Proposed Rules

Federal Register Vol. 60, No. 152 Tuesday, August 8, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 273

[Amendment No. 369]

RIN: 0584-AC08

Food Stamp Program: Failure to Comply With Federal, State, or Local Welfare Assistance Program Requirements

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend Food Stamp Program regulations to prohibit an increase in food stamp benefits when a household's Federal, State or local welfare assistance payment decreases as a result of a penalty for failure to comply with a Federal, State or local welfare program requirement. The revision is necessary to more fully implement congressional intent that the Food Stamp Program should reinforce, not mitigate, another program's penalties.

DATES: Comments must be received on or before September 22, 1995, to be assured of consideration.

ADDRESSES: Comments should be submitted to Margaret Thiel, Acting Supervisor, Eligibility and Certification Regulation Section, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Comments may also be datafaxed to the attention of Mrs. Thiel at (703) 305-2454. All written comments will be open to public inspection at the offices of the Food and Consumer Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, room 720.

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed rulemaking should be addressed to Mrs. Thiel at the above address or by telephone at (703) 305–2496.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866, and therefore, has been reviewed by the Office of Management and Budget.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any state or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) For program benefit recipients-State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(10) and 7 CFR 273.15; (2) for State agenciesadministrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-Quality Control liabilities) or Part 283 (for rules related to Quality Control liabilities); (3) for program retailers and wholesalers-administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related Notice(s) to 7 CFR 3105, subpart V (48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This proposed rule has also been reviewed with respect to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354,

94 Stat. 1164, September 19, 1980). William E. Ludwig, Administrator of the Food and Consumer Service (FCS), has certified that this proposal would not have a significant economic impact on a substantial number of small entities. The changes would affect food stamp applicants and recipients who intentionally fail to comply with other Federal, State or local welfare assistance program requirements. The proposal would also affect State and local welfare agencies which administer the Food Stamp Program. State welfare agencies are reimbursed at a 50/50 matching rate for Food Stamp Program administrative costs.

Paperwork Reduction Act

This proposed rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

The Food Stamp Act Amendments of 1982 (Pub. L. 97–2253, Subtitle E, Sec. 164, Sept. 8, 1982) amended the Food Stamp Act of 1977, as amended, (Act) to add a new provision (Section 8(d)) which prohibits increases in food stamp benefits which are due to decreases in household income resulting from a penalty levied by a Federal, State, or local welfare assistance program for intentional failure to comply with the other program's requirements. 7 U.S.C. 2017(d). As currently written in the Food Stamp Program regulations at 7 CFR 273.11(k), the prohibition only applies to penalty situations in which overissued benefits resulting from such intentional noncompliance are being recouped from the household's public assistance benefits which would otherwise result in a reduction in countable income for Food Stamp Program purposes.

The Department is proposing to expand the current regulations to include all situations in which a decrease in public assistance income occurs as a result of a penalty being imposed for intentional failure to comply with a Federal, State, or local welfare program requirement. This proposal stems from several incidents in recent years when States, working with the Department in developing welfare reform proposals, have asked that we not allow food stamp benefits to rise