

6.3 NOTICE OF ACTION RESULTING FROM A REDETERMINATION OR CASE MAINTENANCE ACTIVITY

Two (2) forms are basic to client notification of a change in benefits, whether this change occurs at redetermination, or as a result of a case maintenance activity. These are the ES-NL-B and the ES-NL-C.

The ES-NL-B is used to notify the client of an increase in benefits, of action taken resulting in no benefit change, and, in very few instances, of a decrease or case closure.

The ES-NL-C is used to notify the client of case closure or a decrease in benefits when advance notice is required.

Closely involved in the determination of whether an ES-NL-B or an ES-NL-C is used is the DFA-NL-5, Waiver of 13-Days Advance Notice. In addition to these forms, the DFA-6 Notice of Information Needed, and the DFA-10, Appointment Letter, may be used for client notification. The use of each of these forms is detailed below.

A. DFA-6, NOTICE OF INFORMATION NEEDED; ES-6A, SPENDDOWN EXPLANATION

If, at redetermination, or the time of any other change in client circumstances, it becomes clear that additional information or verification is needed, the DFA-6 is used to notify the client in writing of the needed information and the date by which the information must be received. The ES-6A is used in addition to the DFA-6 when it is necessary to explain the spenddown process to the client.

1. Case Maintenance For All Programs

The date entered must be no earlier than 10 days from the date the DFA-6 is completed.

If the client fails, without good cause, to provide the information by the established date, an ES-NL-C must be sent to notify the client of the failure and the resulting case action.

2. SNAP Redeterminations

The date entered must be at least 10 days from the date of the DFA-6. If the information is not available by the date indicated, and the client has not contacted the Worker, the AG is closed or the deduction disallowed. The client must be notified of the denial or disallowance of a deduction by form ES-NL-B. Benefits must not be continued beyond the certification period, unless a redetermination is completed and the client remains eligible. See Section 1.4,S.

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3. WV WORKS And Medicaid Redeterminations

The date entered must be no earlier than 10 days from the date the DFA-6 is completed.

If the client fails, without good cause, to provide the information by the established date, an ES-NL-C must be sent to notify the client of the failure and the resulting case action.

B. WHAT CONSTITUTES AN ADVERSE ACTION

An ES-NL-C is used for client notification of all adverse actions except those specified in 6.3,C,2. In this case, an ES-NL-B is used. Adverse actions are defined as follows.

SNAP BENEFITS	WV WORKS	MEDICAID
<p>AG closure</p> <p>Decrease in SNAP benefit amount</p> <p>Shortened certification period</p> <p>NOTE: The following are not adverse actions, but do require client notification:</p> <ul style="list-style-type: none"> - When the benefit amount does not increase following an SSI check reduction for repayment of an error caused by the client's intentional misrepresentation. - When the benefit amount does not increase following a reduction, suspension or termination of a federal, State or local means-tested welfare or public assistance program due to the client's failure to comply with the program's requirements. This includes a reduction in WV WORKS benefits due to a sanction. 	<p>AG closure, including closure due to imposition of the 3rd or subsequent sanction</p> <p>Reduction in the benefit amount including reductions due to imposition of the 1st or 2nd sanction.</p> <p>Removal of an individual from the AG, when the benefit amount decreases</p> <p>NOTE: A special notice letter is required to impose a sanction based on failure to comply with the PRC. See item E below.</p>	<p>AG closure</p> <p>Removal of an individual from the AG</p>

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NOTE: When an ES-NL-C is sent to a SNAP AG that contains an ABAWD, form DFA-ABAWD-1 must be attached. This applies to all counties, both ILC's as well as NILC's.

NOTE: Client notification must be sent even when the only recipient in the AG dies.

C. ES-NL-B

NOTE: The ES-NL-B must always be used with the Pre-Hearing Conference and/or Fair Hearing request form, DFA-FH-1 and the appropriate computation forms.

The ES-NL-B is used to notify a client of:

1. An Increase In Benefits:

The recipient must be notified in writing any time there is an increase in benefits. The notification must be received by the client prior to or at the same time he receives the increase.

In the space provided, the Worker must indicate the name, address and telephone number of local agencies or organizations which provide legal services without charge. See Appendix A for a listing of Legal Aid offices.

An increase in benefits is defined below for each program and the following information must be contained on the ES-NL-B when an increase in benefits occurs.

a. SNAP Benefits

An increase in benefit amount requires that the notice include the present benefit amount and the increased benefit amount ("Your SNAP benefit amount is being increased from \$100 to \$120"), the date that the increase is effective, the reason for the increase, the Manual section on which the change is based, and any other action taken.

b. WV WORKS

An increase in the benefit amount or the addition of another person to the AG, when the benefit amount increases, requires that the notice include the present benefit amount and the increased benefit amount ("Your WV WORKS benefit is being increased from \$262 to

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\$301"), the date that the increase is effective, the reason for the increase, the Manual section on which the change is based, and any other action taken.

c. Medicaid

The addition of an individual to the Medicaid AG requires that the notice include the name of the individual being added, the date that the change is effective, the reason for the change, the Manual section on which the change is based, and any other action taken.

2. Adverse Actions Not Requiring Advance Notice

All other adverse actions require 13 days advance notice, and, thus, require use of the ES-NL-C. The following actions do not require advance notice:

- A mass change is initiated, such as the annual updates of SNAP allotments or deductions, the annual RSDI/SSI updates, a change in the WV WORKS payment levels, a change in the Medically Needy Income Levels.
- For SNAP benefits only, when the benefit is terminated or reduced as a result of a redetermination.
- When the client has signed a DFA-NL-5 to waive his right to 13-days advance notice.

Form DFA-NL-5, "Waiver of Advance Notice," is used when the information, which results in an adverse action, is undisputed by the recipient, he agrees with the action to be taken on his case and understands that he is entitled to receive benefits, if the 13-day advance notice requirement is not waived. The waiver allows DHHR to make the change, without application of the 13-day advance notice requirement.

EXAMPLE: Sam moves from SNAP AG 1 to SNAP AG 2 on June 20th and reports this the same day. His removal from AG 1 is an adverse action requiring 13 days notice. He cannot be included in AG 2 for July because he will still be included in AG 1. However, AG 1 signs a DFA-NL-5 to waive the right to advance notice. He can be removed from AG 1 and included in AG 2 effective July.

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The form must be completed in a face-to-face interview. It is completed in duplicate and must be signed by an adult AG member. The original is given to the recipient, and the copy is filed in the case record.

EXCEPTION: The DFA-NL-5 can be mailed to a client who moves to another state and is unable to comply with the face-to-face interview requirement. Supervisory approval is required and the Worker must completely fill out the form before it is mailed. A written explanation of the effect of signing the form must accompany the form.

Under no circumstances are blank DFA-NL-5's to be signed and used at a later date. It is always the client's option to sign or not to sign the form.

If the proposed adverse action normally requires an ES-NL-C, but the client signs an DFA-NL-5, the Worker sends an ES-NL-B instead of an ES-NL-C.

NOTE: When an ES-NL-B is used to notify the client of an adverse action, and the client requests a Hearing or Pre-Hearing Conference, benefits are not continued or reinstated pending a decision.

In the space provided, the Worker must indicate the name, address and telephone number of local agencies or organizations which provide legal services without charge.

The following items a, b and c indicate the information which must be contained on the ES-NL-B, when it is used as a notice of adverse action.

NOTE: If the closure is due to excessive assets, the notification letter must specify the asset limit and the total value counted for all the client's assets. For Worker completed letters only, the letter must contain the following statement: "You may request a detailed accounting of the asset calculations used by the Department. If you so request, this will be mailed to you within five (5) working days of receipt of your request. You may request this in writing, by phone or in person." RAPIDS provides a detailed asset calculation with all notices of decision.

a. SNAP Benefits

The notice must include the fact that the SNAP AG is closed or the benefit amount has decreased, the date that the action becomes effective, the reason for the action, the Manual section on which the decision is based, and any other action that is taken.

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NOTE: If the SNAP benefits decrease only because of an increase in the WV WORKS payment, the Worker must complete two separate notices, to be mailed on the same day. The ES-NL-B is used to notify the client of the increase in the benefit amount. The ES-NL-C is used to notify the client of the decrease in SNAP benefits. The DFA-FH-1 is attached to the ES-NL-B and the ES-NL-C. Appropriate computation forms must also be attached.

b. WV WORKS

The notice must include the fact that the benefit is being stopped or reduced, the date the action is effective, the reason for the action, the Manual section on which the decision is based, and any other action taken.

c. Medicaid

The notice must include the specific action being taken, the date that the action is effective, the reason for the action, the Manual section on which the decision is based, and any other action taken. The following must be included as appropriate:

Closure: The fact that the Medicaid AG is being closed.

Removal of an individual from the Medicaid AG: The name of the individual being removed.

Change to a spenddown AG: The fact that the eligibility status has changed, reason for and the effective date of the change, beginning and ending dates of the new POC.

3. Changes Not Affecting The Benefit Level

a. SNAP Benefits Only

The following are not adverse actions, but do require client notification:

- When the benefit amount does not increase following an SSI check reduction for repayment of an error caused by the client's misrepresentation
- When the benefit amount does not increase following a reduction, suspension or termination of a federal, State or local means-tested welfare or public assistance program due to the client's failure to comply with the program's requirements. This includes WV WORKS sanctions.

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When used to notify the client of these actions, the ES-NL-B must specify that SNAP benefits would normally increase following a reduction in income, but that, due to the fact that the client caused these reductions by his own actions, benefits will not increase. The Worker must also indicate which agency made the determination of the client's failure to comply.

b. All Programs, Including SNAP Benefits

The client must be notified of all changes made, even when the benefit level is not affected, such as a transfer to another county or a change in payee. When used for this purpose, specific information about what the change is, the date the change is effective, the reason for the change, the Manual section on which the change is based, and any other action taken must be included on the form.

EXAMPLE: "You have reported that you moved to Kanawha County. Your case has been transferred to the Kanawha County office effective August 1, 2005 which is located at: 4190 W. Washington Street, Charleston. Your new Worker is: Angelica Smith."

D. ES-NL-C

NOTE: The ES-NL-C must always be used with the Pre-Hearing Conference and/or Fair Hearing request form, DFA-FH-1, and the appropriate computation forms.

Instructions for completion of the ES-NL-B in item C,2 above also apply to the ES-NL-C.

NOTE: If the SNAP benefit amount is reduced or terminated within the certification period because a member is disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining AG members and the action the AG must take to end the disqualification, if applicable, must be shown on the form. For persons sanctioned due to a SNAP Employment and Training (SNAP E&T) violation, the notice must specify the particular violation and the proposed penalty period.

The ES-NL-C is used to notify a client of an adverse action in situations requiring a 13-day advance notice period as described below.

Client Notification

1. Situations Requiring Advance Notice

A client must receive advance notice in all situations involving adverse actions except those described in Section 6.3, C,2. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected. The date on the notice must be the date it is mailed.

2. Timing Of Worker Action

a. Beginning and Ending of the Advance Notice Period

The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed.

EXAMPLE: An ES-NL-C is dated and mailed on October 18th. The 13-day advance notice period begins October 18th. The 13-day advance notice period ends at the close of the business day on October 31st. The action is effective no earlier than November 1st.

If the 13-day notice period ends on a weekend or holiday, the action is taken on the first subsequent work day.

NOTE: The date on the notice must be the date it is mailed.

b. Date Adverse Action May be Taken

(1) When Advance Notice Period Expires Before the First of the Following Month

Usually the Worker will take the action in RAPIDS before the 13-day advance notice begins to be effective the day after the 13-day advance notice period ends.

EXAMPLE: The client reports a change that requires advance notice. The Worker makes the change in RAPIDS on October 9th. An ES-NL-C is dated and mailed by RAPIDS on October 10th. The 13-day advance notice period starts on October 10th and ends October 22nd. Since the advance notice period ends before November 1st, the change is effective November 1st.

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- (2) When Advance Notice Period Expires the First of the Following Month or Later

If the 13-day advance notice period does not expire until the first day of the following month or later, the change is not effective until the month following the end of the 13-day advance notice period.

EXAMPLE: An ES-NL-C is dated and mailed on December 27th. The 13-day advance notice period expires January 8th. The change is effective for February. The client is eligible to receive January benefits at the previous level.

- (3) Fair Hearing Request After Receipt of ES-NL-C

- (a) Requested Within Advance Notice Period

When the client requests a Pre-Hearing Conference or a Fair Hearing within the 13-day advance notice period, benefits that were previously stopped or reduced at the time the ES-NL-C was issued, are reinstated or restored immediately, whether or not the client requests reinstatement. If the client specifically requests benefits not be reinstated, verbally, by checking the appropriate section of the DFA-FH-1 or in some other written manner, no reinstatement action will be taken.

No change is made in AG status or benefit levels having to do with the current issue until a final decision is made as a result of a Pre-Hearing Conference or Fair Hearing.

Other changes may occur during the Hearing process. If this happens, the client must receive proper notification of these other changes. If the client does not request a Pre-Hearing Conference or a Fair Hearing on these subsequent changes, the changes are made, even though the first change is in Pre-Hearing Conference or Hearing status. If the client does request a Pre-Hearing Conference or a Fair Hearing on the subsequent changes, the Worker must:

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- (i) Pre-Hearing Conference is Requested:
- Hold Pre-Hearing Conference; and
 - If the issue is not resolved, contact the Hearings Officer to see if all issues can be dealt with in one Hearing; and
 - Continue benefits at the current level until the subsequent changes are resolved.
 - The Pre-Hearing Conference decision will be final unless the client continues with a Fair Hearing.
- (ii) Fair Hearing Only is Requested:
- Contact the Hearings Officer to see if all issues can be dealt with in one Hearing, and
 - Continue benefits at the current level until the subsequent changes are dealt with in a Hearing.

If the Department is upheld in the Hearing, the previously proposed action is taken without further notice to the client and benefits in excess of the amount of entitlement, which were received after the month in which the ES-NL-C was received, are subject to repayment requirements. For this reason, the client may return such benefits, or request that his benefits be stopped or reduced, while awaiting the outcome of the Pre-Hearing Conference or Fair Hearing. When this occurs, the Worker takes the adverse action and sends the client an ES-NL-B, confirming his request.

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EXCEPTION: SNAP Program only: If the client did not complete a redetermination, benefits are not reinstated or continued. Benefits will be continued or reinstated only after the client completes a redetermination. If the SNAP certification period ends prior to the decision of the Hearings Officer, or prior to the Pre-Hearing Conference decision, the client is not entitled to benefits at the previous level or continued benefits.

- (b) Requested After Advance Notice Period, but within 90 Days of the Effective Date of the Action.

Benefits are not reinstated or restored pending the Fair Hearing or Pre-Hearing Conference decision after expiration of the 13-day advance notice period.

E. DFA-WVW-NL-1

NOTE: The DFA-WVW-NL-1 must always be used with the Pre-Hearing Conference and/or a Fair Hearing request form, DFA-FH-1, and the appropriate computation forms.

The DFA-WVW-NL-1 is used only for WV WORKS and only when the imposition of a sanction for failure to adhere to the terms of the PRC is involved.

Instructions for completion of the ES-NL-B (See item C above) also apply to completion of the DFA-WVW-NL-1. In addition, there is space for the Worker to schedule a Good Cause Interview. The interview must be scheduled for a date that allows the client to attend the interview and to comply with the PRC requirements before the advance notice period expires. The good cause interview must be scheduled no less than 7 calendar days beginning with the date after the letter is requested in RAPIDS or from the date after a manual letter is sent. If the letter is hand delivered, case comments must be made indicating the date the letter was given to the client. If the good cause interview is scheduled for a date prior to the 7 days, the participant and the Worker must agree on the date.

All other policies and procedures that normally apply to the ES-NL-C apply to the use of the DFA-WVW-NL-1. See item D above.

F. DFA-FH-1, PRE-HEARING CONFERENCE AND/OR FAIR HEARING REQUEST FORM

The DFA-FH-1 is used to request a Pre-Hearing Conference and/or Fair Hearing and must be used when an ES-NL-A, ES-NL-B, ES-NL-C or DFA-WVW-NL-1 is used.

If more than one notification letter is sent at the same time, the DFA-FH-1 must be sent with each notification letter.

EXAMPLE: The client experiences a change which increases his WV WORKS benefit amount. His SNAP benefits decrease, solely due to the increase in the WV WORKS check. The Worker prepares an ES-NL-B to address the increase in WV WORKS and attaches form DFA-FH-1. In addition, the Worker completes an ES-NL-C to address the decrease in SNAP benefits and also attaches a DFA-FH-1.

G. DFA-10, APPOINTMENT LETTER

The DFA-10 is used to notify the recipient of the time and place of an appointment. These appointments are usually scheduled for redeterminations. However, the form can be used to notify the client of an appointment when a face-to-face contact is indicated for a case maintenance activity.

If the client fails to keep the appointment, the Worker must send an ES-NL-C prior to AG closure, except for closures resulting from failure to complete a SNAP redetermination. An ES-NL-B is used in this situation.

For SNAP AG's, the DFA-10 serves as the first notification of the end of the certification period.

When Worker completed, the original DFA-10 is mailed or given to the client and a copy is filed in the case record.