

State agency's and Federal findings or disposition are the same. The purpose of the arbitration system is solely to resolve disagreements between the State agency's and Federal findings or disposition. State agencies have sometimes used the arbitration process as a way of registering disagreement with FCS policy on an issue. In these cases, the State agency agrees that the findings were correct, but it does not approve of the current Federal policy. The Department maintains that it is important to dedicate the limited resources and staff to those cases where there is a difference between the State agency's and FCS regional office's findings or disposition of an individual case, rather than those cases where all parties agree.

As a further expedient to maximizing the efficiency of the arbitration system, the Department is proposing that State agencies be required to submit specific documents and to ensure that their arbitration requests are complete, legible, and understandable. Over the past several fiscal years, requests for arbitration have frequently failed to provide arbitrators with the information needed to render decisions efficiently and accurately without time consuming requests for additional information or clarification. Common problems have included: illegible documents, blank photocopied pages, income calculations that cannot be duplicated, missing information regarding waivers in effect at the time of the review, and lack of documentation regarding the reporting and budgeting systems applicable to the case. When arbitrators confront these problems, they often must recontact State agencies and Regional offices for clarification. This process has become both time-consuming and confusing. As a solution to this problem, the Department proposes to require a standardized set of documents to accompany each State agency request. The Department proposes that the following items be required: (1) The request for arbitration and basic case information, which would include State, sample month and year, review number, review date, reporting and budgeting procedure, food stamp procedures for budgeting grants from the Aid to Families with Dependent Children Program, certification period, and calendar or fiscal month system; (2) Information about the certification action under dispute, which would include initial certification or recertification, legible certification work papers, legible State agency quality control work papers, and legible regional office quality control work

papers; and (3) Information about the State agency's specific issues, which would include the element under dispute, regulatory citations, handbook citations, policy memoranda, legislative implementation dates, applicable waivers, and verification of facts. Each arbitration request would also include a checklist identifying the required items and indicating whether they were included with the request. The Department is particularly interested in soliciting comments about the need for such a checklist, the items that should appear on the checklist, and any alternatives that might be suggested to enhance the efficiency of arbitration.

If a State agency submitted an incomplete request for arbitration the arbitrator would render a decision based strictly on the merits of the available information. This does not mean that in instances where the State agency submits an incomplete request, and the FCS Regional office submits a response, the arbitrator(s) would automatically decide in favor of the Federal position because of the incomplete State agency request. Nor would this apply in the reverse situation. If a State agency's request for arbitration is complete but the FCS Regional office does not submit a response, the arbitrator(s) would not automatically decide in favor of the State agency's position because the Regional office had not submitted a response. The arbitrator(s) would make an independent judgement of the request, based upon whatever information the State agency and Regional office had provided. The proposed procedure would not permit a State agency to submit a partial request for arbitration and then supply supporting documentation over a ten day period.

In order to ensure that the QC process meets the legislated timeframes the Department is proposing that arbitration be limited to those cases where the State agency's findings and disposition were transmitted to the National Computer Center's (NCC) Integrated Quality Control System (IQCS) in a timely manner. The timeframes for the transmission of case findings to NCC is discussed in the paragraph entitled "*Quality control review reports—§ 275.21*". The Department maintains that State agency reviews which are not completed and transmitted into the IQCS in a timely manner delay the selection and completion of FCS's Federal QC subsample reviews, and jeopardize the system's ability to meet the deadlines mandated by the Leland Act for the completion of all case review and arbitration activity. The Department proposes to restrict arbitration to those

case reviews which have met the timeframes for transmittal to NCC to ensure that the QC process is completed in time to meet the mandated deadline of 180 calendar days after the end of the fiscal year. This restriction would not apply to one exceptional class of case reviews transmitted into the IQCS in an untimely manner. This class would be cases originally disposed of (in a timely manner) as incomplete due to refusal to cooperate on the part of the food stamp household. If the household later agrees to cooperate with QC and the review is completed and retransmitted to IQCS on a date after the original deadline for completing the case, but prior to the final deadline for disposing of all cases for the review period (December 29th under these proposed rules) the State agency would retain the right to request arbitration of the review findings of the completed case (assuming that the completed case is selected for FCS review, and the Federal review findings/disposition disagree with the State agency's findings/disposition). The Department is soliciting comments on additional categories of case reviews which should be excluded from the timeframe restrictions for arbitration.

#### **Quality Control Review Reports— § 275.21**

Current regulations at 7 CFR 275.21(b), published February 17, 1984 (49 FR 6292), specify the timeframes for State agencies to dispose of and report the findings of cases selected for QC review. Under current procedures a State agency has 75 calendar days from the end of a sample month to dispose of 90 percent of the cases selected for review in that month; 100 percent of the cases must be disposed of within 95 days of the end of the sample month. As discussed in the section dealing with the arbitration process, this means that for the last sample month of the review period (September) the State agencies final deadline for disposing of all cases for the fiscal year is currently January 5th. The Department is proposing an arbitration system which will provide State agencies the opportunity to submit a request for arbitration of a case, to be received by the appropriate FCS regional office within 10 days from the date of receipt of the Federal findings, and 35 days for the arbitrator(s) to render a decision on a case. Thus, arbitration will be a process which could routinely take up to 45 days to complete. This is the minimum timeframe which the Department has deemed necessary to ensure an arbitration process which will render accurate determinations. Section 13951 of the Leland Act amends the Food