

April 17, 2003

SUBJECT: Withdrawing Food Stamp Applications

To: Regional Directors
Food Stamp Program

We are becoming concerned that State agencies may not be respecting the voluntary nature of clients' withdrawal from the Food Stamp Program. Over the past few months, mainly through e-mail messages from clients, we have learned that some local offices suggest that clients withdraw their applications. The suggestion or recommendation that a client withdraw impinges on the voluntary character of a withdrawal.

The overall approach of the food stamp regulations is to encourage clients to apply for food stamps. One can see this especially in 273.2, which says that

- Every person has the right to apply for food stamps
- A State agency must encourage a client to apply on the first day of contact.
- A State agency must encourage a client to apply for food stamps even if the State agency discourages application for cash assistance.

273.2(c)(6) recognizes a client's right to withdraw an application. The paragraph reads:

The household may voluntarily withdraw its application at any time prior to the determination of eligibility. The State agency shall document in the case file the reason for withdrawal, if any was stated by the household, and that the contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time subsequent to a withdrawal.

Therefore, a withdrawal should be an action that the client initiates for the client's own reasons. Encouraging a client to withdraw conflicts with the requirement to encourage a client to apply.

There are also practical problems with the suggested or encouraged withdrawals.

First, the local office may be suggesting a withdrawal because they think that the household is not eligible. In that situation, the local office is, in effect, making an eligibility decision. The problem is that the decision is made outside the ordinary scope of monitoring and record-keeping. Decisions about eligibility must not be made informally and they must not be made in a way that precludes review.

Second, it is not a local office's, or a State agency's, or the Food and Nutrition Service's responsibility to decide which application should continue the process and which should withdraw. It is our agencies' responsibility to ensure that eligible applicants are certified.

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

I would appreciate it very much if you could convey this message to your State agencies.

/s/

Arthur T. Foley
Director
Program Development Division