



**United States
Department of
Agriculture**

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Northeast Region
Food and
Nutrition
10 Causeway St.
Room 501
Boston, MA 02222
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February 5, 1999

Brian J. Wing, Commissioner
New York Department of Family Assistance
Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, New York 12243

Dear Commissioner Wing:

Attached is the final report, "New York Program Access Review, November-December 1998." This report details the findings of our review of the policies and procedures of the Food Stamp Program (FSP) in New York City. The review was part of our on-going Federal oversight responsibilities to ensure State and local agencies are complying with all laws and regulations governing the FSP.

Our vision is to lead America in ending hunger and improving nutrition and health. The review and attached report are part of our regular Federal oversight duties to assist the State agency in working towards fulfilling its responsibility to carry out that vision. The report identifies several specific changes needed to bring New York City FSP operations into compliance with all applicable laws and regulations. You indicated at the January 11, 1999 exit conference that your agency is working with New York City officials to implement a number of changes to the application. However, we believe that additional changes are warranted. We are ready to work cooperatively with you to ensure compliance with the laws and regulations and to avoid escalating the administrative sanction process to the level of a formal warning.

In keeping with our responsibility to ensure compliance with the Food Stamp Act of 1977, as amended, (the Act) and food stamp regulations, this letter is an Advance Notification of potential fiscal sanction in accordance with FSP regulations at 7 CFR 276.4(d)(1). Unless the deficiencies cited in the attached report are corrected as specified below, the Food and Nutrition Service (FNS) may find it necessary to suspend and/or disallow a portion of your agency's costs for the administration of the FSP in New York, pursuant to 7 U.S.C. 2020(g).

Specifically, the New York State Department of Family Assistance, Office of Temporary and Disability Assistance (OTDA) must ensure that all local offices:

- 1) make FSP applications readily accessible to all potentially eligible households or to anyone that requests one (7 CFR 273.2(c)(3)).
- 2) notify all applicants of their right to file an application on the day of their first contact with the food stamp office and encourage them to do so. Please note that the meaning of “encourage” is defined and discussed on page 6 of the final report.
- 3) Post signs or make available other advisory materials explaining an applicant’s right to file, and the application processing procedures (7 CFR 273.2(c)(2)(1) and (c)(4)).
- 4) notify applicants of their specific rights to reapply for FSP benefits at any time after they withdraw their current application (7 CFR 273.2(c)(6)).
- 5) adhere to all of the timeliness standards concerning the processing of applications, notice requirements and fair hearing rights (7 CFR 273.2(g), 7 CFR 273.10(g), and 7 CFR 273.15(f)).
- 6) consistently screen all applicant households to determine their eligibility for expedited food stamp service and document their evaluation (7 CFR 273.2(i)(2)).
- 7) provide food stamp benefits no later than 7 days after the application date for those households determined eligible for expedited service (7 U.S.C 2020(e)(9)).
- 8) base food stamp eligibility determinations solely on the criteria contained in the Act and the regulations (7 U.S.C. 2014(b), 7 CFR 273.2(j)).
- 9) not require households whose applications for other program benefits are denied to file another application for food stamp benefits (7 CFR 273.2(j)(1)(v)).

Within 10 days of receipt of this letter, OTDA must provide a plan which details the steps it will take to effect these corrective actions. This plan must include all actions necessary to bring OTDA into compliance with the applicable statutory and regulatory provisions no later than 30 days from the date the plan is submitted to FNS. Also, it must include a copy of the corrective plan that OTDA submits to the U.S. District Court, Southern District of New York, in *Reynolds, et al. v. Giuliani, et al.* The plan should be submitted to Robert Canavan, Director, Food Stamp Program Northeast Regional Office.

In addition, during our review we found that nearly one third of the

cases sampled in the review lacked adequate casefile documentation. This has renewed our concern that a serious casefile management problem continues to exist in New York City. Therefore, within 30 days of receipt of this letter we require a corrective action plan that will include a review of casefile documentation in New York City of sufficient magnitude to determine the nature and scope of the problem, a detailed plan for correcting it, specific target dates for completion of each corrective action, and a date for final resolution. As noted above, under 7 U.S.C 2020(g), failure to take corrective actions within the time required by a formal warning may result in the suspension and/or disallowance of Federal funding, and may also result in a referral to the Attorney General of the United States with a request that injunctive relief be sought.

Finally, OTDA must address the issue of local district oversight. Our State Agency Operations Review of 1998 cited significant concerns with OTDA's effectiveness in working with local districts to ensure program compliance. Many of the findings of the attached report suggest the need for stronger technical support to local districts and more effective evaluation of their operations. I am aware that you have undertaken a reorganization of OTDA's resources that is designed to improve the management of the FSP in New York State. I look forward to hearing the details of this reorganization. I understand that a meeting has been scheduled for this purpose.

Because of issues raised at the exit conference, I would like to restate our perspective of the role of the FSP in welfare reform. The FSP is first and foremost a nutrition program. Congress stated this intent very clearly in its Declaration of Policy in Section 2 the Act: "To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation." (7 U.S.C 2011).

The FSP is an integral part of national welfare reform efforts, complimenting Temporary Assistance to Needy Families, and other programs. Congress intended the FSP to be an important safety net for those individuals and families who are trying to move to, and maintain, self-sufficiency. Food stamps provide needed support after families leave the cash assistance rolls. Parents working full-time at minimum wage who are taking advantage of the maximum Earned Income Tax Credit can only reach the poverty line if they also receive food stamps. These individuals may only be able to keep their jobs because food stamps help make ends meet.

The Personal Responsibility and Work Opportunity Reconciliation

Act of 1996 (PRWORA) made sweeping changes to welfare as we knew it. Most importantly it ended a Federal entitlement program - Aid to Families with Dependent Children - and replaced it with a block grant. However, in passing PRWORA, Congress made a conscious decision to keep the FSP as a Federal entitlement program and retain its mission as a nutrition assistance program. It retained national eligibility standards and benefit levels. It reaffirmed specific participants rights and responsibilities. It also retained the mandate to serve all individuals who apply and are eligible. Congress affirmed its commitment to serving eligible persons by retaining language in Section 5 of the Act which reads, "Assistance under this program shall be furnished to all eligible households who make application for such participation." Moreover, through PRWORA, Congress underscored this commitment by adding new language to the Act which requires timely, fair, and accurate service to all applicants.

We have reviewed the comments you provided at the exit conference and in subsequent correspondence, and incorporated our responses to specific comments into the final report. We have made a thorough review of the changes in PRWORA, confirming that our policies on access to the program remain firmly grounded in statute. We believe the overall pattern of application practices identified in the report does not meet a reasonable test of fair service.

The Administration is committed to ensuring that people are supported in their efforts to move from welfare to work. All eligible low-income households should have access to the FSP which will safeguard their health and well being and help them move to self-sufficiency. We want to continue to work together to ensure that New York City's efforts to promote work are supported by timely, accurate, and fair nutrition assistance to families striving for self-sufficiency.

We expect to hear from you by February 16, 1999. In the interim, if you have any questions or concerns, please feel free to contact my office.

Sincerely,

(signed)

Frances E. Zorn
Administrator
Northeast Region