



*A decade of sowing  
the seeds of justice.*

Christine Z. Peterson  
Acting Director  
Nebraska Department of Health and Human Services  
301 Centennial Mall South  
PO Box 95044  
Lincoln, NE 68509-5044

February 14, 2007

Re: Notifying Food Stamp recipients of their right to request a settlement in the event that they are charged with an overpayment due to caseworker error.

Dear Acting Director Peterson:

As you know, Nebraska Appleseed advocates on behalf of low-income Nebraskans utilizing public benefits programs to ensure that their rights under state and federal law are protected. It has recently come to our attention that, in the Lincoln local office, Demand Letters for Overissuance have failed to notify Food Stamp recipients of their right to request a settlement in the event that they are charged with an overpayment due to caseworker error. Pursuant to federal law, this information must be included in such letters.

Specifically, within the Food Stamp Program, the Food and Nutrition Service has delegated to State agencies “the authority to determine the amount of, and settle, adjust, compromise or deny all or part of any claim which results from fraudulent or nonfraudulent overissuances to participating households.” 7 C.F.R. § 271.4. Failure to inform Food Stamp recipients of the Department’s authority to settle claims violates their Constitutional Procedural Due Process rights. *See Bliet v. Palmer*, 102 F.3d 1472 (8<sup>th</sup> Cir. 1997). In light of this information, we would like to know the following:

1. What is the Department’s policy concerning notification to clients of the Department’s authority to settle Food Stamp overissuances that are caused by caseworker error?
2. Does the Department have any plans to revise its Demand for Overissuance notice to include information about the Department’s authority to settle Food Stamp claims?

We would appreciate your response to this inquiry as soon as possible, preferably within ten days. We would also be happy to meet with you at any time to discuss this issue. If you have internal memoranda or other documents which explain the policies being followed that relate to this issue, we would appreciate receiving a copy of these documents. If there are statutory citations or rules and regulations that your office is using to justify any decision, we would also appreciate receiving a copy of this information.

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Thank you for your time and assistance and we look forward to working with you.

Sincerely,

Sarah Helvey  
Staff Attorney  
Welfare Due Process Project

Cc: Daryl Wusk  
Mike Harris