

ARKANSAS REGISTER

Transmittal Sheet



FILED
ALL REGISTER DIV.
96 JUN 18 AM 9:21

SHARON PRIEST
SECRETARY OF STATE
ARKANSAS

Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office

Use Only:

Effective Date _____ Code Number 016.20.910.1-016

Name of Agency Department of Human Services

Department Division of County Operations

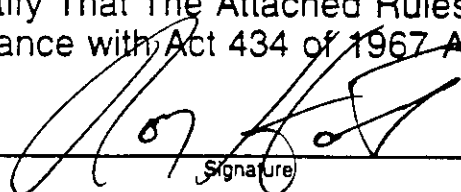
Contact Person Roy D. Kindle, Jr. Phone 682-8251

Statutory Authority for Promulgating Rules Section 6(b)(1) of the Food Stamp Act of 1977

		Date
Intended Effective Date	Legal Notice Published	<u>5/15/96</u>
<input type="checkbox"/> Emergency	Final Date for Public Comment	<u>6/14/96</u>
<input type="checkbox"/> 10 Days After Filing	Filed With Legislative Council	<u>5/15/96</u>
<input checked="" type="checkbox"/> Other	Reviewed by Legislative Council	_____
_____	Adopted by State Agency	<u>7/01/96</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.



Signature

682-8375

Phone Number

Director, Division of County Operations

Title

Date

5/18/96

FILED
AR. REGISTER DIV.

96 JUN 18 AM 9:22

SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

BY _____

• • WEDNESDAY, MAY 15, 1996 • 116

**NOTICE
OF
RULEMAKING**

Pursuant to Section 6(b)(1) of the Food Stamp Act of 1977, as amended, and in accordance with a ruling of the U.S. Court of Appeals for the Ninth Circuit, the imposition of a household's disqualification for an intentional program violation will no longer be delayed until the household reappears for food stamps and is found eligible to participate in the Program. Instead, the disqualification will be imposed immediately.

Copies of the proposed change may be obtained by writing the Division of County Operations, P.O. Box 1437, Little Rock, AR 72203, Attention: Food Stamp Section, Slot 1241. All comments must be submitted in writing to the address indicated above no later than thirty days from the date of this publication.

If you need this material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 682-6290 (voice) or 682-6833 (TDD).

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages, and delivers services without regard to age, religion, disability, political affiliation, veteran status, sex, race, color or national origin.

6000009609EL
Roy Hart
Director
7106199

MANUAL TRANSMITTAL

Arkansas Department of Human Services

Division of County Operations

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 06-18-96 BY 96 JUN 18 AM 9:22

☐ Policy ☒ Form ☐ Policy Directive

96 JUN 18 AM 9:22

Issuance Number FSC 96-9

Food Stamp Certification & FSC Forms Manual

SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS
BY _____

Issuance Date 6/1/96

From: Roy Hart
Director

Expiration Date Until
Superseded

Subj: FSC 16800 - 16920, DCO-256, & DCO-259

<u>Forms to be Deleted,</u>		<u>Dated</u>	<u>Forms to be Added,</u>		<u>Dated</u>
DCO-256		10/88	DCO-256		06/96
DCO-259		12/80	DCO-259		06/96
<u>Pages to be Deleted,</u>		<u>Dated</u>	<u>Pages to be Added,</u>		<u>Dated</u>
Front	996 - 997,	7/1/94	996 - 997,		6/1/96
Back	998 - 998,	7/1/94	997 - 998,		7/1/94

Front	16783 - 16793,	1/1/89	16783 - 16793,		1/1/89
Back	16800 - 16800,	7/1/95	16800 - 16800,		6/1/96

Front	16816 - 16816,	1/1/89	16816 - 16816,		6/1/96
Back	16820 - 16830,	1/1/89	16820 - 16830,		6/1/96

Front	16830 - 16840,	2/1/95	16830 - 16840,		6/1/96
Back	16900 - 16920,	1/1/89	16900 - 16920,		6/1/96

SUMMARY OF CHANGES

Currently, the imposition of an intentional program violation (IPV) disqualification is postponed until the household reapplies for food stamps and is found eligible. On October 4, 1995, the U.S. Court of Appeals for the Ninth Circuit held that the Federal policy requiring State agencies to postpone a disqualification in the Food Stamp Program violates Section 6(b) (1) of the Food Stamp Act. Effective June 1, 1996, the correct disqualification period is to be imposed immediately if an individual is found guilty of an IPV.

Beginning 4/1/96, whenever a *Food Stamp Disqualified Recipient Report* (EMS-19) was submitted to the Food Stamp Section with 9's entered as the date the disqualification begins, the effective date of disqualification was corrected by Food Stamp Section personnel. A copy of the amended EMS-19 was provided to the correct county office.

Pending disqualifications added to the Disqualified Recipient System (DRS) before 4/1/96 will be changed automatically. You will receive additional information when this change is made.

DCO-256 (Action Taken on Administrative Disqualification Hearing / Waiver) - This form has been updated. Information about delaying disqualification has been removed.

DCO-259 (Action Taken on Your Court Hearing) - This form has been updated. Information about delaying disqualification has been removed.

FSC 997 - Added a statement about when the signed fraud waivers are issued to the county office.

FSC 16800 - Removed the instructions for delaying imposition of a disqualification period.

FSC 16830 - Added a statement about when the signed fraud waivers are issued to the county office.

FSC 16840 - Removed instructions for delaying imposition of a disqualification period.

Inquiries to: Betty Helmbeck, Food Stamp Section, 682-8284

If you need this information in a different format such as large print,
please contact the DHS County Office.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF COUNTY OPERATIONS
ACTION TAKEN ON ADMINISTRATIVE DISQUALIFICATION HEARING / WAIVER

Customer Name / Address

County Office Address / Phone

Fold _____

NOTICE TO DISQUALIFIED INDIVIDUAL

DEAR _____ Social Security Number _____

- ☐ You were found guilty of an intentional program violation of a Food Stamp Program rule at the administrative disqualification hearing held _____. **See the enclosed hearing decision for a complete explanation.**
- ☐ You waived your right to an administrative disqualification hearing.

AS A RESULT, YOU WILL NOT BE ELIGIBLE TO GET FOOD STAMPS. YOUR DISQUALIFICATION WILL BE:

- ☐ For _____ months beginning _____ and ending _____.
- ☐ Permanent. Beginning _____, you will never again be allowed to participate in the Food Stamp Program.
- ☒ **This decision does not prevent the State or Federal Government from prosecuting you for fraud in a court of law. If you are not satisfied with this decision, you can appeal in the courts.**
- ☒ **You must agree to repay us for the fraudulently received food stamps before you are eligible to participate again. You may agree to repay us in either of two ways: 1) You may repay in cash all at once or in monthly amounts; or (2) You may repay us by having your household's food stamp allotment reduced.**

 **See the box below to find out if the rest of your household can get food stamps while you are ineligible.**

ACTION ON YOUR FOOD STAMP CASE - CASEHEAD

SOCIAL SECURITY #

We've reviewed your case to see if you can get food stamps while _____ is ineligible to participate. Here's what we found out.

- ☐ Your food stamp allotment will change to \$_____ beginning _____.
- ☐ You are no longer eligible for food stamps. Your case will close effective _____.
- ☐ You are not getting food stamps at this time. You may contact the DHS County Office if you want to reapply.

If you are not satisfied with this decision, you may ask for a hearing. See the back of this page.

Signature _____ Date _____

JUDICIAL REVIEW

You have the right to appeal your disqualification through the Administrative Procedure Act. If you wish to pursue judicial review, a petition must be filed in Circuit Court in the County in which reside or Pulaski County within 30 days from receipt of the hearing decision.

YOUR RIGHT TO APPEAL THE ACTION ON YOUR FOOD STAMP CASE

If you do not agree with the action we plan to take on your food stamp case, you may ask for a hearing. If you wish to discuss your case with the DHS County Office before you ask for a hearing, contact the person who signed this notice.

You may call or go into the DHS County Office to ask for a hearing. You may also ask for a hearing by calling or writing to the Appeals and Hearings Section. The address is given below.

Arkansas Department of Human Services
ATTN: Appeals and Hearings Section, Slot 1001
Little Rock, AR 72203-1437
(501) 682-8622
TDD for Hearing Impaired 1-800-285-1131

INSTRUCTIONS DCO-256

Purpose

The DCO-256 is used to notify individuals of their disqualification period when they are found guilty of an IPV through an administrative disqualification hearing or when they sign a hearing waiver.

Completion

1. Enter the name and address of the individual found guilty of an IPV.
2. Enter the county office address and telephone number.
3. Under "Notice to Disqualified Individual" address the form to the individual found guilty of an IPV. Enter that individual's social security number. Check the appropriate boxes to indicate the reason for disqualification and the period of disqualification. If a hearing was held, enter the month date and year of the hearing. If the disqualification period will end, enter the number of months the disqualification will last. Enter month and year to indicate when the disqualification will begin and end.
4. Under "Action on Your Food Stamp Case", enter the name and social security number of the casehead. Enter the name of the individual who is disqualified. Check the appropriate box to indicate the action taken by the county office. If the food stamp allotment is changing, enter the new allotment and the effective date of the change. If the case will close, enter the effective date of the closure.
5. Sign and date the form.

Routing

Original to disqualified household member. Copy to case record. Copy to Overpayments Unit, Slot 3005.

Retention

Three years from the date of fiscal or administrative closure. See FSC 410.

IF YOU NEED THIS INFORMATION IN A DIFFERENT FORMAT SUCH AS LARGE
PRINT, PLEASE CONTACT THE DHS COUNTY OFFICE.

ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF COUNTY OPERATIONS
Action Taken on Your Court Hearing

CUSTOMER NAME AND ADDRESS

COUNTY OFFICE ADDRESS AND PHONE #

--

Fold _____

Dear _____ Social Security Number _____,

This notice confirms the court decision of _____ which states:

**Because of this decision, you may not participate in the Food Stamp Program. Your
disqualification will be:**

☐ For _____ months beginning _____ and ending _____.

☐ Permanent. Beginning _____, you will never again be allowed to participate in the
Food Stamp Program.

➡ See the box below to find out if the rest of your household can get food stamps while you are ineligible.

ACTION ON YOUR FOOD STAMP CASE - Casehead

Social Security # _____

We've reviewed your case to see if you can get food stamps while _____ is ineligible
to participate. Here's what we found out.

- ☐ Your food stamp allotment will change to \$ _____ beginning _____.
- ☐ You are no longer eligible for food stamps. Your case will close effective _____.
- ☐ You are not getting food stamps at this time. You may contact the DHS County Office if you want to reapply.

If you are not satisfied with this decision, you may ask for a hearing. See the back of this page.

Signature _____ Date _____

YOUR RIGHT TO APPEAL THE ACTION ON YOUR FOOD STAMP CASE

If you do not agree with the action we plan to take on your food stamp case, you may ask for a hearing. If you wish to discuss your case with the DHS County Office before you ask for a hearing, contact the person who signed this notice.

You may call or go into the DHS County Office to ask for a hearing. You may also ask for a hearing by calling or writing directly to the Appeals and Hearings Section. The address is given below.

Arkansas Department of Human Services
ATTN: Appeals and Hearings Section, Slot 1001
Little Rock, AR 72203-1437
(501) 682-8622
TDD for Hearing Impaired 1-800-285-1131

INSTRUCTIONS

DCO-259

Purpose

The DCO-259 is used to notify individuals of their disqualification period when they are found guilty by a court of an intentional program violation (IPV) in the Food Stamp Program.

Completion

1. Enter the name and address of the individual found guilty of an IPV.
2. Enter the county office address and telephone number.
3. Address the notice to the individual found guilty of an IPV. Enter that individual's social security number. Enter the date of the court decision. Enter the full court decision. Check the appropriate box to indicate the period of disqualification. If the disqualification will end, enter the number of months the disqualification will last. Enter month and year to indicate when the disqualification will begin and end.
4. Under "Action on Your Food Stamp Case", enter the name and social security number of the casehead. Enter the name of the individual who is disqualified. Check the appropriate box to indicate the action taken by the county office. If the food stamp allotment is changing, enter the new allotment and the effective date of the change. If the case will close, enter the effective date of the closure.
5. Sign and date the form.

Routing

Original to disqualified household member. Copy to case record. Copy to Overpayments Unit, Slot 3005.

Retention

Three years from the date of fiscal or administrative closure. See FSC 410.

- E. prepare a written, documented report at the completion of the investigation for referral to the Prosecutor;
- F. complete the DHS-1208 for referral for an Administrative Disqualification Hearing;
- G. administratively close the investigation if, at any stage of the inquiry, the investigative staff determines that the case is not suitable for prosecution or for referral for an Administrative Disqualification Hearing;
- H. notify the DHS referral source of the disposition of the investigation and return copies of the case record to the County Office.

997 Disposition of Investigations

The Fraud Investigations Unit will notify the County ES Supervisor of the initial disposition of each referral.

For cases referred for prosecution, the Fraud Investigations Unit will:

- request the Prosecuting Attorney to file charges and send a copy of the request to the County Office; and
- advise the Overpayment Unit of the factual basis for the overpayment as well as submit overpayment calculation documents.

For cases referred for an Administrative Disqualification Hearing, the Fraud Investigations Unit will prepare a DHS-1208 to the Overpayment Unit for determination of whether or not the cases should be referred to Appeals and Hearings for an Administrative Disqualification Hearing.

For cases containing a signed Waiver of Hearing and Disqualification Agreement (Form DHS-267) the Fraud Investigations Unit will:

advise the County Office and the Overpayment Unit of the facts of the case, send a copy of the DHS-267, and, if negotiated, a copy of the Repayment Agreement. Unless the Fraud Investigations Unit can reasonably expect to get a waiver packet to the county by the 20th of the month, imposition of the penalty will be delayed by the Fraud Investigations Unit until the following month. See FSC 16830.

For cases administratively closed, the Fraud Investigations Unit will:

forward a memo to the County Office and the Overpayment Unit explaining the reason for the closure. If an overpayment has been calculated, these documents will be forwarded to the Overpayment Unit.

The final disposition of cases adjudicated by the court will be furnished to the County EMS supervisor and the Overpayment by the memorandum from the Director of the Fraud Investigations Unit.

998 Decision to Prosecute

The Director of the Fraud Investigations Unit will present to the Prosecuting Attorney of jurisdiction the original investigative report of those cases deemed worthy of prosecution. The prosecutor has sole discretion to either prosecute, accept repayment in lieu of prosecution, or decline to prosecute.

FOOD STAMP CERTIFICATION MANUAL 16783 - 16793	SECTION: HEARINGS - DISQUALIFICATION HEARINGS
DATE: 1-1-89	SUBJECT: THE OFFICER'S ROLE/ THE DECISION

3. Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
4. Order, where relevant and useful, additional information from a source mutually satisfactory to the household and DCO; and
5. Provide a summary of the hearing so that a decision may be rendered about the alleged act of IPV.

16790 The Decision

The Hearing Officer will prepare a recommended decision based on a comprehensive report of the proceedings. The format will consist of an Introduction, Findings of Facts, Conclusions of Law and a Decision. The order may be reviewed by the manager, Food Stamp Section, or designee for policy correctness. The Administrator, Appeals and Hearings Section, will review and sign the order.

16791 Timely Action

Final action (including arriving at a decision and initiating administrative action) must be taken within 90 days of the date the household member is notified in writing that an Administrative Disqualification Hearing has been scheduled.

16792 Absence of Intentional Program Violation

If the decision is that an IPV has not occurred, the household member will be notified of this decision by the Appeals and Hearings Section in writing. A copy of the decision will be sent to the county office, the Overpayments Unit and to the Fraud Investigation Section if this section was involved in the case.

16793 Finding of Intentional Program Violation

If the decision is that an IPV has occurred, the original hearing decision and one copy will be sent to the appropriate county office. Copies will also be sent to the Overpayments Unit, to the household and to the Fraud Investigation Section if this section has been involved.

NOTE: The copy is being sent to the household for informational purposes only. The county is still obligated to send the original decision to the household as instructed in FSC 16800.

16800 Imposing the Disqualification - County Office Actions

When the county office receives a hearing decision finding that an IPV has occurred, a period of disqualification will be imposed against the individual who committed the violation. The disqualification periods are:

- . 6 months for the first violation;
- . 12 months for the second violation; and
- . Permanently for the third violation.

The disqualification periods for individuals found guilty in a federal, state or local court of trading food stamps for controlled substances will be subject to disqualification for a period of 12 months for the first offense and permanently for the second offense. Individuals found guilty by a court of trading firearms, ammunition or explosives for food stamps will be subject to permanent disqualification for the first offense.

Only the household member found to have committed an IPV, will be disqualified. The remaining members may participate if otherwise eligible. See FSC 1623.2 for instructions on handling the disqualified member's income and resources. The disqualification will be effective with the first month which follows the date the household member receives written notification of the hearing decision. After a disqualification period has been imposed, it continues on an uninterrupted basis until completed. This is true regardless of whether the food stamp case is open or closed.

Upon receipt of a decision, the worker will take the following actions:

- . Establish a disqualification period that begins with the month following the month the household received the hearing decision.
- . Recalculate the household's budget in accordance with FSC 1623.2 and complete the Food Stamp Authorization Document (DCO-233). If necessary, the certification period will be shortened to coincide with the end of the disqualification period. The completed DCO-233 will be routed for keying.

FOOD STAMP CERTIFICATION MANUAL 16816 - 16816 DATE: 6-1-96	SECTION: HEARINGS - DISQUALIFICATION HEARINGS SUBJECT: DRS
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Name
 SSN
 Date of Birth
 Sex Code
 Disqualification Number
 Disqualification Start Date
 Length of Disqualification (99 if permanently disqualified)
 Disqualification Decision Date

The following information appears on the report to assist the County Office in obtaining any needed information from the state and/or county which placed the DRS record on the national system:

State of Disqualification
 Locality of Disqualification (County Code if State is Arkansas,
 FIPS Code if State is not Arkansas.
 A FIPS Code Directory is available
 in each DHS County Office.)
 Contact Title (Job title of individual to contact for information
 about the disqualified individual,
 e.g., County Supervisor.)
 Contact Organization (Office to contact for information about the
 disqualified individual, e.g. Yell
 DHS County Office.)
 Contact Phone
 Contact Phone Extension (if applicable)

Upon imposition of the disqualification, an DCO-19 is completed by the
 DHS County Office and a copy is forwarded to the Food Stamp Section.
 The Food Stamp Section keys the DCO-19 into the DRS file for
 transmission to FCS.

FOOD STAMP CERTIFICATION MANUAL 16820 - 16830	SECTION: HEARINGS - DISQUALIFICATION HEARINGS
DATE: 6-1-96	SUBJECT: IMPOSITION OF DISQUALIFI- CATION WHEN WAIVER IS SIGNED

16820 Overpayment Unit Actions

Upon receipt of a copy of the hearing decision of IPV, the Overpayments Unit will issue a letter to the household. The letter will specify:

1. That the household must make restitution for the related overpayment; and
2. That if an agreement to repay the overpayment is not made within 30 days, the household's food stamp allotment will be reduced to recoup the overpayment.

After the individual who committed the IPV is disqualified, the household continues to be liable for repayment of the resulting overpayment. The remaining household members must begin restitution during the period of disqualification.

If the household agrees to make restitution, but fails to do so, the household's food stamp allotment will be reduced to recoup the overpayment. (The household may also choose to make restitution through recoupment.) Either 20% of the household's monthly food stamp allotment or \$10.00, whichever is greater, will be recouped. If the household ceases participation in the Program while the overpayment is being recouped, equivalent cash payments will be required until the overpayment is completely repaid.

See FSC 15530 for additional information on collection of overpayments.

16830 Imposition of Disqualification When a Waiver is Signed

If the accused individual signs the Waiver of Hearing and Disqualification Agreement (DHS-267) within the specified time frames, the individual will be disqualified as instructed in FSC 1623.2.

The original signed waiver is routed to the Overpayment Unit. Two copies are sent to the appropriate county office. One copy will be retained in the case record. The second copy will be sent to the disqualified individual with a completed Action Taken on Your Administrative Disqualification Hearing/Waiver (DCO-256).

FOOD STAMP CERTIFICATION MANUAL 16830 - 16840	SECTION: HEARINGS DISQUALIFICATION HEARINGS
DATE: 6-1-96	SUBJECT: COURT IMPOSED DISQUALIFICATIONS

The period of disqualification will begin with the first month following the date the household member received written notification of the disqualification. (Unless the Fraud Investigations Unit can reasonably expect to get a waiver packet to the county by the 20th of the month, imposition of the penalty will be delayed by the Fraud Investigations Unit until the following month.) If appropriate, the household's certification period will be shortened to end in the month when the disqualification ends. The household of the disqualified member is liable for the overissuance resulting from the IPV.

The Overpayment Unit will contact households which complete the DCO-257 to arrange for repayment to begin. An Food Stamp Intentional Program Violation Repayment Agreement (DHS-254) will be issued to the household.

See FSC 16800 for complete instructions on disqualifying a household member for IPV.

16840 Court Imposed Disqualifications

DCO will disqualify an individual found to have committed an IPV by a court of law for the length of time specified by the court. The disqualification periods for individuals found guilty in a federal, state or local court of trading food stamps for controlled substances will be subject to disqualification for a period of 12 months for the first offense and permanently for the second offense. Individuals found guilty by a court of trading firearms, ammunition or explosives for food stamps will be subject to permanent disqualification for the first offense. If the court does not impose a disqualification period, DCO will impose a disqualification period in accordance with FSC 16800, paragraphs 1 and 2.

When a court finds that a household member has committed an IPV, the Fraud Investigation Section will inform the county office by memo, with a copy to the Overpayments Unit. Upon receipt of the memo, the county office will immediately complete an Notice of Court Decision (DCO-259), and send it to disqualified household member to initiate the disqualification.

NOTE: Court decisions which specify that NO disqualification be imposed do not require an DCO-259.

An DCO-233 will be completed indicating the new allotment, household size, income, etc. The certification period will be shortened to coincide with the disqualification period if necessary. The income and resources of the disqualified member are handled according to procedures described in FSC 1623.2.

An Food Stamp Intentional Program Violation Repayment Agreement (DCO-254) will be sent to the household by the Overpayments Unit upon notification of a determination of an IPV by a court of law.

FOOD STAMP CERTIFICATION MANUAL 16900 - 16920 DATE: 1-1-89	SECTION: HEARINGS DISQUALIFICATION HEARINGS SUBJECT: JUDICIAL REVIEW
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16900 Appeal Rights After the Hearing

No further administrative appeal procedure exists after an adverse decision through an Administrative Disqualification Hearing. The determination of an IPV resulting from an Administrative Disqualification Hearing cannot be reversed by another Administrative Disqualification Hearing. The household member is, however, entitled to seek relief in a court having appropriate jurisdiction since the period of disqualification may be subject to change through a court decision.

16910 Judicial Review

An individual found guilty of an IPV through an Administrative Disqualification hearing has the right to judicial review.

A petition must be filed in the Circuit Court of any county in which the petitioner lives or does business or in the Circuit Court of Pulaski County within 30 days from the date the petitioner received the decision. Copies of the petition are served on the Agency and other parties of record by personal delivery or mail.

Within 30 days from the date of the service of the petition on the agency or additional time granted by the Court, not to exceed 90 days total, DEMS must transmit to the Court, the original or a certified copy of the entire record of the hearing under review.

The review shall be conducted by the Court without jury and will be confined to the record unless a question of irregularity in the procedure exists which is not indicated in the record. Testimony may then be taken before the Court.

16920 Reversed Disqualifications

In cases where the conviction of an individual for IPV is reversed by a court of appropriate jurisdiction, DCO will reinstate the individual in the Program if the household is otherwise eligible. Benefits that were lost as a result of the disqualification will be restored in accordance with the procedures specified in FSC 13330. The county office will be advised if an Administrative Disqualification Hearing is reversed so that the penalty can be removed.