No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

3. Damages: In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of:

(1) The greater of:

(A) \$1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

(B) The sum of:

- i. The actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus
- ii. In the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

(2) The costs of the action.

4. Period for bringing action: Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard

to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

5. Return; return information: For purposes of this section, the terms "return" and "return information" have the respective meanings given such terms in section 6103(b).
6. Extension to information obtained under section 3406: For purposes of this section:
 - (1) Any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and
 - (2) Any use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103.

For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

IRC Section 6103 – Confidentiality and Disclosure of Returns and Return Information

(a) General Rule – Returns and return information shall be confidential, and except as authorized by this title -

- (1) no officer or employee of the United States,
- (2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (1)(7)(D) who has or had access to returns or return information under this section, and
- (3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (c)(1)(D)(iii), paragraph (6) or (12) of subsection (1), paragraph (2) or (4) (B) of subsection (in), or subsection (n), shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes on this subsection, the term "officer or employee" includes a former officer or employee.

(b) Definitions – For purposes of this section -

- (1) Return – The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereof, including

supporting schedules, attachments, or lists which are supplemental to, or part of the return filed.

(2)Return Information – The term “return information” means -

- (A) a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, network, tax liability, tax withheld, deficiencies, over assessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and
- (B) any part of any written determination or any background file document relating to such written determination [as such terms are defined in section 6110(b)] which is not open to the public inspection under 6110, but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Nothing in the preceding sentence, or in any other provision of the law, shall be construed to require the disclosure of standards used or to be used for the selection of returns for examination, or data used or to be used for determining such standards, if the Secretary determines that such disclosure will seriously impair assessment, collection, or enforcement under the internal revenue laws.

(3)Taxpayer Return Information – The term “taxpayer return information” means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

(4)Tax Administration – The term “tax administration” -

a. means -

- i. the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws and related statues (or equivalent laws and statutes of a State) and tax convention to which the United States in a party, and
- ii. the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes and tax convention and

b. includes assessments, collection, enforcement, litigation, publication and statistical gathering functions under such laws, statutes, or conventions.

- (5) State – The term “state” means -
- a. any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and
 - b. for purposes of subsection (a)(2), (b)(4), (d)(1), (h)(4) and (p) any municipality-
 - i. with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),
 - ii. which imposes a tax on income or wages, and
 - iii. with which the Secretary (in his sole discretion) has entered into an agreement regarding dis- closure.
- (6) Taxpayer Identity – The term “taxpayer identity” means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof,
- (7) Inspection – The term “inspected” and “inspection” mean any examination of a return or return information.
- (8) Disclosure – The term “disclosure” means the making known to any person in any manner whatever a return or return information.
- (9) Federal Agency – The term “Federal agency” means an agency within the meaning of section 551 (1) of title 5, United States Code.
- (10) Chief Executive Officer – The term “chief executive officer” means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.

Section 6103 (p)(4) Safeguards

- (4) Safeguards – Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1), (2), or (5), (k)(8), (1)(1), (2), (3), (5), (10), (11), (13), (14), (15), (17), or (o) (1), the General Accounting Office, or any agency, body, or commission described in subsection (d), (i), (3)(B)(i) or (1)(6), (7), (8), (9), (12) or [sic] (15), (16), or any person described in subsection (1)(16) shall, as a condition for receiving returns or return information -
- a. establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized

- (A) records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;
- (B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;
- (C) restrict, to the satisfaction of the Secretary, access to the returns and return information only to person whose duties or responsibilities require access to whom disclosure may be made under the provisions of this title;
- (D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary to appropriate to protect the confidentiality of the returns and return information;
- (E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and
- (F) upon completion of use of such returns or return information -
 - (i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (1)(6), (7), (8), (9), or (16) or any other person described in subsection (1)(16) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns and return information undisclosable in any manner and furnish a written report to the Secretary describing such manner.
 - (ii) in the case of an agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j) (1), (2), or (5), (1)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), or (17), or (o)(1), or the General Accounting Office, either -
 - (1) return to the Secretary such returns or return information (along with any copies made therefrom)
 - (2) otherwise make such returns or return information undisclosable, or
 - (3) to the extent not so returned or made undisclosable, ensure that the conditions of sub- paragraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns and return information, and
 - (iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such information upon

completion of its use in providing for which the information was obtained, so as to make such information undisclosable; except that conditions of subparagraph (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return information is disclosed in the course of any judicial or administrative proceedings and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission including an agency or any other person described in subsection (1)(16) or the General Accounting Office has failed to, or does not, meet requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns, or return information to such agency, body, or commission including an agency or any other person described in subsection (1)(16) or the General Accounting Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under paragraph (2), (4), (6) or (7) of subsection (m) and which discloses any such mailing address to any agent, or which receives any information to any agent or which receives any information under paragraph (6)(A), 12(B) or (16) of subsection (1) and which discloses any such information to any agent or any person including an agent described in subsection (1) (16), any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term "return information" includes related blood donor records (as defined in section 1141 (h)(2) of the Social Security Act).

Section 7213 – Unauthorized Disclosure of Information of Internal Revenue Data

Section 7213

1. Returns and return information

- (1) Federal employees and other persons: It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title,

any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

- (2) State and other employees: It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (I(3)B)(I), (1)(6), (7), (8), (9), or (10) or (m)(2), (4), or (6) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.
- (3) Other persons: It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.
- (4) Solicitation: It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.
- (5) Shareholders: It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution. (See 05-35-01, Confidentiality and disclosure of Returns and Return Information and 05-35-03. Unauthorized disclosure of Information.)

Unauthorized Disclosure of Social Security Administration Data 449-20-120-10

(Revised 04/01/04 ML #2914)

Unauthorized disclosure of Social Security Administration transmitted data by an individual shall be deemed guilty of a felony and upon conviction thereof, shall be punished by a fine not exceeding \$10,000 for each occurrence of a violation, or by imprisonment not exceeding 5 years or both in accordance with section 1106 [42 U.S.C. 1306] (a)(1).

The state and or county social service offices will immediately report breaches of access and disclosure requirements applicable to SOLQ operation to the State Safeguard and Security Coordinator.

Unauthorized Inspection of Returns or Return Information (IRC Section 7213A) 449-20-120-15

(Revised 03/01/04 ML2914)

DEFINITIONS – For purposes of this section, the terms "inspect," "return," and "return information" have respective meanings given such terms by section 6103(b).

1. PROHIBITIONS –

(1) **FEDERAL EMPLOYEES AND OTHER PERSONS.** – It shall be unlawful for –

(A) any officer or employee of the United States, or

(B) any person described in section 6103(n) or an officer willfully to inspect, except as authorized in this title, any return or return information.

(2) **STATE AND OTHER EMPLOYEES.** – It shall be unlawful for any persons [not described in paragraph (1)] willfully to inspect, except as authorized by this title, any return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

2. PENALTY –

(1) **IN GENERAL.** – Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

(2) **FEDERAL OFFICERS OR EMPLOYEES.** – An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

IEVS Specifications Glossary 449-20-125

(Revised 04/01/04 ML #2914)

Definitions are found under the form on which information is reported.

This glossary is only a guideline of definitions to help local offices in understanding the meaning of data received. It is a list of unofficial definitions that cannot be used in any legal action. Legal definitions must take precedence in a court of law.

Form W2-G – Statement of Gambling Winnings. This form is used to report gross income from gambling winnings and any federal income tax withheld on those winnings. The types of gambling are as follows: Horse racing, dog racing, Jai Ala, sweepstakes, wagering pools, lotteries, bingo, keno, slot machines, and other wagering transactions. Generally, gambling winnings are reportable if the amount paid reduced, at the option of the payer, by the wager is (a) \$600 or more and (b) at least 300 times the amount of the wager. However, these requirements do not apply to winnings from bingo, keno, and slot machines. If the winnings from a keno game (reduced by the wager) are \$1,500 or more, they are reportable gambling winnings. If the winnings (not reduced by the wager) from a bingo game or slot machine are \$1,200 or more, they are reportable gambling winnings.

Form W2-G

Gross Winnings

Additional Winnings from Identical Wager

Form 1041-K1 – Beneficiary’s Share of Income, Credits, Deductions, etc.

Dividends – Distribution of money, stock, or other property from an estate or trust.

Interest – Beneficiary’s share of taxable income from accounts with banks, credit unions and thrifts (e.g., certificates of deposit and money market accounts).

Business Income and Other Nonpassive Income – Beneficiary’s share of annuities, royalties, or any other income not subject to passive activity limitation.

Passive Income – Rental income from trade or business activities in which beneficiary did not materially participate.

Short Term Capital Gain – Income from installment sales, like-kind exchanges and/or other partnerships and fiduciaries of less than one year.

Long Term Capital Gain – Income from installment sales, like-kind exchanges and/or other partnerships and fiduciaries of more than one year.

Form 1065-K1 – Is an information return used to report the income, deductions, gains, losses, etc., from the operation of a partnership. A partnership does not pay tax on its income and passes through any profits or losses to its partners.

Dividends – Distribution of money, stock, or other property from partnership.

Interest – Income from or credited to: accounts (including certificates of deposit and money market accounts) with banks, credit unions and savings and loan associations; building and loan accounts; notes, loans, mortgages; tax refunds; insurance companies if paid or credited on dividends left with the company; bonds and debentures; also arbitrage bonds issued by State and local governments after October 9, 1969; gain on the disposition of certain market discount bonds to the extent of the accrued market discount; U.S. savings bonds which include: total interest when bond is cashed or when bond reaches maturity and no longer earns interest; or yearly increase in the bond(s)' value.

Royalties – Income from oil, gas, mineral properties, copyrights and patents.

Ordinary Income – Share of income (loss) from trade or business activities of partnership.

Real Estate – Income (loss) from activity in which partner did not materially participate.

Other Rental – Income (loss) activity in which partner did not materially participate. Guaranteed Payments – Partner's share of income for service.

Short Term Capital Gain – Income (loss) from partnership of less than one year. Long Term Capital Gain – Income (loss) from partnership of more than one year.

Form 1120S K1 – Shareholder's Share of Undistributed Taxable Income, Credits, Deductions, etc.

Dividends – The distribution of cash, value of stock, property or merchandise received as a shareholder (e.g., mutual fund).

Interest – Income from or credited to: accounts (including certificates of deposit and money market accounts) with banks, credit unions and savings and loan associations; buildings and loan accounts; notes, loans and mortgages; tax refunds; insurance companies if paid or credited on dividends left with the company; bonds and debentures; also arbitrage bonds issued by State and local governments after October 9, 1969; gain on the disposition of certain market discount bonds to the extent of the accrued market discount; U.S. Treasury bills, notes and bonds; U.S. savings bonds including total interest when bond is cashed or when bond reaches maturity and no longer earns interest; or yearly increase in the bond(s)' value; income received or credited to an account that may be withdrawn.

Royalties – Income from oil, gas, mineral properties, copyrights and patents.

Ordinary Income – Shareholder's pro rata share of ordinary income, loss, deductions, credits and other information from all corporate activities.

Real Estate – Net income (loss) in which shareholder did not materially participate.

Other Rental – Net income (loss) from other rental activity in which shareholder did not materially participate.

Short Term Capital Gain – Income from sales and exchanges of capital assets, including stocks, bonds, etc. and real estate held for less than one year.

Long Term Capital Gain – Income from sales and exchanges of capital assets, including stocks, bonds, etc. and real estate held for more than one year.

Form 1099-G – Statement for Recipients of Certain Government Payments

Unemployment Compensation – Payments of unemployment compensation including Unemployment Compensation paid by Railroad Retirement Board payments.

Prior Year Refund – Refunds, credits, or offsets of state or local income.

Taxable Grant – A grant administered by a Federal, state or local program to provide subsidized energy financing or grants for projects designed to conserve or produce energy. Also reported are other taxable Federal grants of \$600 or more. There is no underlying asset account. The money field is positive.

Agricultural Subsidies – U.S.D.A. agricultural subsidy payments made to recipients during the year. Form 1099-G reports the actual owner of the payments.

Taxable State Tuition – Earnings part of qualified state tuition program payments

made to the designated beneficiary or account owner.

Forms 1099-DIV – Statement for Recipients of Dividends and Distributions – Is used to report dividends and distributions for each person: to whom an individual has paid dividends (including capital gains dividends) and other distributions on stock of \$10 or more; for whom an individual has withheld and paid any foreign tax on dividends and other distributions on stock; for whom an individual has withheld any federal income tax under the backup withholding rules; or to whom an individual paid \$600 or more as part of a liquidation.

Capital Gains – Amount of total capital gain distributions (long-term). Capital gain net income is the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges or an asset given this effect under the Internal Revenue Code.

Non-Taxable Distributions – Amount of non-taxable distribution. Generally, any distribution made out of earnings and profits by a corporation to its stockholders is considered a dividend.

Cash Liquidation Distribution – Amount of cash distributed as part of a corporation's partial or complete liquidation.

Non-Cash Liquidation Distribution – Fair market value (at time of distribution) of non-cash distributions made as part of partial or complete liquidation of a corporation.

Dividends Qualifying for Exclusion – Taxable dividend distributions from life insurance contracts, exempt-interest dividends from regulated investment companies, substitute payments in lieu of dividends, and payments made to certain payees including a corporation; tax-exempt organization; any IRA; U.S. agency, state, the District of Columbia; U.S. possession; or registered securities or commodities.

Ordinary Dividend – Amount of ordinary dividends, including those from money market funds and net short-term capital gains from mutual funds, and other distributions on stock.

28% Rate Gain – Any amount of capital gains (IND 23) that is 28% rate gain.

Unrecaptured Section 1250 Gain – Any amount of capital gains (IND 23) that is section 1250 gain from certain depreciable real property.

Section 1202 Gain – Any amount of capital gains (IND 23) that is section 1202 gain from certain qualified small business stock.

Forms 1099-INT – Statement of Recipients of Interest Income.

Interest - Amounts paid or credited by: savings & loan associations, banks, building & loan associations, credit unions or similar organizations; bank deposits, accumulated dividends paid by life insurance companies, indebtedness (bonds, debentures, notes and certificates); in course of trade or business; delayed death benefits from insurance companies; accrued to a REMIC regular interest holder, or paid to a CDO holder.

Savings Bonds – Interest paid on U.S. Savings Bonds, Treasury Bills, Treasury Bonds and Treasury Notes.

Form 1099-PATR – Statement for Recipients of Taxable Distributions Received from Cooperatives.

Patronage Dividends – Cash, written notice of allocation or other property distribution by a farmer’s cooperative.

Non-patronage Dividends – Cash written notice of allocation or other property distribution by a farmer’s cooperative. Retained Allocations – Cash, per-unit retail certificates and other property distributed by a cooperative.

Redemption Amount – Value of written notice of allocation issued as patronage dividends.

Form 1099-B – Statement for Recipients of Proceeds from Real Estate Brokers and Barter Exchange Transactions – Items below relate to the proceeds from broker and barter exchange transactions. Form 1099-B reports proceeds paid from broker and barter exchange transactions for each person for whom the broker has sold (including short sales) stock, bonds, commodities, regulated futures, contracts, foreign currency contracts, forward contracts, debt instruments, etc., or who exchanged property or services through the barter exchange.

Bartering – Gross amounts received by a member or client of a barter exchange for good or services. This includes cash received, the fair market value of any property or services received, the fair market value of any trade credit or scrip credited to the member’s or client’s account.

Aggregate Profit and Loss – Total profit (loss) from regulated futures or foreign currency contracts. Realized Profit or Loss – Profit (loss) realized on closed regulated futures or foreign currency contracts.

Stocks and Bonds – Gross proceeds from disposition of securities (including short

sales), commodities, or forward contracts.

Form 1099-MISC – Statements for Recipients of Miscellaneous Income.

Medical Payments – Payments made in the course of trade or business to each physician or other supplier or provider of medical or health care services, including payments made by medical and health care insurer under health, accident, and sickness insurance programs.

Rents – Income received as rents; e.g., owner of housing projects, real estate rentals for office space, machine rentals and pasture rentals.

Royalties – Income paid from oil, gas, mineral properties, copyrights and patents.

Substitute – Total payments received by a broker on behalf of a taxpayer in lieu of dividends or interest as a result of a transfer of a taxpayer's securities for use in a short sale.

Other Income – Income not reportable in other boxes on form; e.g., prizes and awards, punitive damages, deceased employee's wages paid to estate or beneficiary.

Form 1099-OID – Statement for Recipients of Original Issue Discount.

Interest – Amount paid or credited. The difference between the stated redemption price at maturity and the issue price of a debt instrument.

Original Issue Discount – The difference between the issue price of a debt instrument (e.g., stock, bond or promissory note) and the stated redemption price at maturity.

Original Issue Discount on Treasury Obligations – Amount of OID on U.S. Treasury obligation for the part of the year it was owned by the record holder.

Form 1099-R – Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc.

Gross Distributions – Total amount of distribution from pensions (including disability), profit-sharing plans, retirement plans, employee savings plans and/or annuities before income tax or other deductions are withheld. Includes premiums paid by a trustee or custodian for current life or other insurance protection, or IRA or SEP distributions. Savings bonds distributed from a pension plan, death benefit payments and death payments made by employers that are not part of a plan. In the case of a distribution representing CD's, the net amount is reported.

Unrealized Appreciation – Portion of distribution that represents net unrealized

appreciation in securities of the employer corporation (or subsidiary or parent corporation) attributable to employee contributions.

Other Income – Actuarial value of annuity contract or retirement bond, retirement account exchange or death benefit payment that is part of a lump-sum distribution.

Form 1099-LTC – Distributions from Long Term Care Insurance Contract, gross benefits, and accelerated death benefits paid.

Form 1099-MSA – Distributions from Medical Savings Accounts, earnings on distributive excess contributions and gross benefits.

Form SSA-1099 – Social Security Benefit Statement – Total benefits paid – gross amount of benefits the individual is entitled to for the current tax year. This amount is prior to subtracting the amount of any benefit checks returned, adjustments for disability payments, work, overpayments and/or cash repayments.

Form 1099-S – Statement for Recipients of Proceeds from Real Estate Transactions. Real Estate Sales – Gross proceeds from sale or exchange of real estate.

Several of the IRS documents available that can give you information are listed below. These can be obtained from your local IRS office.

Instruction to Filers of Form 1099, 1098, 5498, 1096, and W2-G

Publication 916, Information Returns

Publication 550, Investment Income and Expenses Publication 525,

Taxable and Non-Taxable Income

Publication 905, Tax Information Unemployment Compensation

Training 449-20-130

(Revised 04/01/04 ML #2914)

County and state employees who have access to Internal Revenue Service information received through a computer match and Social Security Administration received through a computer match are required to receive initial and annual safeguard training. The training includes Internal Revenue Service requirements, Social Security Administration requirements, confidentiality requirements, and the Privacy Act. The training addresses statutes governing the release of such data and penalties for unauthorized access to, or unauthorized disclosure of such data. The county offices are responsible for training new workers. The Department of Human Services provides the annual trainings.

Verification of Citizenship or Alien Status - Systematic Alien Verification for Entitlements (SAVE) 449-25

Authority Reference 449-25-05

(Revised 09/01/04 ML #2937)

Congress passed the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, which required the Immigration and Naturalization Service (INS) to establish a system for verifying the immigration status of non-citizens applicants for, and recipients of, certain types of federally funded benefits, and to make the system available to Federal, state, and local benefit issuing agencies and institutions that administer such benefits.

Purpose and Overview 449-25-10

(Revised 09/1/04 ML #2937)

As a condition of eligibility for TANF, Child Care Assistance, Food Stamps, and Medicaid, Section 121 of the Immigration Reform and Control Act of 1986 and Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires an individual to declare in writing, under penalty of perjury, that he or she is a citizen or national of the United States. If not a citizen or national, the individual must present documentation showing satisfactory immigration status. The immigration status must be verified by the county social service office with the Immigration and Naturalization Service (INS). Through this verification process, ineligible individuals will be eliminated from program participation.

INS makes the determination if an individual is an illegal alien. The worker does not make this determination and must not report an individual to INS as an illegal alien unless the following occurred:

1. Unlawful presence must be a finding of fact or conclusion of law that is made as part of a formal determination that is subject to administrative review on an alien's claim, and
2. The finding or conclusion of unlawful presence must be supported by a determination by INS or the Executive Office of Immigration Review, such as a Final Order of Deportation.

Required Documentation 449-25-15

(Revised 04/01/04 ML #2914)

All alien applicants must present original documentation of alien registration. U.S.C. 1304, Title 8, Section 264 states that aliens in the United States must have immigration documentation in their possession at all times. Aliens without documentation should be referred to the nearest INS office to request new documentation prior to primary or secondary verification procedures.

Most alien applicants will present documentation that contains an Alien Registration Number (A-Number). This A- Number references that individual's Alien File in INS. The A-Number contains seven or eight numeric digits preceded by the letter "A", e.g., A24 786 899. Each A-Number is unique in that it pertains to one person only; even infants in the U.S. as immigrants are assigned individual A-Numbers. For further information, refer to Systematic Alien Verification for Entitlements (SAVE) Program user manual.

The SAVE verification procedures will be used when an alien presents a card or other document containing the alien registration number and the alien's current residence status. The purpose of the verification with INS is to insure that the person is carrying a legally issued card. (United States citizens, United States born nationals, or refugees do not require SAVE verification.)

Immigration documents (all of which can be photocopied with the original returned immediately to the recipient) include but are not limited to the following:

Resident Alien Card (Form I-551)

Conditional Resident Alien Card (Form I-551)¹

Alien Registration Receipt Card (Form I-151)

Alien Registration Receipt Card (Form AR-3A)

Memorandum of Creation of Record of Lawful Permanent Residence (Form I-181)

Fee Receipt (Form I-689)¹

Employment Authorization Card (Form I-668A)¹

Temporary Resident Card (Form I-688)¹

Arrival-Departure Record (Form I-94)^{1, 2}

Reentry Permit (Form I-327)¹

Refugee Travel Document (Form I-571)¹

¹These forms have expiration dates. The dates should be checked during initial visual examination. ²This form does not show the A-Number of the bearer. Other forms listed include the A-Number.

Primary and Additional Verification 449-25-20

(Revised 09/01/04 ML #2937)

Primary Verification

The county social service office will use the Alien Verification for Entitlements (SAVE) Program website verification information system as the primary verification source. The website contains information on millions of aliens. The website is housed and maintained by Customer Processing System (CPS). CPS is provided by the Department of Homeland Security (DHS) and verifies the immigration status of non-citizens applying for various benefits. This process is known as primary verification.

Additional Verification

There are several reasons for submitting an Additional Verification request including:

- The Initial System Response was "Institute Additional Verification."
- The information in the Initial Response section did not match on the immigration documentation provided by the non-citizen.
- The Initial System Response provided limited information.
- Only the I-94 number is available. Requesting Additional Verification does not take the place of Secondary Verification.

The system will immediately return the status of "DHS Verification in Process." The Additional Verification request is then sent to an Immigration Status Verifier to be processed. The response time for Additional Verification is **3 to 5 days**. Return to the system to check the status verifier's response.

For further information, see the SAVE User Manual.

Web Access 449-25-25

(Revised 09/01/04 ML #2937)

The following instructions apply to accessing the Alien Verification for Entitlements (SAVE) Program verification information system through a website on the Internet.

To access the website, enter the web address as follows: <https://www.vis-dhs.com/WebOne/vislogin.aspx?JS=YES> in the line of the web browser on the Internet Explorer and Netscape.

General User (Eligibility Workers) Navigation

The General User has three major categories available: Case Administration, user Administration, and Reports.

- Case Administration has three selections available for queries of Alien numbers and viewing the results of those queries: Initial Verification, Additional Verification (for I-94 numbers), and view cases.
- User Administration contains those functions that allow users to maintain their own account information. This includes Change Password and Change Profile.
- Report category contains the link to the report launcher. The link is labeled View Reports.

Supervisor (Eligibility Worker Supervisor and State Office Staff) Navigation

The Supervisor has four major categories available: Case Administration, User Administration, Site Administration, and Reports.

Case Administration has three selections available for queries of Alien numbers and viewing the results of those queries: **Initial Verification, Additional Verification** (for I-94 numbers), **and View Cases**. Supervisors have the ability to view and continue to work cases assigned to other users in their department, as well as perform their own verifications.

User Administration contains those functions that allow users to maintain their own account information. This includes **Change Password** and **Change Profile**.

Site Administration menu for a Supervisor displays the functions for managing the

Department: **Add User, View Users, Change Address,** and **View Groups.**

For further information, see the SAVE User Manual.

Hold Harmless 449-25-30

(Revised 04/01/04 ML #2914)

An applicant may present an INS document containing the individual's alien admission number or alien file number instead of the A-Number. If the documents appear to be real the case should be processed without waiting for the receipt of the secondary verification to be returned by INS.

All three federal agencies have agreed to a hold harmless provision. States will not be charged with eligibility errors for presumptive eligibility as long as a copy of the document is in the case file.

Secondary Verification 449-25-35

(Revised 09/01/04 ML #2937)

Before requesting secondary verification, perform primary verification for most non-citizen recipients using the SAVE website. Additionally, secondary verification should occur after:

- The Alien Verification for Entitlements (SAVE) system returns a response of "Institute Secondary Verification."
- A material discrepancy between a recipient's immigration documentation and the record contained in the Alien Verification for Entitlements (SAVE) system exists.
- A non-citizen claims they obtained Lawful Permanent (or Conditional) Resident Status because they were a battered alien, a parent of a battered child(ren), or a victim of domestic violence.
- Sponsorship information from the non-citizen's Affidavit of Support (Form I864) is required.

Secondary verification is the process of submitting a paper form request to INS for an individual's alien status verification. This will be accomplished on [Form G-845S, "Document Verification Request."](#)

Under most circumstances, an automated check of INS records through the Alien Verification for Entitlements (SAVE) system is the first step in the verification process. However, the following circumstances require that the benefit provider forego the use of the Alien Verification for Entitlements (SAVE) system and perform secondary verification immediately:

- A document appears to be counterfeit or altered. Characteristics of suspect documentation include photograph substitution and ink discoloration.
- A non-citizen presents unfamiliar INS documentation, or a document that indicates immigration status, but
- does not contain an A-Number.
- A non-citizen presents immigration documentation with an A-Number in the 60,000,000 or 80,000,000 series.
- The non-citizen presents a foreign passport and/or Form I-94 and the "Admission for Permanent Residence" endorsement is more than one year old.
- The recipient presents a Certificate of Naturalization or a Certificate of Citizenship and verification of U.S. citizen status is required.

If the recipient presents expired immigration documents or is unable to present any immigration documentation evidencing his or her immigration status, the benefit issuing agency or institution should refer the individual to the local INS office to

obtain documentation of status. In unusual cases involving individuals who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the individual can provide other identifying documentation i.e., marriage records, court orders, etc., the county social service office may file Form G-845S and if applicable, copies of any expired INS documents presented, with the local INS office to verify immigration status.

For further information, see the SAVE User Manual.

Obtaining Secondary Verification 449-25-40

(Revised 09/01/04 ML #2937)

To obtain secondary verification complete a Form G-845S, "Document Verification Request," and forward it with a fully readable photocopy (front & back) of the alien's immigration documents to INS, at the following address:

Immigration and Naturalization Services

Attention: Immigration Status Verifier

2901 Metro Drive, Suite 100

Bloomington, MN 55425

Telephone Number 952-853-2930

A separate Form G-845S must be completed for each applicant. Refer to the Systematic Alien Verification for Entitlements (SAVE) Program User Manual for further information and section 449-25-35 of this section.

Quality Control 449-30

Purpose of Quality Control 449-30-05

(Revised 04/01/04 ML #2914)

The North Dakota Department of Human Services maintains a quality control system in accordance with federal regulations to provide data on the accuracy with which the administering agency is applying state eligibility and payment requirements. The data is used as a management tool by state and federal administrators, as well as a fiscal audit to validate expenditures. Quality Control is a continuous review of a statistically valid, reliable, statewide random sample of active and negative (closed/denied/suspended) Food Stamp and Medicaid cases. The review process includes review of case files, recipient interviews, and collateral contacts to verify elements of eligibility defined by federal regulations, taking into account all approved waivers and State options that have been implemented at the time of sampled review month. The value of the QC system is in the statistical inference that can be drawn from facts about the sampled population. A review gathers considerable statistical data that is used to profile information in the national caseload.

The U.S. Department of Agriculture (USDA) subsequently completes a re-review of a portion of sampled cases and annually completes a Food Stamp Quality Control management review. The Centers for Medicare and Medicaid Services (CMS), periodically completes Medicaid Quality Control management reviews.

Quality Control Review 449-30-10

(Revised 04/01/04 ML #2914)

When conducting a quality control review, the reviewer may secure needed information from records in the county social service office, and may make use of certain office resources, such as computer listings, for securing further information. However, the quality control review will be conducted independently of the county staff. The house- hold's case file will be the reviewer's primary source of information regarding the worker's action and documentation in determining eligibility. Reviewers will make field contacts to determine accuracy of the action. The North Dakota State Plan and state/federal policies in effect at the time of the sampled review month shall be the reviewer's sole source of information regarding proper policies and procedures that should have been applied by the worker with respect to factors of eligibility and amount of benefits.

Quality Control Review Findings 449-30-10-05

(Revised 04/01/04 ML #2914)

Quality Control shall provide notification of the results of each review, electronically via the TECS mailbox through the use of the "Quality Control Results Entry."

Cases found to be correct:

Notices will be sent to the worker, county supervisor, county director, regional representative, and state program administrator on each review found to be correct to indicate that a review has been completed and that Quality Control concurs with the agency determination. Notices are informational only and do not require a response.

Cases in which an error is noted:

Upon state program administrator approval of error findings, notices will be sent to the worker, county supervisor, county director, regional representative, state program administrator, and the Quality Control reviewer. To comply with the required federal Quality Control case completion deadline of 95 days of the end of the sample month, error cases will require the following action:

1. Within 20 days of the error notice, the county social service office will respond electronically to the appropriate program administrator (or designee), with a copy to the regional representative, and Quality Control director acknowledging agreement or disagreement of the finding, including providing sufficient other information to challenge the Quality Control finding.
2. The program administrator and the Quality Control director will review all challenges and either agree or disagree with the challenge. The program administrator will respond electronically to the county social service office with a copy to the regional representative, and Quality Control director with the appropriate clarification. Should the challenge result in a change of the original Quality Control finding, a revised Quality Control result will be issued.

Availability of Quality Control Reviews 449-30-10-10

(Revised 04/01/04 ML #2914)

Quality Control will not provide the county social service office with a copy of the complete Quality Control review. The worker is entitled to use Quality Control verifications to challenge or to correct cases. Requests for verifications should be directed through the director of Quality Control.

Household Refusal to Cooperate - Food Stamp Program 449-30-10-15

(Revised 04/01/04 ML #2914)

Household cooperation with Quality Control is a requirement of eligibility for the Food Stamp program. Quality Control will notify the county social service office electronically, when a household refuses to cooperate. The worker must send Notice F441 - QC Review Non-compliance Closure, terminating the household's eligibility following the 10-day advance notice period. The household may reapply, but is not eligible until it cooperates with Quality Control.

If a household reapplies 95 days after the end of the annual quality control review period (January 3rd of each year), the household must not be denied for refusal to cooperate, but it must provide all mandatory verifications before it can be again certified. Quality Control will notify workers of the earliest date a household can be eligible.

Examples:

Quality Control randomly sampled a Food Stamp household for the review month of September 2002. Household refused to cooperate with Quality Control. The county agency is informed by Quality Control to terminate the household's eligibility following the 10-day advance notice period. The earliest date the Food Stamp household can be eligible for Food Stamps without cooperation with Quality Control is January 3, 2003.

Quality Control randomly sampled a Food Stamp household for the review month of October 2002. Household refused to cooperate with Quality Control. The county agency is informed by Quality Control to terminate the household's eligibility following the 10-day advance notice period. The earliest date the Food Stamp household can be eligible for Food Stamps without cooperation with Quality Control is January 3, 2004.

Recipient Refusal to Cooperate - Medicaid Program 449-30-10-20
(Revised 04/01/04 ML #2914)

Recipient cooperation with Quality Control is not a requirement of eligibility for the Medicaid program. Quality Control will notify the county social service office electronically, when a recipient refuses to cooperate. The worker may conduct a complete redetermination of eligibility.

Quality Assurance 449-30-15

(Revised 04/01/04 ML #2914)

Quality Assurance is measuring actual determinations and actions taken by county and/or state staff in response to client requests for service, and determining how the process and the end result can be improved. Case file review documentation is required.

This process serves two primary purposes:

1. Improvement of quality services to clients.
2. Early detection of potential errors.

The scope of quality assurance includes three critical operatives:

1. County staff conducted reviews.
2. Regional representative conducted reviews.
3. State and Federal reviews.

In selecting case files to be reviewed, the following guidelines are suggested:

1. Case selection is random.
2. The period of the review would be from the date of the latest certification period to the present month.
3. Corrective action of any defects or errors shall be completed within ten (10) days from the date of the review.

Suspected Fraud 449-35

(Revised 04/01/04 ML #2914)

Fraud is generally defined as intentional false statements, deliberate misrepresentation of facts necessary to establish eligibility, or willful withholding of information about income, assets, or other relevant circumstances. See [Service Chapter 415-55 - Fraud and Recovery Procedures for LIHEAP](#).

Disqualification Time Frames 449-35-05

(Revised 04/01/04 ML #2914)

Eligibility staff must pursue intentional program violation and may refer to the state's attorney any household suspected of fraudulently obtaining or attempting to obtain assistance. In North Dakota, suspected violations of this nature are usually prosecuted under "theft" or "false statements" statutes. It is the act and not the amount of improper benefit received that must be considered.

Suspected fraud violations occurring on Indian reservations should be referred to the state's attorney. If the state's attorneys office does not have jurisdiction over the matter, the case will be referred to the U.S. Attorney's office that has jurisdiction on that reservation. If the state's attorney does not refer the matter to the U.S. Attorney's office, the county social service office should do so.

Copies of all referrals of suspected fraud to the state's attorney's office shall be sent to the regional representative and to the director of Economic Assistance Policy Division. The latter copy will enable the Department of Human Services to file semiannual fraud reports with the federal government.

Follow-up information on the status of each referral must be provided to the regional representative and to the director of Economic Assistance Policy Division at least every three months while a referral is pending, and at any time final action is taken on a referral.

The county social service office's investigation should attempt to establish whether a recipient intentionally failed to disclose full and accurate information. The investigation must be conducted in a courteous and direct manner by giving notice of unresolved questions, providing the opportunity to reply, advising of the right of appeal, and noting the possible need to refer the matter to the state's attorney. If county social service office staff conclude that the recipient's failure to disclose full and accurate information may have been intentional, a referral of all relevant information, whether or not confidential, is proper and consistent with the necessary administration of the program.

Assistance improperly or fraudulently received through TANF must be recouped according to policy outlined in Service Chapter [400-17](#). Any overpayment case on

which recoupment has not been made should be identified so that recoupment can be initiated if the case is reopened at a later date.

Individuals found to have committed intentional program violations either through a disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution shall be ineligible to participate in the Food Stamp Program and/or TANF Program as follows (for further information, see specific program service chapters).

1. First violation -- 12 months;
2. Second violation -- 24 months;
3. Third violation -- permanently; and
4. Ten years for a conviction for making a fraudulent statement with respect to identity or representation with respect to identity or place of residence in order to receive multiple benefits simultaneously.

If a court of appropriate jurisdiction fails to impose a disqualification period for the intentional program violation, the county shall impose one of the disqualification periods as stated above, unless it is contrary to the court order.

Suspected Fraud in Food Stamps 449-35-10

(Revised 04/01/04 ML #2914)

The county shall be responsible for investigating any case of alleged intentional program violation, and insuring that appropriate action is taken either through administrative disqualification hearings or referral to a court of appropriate jurisdiction. Administrative disqualification procedures or referral for prosecution should be initiated if there is sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of intentional program violation as defined in the Food Stamp Certification Manual, Chapter [430-05](#).

Individuals found to have committed intentional program violations either through a disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution shall be ineligible to participate in the Pro- gram as follows.

1. First violation -- 12 months;
2. Second violation -- 24 months; and
3. Third violation -- permanently.

If a court of appropriate jurisdiction fails to impose a disqualification period for the intentional program violation, the county shall impose one of the disqualification periods as stated above, unless it is contrary to the court order. Refer to Food Stamp Manual for detailed information.

Hearings and Appeals 449-40

Legal Provisions Governing Hearings and Appeals 449-40-05

(Revised 04/01/04 ML #2914)

The provisions in this chapter are based on North Dakota Administrative Code, Chapter [75-01-03](#) – Appeals and Hearings.

Right to Fair Hearing 449-40-10

(Revised 04/01/04 ML #2914)

1. An opportunity for a fair hearing is available to any recipient who requests a hearing in the manner set forth in this chapter and who is dissatisfied;
2. Because an application was denied or not acted upon with reasonable promptness;
or
3. Because county agency or department action has resulted in the suspension, reduction, discontinuance, or termination of assistance.
4. The department may, on its own motion, review individual cases and make determinations that are binding upon the county agency. A recipient aggrieved by such determination shall, upon request, be afforded the opportunity for a fair hearing. All references in this chapter to appeals from decision of county agencies shall be understood to include appeals taken from determinations made by the department.
5. A fair hearing request may be denied or dismissed where the sole issue is one of state or federal law requiring automatic benefit adjustments for classes of recipients, unless the reason for an individual appeal is incorrect benefit computation.
6. The claimant may first seek corrective action from the department or claimant's county agency before filing a request for a fair hearing. A dissatisfied claimant is not otherwise required to seek any corrective action before filing the request for a fair hearing.
7. If a claimant dies after a request for a fair hearing has been filed by the claimant, and before the decision of the department has been rendered in the case, the proceedings may be continued on behalf of the claimant's estate, or by an heir of the claimant if a legal representative has not been duly appointed.
8. If a dissatisfied claimant dies before the claimant can file a request for a fair hearing, the duly appointed representative of the claimant's estate, or any successor of the claimant if no representative has been appointed, may file such request when the claimant was dissatisfied with the denial of the claimant's application for assistance, or was dissatisfied with the amount of the assistance the claimant was receiving prior to the claimant's death.

Time Limit on Request for Appeals 449-40-15

(Revised 04/01/04 ML #2914)

1. The request for an appeal by a household aggrieved by any action of a county agency that affects participation in the food stamp program must be filed within ninety days after the order or action with which the claimant is dissatisfied. In all other cases, the request for an appeal must be filed within thirty days after the order or action with which the claimant is dissatisfied.
2. The date of the order or action on which the request for fair hearing is based shall be the date on which notice of such order or action was mailed to the claimant with the following exceptions:
3. Where requests for an appeal concern the return of erroneous repayments, the date of collection or the date of the last installment payment is the determining date; and
4. Where requests for an appeal concern the amount of the grant, the request must be filed within thirty days, but the period of review will extend back to the first of the month on which the first day of the thirty-day period occurred.
5. In computing any period of time prescribed or allowed by this chapter, the day of the act, event, or determination from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

Fair Hearings and Intentional Program Violation Hearings 449-40-20

(Revised 04/01/04 ML #2914)

An individual or household member, or a representative, who requests a fair hearing or with respect to whom a notice of intentional program violation hearing has been issued, shall have adequate opportunity to:

1. Examine the contents of the individual's or household's case file and all documents and records to be used by
2. the department, county agency, or nursing facility at the hearing, at a reasonable time before the date of the hearing, and during the hearing;
3. Present the case or have it presented by legal counsel or other person;
4. Bring witnesses;
5. Establish all pertinent facts and circumstances;
6. Advance arguments without undue interference; and
7. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

Explanation of Right to Fair Hearing 449-40-25

(Revised 04/01/04 ML #2914)

1. At the time of the claimant's application for assistance, the county social service office must explain the right to appeal county action requesting assistance, as well as the right to be represented and assisted by an authorized representative, including legal counsel and an interpreter.
2. Written notice of the right to appeal and receive a fair hearing shall be included in every notification to the recipient of the granting, denial, decrease, discontinuance, suspension, or increase in assistance, or request for repayment, or a charge in a prior determination regarding assistance. In all cases, the notice shall be prepared and mailed to the claimant in language understandable to the person receiving such notification.
3. The county agency must help the claimant to submit the claimant's request for a fair hearing if requested by claimant.

Withdrawal of Request for Appeal Before Decision 449-40-30

(Revised 04/01/04 ML #2914)

1. The claimant may withdraw the request for appeal at any time before a decision is made by the department.
2. In cases where there appears to be a possibility for corrective action without further fair hearing proceedings, the claimant may file a conditional withdrawal of the request for a fair hearing. Such conditional withdrawal will not prohibit the claimant from filing a new request for a fair hearing if the claimant remains dissatisfied with any such corrective action. No hearing shall be delayed or canceled because of this possibility unless the claimant consents to such delay.
3. The county agency shall provide the claimant with all information and assistance regarding this withdrawal procedure.

Claimant Responsibility 449-40-35

(Revised 04/01/04 ML #2914)

1. The claimant must request an appeal in writing unless the request concerns a food stamp program decision. A claimant may request an appeal concerning a food stamp program decision either orally or in writing. Oral requests must be clear expressions made by the claimant or the claimant's authorized representative, to an employee of a county agency or the department to the effect that the claimant wishes to appeal a decision. The employee hearing such a request shall promptly reduce the request to writing and file it as provided by this section. The request may be filed on the back of SFN 162, Request for a Hearing, which gave notice of the proposed action which the claimant disputes; however, the request need not be in any particular form. The county agency shall assist the claimant in filing the claimant's request for a fair hearing.
2. For the purpose of prompt action, the claimant shall be informed by the county agency that the claimant's request for a fair hearing should identify the assistance program involved as well as the reason for the claimant's dissatisfaction with the particular action involved in the case.

Giving of Notice 449-40-40

(Revised 04/01/04 ML #2914)

1. Any notice required to be given by this chapter may be given by first class mail or personal delivery unless some provision of law specifically requires notice to be given in another manner.
2. Any notice required to be given by certified or registered mail may be so given without requesting a return receipt unless some provision of law specifically requires a return receipt to be requested.
3. Any notice given by certified or registered mail, return receipt requested, is deemed to be effectively given if delivered or if refused.
4. Any notice required to be given by certified or registered mail, return receipt requested, if returned undelivered but not refused, may be supplemented by a notice given by first class mail. A notice given by first class mail, in supplementation of such a returned notice, is deemed to have been received unless it is shown, by a preponderance of the evidence, that:
 1. The mail was not properly addressed;
 2. The mail containing the notice was returned by the postal service; and
 3. The mailing of the notice cannot be shown by an affidavit.

Timely Notice – Assistance Pending Hearing 449-40-45

(Revised 04/01/04 ML #2914)

1. Where county agency action would result in a discontinuance, termination, suspension, withholding, or reduction of program benefits, the county must mail to the person affected a timely and adequate written notice that will include:
2. An explanation of the type of proposed action;
3. An explanation of the reason for the proposed action; and the manual provision, along with the rule, or law upon which the action is based; and
4. An explanation of the person's right to request corrective action from the county and the department, the person's right to request a fair hearing, and the circumstances under which assistance will be continued if a fair hearing is requested.
5. A notice is timely if mailed at least five days prior to the date of action based on suspected fraud, and at least ten days prior to the date of any other action.
6. Except in food stamp cases, when the county obtains facts indicating that assistance should be discontinued, suspended, terminated, or reduced because of the probable intentional program violation of the recipient, and, where possible, such facts have been verified through collateral sources, notice of such benefit adjustment shall be timely if mailed at least five days prior to the effective date of the proposed action.
7. In any case where assistance has been discontinued, suspended, withheld, or reduced without timely notice, if the person affected requests a fair hearing within ten days of the mailing of the notice of action, assistance shall be reinstated retroactively.
8. If, within the timely notice period, the person affected indicates a wish for a conference, that person or that person's authorized representative will be given an opportunity by the county to discuss the problems, and will be given an explanation of the reasons for the proposed action, and will be permitted to show that proposed action is incorrect.
9. During this conference, the person affected will be permitted to speak for oneself or be represented by legal counsel or by a friend or other spokesman.
10. The conference will not in any way diminish the person's right to a fair hearing.
11. Where the person affected is a recipient of assistance and has filed a request for a fair hearing within the timely notice period. Refer to program manuals for further information.
12. Where a change affecting the recipient's benefits occurs during the hearing

process, and the recipient fails to file a timely fair hearing request after notice of such change, the county may implement its proposed action based upon the change.

13. Any assistance so continued is subject to recovery if the claimant does not prevail in the claimant's appeal.

Notice of Intentional Program Violation Hearing 449-40-50

(Revised 04/01/04 ML #2914)

1. A written notice of an intentional program violation hearing must contain:
2. The date, time, and place of the hearing;
3. The charge against the individual or household member;
4. A summary of the evidence, and how and where the evidence can be examined;
5. A warning that the decision will be based solely on evidence provided by the department or county agency if the individual or household member fails to appear at the hearing;
6. A statement that the individual or household member may request a postponement of the hearing, provided that the request for postponement is made at least ten days in advance of the scheduled hearing;
7. A statement that the individual, household member, or representative will have ten days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
8. A description of the penalties that can result from a determination that the individual or household member has committed an intentional program violation and a statement of which penalty the department or county agency believes applicable to the case;
9. A listing of the rights of the individual or household member, as set forth in [NDAC § 75-01-03-03.1](#);
10. A statement that the hearing does not preclude the state or federal government from prosecuting the individual or household member for an intentional program violation in any civil or criminal action, or from collecting overissuances or overpayments;
11. A listing of individuals or organizations that provide free legal representation to individuals or household members alleged to have committed intentional program violations and that have authorized the department to include their name, address, and telephone number on such list;
12. An explanation that the individual or household member may waive the individual's or household member's right to appear at an intentional program violation hearing;
13. A statement of the accused individual or household member's right to remain silent concerning the charge, and that anything said or signed by the individual concerning the charge may be used against the individual in a court of law; and
14. A statement that the individual or household member may waive the right to appear at an intentional program violation hearing that includes:
 - (1) The date the signed waiver must be received by the department or county

agency to avoid the holding of a hearing;

- (2) A signature block for the accused individual, along with a statement that the head of the household or caretaker relative must also sign the waiver if the accused individual is not the head of household or caretaker relative, with an appropriately designated signature block;
- (3) The fact that a waiver of the right to appear at the intentional program violation hearing will result in a disqualification penalty and a reduction in benefits or assistance payment for the appropriate period, even if the accused individual does not admit to the facts presented by the department or county agency;
- (4) An opportunity for the accused individual to specify whether the individual admits to the facts as presented by the department or county agency; and
- (5) In food stamp matters, a telephone number to contact for additional information and a statement that remaining household members, if any, will be held responsible for repayment of the resulting claim.

15. All notices alleging an intentional program violation concerning the food stamp program must either:

1. Have attached a copy of the department's published hearing procedures; or
2. Inform the household of its right, upon request, to obtain a copy of the department's published hearing procedures.

County Agency Responsibility Prior to Fair Hearing 449-40-55

(Revised 04/01/04 ML #2914)

Preliminary review and report to the appeals supervisor is required as follows:

1. Upon receipt of the notice from the appeals supervisor that a claimant has filed a request for a fair hearing with the supervisor's office, the county agency shall immediately determine whether the request for fair hearing was filed within the timely notice period. If the request was not filed within that period, the county shall neither reinstate nor continue assistance except that households appealing adverse food stamp program actions may have benefits continued if they can show good cause for the failure to file a request within ten days.
2. Upon receipt of notice of a request for fair hearing, the county agency shall, no later than the fifth day after receiving the request, provide the appeals supervisor with all information pertinent to such request. A copy of this information shall be provided to the person requesting the fair hearing.
 - a. Prior to the fair hearing, the county agency shall:
 1. Review the applicable statutes, regulations, and policies in light of the evidence. When assistance of the department is required to clarify any questions, such assistance shall be sought without delay.
 2. Organize all oral and written evidence and plan for its presentation at the hearing to avoid unnecessary delay or duplication. Where policy directives or instructions are involved in the matter, copies of those documents shall be presented at the hearing.
 3. Arrange for the attendance of all necessary witnesses and the availability of all documents for presentation of the case of the county agency.
 4. Prepare a complete final budget computation, month by month, for the period subject to review, and up to the date of hearing, if the issue is:
 - (1) Amount of assistance;
 - (2) Adjustment(s); or
 - (3) Demand for repayment.
1. Remain in touch with the claimant, and report without delay to the appeals supervisor any change in the claimant's address, or in any other circumstances, which might affect the necessity for or conduct of the hearing. The responsibility to report changes in the claimant's circumstances continues after the hearing until a decision is rendered.

2. Arrange to have present at the hearing a county agency representative with full authority to make binding agreements and stipulations on behalf of the county agency.

Hearings 449-40-60

(Revised 04/01/04 ML #2914)

1. The appeals supervisor may schedule a series of individual requests for fair hearing for a group hearing when the sole issue set forth in the request is one involving state or federal law or policy or changes in state or federal law, as the supervisor may deem appropriate.
2. In all group hearings, each individual claimant may present his or her own case, and shall be permitted to be represented by any person the claimant may desire.

Compliance with Department Decision 449-40-65

(Revised 04/01/04 ML #2914)

Immediately upon receipt of notice of the decision, the county shall comply with the decision.

Acknowledgement of Request for Fair Hearing 449-40-70

(Revised 04/01/04 ML #2914)

1. A request for fair hearing filed with the executive director shall be acknowledged by a written communication to the claimant and to the county agency.
2. The claimant shall also be provided with a list of all free legal service organizations which may be available to the claimant and which have authorized the department to include their name, address, and telephone number on such list.

Hearing – Place and Notification 449-40-75

(Revised 04/01/04 ML #2914)

1. The hearing shall be held in the county seat of the county in which the claimant is living at the time of the hearing, at the regional office serving such county, at any public building convenient to the parties, or at any other location which is agreeable to the parties. If the claimant is unable to travel to the hearing site because of the claimant's health, transportation problems, or other reasons, the claimant shall promptly notify the county. The hearing shall be conducted at a reasonable time, date, and place to be set by the appeals supervisor.
2. The office of the administrative hearings shall mail or deliver to the claimant, the claimant's authorized representative, if any, and the county, a written notice of the time and place of the hearing. In all food stamp appeals, the notice shall be sent not less than ten days prior to the hearing unless the household should, in writing, request less advance notice to expedite the scheduling of the hearing.
3. The office of the administrative hearings shall mail or deliver to the household and its authorized representative, if any, and the county, a written notice of the time and place of a food stamp disqualification hearing not less than thirty days prior to the hearing, unless the hearing is combined with a fair hearing and the individual or household member requests that the thirty day period be waived.

Consolidation of IPV Hearing with Fair Hearing 449-40-80

(Revised 04/01/04 ML #2914)

A fair hearing and an intentional program violation hearing may be combined into a single hearing if the factual issues arise out of the same or related circumstances and the individual or household receives advance notice that the hearings will be combined. The times for conducting an intentional program violation hearing will apply when there is a single hearing, but the individual or household is entitled to a waiver of the thirty-day advance notice period upon its request.

Hearing – General Rules and Procedures 449-40-85

(Revised 04/01/04 ML #2914)

1. Attendance at the hearing shall be limited to those directly concerned, namely, the claimant and the claimant's representative, interpreter, if any, and witnesses; representatives of the county agency; representatives of the department that made the determination under appeal, and the administrative law judge. The administrative law judge shall exclude unauthorized persons from the hearing unless both principals agree to their presence. The administrative law judge may exclude persons whose actions cause substantial disruption of the hearing. Appearance by the claimant (in person or by representative) is required at a fair hearing. Representation by the county social service office or unit of the department that made the determination under appeal is also required.
2. The hearings may be conducted by telephone unless the person requesting the hearing demands to appear personally before the administrative law judge. In all food stamp telephone hearings, except food stamp intentional program violation hearings, the person requesting the hearing must be present at the county office in the same location as the county representative. This provision may be expressly waived by the department person requesting the hearing when illness, disability, travel difficulty, or other reason, makes attendance of the person requesting the hearing at the county location impracticable.
3. The hearing shall be conducted in an impartial manner. All testimony shall be submitted under oath or affirmation.
4. The proceedings at the hearing shall be reported or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.
5. An interpreter shall be provided by the state if the administrative law judge determines this necessary.
6. Witnesses may give testimony by telephone unless the administrative law judge determines that it will be unreasonably difficult to judge the witness's credibility without the witness's presence before the administrative law judge. The party calling a witness by telephone shall provide reliable identification of the witness and assume responsibility for providing a satisfactory telephone connection. A party intending to call a witness by telephone shall provide notice of that intention to the administrative law judge and to the other parties at least three days before the date of the witness's intended testimony unless the administrative law judge determines arrangements for a satisfactory telephone connection may be made on shorter notice.

Intentional Program Violation Hearing – Procedure 449-40-90

(Revised 04/01/04 ML #2914)

1. The department or the county agency has the burden of proving an intentional program violation by clear and convincing evidence.
2. The administrative law judge shall advise the individual or household member that he or she may refuse to answer questions during the hearing.
3. If the individual or household member, or a representative, cannot be located or fails to appear at the hearing without good cause, as determined by the administrative law judge or by the appeals supervisor, the hearing shall be conducted as scheduled, without the household's representation.
4. The hearing shall be conducted, the decision arrived at, and the individual or household member and the county notified of the decision within ninety days of the date the household member is notified in writing that the hearing has been scheduled.
5. The administrative law judge recommended decision must specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulations, and respond to reasoned arguments made by the individual, household member, or representative.
6. If a hearing has been conducted without the individual, household member, or representative present, and the individual or household member is determined to have committed an intentional program violation, the individual or household member has ten days from the date of the scheduled hearing to present reasons indicating good cause for failure to appear. If a administrative law judge or the appeals supervisor later determines there was good cause for the failure to appear, a new hearing must be conducted.
7. There is no further administrative appeal after the intentional program violation hearing. A subsequent fair hearing procedure cannot reverse a determination of an intentional program violation arising out of an intentional program violation hearing.

Hearing – Issues to be Considered 449-40-95

(Revised 04/01/04 ML #2914)

The issues for consideration in a hearing requested to review a decision issued by the department or a county agency are limited to matters described in the decision notice.

1. A person seeking a hearing in review of a decision issued by the department or a county agency may raise additional issues only if the person:
 1. Provides, at least ten days before the date set for the hearing:
 - (1) A written statement of additional issues;
 - (2) A copy of any documents and a description of any exhibit proposed for introduction in support of the additional issues; and
 - (3) A brief synopsis of testimony of any proposed witness relating to the additional issues.
 - a. Consents to a continuance, waives any requirement that a decision be made within a limited time; and
 - b. Secures the consent of the department.

Claiming Living Outside of North Dakota 449-40-100

(Revised 04/01/04 ML #2914)

When a request for fair hearing is received from an applicant for or recipient of an Economic Assistance Policy Program benefits, who is living outside of the state must be acknowledged and reported in the same manner as other requests for fair hearing. Unless the claimant returns to North Dakota for the hearing or authorizes a representative in North Dakota, the hearing will be conducted by telephone.

Continuance for Additional Evidence 449-40-105

(Revised 04/01/04 ML #2914)

If, after a hearing has begun, the administrative law judge conducting the hearing determines that additional evidence not available at the hearing is necessary for the proper determination of the case, the administrative law judge may: Continue the hearing to a later date. In connection therewith, the administrative law judge may order further investigation and may direct either party to produce the additional evidence.

1. In order to permit the reception of additional documentary evidence or written argument, the administrative law judge may close the hearing and hold the record open for a stated period if the request for additional time is accompanied by a written waiver of the requirement that a decision be made within ninety days, as found at 7 CFR 273.16(e)(2)(iv), 42 CFR 431.244(f), and 45 CFR 205.10(a)(16) or sixty days, as found at 7 CFR 273.15 (c)(1). If the request for additional time is not accompanied by such a written waiver, the record shall be held open for no more than three additional days. If an expedited hearing has been requested, no additional time may be granted unless a written withdrawal of the request for an expedited hearing accompanies the request for additional time.

Withdrawal or Abandonment 449-40-110

(Revised 04/01/04 ML #2914)

1. An appeal may not be dismissed without hearing unless the claimant withdraws or abandons the request or the department reverses the decision appealed without a hearing.
2. A withdrawal occurs when the administrative law judge or the appeals supervisor is notified by the claimant that the claimant no longer wishes a hearing.
3. An abandonment occurs when:
 1. The claimant or the claimant's authorized representative fails to appear at the hearing without good cause; or
 2. The claimant cannot be located through the claimant's last address of record, or through the claimant's authorized representative, and such inability to locate the claimant precludes the scheduling of a fair hearing.

Error or Delays by Officials 449-40-115

(Revised 04/01/04 ML #2914)

Errors made by public officials or delays caused by public officials may not form the basis for an award of any benefit to an adversely affected applicant or recipient who would not have been eligible to receive that benefit in the absence of the error or delay.

Submission of Proposed Decision 449-40-120

(Revised 04/01/04 ML #2914)

After the hearing has been closed, the administrative law judge shall issue a recommended decision for review by the appeals supervisor and submission to the executive director, or the executive director's designee. The recommended decision must include a statement of the facts and of the statutes, regulations, rules, or policies involved and the reasoning that supports the recommended decision.

Decision by Department 449-40-125

(Revised 04/01/04 ML #2914)

1. The decision of the department must be made by the executive director, or the executive director's designee.
2. The executive director, or the executive designee after receiving administrative law judge's recommended decision may:
 1. Adopt the recommended decision in its entirety;
 2. Decide the matter on the record; or
 3. Order another hearing to be conducted.
3. The executive director, or the executive director's designee, may obtain input from staff:
 1. Without that input being considered an ex parte communication, in violation of the NDCC § 28-32-21.1 as long as the input does not augment, diminish, or modify the evidence presented in the hearing; or

2. If the input does augment, diminish, or modify the evidence, then such input or abstract thereof, must be transmitted to each party involved in the hearing; and on ten days notice, each party can examine the information, evidence, or abstract and present their information or evidence in a hearing.
3. Staff input that is an analysis of law, rule, regulation, or policy related to the evidence in the record of the hearing does not constitute an ex parte communication.
4. The decision rendered to the department must be in writing. It must include a statement of the facts and of the statutes, regulations, rules, or policies involved and the reasoning that supports the decision.

Notice of Decision 449-40-130

(Revised 04/01/04 ML #2914)

After a decision is rendered by the executive director, the appeals supervisor shall mail a copy to the claimant and the county agency. The notice of decision shall also contain a statement explaining the right to request a rehearing or reconsideration unless the decision is itself a decision on rehearing or reconsideration.

The notice may be mailed by certified mail, return receipt requested, or by regular mail. If notice is given by certified mail without return receipt or by regular mail, an affidavit of mailing indicating to whom the order was mailed must be prepared.

Preservation of Record 449-40-135

(Revised 04/01/04 ML #2914)

The verbatim record of the testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, the administrative law judge's recommended decision, and the department's decision shall constitute the exclusive record for decision and must be available to the claimant to appeal at any reasonable time for three years after the date of the department's decision in all food stamp cases, and for ninety days after the date of the department's decision in all other cases.

A transcribed copy of recorded testimony requested within ninety days after the date of the department's decision must be made available to the claimant or the county agency upon payment of a reasonable transcription fee.

Rehearing and Reconsideration 449-40-140

(Revised 04/01/04 ML #2914)

1. A request for a rehearing or for reconsideration must be filed with the office of the appeals supervisor within fifteen days after a decision is issued by the executive director. The request must be based upon new evidence indicating that an unjust or invalid determination has been made, or upon an allegation that the director has incorrectly interpreted relevant statutory or case law.
2. If the request for rehearing is to permit presentation of additional evidence, the request shall:
 1. Describe the additional evidence;
 2. Show why it was not previously introduced; and
 3. Explain its materiality.
4. The executive director may order a rehearing, or may reconsider, on the director's own motion.
5. The grant of a rehearing or reconsideration, either upon request or upon the director's own motion, is a matter for the director's discretion.
6. If a request for a rehearing or reconsideration is granted, the director may:
 - a. Order reconsideration of the decision on the basis of the evidence in the record;
 - b. Order the taking of additional evidence; or
 - c. Order an entire new hearing.
1. A decision issued upon a request for rehearing or for reconsideration must not be subject to further hearing.
2. Notice of a decision upon a request for rehearing or for reconsideration must be given as provided for in NDAC § [75-01-03-23](#).

Social Security Administration 449-45

Structure and Memorandum of Understanding 449-45-05

(Revised 04/01/04 ML #2914)

The Social Security Administration (SSA) was established originally in 1936 to administer the federal retirement benefits provided by the Social Security Act. Subsequent amendments to federal law have added the administration of survivors insurance, disability insurance, health insurance (Medicare), black lung benefits, and the Supplemental Security Income (SSI) programs to its responsibilities.

Supplemental Security Income 449-45-05-05

(Revised 04/01/04 ML #2914)

In addition to administering the Retirement, Survivors, and Disability Insurance (RSDI) Program, the Social Security Administration has, since January 1, 1974, also administered the Supplemental Security Income (SSI) Program. This program, the result of Public Law 92-603, replaced state programs of Aid to the Aged, Blind, and Disabled; and was historical in the sense that it marked the first time an assistance program was administered by a federal agency in accordance with uniform national eligibility standards and levels of payment.

A disabled person's needs are sometimes met through Temporary Assistance for Needy Families (TANF) while his eligibility for SSI is being determined, a process that can take several months. The first SSI payment, if eligibility is later established, covers the period retroactive to the month of application. To avoid duplication, however, the amount of TANF received during that period is deducted from the first SSI payment. In order to determine the amount of TANF received, the district office of the Social Security Administration initiates Form SSA-R416, "SSI/TANF/BIA Verification Letter," the lower portion of which is completed by the county social service board. If an individual continues to receive TANF after the county social service board is notified that such person is receiving SSI, the overpayment is charged against TANF and the county social service board must attempt to recoup the overpayment.

District and Branch Offices and Counties Served by Each 449-45-05-10

(Revised 04/01/04 ML #2914)

The Social Security Administration maintains four district offices and four branch offices in the state through which the RSDI and SSI Programs are administered. The location of these offices and the communities served by each are:

| Bismarck | Fargo | Grand Forks | Minot |
|---------------------------------|----------|-------------|-----------|
| 1680 E Capital Ave. Box 2367 | | Box 1678 | Box 2067 |
| Burleigh | Cass | Grand Forks | Bottineau |
| Emmons | Ransom | Griggs | Burke |
| Grant | Richland | Nelson | Divide |
| Kidder | Sargent | Steele | McHenry |
| Logan | | Traill | McKenzie |
| McIntosh | | | Mountrail |
| McLean | | | Pierce |
| Mercer | | | Renville |
| Morton | | | Rolette |
| Oliver | | | Sheridan |
| Sioux | | | Ward |
| | | | Wells |
| | | | Williams |

Devils Lake

Human Service Center
Dickinson

Grafton

Jamestown

Highway 2
West

235 Sims
St.

819 Hill

1604-6th Ave. S.W.

Benson

Eddy

Ramsey

Towner

Adams

Billings

Bowman

Dunn

Golden Valley

Hettinger

Slope

Stark

Cavalier

Pembina

Walsh

Barnes

Dickey

Foster

LaMoure

Stutsman

Buy-In Program 449-45-10

(Revised 04/01/04 ML #2914)

Substantial benefits are available under the Title XVIII Medicare Program to people 65 years of age and over and to certain disabled individuals under 65. Medicare, which is administered by the Social Security Administration, has two parts. Part A - provides hospital insurance and helps pay for necessary inpatient hospital care and for inpatient skilled nursing care when this is considered by the attending physician to be a necessary extension of hospitalization. Part A, which usually does not require premium payments, may also pay for home health services. Part B - supplemental medical insurance (SMI) - helps pay for prescribed doctors' services, outpatient hospital services, outpatient therapy, etc.

Coverage under Part B requires payment of a monthly premium, normally borne by the individual if he/she wishes to participate. Under the Buy-In Program, however, states may enroll certain groups of needy people for this insurance coverage and pay the premiums in their behalf. This arrangement permits the state, as part of its total assistance plan, to provide medical insurance protection (physicians' services) for certain recipients. It also has the effect of transferring some medical costs for this population from the Title XIX Medicaid Program, which is financed in part by the state and counties, to the Title XVIII Medicare Program for which the federal government assumes responsibility.

Federal financial participation in the buy-in premium costs is available to states in the same ratio that applies to other Medicaid expenditures.

The statutory basis for the Buy-In Program is Section 1843 of the Social Security Act.

General Systems Operations 449-45-10-05

(Revised 04/01/04 ML #2914)

Month-to-month operation of the Buy-In Program is accomplished through an automated exchange of data between the state and the Social Security Administration. The buy-in master file contains a master record, maintained by the Social Security Administration, of all people who are or were covered by the buy-in. Data about individuals' buy-in eligibility is sent to the buy-in master file by the state and by other Social Security Administration record-keeping operations. During monthly update operations, people are added to and deleted from the buy-in file. The state is sent a complete record of all transactions processed.

Persons Eligible for Buy-In 449-45-10-10

(Revised 04/01/04 ML #2914)

Recipients who are entitled to Medicare are eligible for Buy-In if they receive SSI, or are eligible as a QMB, SLMB, or QI-1.

Medicare Claim Number 449-45-10-15

(Revised 04/01/04 ML #2914)

The Medicare claim number is the same as the Social Security claim number or the Railroad Retirement claim number. Without it, the buy-in cannot be accomplished. In a few instances the person may have both, in which case both numbers should be verified with SSA and RRB to determine under which claim number the person is entitled to Medicare.

Use of Social Security Administration as Source of Information 449-45-15

(Revised 04/01/04 ML #2914)

The following systems are sources of information to obtain verification of benefits:

1. The BENDEX System – This is an on-line inquiry of recipients receiving Title II benefits;
2. The SDX System – This is an on-line inquiry of persons in North Dakota who have had any involvement with the SSI Program (Title XVI);
3. The Third Party Query Procedure (TPQY) – This is an on-line method of requesting verification of Title II (SSA) and Title XVI (SSI) for applicants and recipients;
4. The Form 1610 System – If Social Security data or benefits information is not available from the client, BENDEX, SDX, or the TPQY system, the Social Security District Offices will honor the use of Form 1610. This form should be used selectively and only after other means of securing the data have been explored. Thus, the use of Form 1610 is basically limited to determining the following:
 1. The amount of Social Security Title II benefits received during the three-month period preceding the date of application for Medicaid. The specific time period for which the data is needed must be indicated on Form 1610;
 2. The amount of Social Security benefits or other data when all efforts through BENDEX, SDX, or TPQY have failed; and
 3. To serve as a lead to determine potential eligibility for Social Security benefits for an individual who has never applied to the Social Security Administration. A telephone call to the Social Security District Office will also serve as a referral and eliminate the need for the Form 1610.

Beneficiary Data Exchange (BENDEX) System 449-45-20

(Revised 04/01/04 ML #2914)

PURPOSE

The BENDEX is a legal agreement between the Social Security Administration (SSA) and the State of North Dakota to provide an accurate and economical means of timely informing states about Title II social security benefit entitlement and changes on recipients for retirement, disability, or survivor's benefits. The Privacy Act of 1974 permits the routine use of BENDEX information needed by counties to administer the economic assistance programs, without specific release of information consent by recipients. In addition, by virtue of a Memorandum of Understanding between the Department of Human Services and the Social Security Administration, BENDEX-generated information can be routinely used to verify statements given by households who apply for or receive Temporary Assistance for Needy Families (TANF), Medicaid (MA), and/or Food Stamps (FS).

The BENDEX system, if properly used, eliminates much of the need for direct contact with Social Security Administration district offices for data concerning the receipt of or change in social security benefits.

GENERAL INFORMATION

The BENDEX is a verification of SSA benefits and Medicare Part A and B effective dates, premium amounts, and who is responsible for the premiums.

The social security number of anyone applying for TANF, MA, and/or FS is sent to Baltimore for verification and status of the SSA benefit. Once exchange is established for an individual, BENDEX can verify and/or provide notice of eligibility, benefit amount, payment status, entitlement dates, SMI (Medicare Part B/Supplemental Medical Insurance) status code, HI (Medicare Part A/Hospital Insurance) status code, Medicare start/stop dates, onset of disability, and the individual's claim/Medicare number.

The information received from Baltimore each month is displayed on the BENDEX (function 18 or INME) for only individuals in a "CP" current pay status or a pay status of "N" or "ND" with a cross-reference number.

If "BEIN" shows a record with a pay status of "N" or "ND" with a cross-reference number, inquire through "TPQY" using the claim number to obtain benefit data. We do not receive a cross-reference on all individuals receiving benefits off another person (for example, spouses and children) as SSA has a cross-reference problem due to the fact that when the person applied for an SSA benefit, he or she did not have a SS#. They started receiving the SSA benefit while their SS# application was in process. When they received their SS#, the SSA office did not cross-reference it to the record they were receiving current benefits on. When you inquire through TPQY using the social security number, the TPQY will state no record on file. The claim number has to be used to get current information.

SSA said this social security number cross-referencing is a central problem and not much will be done about it.

An individual may be entitled to benefits under several different claim numbers, but "BEIN" displays only one claim number. The claim number is the one they are receiving current benefits on ("CP" pay status). In some cases, the person is drawing benefits from two or three claim numbers, but receive only one check with all information and total dollars in the "CP" record. If there are two "CP" records which means they are receiving two separate checks, BENDEX will display both benefit amounts but only one claim number.

This data is retained on "BEIN" until Baltimore confirms the delete request when a case closes. "BEIN" is updated monthly with any new records or changes sent by Baltimore. These updates are done 2-3 days after rollover. As a result of this update process, a variety of alerts can be generated.

TECS BENDEX ALERTS GENERATED:

BDX SS# WAS UPDATED Generated anytime "BEIN" is updated. You may not see any change as a BENDEX record contains many data values. Not all data is displayed on "BEIN". This alert is a lead for the worker to check if \$\$ changed, if a person has become eligible for Medicare, or if status of Medicare has changed.

BDX SS# Generated when the gross benefit amount shown on "BEIN" is different than the \$\$ on

DISCREPANCY "UNIN" with an income code of "SS" less the Medicare premium coded "ME MC" on "EXSA."

BDX SS# Generated if there is a mismatch with the name shown on "BEIN"
NAME and the name shown in TECS.
MISMATCH

SS# Generated if person was on "BEIN" in current pay and now has a pay
CHECK status other than "CP." The information will be deleted as "BEIN"
TPQY PAY only displays "CP" or "N"/"ND" record with a cross reference
CODE number. Inquire through "TPQY" to get their current status. The pay
 status codes on the "TPQY" has been defaulted to words for your
 convenience.

?? FRAUD/BDX This alert means there is a conflict with another state. Either the person had or has applied for assistance in another state or someone else is using their social security number in another state. You need to contact the other state to verify if they are still on assistance in that state. If so, one of the states has to close their case. A person cannot be open in two states at the same time. If the case is already closed in the other state, you may delete the alert. If someone else is using their SS#, the other state needs to re-verify their client's SS# and fix their records.

CONFLICT WITH XX

VISION BENDEX ALERTS GENERATED:

| | |
|---|---|
| BENDEX UPDATED | BENDEX has been updated with new information for (SSN). Check BENDEX for change in benefit amount and/or Medicare Coverage. Enter correct gross SSA amount and/or Medicare premium expense if not paid through SSI Buy-In, QMB, SLMB, or QI-1. |
| BENDEX \$\$ DISCREPANCY BDX NAME ERROR | BENDEX and Vision have a discrepancy in the SSA benefit amount for (SSN). BENDEX Name for (SSN) is different than what Vision has. |
| CHECK TPQY PAY CODE CHECK FOR FRAUD | Check TPQY Pay Code for (SSN). BENDEX no longer has a "CP/Current Pay" record. Check for Fraud in "State Code" for (SSN) (SSN) has applied for Assistance in (State code) and case may be open; (State Code) incorrectly typed an SSN equal to your client's or someone else is using your client's SSN in State Code. |

SSI/State Data Exchange (SDX) System 449-45-25

(Revised 04/01/04 ML #2914)

PURPOSE

The Social Security Administration has developed a comprehensive system, known as the SSI/State Data Exchange (SDX), for providing states with information about aged, blind, and disabled persons who apply for or receive Supplemental Security Income (SSI). The SDX record consists of SSI eligibility and payment data collected by the Social Security Administration. The information available on the SDX can be used to determine financial and technical eligibility for SSI-related Medicaid, TANF based on incapacity (when one or both parents receive SSI), and Food Stamps.

GENERAL INFORMATION

The SDX is an on-line inquiry of almost all individuals in North Dakota who have formally applied for SSI. This information is displayed on the SDX1/SDX2 Inquiry Screen (Function 17 on INME).

Individuals are not deleted from the SDX. The state agency always receives the last known information on almost any North Dakota resident who ever applied for SSI and were either denied, received benefits at one time or are currently receiving an SSI benefit. The state agency receives daily files that are run on the 1st and the 10th of every month which generate the following alerts. Send an advance notice if there is a change in circumstances and do a redetermination of eligibility.

TECS SDX ALERTS GENERATED:

SDX & TECS
\$\$ DIFFER

This alert is generated when a recipient's SSI income in TECS differs from their net pay amount on the SDX.

SS# ##
####

SSI IN SDX, NOT TECS

Change the "SI" income on "UNIN" for the prospective month and authorize Food Stamps and Medicaid.

SS# ##
####

This alert is generated when a recipient is in current pay (CO1 or MO1) on the SDX but

does not have SSI income in TECS.

For Food Stamps/Medicaid, add the "SI" income on "UNIN" for the prospective month and authorize the case.

For Medicaid, also add the "SI"

income on "UNIN," with MA inclusion codes, for all previous months eligible and rebudget/reauthorize each month.

For TANF, remove the SSI recipient from the TANF unit for the next benefit month and send adequate notice of the grant reduction.

TECS
HAS
SSI
&

This alert is generated if a recipient has "SI" income on "UNIN" and there is no record or information of any kind for that person on the SDX interface.

NO
MATCH
ON SDX

Verify if the recipient is actually getting an SSI check. (Inquire through TPQY or have the recipient verify they are receiving SSI.)

reduces Food Stamp benefits.

1619B This alert is generated if a recipient is 1619B on the SDX, (i.e. has a pay
ELIG status of "NO1" and on "A, B, or F" Medicaid test indicator), and has
S\BE "SI" income on "UNIN" greater than \$.00.
\$.00

For Food Stamps/Medicaid, change the "SI" income on "UNIN" for the prospective month to \$.00.

VISION SDX ALERTS GENERATED:

| | |
|--|---|
| VISION HAS SSI NOT SDX SDX & VISION \$\$ DIFFER VISION HAS SSI, NONPAY | Vision has SSI and (SSN) is not on the SDX. Verify payment status with TPQY. If payment status is not "C01" or "M01," or individual is not 1619B eligible, remove SSI income and change SSI indicator. SDX and Vision have a discrepancy in the SSI benefit amount for (SSN). (SSN) SDX pay status code is not "C01" or "M01," but SSI income is entered. For TF, change SSI indicator to "No" and delete SSI income. For ME, delete SSI income and if individual is not 1619B eligible change SSI indicator to "Non-disabled." |
| NOT 1619B ELIGIBLE | (SSN) SDX pay status code is not "N01," and Medicaid test indicator is not A, B, or F. For TF, change SSI indicator to "No." For ME, change SSI indicator to "Non-disabled." |
| ELIGIBLE | (SSN) SDX pay status code is "N01" with a Medicaid test indicator of A, B, or F. For TF, change SSI indicator to "No" and delete SSI income. For ME, delete SSI income; and if client chooses to be disabled, set SSI indicator to "Disabled." |
| SSI INCOME ON SDX 1619B ELIGIBLE | (SSN) SDX pay status is "C01" or "M01." There is no SSI income entered. For TF, change SSI indicator to "Yes" and enter SSI income. For ME, enter SSI income; and if client chooses to be disabled, change SSI indicator to "Disabled." (SSN) SDX pay status code is "N01" with Medicaid test indicator of A, B, or F. For TF, change SSI indicator to "No" and delete SSI income. For ME, delete SSI income; and if client chooses to be disabled, change SSI indicator to "Disabled." |

ANNUAL SSA/SSI COLA UPDATES IN TECS

The SSA/BENDEX file will run with rollover on November 30th. This run will update the January unearned income (UNIN) screen with the new SSA amount from the BENDEX file. A verification code of "IN" (Interface) will be shown for all automatic SSA updates on "UNIN." All cases updated with a new amount will be unauthorized for January.

For QMB, SLMB, and QI1's, the SSA COLA is disregarded for the first three (3) months of the year if the new SSA amount makes them ineligible based on the old poverty levels, which are not increased until April. If the case fails because of the COLA, change the SSA dollars on "UNIN" for Medicaid QS coverages back to the old amount to pass the current poverty levels. The COLA benefit still needs to be used for Food Stamps and other Medicaid purposes, so if eligible for other program benefits, use inclusion codes on "UNIN."

QI2's will also be updated with the new SSA amount from the BENDEX COLA file. If the COLA increase makes them ineligible based on the old poverty levels, change the SSA dollars on UNIN back to the previous amount. If the recipient is eligible, authorize the case for the year. Then after waiting one day so the change will not unauthorize the case, change the SSA dollars to the correct amount. This will prevent further alerts regarding the income amount. The case will also have the correct SSA amount so when it is time to redetermine and reauthorize for another year, the system will have the correct SSA income to determine future eligibility.

For Food Stamps, the case will be unauthorized and county workers will not be able to fast authorize these updated cases. They will have to be authorized manually.

The BENDEX screen (BEIN) in TECS will be updated with the new SSA benefit. Normal BENDEX update alerts will not be generated by this update. Please inquire through TPQY for recipients who do not match due to the cross-referencing problem in Baltimore or the turnaround time on new clients. Only TECS cases will be directly updated. The following alerts will be generated:

TECS BENDEX/SDX/COLA ALERTS:

XXXXXXXXXX If TECS has a SSA amount on "UNIN" but the tape does not, this
SS alert will be generated. Send TPQY for verification.

NOT ON
BDX/COLA

XXXXXXXXXX If TECS does not have a SSA amount but the tape does, the amount will
be added to TECS

UNIN and this alert will be generated, or

NEEDS A
SUBTYPE

If the tape has more than one SSA amount, both amounts will be
added to TECS and this alert will be generated.

XXXXXXXXXX If there is a Medicare expense on "EXSA" but the individual is on Buy-In,
the expense will

ME MC be removed and this alert will be generated.

REMVD/O

N

| | |
|--|---|
| BUYIN XXXXXXXXXX ME MC | If there is a Medicare expense on "EXSA" but there is no Medicare expense on the tape, the expense will be removed and this alert will be generated. |
| REMVD-CHK BDX XXXXXXXXXX EXSA | If there is no Medicare expense on "EXSA" but there is an expense on the tape, the expense will be added to TECS and this alert will be generated. |
| UPDATED - TPL ? XXXXXXXXXX ME MC | |
| ON EXSA/BUYIN ? | If there is a Medicare expense on "EXSA" but the individual is not on the tape, this alert is generated. If the individual is on Buy-In, remove the "ME MC" expense from "EXSA." If the individual is paying a premium, for example through the RR, update the premium on "EXSA." |
| XXXXXXXXXX RR/MEMC NEEDS UPDATE XXXXXXXXXX MEMC | If the tape indicates the client has Medicare through the railroad, and if TECS contains rail- road, and if TECS contains railroad income and a Medicare expense, the "ME MC" expense will not be deleted and this alert will be generated. |
| PREMIUM REMOVED | If the tape indicates the client has Medicare through the railroad, and if TECS does not have railroad income on "UNIN," the "ME MC" expense will be removed and this alert will be generated. |

In addition to the SSA updates, an SSI/SDX file will be run with the November 30 rollover in TECS to incorporate the new SSI benefit amounts. This run will update the January Unearned Income (UNIN) screen with the new SSI amount from the SSI/SDX tape. On-line alerts will be generated for each SSI case indicating that the income has changed. After rollover on November 30, the SDX1 and SDX2 screens in TECS will show December benefit data. These screens will not be updated with the January benefit information until rollover on December 31.

Medicaid SSI cases that are "authorized thru" will remain authorized even if the

amounts differ. If a Medicaid recipient becomes ineligible for SSI due to the SSA

increase, an alert will be received before December 20. An advance notice must be sent on any case in which a recipient becomes ineligible for Medicaid, or when the recipient will have a recipient liability. The following alerts will be generated:

TECS ANNUAL SSI/SDX ALERTS:

SSN XXXXXXXXXX Annual SDX/COLA run automatically deleted, updated, or
'SI' DEL added SSI income on "UNIN" in TECS.

SSN XXXXXXXXXX 'SI'
UPDT

SSN XXXXXXXXXX 'SI'
ADD

There will be no direct update of SSA or SSI income for Vision cases. Only the following alerts will be generated from the annual COLA run.

VISION BENDEX/SDX/COLA ALERTS:

ADD (SSN) is in CP/Current pay on the BENDEX COLA file, but there is no SSA
COLA income entered. For TF and ME, enter SSA income. For ME, if client
INCOME chooses to be disabled, change Social Security Disability indicator to
NOT ON "Disabled."

COLA/CK (SSN) has Social Security income but was not on the BENDEX COLA
TPQY file. Check TPQY and update the income amount.

UPDATED BENDEX has been updated with the new COLA Social Security benefit
amount for (SSN).

COLA Update Social Security amount.

AMOUNT

NOT ON (SSN) has SSI income in Vision but was not on the SDX COLA file.
SDX/CK Check TPQY and update the income amount.
TPQY

UPDATED SDX has been updated with the new COLA SSI amount for (SSN).
Update SSI amount. SDX

COLA

AMT.

ADD (SSN) SDX pay status code is "C01" or "M01," but SSI income is not
SDX entered. For TF, change SSI indicator to "Yes" and enter SSI income.
COLA For ME, enter SSI income; and if client chooses to be disabled, change
AMOUNT SSI indicator to "Disabled."

Third Party Query Procedure (TPQY) 449-45-30
(Revised 04/01/04 ML #2914)

This system is on-line method of verifying SSA/SSI benefit information and quarters of coverage. It will serve as the data source for information that is not available under the BENDEX or SDX systems.

Safeguarding Social Security Information 449-45-35

(Revised 04/01/04 ML #2914)

Access to and any records created by Social Security Administration information received through a computer match must be limited to employees and officials who require the information to determine eligibility for the Food Stamp Program, Medicaid Program, and Temporary Assistance for Needy Families Program. The Social Security information received through a computer match is the BEER, BENDEX, IEVS, SVES, TPQY, and SDX.

The records matched and any records created by the match must be stored in an area that is physically safe from access by unauthorized individuals during duty hours, as well as nonduty hours or when not in use.

The records matched and any records created by the match will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the records, and in such a way that unauthorized individuals cannot retrieve any such records by means of computer, remote terminal, or other means.

All personnel who have access to records matched and to any records created by the match will be advised to the confidential nature of the information, the safeguards required to protect the information, and the civil and criminal sanctions of noncompliance contained in applicable Federal laws. Workers and State office staff will be trained initially when hired and annually thereafter on the requirements of the Privacy Act and Social Security Administration requirements.

Records Usage, Duplication, Redisclosure Restrictions, & Retention 449-45-35-05

(Revised 04/01/04 ML #2912)

1. The tax return information in the BENDEX IEVS hits will be used only to determine individual eligibility for, or the amount of assistance. The other matches provided by SSA shall not be redisclosed or used for any purpose other than to determine eligibility for or the amount of benefits.
2. The department may disclose the information provided with the consent of the recipient except for BENDEX IEVS hits. This information is received from SSA but originated from the IRS.
3. The information provided by SSA will not be used to extract information concerning individuals who are not recipients of the programs.
4. Information provided by SSA will not be duplicated or disseminated within or outside of the approved Economic Assistance Programs.
5. Information provided by SSA remains the property of SSA.
6. Case files containing SSA information will be retained for three years after the closing date of the case or five years if the information has been disclosed.
7. Complete records will be kept of any disclosure of information obtained from SSA databases. Disclosure means SSA information given, without the consent of the recipient, to another agency or individual who does not require the information to determine eligibility for an Economic Assistance Program. Records pertaining to disclosures will be retained for a five-year period, or the life of the records, whichever is longer. These records will show:
 - a. What information was disclosed;
 - b. To whom the disclosure was made;
 - c. The purpose for disclosure;
 - d. The legal basis for disclosure; and
 - e. The name of the State agency official who authorized the disclosure.
8. Breaches of access and disclosure of SSA must immediately be reported to SSA.
9. The Department will maintain fully automated audit trail of SSA information obtained through TPQY. The audit trail will track the reason for the inquiry (Food Stamps, Medicaid, and/or TANF); the individual making the query; errors that result from the query (incorrect password); queries on recipients who are not known on the common database file; and queries on recipients who exist on the common database but does not have any history in TECS or Vision.

Unauthorized Disclosure of Social Security Administration Information 449-45-35-10

(Revised 04/01/04 ML #2914)

An individual who discloses social security information without authorization shall be deemed guilty of a felony and, upon conviction, shall be punished by a fine not to exceed \$10,000 for each disclosure, or by imprisonment not exceeding five years, or both.

Also, there is a penalty for fraud. Whoever, with the intent to defraud an individual shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both. Whoever, with the intent to elicit information as to the social security account number, date of birth, employment, wages, or benefits of any individual (1) falsely represents to the Commission of Social Security or Secretary that he is such individual, or wife, husband, widow, widower, divorced wife, husband, surviving divorced mother, surviving divorced father, child or parent of such individual, or the duly authorized agency of such individual, or of the wife, husband, widow, widower, divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father, child, or parent of such individual; or (2) falsely represents to any person that he is an employee or agent shall be, upon conviction, punished by a fine not exceeding \$1,000, or by imprisonment for exceeding one year, or both.

Non-Discrimination to Clients 449-50

Purpose 449-50-05

(Revised 04/01/04 ML #2914)

It is the purpose of this chapter to prevent and eliminate discrimination against individuals in the delivery of programs and services administered and supervised by the North Dakota Department of Human Services, and to make all programs and activities accessible to persons with disabilities.

It is also the purpose of this chapter to provide policies and procedures to assure compliance with Title I and Title II of the Americans with Disabilities Act of 1990 as amended, Section 504 of the Rehabilitation Act of 1973 as amended, Title VI of the Civil Rights Act of 1964 as amended, and the Age Discrimination Act of 1975 as amended.

Authority References 449-50-10

(Revised 04/01/04 ML #2914)

1. Temporary Assistance for Needy Families (effective 7-1-97) under Pub. Law 104-193 and NDCC ' 50-09-02;
2. Social Services Block Grant 45 CFR Parts 16, 74, and 96
3. Food Stamp Program under the Food Stamp Act of 1977, as amended, and the approved food stamp plan of operation; 7 U.S.C. 2020 (c); 7 CFR Part 15; and NDCC '50-06-05.1(17)
4. Energy Assistance, under the Low Income Home Energy Assistance Act of 1981, as amended, and the state
5. plan for the Low Income Home Energy Assistance Program; 45 CFR 96; and NDCC '50-06-05.1(19)
6. Basic Care Program for Needy Individuals residing in licensed basic care facilities, under NDCC 50-06-14.3 and 50-24.5-02;
7. Medical Assistance under Title XIX of the Social Security Act, and the approved state plan for Medical Assistance, 42 U.S.C. 1396
8. Civil Rights Act of 1975, 42 U.S.C. 1983
9. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; 28 CFR 41; 45 CFR Part 84
10. Age Discrimination Act of 1975, 42 U.S.C. 6101; 45 CFR Parts 90 and 91
11. Civil Rights Restoration Act of 1987, Pub. Law 100-259; 20 U.S.C. 1681
12. Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.
13. North Dakota Human Rights Act, NDCC Chapter 14-02.4

Policy 449-50-15

(Revised 04/01/04 ML #2914)

The Department of Human Services makes available all services and assistance without regard to race, color, religion, national origin, age, sex, political beliefs or affiliations, disability or status with respect to marriage or public assistance, in accordance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and the North Dakota Human Rights Act of 1983. The Department of Human Services makes its programs accessible to persons with disabilities. Persons needing accommodation or who have questions or complaints regarding the provision of services according to these Acts may contact the Department of Human Services Civil Rights Officer or the US Department of Health and Human Services, Office for Civil Rights in Denver, Colorado.

Communications 449-50-20

(Revised 04/01/04 ML #2914)

To ensure that communications with individuals who have hearing, vision or speech impairments are as effective as communications with others, the Department of Human Services will provide appropriate auxiliary aids. The provision of these aids will not result in a fundamental alteration in the nature of the service, program or activity DHS provides, and cannot result in an undue financial and administrative burden to the Department of Human Services. Individuals with a disability will not be charged for the use of such auxiliary aids.

Auxiliary aids may include, but are not limited to:

1. Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed-captioned decoders, open and closed captioning, telecommunication devices for deaf persons (TTYs), video text displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
2. Qualified readers, taped text, audio recordings, brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
3. Acquisition or modification of equipment or devices;
4. Other similar services and actions; and
5. The Department of Human Services uses the North Dakota Relay System. This telecommunications service provides full telephone accessibility to people who have sensory impairments.

Regarding the use of qualified interpreters for persons with sensory impairments or persons having limited English proficiency, DHS will notify recipients of benefits who need the interpreter that DHS will provide interpreter services at no cost to the individual. If the recipient prefers to utilize a friend or family member as the interpreter, that request may be honored.

Each county social service office maintains a list of interpreters available for the respective region of the State. In addition, the Department's Office for Civil Rights and the State ADA Coordinator maintain a statewide list of interpreters. Employees needing to arrange an interpreter should first contact their local ADA/Civil Rights representative for assistance. The DHS Office for Civil Rights and the State ADA

Coordinator can also provide assistance.

The Department can also utilize the AT&T Language Line as a last resort if an interpreter cannot be located via other efforts. For instructions, please contact the DHS Office for Civil Rights.

Guidelines for Using an Interpreter 449-50-25

(Revised 04/01/04 ML #2914)

The following are guidelines for communications with persons with sensory impairments or limited English proficiency through the use of an interpreter:

- When greeting, greet both the individuals with a communication impairment and the interpreter.
- Have only one person speak at a time.
- The interpreter should be seated next to the person conducting the meeting so that the individual with the sensory impairment can see the person and the interpreter simultaneously.
- Do not ask the interpreter for advice or personal opinions.
- Make sure there are no shadows on the interpreter, and that both his/her mouth and hands can be seen clearly. It is helpful if the interpreter is seated in front of a solid background.
- Face the person with whom you are speaking directly, and speak as though no interpreter was present.
- Speak at your normal pace. Do not abbreviate or omit information.
- Generally, while all qualified interpreters are required to keep confidential any information learned in the course of their work, it is acceptable to ask the interpreter to leave the room for a moment to communicate in writing with the person who has sensory impairments.

County Social Service Office Responsibilities 449-50-30 (Revised 04/01/04 ML #2914)

Each county social service office is responsible to carry out the civil rights provisions as a requirement for receiving funds from the Department of Human Services. The following responsibilities are established to assure ongoing compliance with civil rights statutes and regulations:

1. Each county social service office will file with the Department of Human Services Office for Civil Rights an assurance of compliance form. The form will be specified by the Department of Human Services Office for Civil Rights. The form will be signed by the responsible official and will include his or her title and the date.
2. Each county social service office is responsible to coordinate civil rights compliance within that office and must designate an ADA/504 Coordinator.
3. Each county social service office has a responsibility to ensure that recipients for and beneficiaries of services or assistance are aware of the non-discriminatory policy regarding programs administered with funds dispersed by the Department of Human Services.
4. Each recipient or beneficiary of services or assistance must receive a copy of the brochure "Your Civil Rights Under the North Dakota Department of Human Services Programs".
5. Annually, each county social service office will notify, in writing, all community organizations representing minorities and referral sources of the county's nondiscrimination policy. The notification shall include the name of the person designated to coordinate civil rights activities in that office. The notice shall identify the programs and services provided by that office, and should specify how to access those services, including persons with sensory impairments.
6. The county social service office must have a communications policy to assure non-discrimination to persons with sensory impairments and must have policies and procedures regarding the identification and use of interpreters. The communications policy specifically should identify that if an interpreter is required, the interpreter will be paid for by the county social service office; however, if a client prefers a family member or friend, that request will be considered.
7. The county social service office must define their service area and determine if minorities are being served as they are represented in the community. Interpreters must be identified and made available for limited English-proficient persons as well as persons with sensory impairments.
8. Each county social service office should be representative of the population of the community, and members of the Social Service Board should be appointed

based on non-discriminatory factors.

9. Each county social service office must have an ADA self-evaluation and transition plan which must be reviewed and updated annually, a copy of the self-evaluation must be sent to the Department of Human Services Office for Civil Rights, and a copy of the transition plan sent to the North Dakota State ADA Coordinator.
10. Each county social service office must provide auxiliary aids and services to assure a non-discriminatory provision of services to persons with disabilities, and assure physical accessibility to the county programs and services.
11. The county social service office must have a complaint procedure for clients of the agency, and must provide assistance to any applicant or beneficiary who wants to file a complaint.
12. Each county office, following an investigation and recommendations identified to alleviate a discriminatory situation, are required to carry out the recommendations.

Complaints 449-50-35

(Revised 04/01/04 ML #2914)

The Department of Human Services Office for Civil Rights is authorized to receive, investigate, make findings and conciliate complaints made by recipients of any federally-funded program administered through the Department of Human Services alleging discrimination in the provision of services or programs on the basis of race, color, religion, national origin, sex, age, disability, political beliefs, and status with respect to marriage. The complaint may be made against any office of the Department of Human Services, including any human service center, the State Hospital, the Developmental Center, or any other organizational entity receiving federal funds from the Department of Human Services. Complaints may also be filed with the Denver Regional Office of the US Department of Health and Human Services, Office for Civil Rights, or the Mountain Plains Regional Office of the US Department of Agriculture, Food Nutrition Services, whichever is appropriate. All complaints received by the DHS Office for Civil Rights will be handled in such a way as to maximize the possibility of appropriate resolution in as expeditiously a manner as possible.

Who May File a Complaint 449-50-35-05

(Revised 04/01/04 ML #2914)

Any recipient of assistance funded in part by federal dollars through the Department of Human Services may file a complaint alleging discrimination by any office of the Department of Human Services, any human service center, the State Hospital, the Developmental Center, or other organization receiving federal funds through the Department of Human Services. Recipients of county social service offices may also initiate a complaint through the respective county social service grievance procedure.

Time Limits for Complaints 449-50-35-10

(Revised 04/01/04 ML #2914)

A written complaint must be filed within 180 calendar days of the alleged discrimination (See Form SFN 603, or DN 143.)

Content of the Complaint 449-50-35-15

(Revised 04/01/04 ML #2914)

The complaint shall contain the following information:

1. Name, address, phone number of the complainant;
2. Person alleged discrimination was against if other than the complainant;
3. Basis of the complaint (in other words, is the complaint based on race, color, religion, age, sex, national origin, disability, political beliefs or affiliation, status with respect to marriage or public assistance);
4. Date the alleged incident occurred;
5. Nature of the complaint described in as much detail as possible (Identify the who, what, when, where and how of the particular situation complained about);
6. Name and title or organization's name against whom the complaint is made;
7. Date the complaint was written and signed.

Grievance Procedure 449-50-35-20

(Revised 04/01/04 ML #2914)

The following is the Department of Human Services' procedure for investigating and resolving grievances alleging discrimination from clients of the agency and recipients of services. (Complaints authorized under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act and the Age Discrimination Act).

1. Upon receipt of a written complaint or a documented verbal complaint, the Department of Human Services Office for Civil Rights will make a notation of the date received. The complainant will be notified of the receipt of the complaint. If the Office for Civil Rights determines that the nature of the complaint is not within the jurisdiction of the Department of Human Services Office for Civil Rights, the complainant will be notified. The Office for Civil Rights may advise or refer the complainant to the appropriate jurisdiction; however, the Department of Human Services' internal grievance process in non-jurisdictional issues terminates upon notification to the complainant. Determinations by the Department of Human Services Office for Civil Rights of non-jurisdiction are non-appealable within the Department of Human Services process. If, however, a determination of jurisdiction is made by the Department of Human Services Civil Rights Office, the complaint will then be handled as specified in this chapter.
2. The Department of Human Services Office for Civil Rights will undertake investigation of the complaint or assign investigation responsibilities. The investigation will be completed within 60 working days. The Department of Human Services' Office for Civil Rights may request of division directors, human service centers, State Hospital and Developmental Center, the staff necessary to conduct an investigation of the circumstances surrounding a complaint.

The investigator may request and shall receive records deemed appropriate in the conduct of the investigation except those deemed to be confidential by the Department of Human Services' legal counsel. Records may be used in determining the facts surrounding a specific complaint.

At the conclusion of an investigation, findings and recommendations will be arrived at in relation to the complaint and existing documentation. The Department of Human Services' Office for Civil Rights will, at times, recommend that specific actions be taken by the administrative unit. The Office for Civil Rights or designee will notify the grievant in writing of the determination. The grievant will be advised of his or her right to forward the grievance within fifteen calendar days for reconsideration to the Department's Executive Director. The results of the reconsideration must be communicated within fifteen calendar days to the grievant. Either party may request

a maximum of two fifteen-day extensions.

3. If a resolution is not found after reconsideration, the grievant will be notified of his or her right to file a complaint with the appropriate federal agency. The filing of an agency grievance does not preclude the grievant from filing with a federal agency.

Disciplinary Actions and Sanctions 449-50-40

(Revised 04/01/04 ML #2914)

The Department of Human Services has assured the federal government that it will administer programs that are federally-funded in a non-discriminatory manner.

Within the authority of the Department of Human Services, disciplinary actions or sanctions may be taken to meet that assurance, to include suspension of funds, or payment on the contract or grant be suspended until compliance is achieved.

Policy (Non-Discrimination) 449-50-45

(Revised 04/01/04 ML #2914)

It is the policy of the Department of Human Services that any individual employed that intentionally does not carry out the provisions of this service chapter within the scope of his or her responsibility will be disciplined.

Alternative Avenues 449-50-50

(Revised 04/01/04 ML #2914)

The grievant may file a complaint or an appeal regarding programs funded through the Department of Human Services with the Office for Civil Rights, US Department of Health and Human Services, Federal Building, 1961 Stout Street, Denver, Colorado, 80294. For complaints affecting the Food Stamp Program, complaints or appeals may be submitted to the Director, Office for Civil Rights, US Department of Agriculture, Food and Nutrition Administration, Mountain Plains Region, 2420 West 26 Avenue, Denver, Colorado, 80211.

Record Keeping (Non-Discrimination) 449-50-55

(Revised 04/01/04 ML #2914)

The DHS shall maintain client discrimination grievance records for a minimum of six years or until the complaint is finally resolved, whichever is longer.

The Department will maintain on file and make available for public inspection for at least three years following completion of a complaint, its self-evaluation and transition plan.

The Department will also submit such reports as may be required by the federal government to assure compliance with the regulations and will permit access by appropriate federal officials during normal business hours to its facilities, records and other sources of information as may be pertinent to ascertain compliance.

Complaint Form 449-50-60

(Revised 04/01/04 ML #2914)

A complaint form is incorporated in the brochure, "Your Civil Rights Under North Dakota Department of Human Services Programs". Complaints of discrimination may be filed by clients of programs and services of the Department of Human Services by completing that form, or as an alternative, the client, patient or recipient of services may complete DN 143.

Forms Appendix 449-55

SFN 1059, Authorization for Release of Information 449-55-05

(Revised 04/01/04 ML #2914)

While the recipient is considered the primary source of information for determining eligibility for assistance, collateral sources will sometimes need to be contacted for additional or verifying data.

Public records can be used for documentary evidence without the recipient's consent. With this exception, however, eligibility staff can take no steps to which the individual does not agree. Specific consent for outside contacts must be obtained after a clear explanation of whom will be contacted, what information is needed, why it is needed, and how it will be used.

SFN 1059, "Authorization for Release of Information," will assist the county office in obtaining information from outside individuals, agencies, and institutions. When properly completed and signed, the form gives the recipient's permission to seek the data needed. SFN 1059 must be used to obtain personal health information and may be used to obtain financial information. In addition, the SFN 405, "Application for Assistance" contains an authorization to release information which may be used in lieu of SFN 1059, "Authorization for Release of Information," to obtain financial information. However, if the release of information from the application form is used, an accompanying letter must contain information detailing the information that is being requested.

Completion of SFN 1059 is largely self-explanatory. After explaining the need for additional or verifying data from collateral sources, the county office shall list the name(s) of the individual(s), agency(ies), and/or institution(s) to be contacted for the information needed to establish eligibility. Use a different SFN 1059 for each collateral source with whom information is required. The individual's consent for the release of information will normally remain in effect for the period necessary to accomplish the purpose for which the consent was requested. The form must be signed by the recipient and, if appropriate, by his/her spouse. Names of additional individuals, agencies, or institutions may not be added to the form after it has been signed.

SFN 1059 may also be used if a recipient wishes to have file information transmitted to another agency or individual.

Distribution of SFN 1059 shall be as described on the form.

For further information on how to complete SFN 1059, see the Confidentiality Service Chapter 100-01-25-15 Contents of an Authorization.

SFN 1059 is available through the Department of Human Services and may also be obtained electronically via [E- Forms](#). (212kb pdf)

E-Forms are presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

Form G-845, Document Verification Request 449-55-10
(Revised 04/01/04 ML #2914)

[Document Verification Request \(155kb pdf\)](#)

This document will be presented in Adobe Acrobat and require the Adobe Acrobat reader. If you do not currently have Adobe Acrobat reader installed, you may download a free copy by clicking the Get Adobe Reader icon below.

SFN 1087, Legal Service Organizations 449-55-20

(Revised 04/01/04 ML #2914)

SFN 1087, Legal Service Organizations, is used to provide applicants and recipients with a listing of Legal Aid organizations available for use. This listing does not constitute an endorsement of such organizations by the Department of Human Services.

This form is available through the Department of Human Services in paper form.