REGIONAL LETTER 02-03

Subject: Fleeing Felons

This is to provide clarification on an issue raised by the final rule on the Personal Responsibility Provisions of PRWORA, issued in Regional Letter 01-08 dated January 29, 2001. Our National office received questions concerning what constitutes "fleeing" for the purposes of 7 CFR 273.11(n) – Fleeing felons and probation or parole violators.

The final rule provided at Section 7 CFR 273.11(n) that individuals who are fleeing to avoid prosecution, or custody for a crime, or an attempt to commit a crime, that would be classified as a felony, or who are violating a condition of probation or parole under a Federal or State law are ineligible to participate in the Food Stamp Program. The term "fleeing" was not further clarified nor discussed in the preamble.

However, that left standing guidance issued on April 13, 1999, which stated, "A fleeing felon is usually determined by the existence of an outstanding warrant for the individual's arrest, the individual is assumed to be fleeing as of the date the warrant is issued."

It has since come to our attention that Federal courts have interpreted Federal law to require that, in order for an individual to be fleeing, that individual must be acting with the intent to avoid prosecution. For cases where a warrant has been issued, the individual must have knowledge that a warrant has been issued for his arrest in order to be considered "fleeing." Therefore, if a State agency determines that an individual has a warrant out for his arrest, the State agency should verify that the individual has knowledge of the warrant. Once the individual has knowledge of the warrant, either by having received the warrant personally, or by being advised of its existence by the State agency, he is technically at that time, "fleeing."

In the case where a State agency determines during the application processing time period, that an individual has a warrant out for his arrest, we suggest the State agency verify with the applicant whether he has knowledge of the warrant. Furthermore, we strongly urge the State agency to give the individual an opportunity to submit documentation that the warrant has been satisfied.
The national office may further clarify this issue in a future rulemaking. However, in the meantime, please clarify your current procedures to reflect this guidance.

If you have any questions concerning this information, please contact Jane DiBiasio at (617) 565-6401.

Sincerely,

Mary A. Ferris, Chief
State Program Improvement Section
Food Stamp Program
Northeast Region