

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
BISMARCK, NORTH DAKOTA
May 24, 2018**

Amended IM 5329

TO: County Social Service Directors
Economic Assistance Policy Regional Representatives
Economic Assistance Policy Quality Control Reviewers

FROM: Michele Gee, Director, Economic Assistance

SUBJECT: Intentional Program Violation Updates

PROGRAMS: Child Care Assistance Program (CCAP)
Supplemental Nutrition Assistance Program (SNAP)
Temporary Assistance for Needy Families (TANF)

EFFECTIVE: Immediately

**SECTIONS
AFFECTED:** **CCAP:**
400-28-162-10 Evidence Evaluation
400-28-162-15 Initiating an Intentional Program Violation
400-28-162-20 Scheduling Intentional Program Violation
Meeting
SNAP:
430-05-77-05 Evidence Evaluation
430-05-77-10 Initiating an Intentional Program Violation
430-05-77-15 Scheduled Intentional Program Violation
Meeting
TANF:
400-19-137-10 Evidence Evaluation
400-19-137-15 Initiating an Intentional Program Violation
400-19-137-20 Scheduled Intentional Program Violation
Meeting

Changes for All Programs:

This IM is being amended to remove policy for situations when eligibility workers have had conversation with an individual about a potential IPV and the correspondence notice is returned as undeliverable since this policy is no

longer applicable. In addition, a terminology change was made to align with TANF policy. The statement 'If the individual suspected of an IPV is not the head of household (PI), the head of household must also sign the SFN 1940.' is being replaced with 'If the individual suspected of an IPV is not the Caretaker Relative, the Caretaker Relative must also sign the SFN 1940.'

1. The SFN 1940- TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation has been updated to include a signature space for a supervisor, director, or regional representative to sign. A supervisor, director, or regional representative must sign the SFN 1940 to ensure there is enough evidence to support an Intentional Program Violation (IPV) and the form is completed accurately.
2. If the system generated correspondence notice scheduling the Intentional Program Violation meeting is returned as undeliverable or with no forwarding address, the IPV must continue to be pursued.

Change for CCAP and TANF: When there is a potential an individual committed an IPV, the evidence **MUST** be reviewed by a supervisor, regional representative, or county director.

Evidence Evaluation (400-28-162-10, 430-05-77-05, 400-19-137-10)

The county has the burden to establish an Intentional Program Violation (IPV) by clear and convincing evidence. Clear and convincing evidence means evidence that leads to a firm belief that the allegations are true.

Examples:

- Application, review, and monthly report forms. An individual's signature on these forms is attesting to providing full information and to understanding the reporting requirements.
- Statements made during application or review interviews
- Notice of benefits
- A past IPV for failure to report
- Reporting/billing forms
- Narratives

- Documented phone calls
- IEVS verification
- Involvement of an interpreter

When there is evidence a possible IPV has been committed, ~~it is suggested~~ the county **must** review the case, and all evidence with the supervisor, director, or a regional representative.

This review will result in a decision to:

- Proceed with the IPV process, or
- Proceed with a client error

When reviewing the evidence for a possible IPV the individual must be allowed an opportunity to respond to any unresolved questions.

If the review results in the decision to proceed with the IPV process, the supervisor, director, or regional representative who reviewed the evidence must review, sign and date the SFN 1940- TANF/SNAP/CCAP Notice of Suspected IPV to ensure the form is completed accurately prior to meeting with the individual.

Initiating an Intentional Program Violation (400-28-162-15, 430-05-77-10, 400-19-137-15)

In instances when there is sufficient evidence to substantiate that an individual has committed one or more acts of intentional program violation (IPV), the county must complete the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation.

The SFN 1940 is intended to:

1. Notify an individual in writing when that individual is suspected of having committed an IPV;
2. Inform the individual of their hearing rights and hearing procedures;
3. Allow the individual the right to waive the hearing;

4. Allow an individual to request a hearing officer be present at the hearing rather than a telephone hearing.

When Completing the Form:

- a. List the name and current address of the individual suspected of IPV.

There may be occasions when more than one individual gave a false report or were interviewed together and in those cases, prepare a separate SFN 1940 for each individual.

- b. Describe the violation of program rules including:
 - Information provided that is deemed incorrect;
 - Facts that were not revealed;
 - How and when information and verifications were submitted by the individual.
- c. The evidence disputing the accuracy of the individual's statements, when and where it came from;
- d. When and with whom discussions were conducted, the outcomes of which contradict the individual's statements;
- e. What documents were provided that should have included information not revealed, and when were they submitted;
- f. Document how the individual was aware of the reporting requirement;
- g. Indicate the length of the disqualification;
- h. Indicate the date the SFN1940 must be signed and returned to avoid the hearing. The return date must be 10 days from the date of the IPV meeting the county is required to schedule.
- i. The form must be signed by the county eligibility worker (an electronic signature is acceptable).
- j. The form must be signed by a supervisor, director, or regional representative.

Scheduled Intentional Program Violation Meeting (400-285-162-20, 430-05-77-15, 400-19-137-20)

After completing the SFN 1940, TANF/SNAP/CCAP Notice of Suspected Intentional Program Violation, the county must schedule a meeting with the individual to discuss the suspected Intentional Program Violation (IPV) within two weeks **using a system generated correspondence notice.**

If the correspondence notice is returned as undeliverable or with no forwarding address, the IPV information must be continue to be pursued. ~~placed in the casefile until an address is known. The suspected IPV cannot be pursued until the individual is made aware of the suspected violation.~~

~~If the worker had conversation with the individual regarding the suspected IPV, even if the correspondence notice is returned as undeliverable, the IPV can continue to be pursued. The worker must document the conversation that was held with the individual.~~

If the individual fails to attend the scheduled meeting without satisfactory explanation or the correspondence notice is returned as undeliverable or no forwarding address, within three days after the meeting, the county must mail a copy of the SFN 1940 to the individual and the original SFN 1940 along with a letter detailing the violation and copies of all evidence of the suspected IPV to:

Appeals Supervisor
North Dakota Department of Human
Services, Judicial Wing
600 East Boulevard Avenue Dept. 325
Bismarck, ND 58505-0250

If the individual attends the scheduled meeting the county must:

1. Provide the individual with a copy of the SFN 1940;
2. Provide the individual with a DN 1087 - Legal Service Organizations;
3. Discuss the suspected IPV

If it is determined that no violation has occurred, SFN 1940 must be placed in the file with a notation that it was not forwarded for further action and a summary of the explanation given by the individual.

If the county believes the violation did occur and the individual does not have a satisfactory explanation the county must explain the following options to the individual:

- Sign Waiver A – Which allows an individual to admit to the facts and accept the disqualification period;
- Sign Waiver B – Which allows an individual to accept the disqualification without admitting to the facts;
- Request an administrative disqualification hearing.

The county must explain signing Part A or B of the Waiver of Hearing will result in specific program disqualification time periods and penalties.

A signed waiver is a statement that the individual has been informed a disqualification penalty will result.

If the individual suspected of an IPV is not the head of household (PI), the head of household must also sign the SFN 1940.

TANF:

If the individual suspected of an IPV is not the Caretaker Relative, the Caretaker Relative must also sign the SFN 1940.

If the individual suspected of an IPV:

1. Chooses to sign the Waiver of Hearing:

- Provide the individual a signed copy of SFN 1940
- Mail the SFN 1940 along with a letter detailing the violation and copies of all evidence, detailing the violation to:

Appeals Supervisor

North Dakota Department of Human
Services, Judicial Wing
600 East Boulevard Avenue Dept. 325
Bismarck, ND 58505-0250

- ~~• If Part B is signed, a cover letter detailing why the individual signed Part B rather than Part A must also be sent to the Appeals Supervisor~~
- The SFN 1940 must be sent to the Appeals Supervisor immediately after the individual signs the SFN 1940.
- The SFN 1940 will be reviewed by the Appeals Supervisor and state program staff.
- The state office will notify the county of the date the disqualification will be imposed and the length of the disqualification.

2. Chooses not to sign the Waiver of Hearing:

- Give the individual a copy of the SFN 1940
- Explain that a hearing will be held by telephone unless the individual requests an administrative law judge will be present
- Mail the original SFN 1940 along with a letter detailing the violation and copies of all evidence of the potential IPV to:

Appeals Supervisor
North Dakota Department of Human
Services, Judicial Wing
600 East Boulevard Avenue Dept. 325
Bismarck, ND 58505-0250

- The SFN 1940 must be sent to the Appeals Supervisor within three days after the meeting is held.