

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 AG closure.

The ES-NL-C is used to notify the client of AG 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 ES-NL-5, Waiver of 13-Days Advance Notice. In addition to these forms, the ES-6 Notice of Information Needed, and the ES-10, Appointment Letter, may be used for client notification. The use of each of these forms is detailed below.

A. ES-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 further information or verification is needed, the ES-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 ES-6 when it is necessary to explain the spenddown process to the client.

1. Food Stamp Redeterminations

The date entered must be at least 10 days from the date of the ES-6. If the information is not available by the date indicated, and the client has not contacted the Worker, the AG is closed (before automatic closure by the data system), or the deduction disallowed. The client must be notified of the denial or disallowance by form ES-NL-B. Benefits must not be continued beyond the certification period, unless a redetermination is completed and the client remains eligible. If the due date on the ES-6 goes into the following month, benefits are stopped. Benefits may be reinstated when the information is received. See Section 1.4,S,4.

2. Case Maintenance for All Programs and Redeterminations for TANF, WV WORKS and Medicaid

The date entered must be no earlier than 10 days from the date the ES-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.

FOOD STAMPS	WV WORKS	MEDICAID
<p>Case Closure</p> <p>Decrease in Food Stamp Allotment</p> <p>NOTE: The following are not adverse actions, but do require client notification:</p> <ul style="list-style-type: none"> - When the coupon allotment does not increase following a cash assistance or SSI check reduction for repayment of an error caused by the client's intentional misrepresentation. - When the coupon allotment 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. 	<p>Case Closure, including closure due to imposition of the 3rd or subsequent sanction</p> <p>Reduction in the payment amount including reductions due to imposition of the 1st and 2nd sanction.</p> <p>Removal of an individual from the payment, when the payment 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>Case Closure</p> <p>Removal of an individual from the AG</p> <p>Reclassification of a non-spenddown case to a spenddown case</p> <p>Termination of Medicaid when the client is ineligible for Medicaid under any other coverage group</p>

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

NOTE: Client notification must be sent even when the only recipient in the case dies. When this happens, the notification letter must be sent to the Administrator, estate of (client's name), and the salutation must be ?Dear Administrator.?

C. ES-NL-B

NOTE: The ES-NL-B must always be used with a Hearing/Pre-Hearing Conference request form, ES-NL-B1 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. An increase in benefits is defined below for each program.

Food Stamps: Increase in coupon allotment.

TANF, WV WORKS: Increase in the check amount or the addition of another person to the TANF or WV WORKS benefit group, when the check amount increases.

Medicaid: Addition of an individual to the Medicaid benefit group.

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 information must be contained on the ES-NL-B when increase in benefits occurs:

a. Food Stamps

The present coupon allotment and the increased allotment ("Your Food Stamp coupon allotment 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 being taken on the case.

b. TANF and WV WORKS

The present check amount and the increased check amount ("Your TANF or WV WORKS check is being increased from \$201 to \$253"), 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 being taken on the case.

c. Medicaid

The name of the individual being added to the Medicaid benefit group, 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 being taken on the case.

2. Adverse Actions Not Requiring 13 Days 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:

- When the client has signed an ES-NL-5 to waive his right to 13-days advance notice.

Form ES-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 the Agency to make the change, without application of the 13-day advance notice requirement.

EXAMPLE: Sam moves from Food Stamp benefit group A to Food Stamp benefit group B on June 20th and reports this the same day. His removal from benefit group is an adverse action requiring 13 days notice. He cannot be included in benefit group B for July because he will still be included in benefit group A. However, benefit group A signs an ES-NL-5 waiving the right to 13 days advance notice. He can be included in benefit group B effective July and removed from benefit group A effective the same month.

The form must be completed in a face-to-face interview only. It is completed in duplicate and must be signed by the payee or spouse. The original is given to the recipient, and the copy is filed in the case record.

Under no circumstances are blank ES-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 ES-NL-5, the Worker sends an ES-NL-B instead of an ES-NL-C.

- A mass change is initiated, such as the annual update of Food Stamp coupon allotments or deductions, the annual RSDI/SSI updates, a change in the AFDC/U or WV WORKS payment levels, a change in the Medically Needy Income Levels.
- For Food Stamps only, when the benefit is terminated or reduced as a result of a redetermination.

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 indicates the information, which must be contained on the ES-NL-B, when it is used as a notice of adverse action.

a. Food Stamps

The fact that the Food Stamp case is closed or the coupon allotment has decreased, the date that the action becomes effective, the reason for the action, the Manual section on which the decision is based, an any other action that is being taken on the case.

NOTE: If the Food Stamp benefits decrease only because of an increase in the AFDC/U or 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 check amount. The ES-NL-C is used to notify the client of the decrease in Food Stamp benefits. The ES-NL-B1 is attached to the ES-NL-B and the ES-NL-C1 is attached to the ES-NL-C. Appropriate computation forms must also be attached.

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. In addition, 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."

b. AFDC/U, WV WORKS

The fact that the payment 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 being taken on the case.

In addition, for Medicaid recipients, a statement about the status of Medicaid coverage must be made. If it does not continue, the notification must specify the date the action becomes effective, the reason for the action and the Manual section on which the decision is based.

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.

In addition, 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."

c. Medicaid

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 being taken on the case.

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

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

Change to a spenddown case: 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.

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. In addition, 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."

3. Changes Not Affecting the Benefit Level

a. Food Stamps Only

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

- When the coupon allotment does not increase following an WV WORKS or SSI check reduction for repayment of an error caused by the client's misrepresentation
- When the coupon allotment 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.

When used to notify the client of these actions, the ES-NL-B must specify that Food Stamp 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 Food Stamps

The client must be notified of all changes made to his case, 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, the following information must be shown on the form: Specific information about what the change is "Your case is being transferred to Lincoln County from Kanawha County", the date the change is effective, the reason for the change "You recently moved to Sod, which is in Lincoln County," the Manual section on which the change is based, any other action. "After you receive this letter, any questions should be directed to the Lincoln County office."

D. ES-NL-C

NOTE: The ES-NL-C must always be used with a Hearing/Pre-Hearing Conference request form, ES-NL-C1, and the appropriate computation forms.

Instructions for completion of the ES-NL-B also apply to the ES-NL-C.

When used to notify of a pending closure due to an incomplete Form, the ES-NL-C must specify the information/verification needed.

NOTE: If the Food Stamp coupon allotment is reduced or terminated within the certification period because a member is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining benefit group members and the action the benefit group must take to end the disqualification, if applicable, must be shown on the form. For persons sanctioned due to a Food Stamp Employment and Training (FS E & T) violation, the notice must specify the particular violation and the proposed penalty period. In addition, form letter ES-FS-100 must accompany each ES-NL-C sent due to non-compliance with FS E & T requirements. This form explains that there are certain actions which may end or avoid the sanction, and also notifies the client that the individual or the benefit group may reapply and be found eligible again at the end of the disqualification period. The ES-NL-C must refer to this enclosed form.

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.

1. Situations Requiring 13-Days Advance Notice

A client must receive 13 days advance notice in all situations involving adverse case actions except those described in Section 6.3, C,2. The 13-day advance notice period requires that notification be received by the client at least 13 days prior to the first day of the month in which the benefits are affected.

2. Timing of Worker Action

a. Beginning and Ending of 13-Day Advance Notice Period

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

EXAMPLE: ES-NL-C is dated October 1. The 13-day advance notice period begins October 2, the day after the date on the ES-NL-C. The 13-day

advance notice period ends at the close of the business day on October 14. Action is taken on the case no earlier than October 15, effective November.

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

NOTE: The above time limits assume that the letters are mailed on the same day they are dated. If this is not true, the 13-day notice period begins the day after the notices are 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 on the day after the date the 13-day advance notice ends, as determined in item a. above. However, the Worker may transmit the change prior to the expiration of the 13 days, if the 13-day advance notice period will expire prior to the first of the following month.

EXAMPLE: ES-NL-C is dated October 10. The 13-day advance notice period starts October 11 and ends October 23. Since the advance notice period ends before November 1, the Worker may take data system action to effect the change at the same time the ES-NL-C is sent.

EXAMPLE: ES-NL-C is dated March 18. The 13-day advance notice period begins March 19, the day after the date on the ES-NL-C. The advance notice period ends at the close of the business day on March 31. The Worker makes the change prior to the deadline date in March, effective April.

However, if the client requests a Hearing or Pre Hearing Conference during the 13-day notice period, benefits must be reinstated immediately, at the same level, and continued until the issue is resolved, unless the client specifically requests benefits not be reinstated.

- (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 must not be made at the time the notification letter is sent, because the change cannot be effective the following month.

EXAMPLE: ES-NL-C is dated December 27. The 13-day advance notice period expires January 9. The change must be effective for the month of February. The client is eligible to receive January benefits.

If Food Stamps or Medicaid is involved, the client is eligible for such benefits. If AFDC/U benefits are involved, the client is eligible to receive such benefits, but they may have to be repaid.

No change is made in case status or benefit levels having to do with the current issue until a final decision is made as a result of a Fair Hearing or, if the client does not continue with a Fair Hearing, a Pre-Hearing Conference.

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 Hearing or Pre-Hearing Conference on these subsequent changes, the changes are made, even though the first change is in Hearing or Pre-Hearing Conference status. If the client does request a Hearing or Pre-Hearing Conference on the subsequent changes, the Worker must:

- (i) If 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.

- (ii) If 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.

If the Department is upheld in the Hearing, the previously proposed action is taken without further notice to the client.

EXCEPTION: Food Stamp Program only: If the Department did not receive a QR form from the benefit group, and the client admits he did not submit the report, benefits are not reinstated or continued. Benefits will be continued or reinstated only after the client submits a report form for the months in question and all subsequent months, through the current one due.

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

(a) Requested Within 13-Day Advance Notice Period

When the client requests a Hearing, or a Pre-Hearing Conference, within the 13-day advance notice period, and the action has not already been taken, benefits must be continued at the previous level unless the client specifically requests they not be continued. He may do this verbally, by checking the appropriate section of the Hearing Request Form (ES-NL-C1), or in some other written manner.

If benefits were previously stopped or reduced at the time the ES-NL-C was

issued, they are reinstated or restored immediately, whether or not the client requests reinstatement. If the client specifically requests benefits not be reinstated, no reinstatement action will be taken.

For TANF cases, the case must be reopened in the data system. An ES-AP-3 or AP-3 transaction does not suffice, since this does not reinstate Medicaid coverage. When a client requests a Hearing or Pre-Hearing Conference after deadline in one month, and he does not specify that benefits not be reinstated, the Worker must reopen the case on the first of the following month.

If the Hearings Officer upholds the Department's decision, 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 case be closed or the benefit reduced, while awaiting the outcome of the Fair Hearing or Pre-Hearing Conference. When this occurs, the Worker takes the adverse action and sends the client an ES-NL-B, confirming his request.

NOTE: If the Food Stamp 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 13-Day 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. FAIR HEARING/PRE-HEARING CONFERENCE REQUEST FORMS

Three different forms are used to request a Fair Hearing and/or Pre-Hearing Conference as follows:

- The ES-NL-A1 is always used when an ES-NL-A is used.
- The ES-NL-B1 is always used when an ES-NL-B is used.
- The ES-NL-C1 is always used when an ES-NL-C is used.

If more than one notification letter is sent at the same time, the appropriate Fair Hearing/Pre-Hearing Conference Request Form must be sent with each notification letter.

EXAMPLE: The client experiences a change which increases his AFDC check amount. His Food Stamp benefits decrease, solely due to the increase in the AFDC check. The Worker prepares an ES-10 B to address the increase in AFDC and attaches form ES-NL-B1. In addition, the Worker completes an ES-NL-C to address the decrease in Food Stamp benefits and attaches an ES-NL-C1.

G. ES-10, APPOINTMENT LETTER

The ES-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 case closure, except for case closures resulting from failure to keep an appointment for a Food Stamp redetermination. An ES-NL-B is used in this situation.

For Food Stamp cases, the ES-10 serves as the first notification of the end of the certification period. Therefore, the ES-FS-10 must always accompany the form.

The ES-10 is completed in duplicate with a copy filed in the case record.