

PART XVI RESTORATION OF LOST BENEFITS

<u>CHAPTER</u>	<u>SUBJECT</u>	<u>PAGES</u>
A.	RESTORATION OF LOST BENEFITS	1
B.	COMPUTING THE AMOUNT TO BE RESTORED	2-3
C.	METHOD OF RESTORATION	3
D.	RESTORING BENEFITS TO HOUSEHOLDS NOT RESIDING IN THE LOCALITY	3
E.	CHANGES IN HOUSEHOLD COMPOSITION	4
F.	RECORD KEEPING	4
G.	DISPUTED BENEFITS	4

A. RESTORATION OF LOST BENEFITS (7 CFR 273.17(a) and (b))

1. The local agency must restore any benefits that the household lost whenever:
 - a. The State Department or local agency causes an error that results in a loss, including an invalid denial of an application or termination of benefits;
 - b. Federal regulations or instructions specifically provide for restoration of lost benefits; or,
 - c. The loss was due to an intentional program violation disqualification based on a court conviction and the decision of the court is reversed.

The local agency must also restore benefits whenever the loss was caused by an error of the Social Security Administration (SSA) when the error resulted from joint processing of an SSI household. Such an error would include, but is not limited to, the loss of a SNAP application after the applicant filed an application with SSA.

2. Households will not normally receive restoration for an action that occurred more than 12 months before the most recent of the following:
 - a. The month the household, or another person or agency notified the local agency in writing or orally of the possible loss to a specific household;
 - b. The month the local agency discovers, in the normal course of business, that a loss to a specific household has occurred; or,
 - c. The date the household requested a fair hearing to contest the adverse action that resulted in the loss.

Any exceptions to the 12 month restriction on restoration, will be noted at the time specific policy requiring a restoration is issued.

If the state or local agency determines that a loss of benefits has occurred and the household is entitled to restoration of those benefits, the local agency must take action immediately to restore any benefits lost within the limits described above. No action by the household is necessary.

The local agency must notify the household of its entitlement and other pertinent information by providing the household with the *Entitlement to Restoration of Lost Benefits*. See Part XXIV for a copy of the form and instructions. The agency must also use the form to notify households who have requested a review of their case for lost benefits that the household is not entitled to restored benefits.

The agency must provide restoration benefits to any household entitled to the benefits even if the household is currently ineligible.

B. COMPUTING THE AMOUNT TO BE RESTORED (7 CFR 273.17(d))

After correcting the error and excluding those months for which benefits may have been lost prior to the 12-month time limits described in Part XVI.A., the local agency must calculate the amount to be restored as follows:

1. If the household was eligible but received an incorrect allotment, the agency must calculate lost benefits only for those months the household participated.
2. If the loss was caused by an incorrect denial or termination of benefits, the EW must calculate the months affected by the loss as follows:
 - a. If an eligible household's initial application or reapplication was erroneously denied, the month the loss initially occurred will be the month of application, or for an eligible household filing a timely application for recertification, the month following the expiration of its certification period.
 - b. If an eligible household's benefits were erroneously terminated, the month the loss initially occurred will be the first month benefits were not received as a result of the erroneous action.

Example

An eligible household's benefits were erroneously terminated effective June 30. The error was discovered in August and the household was given an opportunity to participate in August. The household is entitled to restoration of lost benefits for the month of July.

After computing the date the loss initially occurred, the loss must be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

Examples

- 1) The local agency has determined that a household is entitled to restoration of lost benefits beginning July 1. The error made by the local agency was corrected in September and an opportunity to receive the correct allotment was provided in September. Benefits must be restored for July and August.
- 2) The local agency has determined that another household is also entitled to restoration of lost benefits beginning July 1. The error was found in September, at which time it was determined that the household would not have been eligible for other reasons in either August or September. The household would have been eligible in July. Benefits must be restored for July only.

3. For each month affected by the loss, the local agency must determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible in that month, the local agency must advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household is ineligible.
4. For the months the household was eligible, the local agency must calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

Example

A household was certified for benefits for \$70.00 for the months of July through September. The household participated, i.e., benefits were posted to the EBT account each of these three months. The amount of benefits should have been \$100.00 each month. As a result, the household is entitled to \$90.00 in lost benefits ($\$100.00 - \$70.00 = \$30.00 \times 3 \text{ months} = \90.00).

5. If a claim against a household is unpaid or if an overissuance and an underissuance of benefits are discovered at the same time, the agency must offset the amount to be restored against the amount due on the claim before the household will receive any restored. Claims may not be offset against the household's current month's even if the initial allotment includes a retroactive amount.

C. METHOD OF RESTORATION (7 CFR 273.17(f))

Regardless of whether a household is currently eligible or ineligible, the local agency must restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The agency must provide the restored amount in addition to the monthly benefits currently eligible households are entitled to receive.

The local agency must honor reasonable requests by households to restore lost benefits in monthly installments. A reasonable request would include that the amount to be restored is more than the household can use in a reasonable period of time.

D. RESTORING BENEFITS TO HOUSEHOLDS NOT RESIDING IN THE LOCALITY

There may be times when a household no longer residing in the locality is due restoration of lost benefits. In these instances, if the household is receiving SNAP benefits in another Virginia locality, the agency must notify the new locality and submit documentation to allow the new agency to **authorize restored benefits**. If the household is not receiving SNAP benefits in another Virginia locality, the agency must **authorize restored benefits**.

E. CHANGES IN HOUSEHOLD COMPOSITION (7 CFR 273.17(g))

Whenever a household is due lost benefits and the household's membership has changed, the local agency must restore the lost benefits to the household that contains a majority of the individuals who were household members at the time the loss occurred. If the local agency cannot locate or determine the household that contains a majority of household members, the local agency must restore the lost benefits to the household containing the person designated as the head of the household at the time the loss occurred.

F. RECORD KEEPING (7 CFR 273.17(h))

The local agency must maintain any documentation that supports the entitlement to restoration for each instance in which restoration of lost benefits is appropriate.

G. DISPUTED BENEFITS (7 CFR 273.17(c))

If the local agency determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the local agency, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost benefits. The household may also request a hearing on any other action taken by the local agency to restore lost benefits. If the household requests a hearing before or during the time the agency is restoring lost benefits, the household will receive the lost benefits as determined by the local agency pending the results of the fair hearing. If the fair hearing decision is favorable to the household, the local agency must restore the additional lost benefits in accordance with the decision.

If a household believes it is entitled to restoration of lost benefits, but the local agency does not agree after reviewing the case file, the household has 90 days from the date of the local agency determination to request a fair hearing. The local agency must restore lost benefits to the household only if the fair hearing decision is favorable to the household. The household is not entitled to benefits lost more than twelve (12) months before the date the local agency initially discovered the household's possible entitlement to lost benefits.

