



Department for Children and Families

Economic Services Division

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Agency of Human Services

TO: Health Care Oversight Committee
FROM: Sean Brown, Deputy Commissioner, Economic Services Division, Department for Children and Families (DCF)
RE: 3SquaresVT Program Update
DATE: October 27, 2014

As requested, I am writing to provide an update to the committee regarding two matters relating to the 3SquaresVT Program. The Food and Nutrition Service (FNS) of the United States Department of Agriculture recently issued two claims against DCF for errors associated with the department's administration of the federal Supplemental Nutrition Assistance Program (SNAP), called 3SquaresVT in Vermont. Each claim against the State is for actions that took place during Federal Fiscal Year (FFY) 2013 (from October 1, 2012 through September 30, 2013).

1. Quality Control Sanction

The first claim for \$549,198 is a Quality Control (QC) sanction against DCF for having a payment error rate of 9.66%, well above the required standard of below 6%. *The payment error rate is the sum of two components: the overpayment and underpayment rates.*

2. ABAWD Exemption Overuse

The second claim for \$676,110 is for overusing allotted exemptions from work registration requirements for able-bodied adults without dependents (ABAWD). In FFY 2013, we were allotted 34,266 exemptions but used 45,341. Federal regulations allow States to make up for overspending exemptions in one year by applying exemptions earned the following year. Vermont was able to apply 7,440 exemptions from FFY 2014 to the 11,075 exemptions overused in FFY 2013, resulting in a balance of 3,635 overused exemptions.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, ABAWDs who are not meeting specific work requirements must not receive SNAP benefits for more than three months during a three-year period. The Balanced Budget Act of 1997 allows states to earn exemptions equal to 15% of the State's ABAWD caseload. Each earned exemption can be applied to extend eligibility to one person for one month.

In both cases, there were "good cause" reasons for the errors. As a result, DCF has appealed the QC sanction and is currently negotiating with FNS regarding the ABAWD exemption overuse claim.



Appealing the FFY 2013 QC Sanction

Vermont's extremely high payment error rate in FFY 2013 (9.66%) was due to several "good cause" reasons, including a significant increase in the 3SquaresVT caseload in the years leading up to FFY 2013; a decrease in the number of eligibility workers and loss of training unit during that same time period; and changes in other DCF programs that strained the resources available for 3SquaresVT administration.

DCF filed an appeal with the USDA Office of the Administrative Law Judge on September 2, 2014. FNS has 60 days, or until November 3, 2014, to file an answer to our appeal. If FNS fails to file a timely response, the Administrative Law Judge (ALJ) may issue a default decision.

If FNS responds on time:

- The appeal will either move forward for a potential hearing before the ALJ; or
- Both parties will enter into settlement negotiations (the most likely option).

At any point during the appeal process, FNS and the State Agency may agree to entry of a consent decision. 7 C.F.R. § 283.10.

Negotiating with FNS Regarding ABAWD Exemptions Overuse Claim

On September 3, 2014, FNS issued a letter to DCF indicating that Vermont had overspent its allotted ABAWD exemptions in FFY 2013. Instead of issuing a bill along with the letter, FNS invited DCF to work collaboratively to develop a plan to use State funds in the amount of the claim (\$676,110) to reinvest in Vermont's SNAP operations.

In preliminary discussions with the Northeast Regional Office of FNS, Vermont indicated there were "good cause" reasons for the overspent exemptions. FNS in turn indicated that there was some flexibility in developing a reinvestment plan and "good cause" reasons may be taken into consideration when determining the amount of the claim and how it's to be invested. DCF will be submitting a proposed reinvestment plan to FNS on November 3, 2014.

Moving Forward

DCF has implemented several corrective measures to ensure these types of errors don't occur in the future and we've already made significant progress.

- We have a great chance of receiving a performance bonus from FNS next year for having the most improved payment error rate in the nation for FFY 2014. As of the end of June 2014, our cumulative payment error rate was 2.98%; down by more than 6% from our rate in FFY 2013.
- We have also significantly improved our case and procedural error rates during FFY 2014, and we are likely to receive a performance bonus in this category as well.