

PART XVII RECIPIENT CLAIMS

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PART XVII

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A. CLAIMS AGAINST HOUSEHOLDS (7 CFR 273.18(a))

A claim against a household is an amount owed because:

- A household received more SNAP benefits than it was entitled to receive, resulting in an overpayment; or
- SNAP benefits were trafficked which is the buying or selling of SNAP benefits for cash or consideration other than eligible food; or for the exchange of firearms, ammunition, explosives, or controlled substances.

B. TYPES OF CLAIMS (7 CFR 273.18(b))

There are three types of claims:

1. Agency Error (AE) Claims

An Agency Error is any claim for an overpayment caused by an action or failure to take action by the state or local department of social services.

2. Inadvertent Household Error (IHE) Claims

An Inadvertent Household Error is any claim for an overpayment that results from a misunderstanding or unintended error on the part of the household.

3. Intentional Program Violation (IPV) Claims

An Intentional Program Violation is any claim for an overpayment or trafficking resulting from an intentional error on the part of the household. An IPV is defined in Definitions.

In order for a claim to be an IPV, there must be a finding of IPV or fraud by a court, a signed waiver to an Administrative Disqualification Hearing (ADH), or a finding of IPV by a hearing officer as a result of an ADH.

Prior to the determination of IPV, a claim against the household must be established as an IHE claim, except for a trafficking claim, which may only be established as an IPV. However, if the prosecutor advises the local department of social services that collection action may prejudice the case, or the person responsible for signing ADH referrals decides to postpone collection action on cases referred for ADH, no collection action should be taken. If the household member is found not guilty of IPV, either by a court or through an ADH, the claim must be handled as an IHE claim.

a. Referral for Prosecution (7 CFR 273.16(a))

The local department of social services must confer with the local prosecutor to determine the types of cases acceptable for possible prosecution and actual cases of alleged IPV to refer for prosecution. An agreement between the local department of

social services and the prosecutor must include information on how and under what circumstances cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overpayment.

The local department of social services may refer a case for prosecution regardless of an individual's current eligibility. The local department of social services is encouraged to refer for prosecution persons suspected of committing an IPV where large amounts of overpaid benefits are involved or where more than one intentional act is suspected. The local department of social services should also encourage the prosecutor to recommend to the court that a disqualification penalty be imposed in addition to any other criminal penalties for such violations. Information on a prior IPV should be shared with the prosecutor to support the assignment of an appropriate disqualification period.

b. Referral for Administrative Disqualification Hearing (ADH) (7 CFR 273.16(e))

See Part XIX for complete ADH guidelines.

An ADH is an impartial review by a hearing officer of a household member's actions involving alleged IPV. The hearing officer must decide if a household member is guilty or not guilty of committing an IPV.

The local department of social services may refer an individual for an ADH regardless of the current eligibility of the individual.

The local department of social services should request an ADH when:

- the agency believes the facts of the case do not warrant criminal prosecution through the courts;
- a case referred for prosecution was declined by the prosecutor;
- a case referred for prosecution was formally withdrawn by the local department of social services because no action was taken by the prosecutor within a reasonable period of time.

Cases dismissed or acquitted in court may not be referred for an ADH. A case may not be referred for an ADH while its referral for prosecution is in process. An ADH does not prevent the local department of social services, state or federal government from prosecuting the household member for an IPV in a court of appropriate jurisdiction.

C. CALCULATING THE CLAIM AMOUNT (7 CFR 273.18(c))

1. Claims Not Related to Trafficking

A claim must be calculated back to at least twelve months prior to when the local department of social services discovered the overpayment, except for an IPV claim, which

must be calculated back to the month the act of intentional program violation first occurred. In addition, for all claims, the local department of social services must not include any period that occurred more than six years before the local department of social services discovered the overpayment.

The local department of social services must determine the correct amount of benefits for each month the household participated. The income conversion factors of 4.3 or 2.15 must be used, if appropriate, based on Part XIII.A.3, to determine the monthly income. If the claim is an IHE or an IPV claim, the local department of social services must not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner.

If, due to either an inadvertent error on the part of the household or an intentional act on the part of the household, a household failed to report a required change in its circumstances within the prescribed time limits provided in Part XIV.A, the first month that benefits were overpaid will be the first month in which the change would have been effective had it been reported timely. Factor in only the 10-day reporting period and the advance notice period. In no event, however, may the local department of social services determine as the first month in which the change would have been effective, any month later than two months from the month in which the change in household circumstances occurred.

If the household reported a change within the prescribed time limits, but the local department of social services did not act on the change on time, the first month affected by the agency's failure to act must be the first month the local department of social services should have made the change effective. Therefore, if an advance notice was required but was not sent, the local department of social services must assume that the maximum advance notice period as provided in Part XIV.D would have expired without the household requesting a fair hearing. Do not factor in a 10-day agency action period.

If an overpayment is discovered for a month or months in which a mandatory SNAPET participant has already participated in a work experience assignment, the agency must determine if the person who performed the work is still subject to a work obligation and determine how many extra hours were worked because of the improper benefit. The participant must be credited that number of hours toward future work obligations.

Once the local department of social services calculates the amount of correct benefits the household should have received, the local department of social services must subtract the correct amount of benefits from the benefits actually received to determine the amount of the overpayment or claim.

After calculating the amount of the claim, the local department of social services must offset the amount of the claim by any amounts which have not yet been restored to the household. The local department of social services must also offset the amount of the overpayment by the amount of any electronic benefits expunged from the household's EBT account. The difference is the amount of the claim.

If the information needed to compute an overpayment is lacking, no claim can be established until the information is received.

Averaged Income Calculation for Cases Pending Prosecution

The provisions of this section will apply only after the local department of social services has attempted to obtain monthly wage information through all possible means, including issuing a *subpoena duces tecum*. A *subpoena duces tecum* is not appropriate if an employer confirms a monthly breakdown of the income is not available or if the employment records are maintained in another state as some states may not honor another state's subpoena.

The local department of social services must:

- Verify the beginning and end dates of each period of employment.
- Evaluate the individual's tax return or W-2 forms to calculate a monthly average if other records are not available. VEC records may not be used.
- Establish the claim with NFD (No Fraud Decision) status code. Use the NFD code even if there is an agreement with the Commonwealth's Attorney (CA) to pursue collection prior to prosecution.
- Advise the CA the overpayment amount was calculated by using a monthly average instead of the actual monthly wages.
- If the case is not accepted for prosecution or the person is found not guilty, collection may still be appropriate and if so, an IDL is required.
- Annotate the Overpayment Calculation form generated with the IDL with: "*To calculate the overissuance, we used a monthly average as we were not able to get your actual monthly wages from your employer. If you disagree with the use of a monthly average, you may request an agency conference and provide your actual income, and we will recalculate your overissuance to determine if there is any change.*"

2. Trafficking Claims

The amount of a claim resulting from trafficking of SNAP benefits will be determined by:

- The individual's admission of the amount trafficked;
- A determination by a court; or
- Documentation that forms the basis for the trafficking determination, such as EBT transaction data.

For both trafficking and non-trafficking claims, the local department of social services must maintain documentation to support how the claim was calculated.

## D. CLAIM ESTABLISHMENT (7 CFR 273.18(d)(1))

A claim must be established before the end of the calendar quarter following the quarter in which the overpayment or trafficking incident was discovered, except as allowed below. The date of discovery is the date the local department of social services has sufficient information to determine that an overpayment or trafficking offense has occurred. The local department of social services must document the date of discovery. The local department of social services must also ensure that no less than 90 percent of all potential claims are either established or disposed of within this time frame.

Timely claim establishment exception: Trafficking claims where the court conviction date or ADH decision date causes the claim to be established outside of the timeliness standard. The agency must have documentation to support the determination of an IPV by a court, a Waiver, or an ADH and the claim should be established within 30 days of the disposition of a court or an ADH.

1. Claim Thresholds (7 CFR 273.18(e)(2)(ii))

The local department of social services must establish a claim for any household-caused overpayment that totals more than \$125 and for any agency-caused overpayment that exceeds \$300. The local department of social services must also establish a claim for an overpayment in any amount for an error identified in a Quality Assurance review. The local department of social services, however, may initiate collection action for household-caused claims under the \$125 threshold or when multiple overpayments for a household within the last six years total or exceed the threshold for the claim type.

2. Liable Persons (7 CFR 273.18(a)(4))

The following persons are responsible, or liable, for paying a claim:

- a. Each person who was, or should have been, an adult member of the household, age 18 or older, when the overpayment or trafficking occurred; and
- b. A person connected to the household, such as an authorized representative, who actually caused an overpayment or trafficking.

E. INITIATING COLLECTION ACTION (7 CFR 273.18 (e))

1. Demand Letters

The local department of social services must initiate collection action by mailing or otherwise delivering to the household the appropriate initial demand letter, *Request for Repayment of Extra SNAP Benefits* and a *Repayment Agreement*. The demand letter and repayment agreement must be sent immediately following the establishment of the claim, unless the household cannot be located or a court ordered repayment of the claim. Additionally, if a claim is established as an IHE and collection action is being postponed because the case is being referred for prosecution or an ADH, the local department of social services must initiate collection action by sending the demand letter and a repayment agreement, if the case is not accepted for prosecution or an ADH. The local department of social services must retain a copy of the initial demand letter to document the claim was properly established.

The household has 30 days from the date of the initial demand letter to tell the local department of social services how the household intends to repay the claim. The household must make its first payment within 30 days of the date of the letter. If the household pays the claim, follow the procedures in Part XVII.Q for submitting payments.

If a participating household does not respond to the initial demand letter, benefit reduction

must be initiated. The household's benefit must be reduced not later than the first day of the second month following the date of the initial demand letter.

If a non-participating household does not respond to the initial demand letter, a *Request for Extra SNAP Benefits-Follow-Up* demand letter and *Repayment Agreement* should be sent at 30-day intervals until the household has responded by paying, or agreeing to pay the claim or until the criteria for terminating collection action, as specified in Part XVII.K have been met.

If a non-participating household agrees to repay the amount of the overpayment but does not make a payment by the due date specified on the *Repayment Agreement*, the local department of social services should send a *Request for Repayment of Extra SNAP Benefits-Payment Overdue* letter at 30-day intervals until the household begins to pay again, or until the criteria for terminating collection action, as specified in Part XVII.K have been met. If the household makes the overdue payments and wishes to continue payments based on the previous schedule, these payments will be considered voluntary unless a new Repayment Agreement is signed. If the household renegotiates a new Repayment Agreement with the local department of social services and makes a payment before the end of the 60-day Notice period, any further involuntary collection will be prevented if the terms of the agreement are kept. Only the Treasury Offset Program (TOP) Coordinator may negotiate a new repayment agreement once a claim has been certified to TOP.

If the household requests renegotiation and the local department of social services concurs with the request, the household may negotiate a new payment schedule. Both the local department of social services and the household have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changed enough to warrant such action.

If a participating household agrees to repay the claim by making installment payments, and does not submit a payment by the specified due date, the local department of social services must invoke benefit reduction.

## 2. Compromising Claims

The local department of social services may determine that a household's economic circumstances dictate that a claim will not be paid in three years. The local department of social services may compromise the claim amount or a portion of the claim by reducing the amount owed to allow the household to pay the claim within three years. Note that the monthly payment amount determined through the Repayment Agreement may result in a claim being repaid in a period that is longer than three years. A claimant may request a compromise at any time after a claim is established but only one compromise will be allowed per claim.

A claim may not be compromised if:

- the claim is the result of an intentional program violation (IPV);
- the claim has been certified to the Treasury Offset Program (TOP); or
- the gross income for the SNAP claim household exceeds 200% of the Federal Poverty Level at the time the compromise is requested.

### Compromise Process

The local department of social services should use the Compromising Claims worksheet (032-03-0572-00-eng) to project the repayment amount expected in three years. The entire balance may be compromised if the household's actual monthly shelter expenses and actual monthly medical expenses exceed the household's monthly gross income and there are no changes expected in the household's economic circumstances.

The evaluation process factors in household income, expenses, and liquid resources. The process also requires the agency to:

- Determine the household size at the time the overpayment occurred;
- Determine 200% of the Federal Poverty Level for household size;
- Determine available funds by subtracting household expenses from calculated income and resources;
- Multiply 10% of the available funds for repayment by 36 months.
- The compromised amount is the difference between the amount to be paid and the total overpayment.

### Example

A claim was established for \$1000 due to an agency error. The household requests a compromise stating an inability to pay the amount owed.

- The difference between the monthly expenses, monthly income and 10% of the resources is \$200 which is the calculated funds available for repayment.
- 10% of the available funds is \$20; ( $\$20 \times 36 \text{ months} = \$720$ ), the amount the household is expected to repay in 36 months.
- \$280 is the compromised claim amount ( $\$1000 - \$720 = \$280$ ).
- Enter the compromised amount as a payment using the code CR.
- The household must repay \$720.

The local department of social services must document the reason for the compromise or if the request is denied.

The local department of social services may use the full amount of the claim, including any amount compromised, to offset a restoration of lost benefits. The local department of social services may reinstate any compromised portion of the claim, if the claim becomes delinquent. The local department of social services must notify the claimant that the compromised amount may be restored to the claim balance if the claim becomes delinquent.

## F. COLLECTION METHODS (7 CFR 273.18(f)&(g))

### 1. Allotment Reduction (7 CFR 273.18(g)(1))

A household may choose to have its SNAP benefits reduced to repay a claim. However, the local department of social services must implement allotment reduction against a participating household unless the household is making regular payments in an amount greater than the amount that could be recovered through allotment reduction.

Prior to reduction, the local department of social services must inform the household orally or in writing of the appropriate formula for determining the amount of SNAP benefits to be

recovered each month and the effect of that formula on the household's allotment, i.e., the amount of SNAP benefits the local department of social services expects will be recovered each month.

For an AE or an IHE claim, the amount of the reduction must be limited to 10% of the allotment or \$10, whichever is greater, unless the household agrees to a higher amount. For an IPV claim, the amount of the reduction must be limited to 20% or \$20, whichever is greater, unless the household agrees to a higher amount. The *Repayment Agreement* must be used to document the household's request for a higher allotment.

The local department of social services may not reduce the initial month's allotment at application or reapplication unless the household agrees to the reduction. The local department of social services must document this agreement.

The local or state department of social services may not use involuntary collection methods, such as state or federal offsets, against individuals in a household that is having its allotment reduced.

2. Lump Sum Payments (7 CFR 273.18(g)(4))

The local department of social services must accept any payment for a claim, whether it represents full or partial payment. The payment may be made with cash, check, or money order. The local department of social services may accept a credit or debit card for payments if the agency has the capability to accept these types of payments. The local department of social services must retain appropriate documentation of the payment.

3. Installment Payments (7 CFR 273.18(g)(5))

The local department of social services may accept installment payments as the result of a negotiated repayment agreement. The repayment agreement must include a due date for the payments. The payments may be made by cash, check, or money order. The local department of social services may accept a credit or debit card for payments if the agency has the capability to accept these types of payments. Unless a court order prohibits it, a certified household must make installment payments in an amount that is greater than the amount that is recoverable through benefit reduction. The local department of social services must retain appropriate documentation of the payments.

If the household does not submit a payment according to the terms of its negotiated repayment agreement, the claim is delinquent and subject to additional collection actions. If the household is participating in the program, benefit reduction must be invoked.

4. Electronic Benefit Transfer (EBT) Accounts (7 CFR 273.18(g)(2))

The local department of social services must allow a household to pay its claim using benefits from its EBT account. At the household's request, this reduction may be used in addition to allotment reduction or other repayment methods. If a certified household chooses EBT account deduction as the primary collection method, the monthly payment must be greater than the amount that is recoverable through allotment reduction, unless a court order prohibits it.

The local department of social services must obtain written permission from the household in order to collect from an EBT account. The household should complete the *Repayment Agreement* form to note permission for a one-time or monthly payment from the EBT account. The agency must send the household a receipt of each transaction.

After 365 days of inactivity, the local department of social services must also use any benefits expunged from the household's EBT account of which the local department of social services is aware to offset the amount of the claim. This offset may be done at any time during the collection process. The local department of social services does not need the household's permission to apply expunged benefits to a claim but the agency must send the household a receipt to note the claim reduction. The agency may use the Request/Receipt for EBT Account Deduction as the receipt

5. Offsets to Restored Benefits (7 CFR 273.18(g)(3))

The local department of social services must reduce any restored benefits owed to a household by the amount of any outstanding claim. This offset may be done at any time during the collection process.

6. Public Service (7 CFR 273.18(g)(7))

The local department of social services may accept public service as a form of payment, but only if a court orders the public service specifically in lieu of paying the claim. The local department of social services, in conjunction with the court, should set the hourly rate for the work performed. The local department of social services must retain appropriate documentation.

7. Treasury Offset Program (7 CFR 273.18(n))

The Virginia Department of Social Services must refer eligible claims that are delinquent for 180 days or more to Treasury Offset Program (TOP) for offset against any eligible federal payment. This includes, but is not limited to, federal tax refunds, salaries of federal employees and retirement benefits. The Virginia Department of Social Services will submit claims to TOP using instructions of the Treasury Department. See Appendix I of this chapter for TOP procedures.

8. Other Collection Actions (7 CFR 273.18(g)(8))

The local department of social services may employ involuntary collection action to collect delinquent claims against non-participating households. These actions include, but are not limited to, civil action, to include wage garnishments and/or liens against property, referral to public or private collection agencies, and the repayment of claims by offsetting the balance against state tax refunds or lottery payments. **Note that SNAP debts are not subject to credit reporting and may not appear on individual credit records.**

9. Unspecified Collections

When funds are received for a combined public assistance/SNAP benefit claim and the household does not specify to which claim to apply the collection, each program must receive its pro rata share of the amount collected.

10. Overpaid Claims

If a household overpays a claim, the household must be provided a refund as soon as possible after the over-collection is discovered, unless the over-collection is attributed to an expunged EBT benefit. The method of refund will depend on what caused the over-collection. For example, an over-collection due to allotment reduction will be refunded by a restoration to the household.

G. COLLECTING IPV CLAIMS

When a household member is found to have committed an IPV by a court of appropriate jurisdiction, the local department of social services must request the matter of restitution be brought before the court. If the court mandates restitution, the amount of the claim against the household will be established by the court, even if the amount of restitution ordered is less than the amount of the original claim. The court order to repay will serve as the household's demand letter.

The local department of social services must initiate collection action if:

- the court does not rule on restitution;
- the IPV was established by an ADH: or
- the household member waived his/her right to an ADH.

The local department of social services must send the household the demand letter, *Request for Repayment of Extra SNAP Benefits (IPV)* and a *Repayment Agreement* unless:

- The household has repaid the overpayment as a result of an IHE demand letter; or,
- The local department of social services has documentation that shows the household cannot be located.

An IPV demand letter and a repayment agreement must also be sent for any unpaid or partially paid IPV claim, even if the household has previously received an IHE demand letter.

The local department of social services should pursue other collection action to obtain restitution against any household that fails to respond to a written demand letter for repayment of any IPV claim if the claim cannot be collected through direct payment or allotment reduction, unless the agency can determine that other means are generally not cost effective.

If an individual who was court ordered to repay the overpayment does not pay as ordered, the local department of social services should advise the local prosecutor or the probation office, as appropriate.

H. CHANGES IN HOUSEHOLD COMPOSITION (7 CFR 273.18(g)(1)(vii))

If a household's membership has changed since the overpayment occurred, the local department of social services may pursue collection action against any household which has a member who was an adult member of the household that received the overpayment. The agency may also offset the

amount of the claim against restored benefits owed to any household which has a member who was an adult member of the original household at the time the overpayment occurred. See Part XVI.B.5. for the process to apply amounts due for restoration against outstanding claims.

The local department of social services may also pursue collection from any individual liable for the claim that is not currently a member of a participating household that is undergoing allotment reduction.

I. DETERMINING DELINQUENCY (7 CFR 273.18(e)(5))

A claim must be considered delinquent if:

- The claim has not been paid by the due date on the initial demand letter or repayment agreement and a satisfactory payment arrangement has not been made; or
- A payment arrangement has been established and a scheduled payment, either no payment or one in a lesser amount, has not been made by the due date on the repayment agreement.

The claim will remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated or allotment reduction is invoked.

A claim will not be considered delinquent if:

- Another claim for the same household is currently being paid, either through an installment agreement or allotment reduction, and the local department of social services expects to begin collection on the claim once the prior claim(s) is paid in full; or
- The local department of social services is unable to determine delinquency status because collection is coordinated through the court or probation office; or
- A fair hearing has been requested and a hearing decision has not been rendered.

J. TERMINATING COLLECTION (7 CFR 273.18(e)(8))

A claim must be terminated if the claim meets any of the following criteria and the action is supported by documentation:

- All adult members of the household are dead and there are no plans by the local department of social services to pursue collection from the estate;
- A claim has an outstanding balance of \$25 or less and no payment has been made for 90 days or more;
- A claim is delinquent for three years or longer; no payments have been received in three years and the claim has not been certified to TOP;

- The household cannot be located, unless the claim has been referred to TOP. If the claim has been referred to TOP, the local department of social services may keep the claim active until the claim meets criteria #3, listed above;
- A claim has been discharged through bankruptcy. **The discharge of the debt removes the liability from all liable persons, not just the individual who filed bankruptcy, unless contrary to the court order;**
- A claim has been transferred to another state for collection; or.
- It is no longer cost effective to pursue the claim as the balance is less than \$1 for a participating household or less than \$5 for a household that is not currently participating.

A claim must also be terminated if there is insufficient information or documentation to substantiate that the claim was properly established or to determine the correctness of the balance due. Properly established means that an initial demand letter was mailed or a court ordered repayment.

The local department of social services must document the reason for termination.

Note that a terminated claim may be reinstated if a new collection method or a specific event (such as winning the lottery) increases the likelihood of further collections.

#### K. INVALID CLAIMS

A claim found to be invalid through a fair hearing, the ADH process, a court determination, or discovered as erroneously established by the State or local department of social services, must be deleted. If the documentation to support the claim is no longer available and cannot be recreated, the claim must be terminated. Deleted claims are treated as terminated claims.

#### L. IPV DISQUALIFICATION PENALTIES (7 CFR 273.16(b))

##### 1. IPV Penalties

Individuals found to have committed an IPV, either by a court of appropriate jurisdiction or by an ADH or, who waived their right to an ADH, are ineligible to receive SNAP benefits for:

- a. One year for the first violation;
- b. Two years for the second violation;
- c. Permanently for the third violation; and
- d. Ten years for a determination that fraudulent statements or representations of identity or residency were made to receive benefits in more than one household at the same time. The ten-year penalty does not apply when a household fails to report a move to the agency at a former address.

An individual may receive more than one IPV by violating two or more unrelated program rules, such as change reporting and trafficking, during the same time period.

In addition to these disqualification penalties, individuals may be disqualified from the program for other program violations. Individuals will be disqualified for two years for a finding by a court that they used SNAP benefits to purchase illegal drugs. A second court finding regarding these purchases will result in permanent disqualification from the program. Individuals will be permanently disqualified from the program based on a court finding that SNAP benefits were used to purchase firearms, ammunition, or explosives, even if it is the first such finding.

A conviction of trafficking in SNAP benefits of \$500 or more will also result in the permanent disqualification of the individual.

2. Reporting Procedures (7 CFR 273.16(i))

Local workers must enter information in the Electronic Disqualified Recipient Subsystem (eDRS) to report information about individuals disqualified for an IPV. The disqualification may be based on an ADH, a conviction by a court of appropriate jurisdiction, or a waiver to an ADH. Local workers must enter information in the eDRS within 30 days of the effective date of disqualification. In cases where the disqualification for IPV is reversed by a court of appropriate jurisdiction, or was submitted in error, the agency must update the eDRS to delete the information relating to the disqualification.

3. Imposition of Disqualification Penalties

To determine the appropriate disqualification penalty to impose on an individual who has been found to have committed fraud or an IPV, the local department of social services must access the eDRS to see if there is a record of other IPV rulings for individual household members. One or more IPV disqualifications that occurred before April 1, 1983, will be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration.

When eDRS is used to determine the disqualification penalty for an individual found to have committed an IPV, the local department of social services must verify the information with the Locality Contact provided by the eDRS. A verbal confirmation from the Locality Contact may be accepted for the initial assessment but documentation that supports the prior disqualification(s), must be obtained before a final determination is made of the length of the penalty.

The actual number of prior disqualifications will determine the penalty for a new IPV, not the disqualification number that a State or a Virginia locality assigned to the offense. Only the individual found guilty of IPV is disqualified, not the entire household.

If a court fails to impose a disqualification period for the IPV or fraud conviction, the local department of social services must impose the disqualification penalties described in this chapter unless it is contrary to the court order. If disqualification is ordered by the court, but a date for initiating the disqualification period is not specified, the individual must be disqualified beginning with the first month which follows the date of the court decision. The local department of social services must send the Notice of Disqualification before the effective date of the disqualification.

If a hearing officer rules that the household member committed an IPV, that member must be disqualified beginning with the first month that follows the date the household member received written notification of the hearing decision. If the household member signed a waiver to an ADH, that member must be disqualified beginning with the first month which follows the date the signed waiver was received by the agency. The local department of social services must send the Notice of Disqualification before the effective date of the disqualification.

For a disqualification that results from a court decision or the ADH process, the local department of social services must send the Notice of Disqualification to inform the household of the length, reason and starting date of the disqualification. The local department of social services must send the Notice of Disqualification before the effective date of the disqualification. The local department of social services must maintain a copy of the notice.

A local department of social services may not lengthen the disqualification period after it has been imposed by judicial decision, ADH, or waiver. Once a disqualification penalty has been imposed, the period of disqualification must continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household. If an additional IPV is determined for a person who is already serving a disqualification period, the new disqualification period(s) must begin before the original period expires so that the disqualification periods run concurrently. If the local department of social services determines the household member is currently serving a disqualification imposed by another locality within Virginia or imposed by another state, the local department of social services must calculate how much time is remaining in the disqualification period before adding the person to the case as an active household member. If one or more months remain in the disqualification period, the local department of social services must disqualify the household member for the remainder of the disqualification period.

If the agency fails to impose the disqualification within the timeframes described above, an agency-caused claim (AE) must be established for the months the individual should have been disqualified. A household-caused claim (IHE) must be established if the agency discovers that a member participated during a disqualification period imposed by another locality or state.

#### 4. Use of eDRS Prior to Certification

As outlined in Part III.F.1, all adult household members must be screened through eDRS prior to certification for a new application or a reapplying household.

Information obtained from the eDRS must be independently verified. A verbal response from the eDRS Locality Contact is acceptable for the initial assessment. The household must be given an opportunity to respond to the verbal information obtained from the Locality Contact. If the household affirms the verbal information provided by the Locality Contact, a determination on the individual member's eligibility may be made without additional documentation from the Locality Contact. The household is allowed a minimum of 10 days to respond to the eDRS findings.

If the household member disputes the information or fails to respond to the request for information, the EW must get written documentation from the Locality Contact to process the application or to determine the length of the disqualification penalty. If the household is not entitled to expedited processing, the agency must hold the application pending until the written verification from the Locality Contact is received. Applications entitled to expedited processing must be processed and benefits delivered within the required seven-day period, even if the household's affirmation or written documentation from the Locality Contact is not received by the seventh day. An IHE claim must be established, however, for any overpaid benefits.

#### M. DOCUMENTATION

The local department of social services that establishes the claim must maintain documentation to support proper establishment of the claim, including how the overpayment amount was determined, documentation to support the date of discovery and documentation to support disqualification. In addition, documentation to support the balance due must also be maintained by the agency(s) collecting the payments. Documentation includes, but is not limited to, verifications from employers, landlords, schools; applications with false or omitted information; a copy of the initial demand letter; a copy of the *Notice of Disqualification*; and receipts for cash payments. If the local department of social services does not have documentation to support the claim, the claim must be terminated.

#### N. INTERSTATE CLAIMS COLLECTION (7 CFR 273.18(i))

In cases where a household moves out of Virginia, the local department of social services must initiate or continue collection action against the household for any overpayment to the household which occurred while the household was under the local department's jurisdiction. The local department of social services may transfer a claim to another state if the receiving state agrees to accept the claim. The local department of social services must provide documentation needed to show the claim is legally enforceable to allow the receiving state to pursue collection. Terminate the claim when it is transferred to another state.

Local departments of social services may accept claims established in another state if requested. The local department must receive documentation needed to show the claim is legally enforceable from the other state and must confirm that the other state terminated the claim prior to initiating collection activity in Virginia.

O. BANKRUPTCY (7 CFR 273.18(j))

Local departments of social services may act on behalf of, and, as USDA, in any bankruptcy proceeding against bankrupt households owing SNAP claims. Local departments of social services possess any rights, priorities, interests, liens or privileges, and must participate in any distributions of assets, to the same extent as USDA. Acting as USDA, local agencies have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections that USDA might have filed. Any amounts collected under this authority must be transmitted to the Virginia Department of Social Services as normal claims payments.

All collection activity on a claim must cease upon receipt of the notice of bankruptcy filing, pending the outcome. If the notice of discharge identifies USDA, FNS, VDSS, or the local department of social services as a creditor whose debt has been discharged, the claim must be terminated and any amounts collected after the date of the bankruptcy filing must be refunded. **The discharge of the debt removes the liability from all liable persons, not just the individual who filed bankruptcy.** If the discharge notice does not identify USDA, FNS, VDSS or the local department of social services as a creditor whose debt has been discharged, collection activity on the claim will resume.

P. SUBMISSION OF PAYMENTS (7 CFR 273.18(l))

Once a month, local departments of social services must submit one consolidated check to cover cash and state tax intercept payments received from all households for the month. The check, payable to the "Treasurer of Virginia" must be sent to:

Virginia Department of Social Services  
Division of Finance, **SNAP Collections Unit**  
801 East Main Street  
Richmond, VA 23219-

The *Monthly Payment Record* (MPR) must be sent with the consolidated check. If no cash or state tax intercept payments are received during the month, the local department of social services must send an e-mail to [barbara.mosley@dss.virginia.gov](mailto:barbara.mosley@dss.virginia.gov) and [jewel.lee-gaines@dss.virginia.gov](mailto:jewel.lee-gaines@dss.virginia.gov) and **copy** [emory.freeman@dss.virginia.gov](mailto:emory.freeman@dss.virginia.gov) to acknowledge that no payments were received. The check and MPR, or e-mail must be sent so as to be received by the 15th day of the month following the report month.

Q. DISPUTED CLAIMS

If a fair hearing or a court did not establish the amount of a claim and/or the individual(s) liable for repaying the claim, the household has 90 days from the date of the demand letter to appeal the amount and /or their liability by requesting a fair hearing

The household must also be notified of the following actions relating to claims and has the right to appeal these:

The household must also be notified of the following actions relating to claims and has the right to appeal these:

- After initial notification, whenever the amount of the claim changes;
- Whenever a claim is used to offset a restoration and prior notification of the claim had not been given;
- When multiple overissuances within the last six years total \$125 or more and collection action is now being initiated, and prior notification of the claim had not been given.

If the fair hearing determines that the claim is valid, the local department of social services must re-notify the household of the claim amount. The post-fair hearing notice must inform the household that the claim amount is still due and that repayment is required. A *Repayment Agreement* must be sent with the re-notification. The household cannot request a fair hearing based on this second notice. Delinquency will be determined by the due date of this subsequent notice, not the original demand letter.

#### R. OTHER MONEY RETURNS

Money is sometimes returned to the agency for reasons other than because of a claim. In these instances, the money is not to be submitted to the State Office as claims payments would be. A check or money order payable to "USDA-FNS-HQ" and a letter explaining the circumstances must be submitted to:

USDA-FNS-HQ  
P.O. Box 953807  
St. Louis, MO 63195-3809

#### S. SYSTEM OF RECORD

Virginia Case Management System (VaCMS) is the system of record for claims. This means VaCMS must be used to:

- establish all claims;
- reflect all payments received;
- report terminations of claims; and
- reflect dates for:
  - initial demand letter;
  - follow-up demand letters; and
  - court-ordered restitution.

### Treasury Offset Program

The Treasury Offset Program (TOP) is used to recover delinquent SNAP claims through the offset of federal payments. Federal payments, such as tax refunds, Social Security benefits and salaries or retirement benefits of federal employees, may be used to repay SNAP claims. A debtor referred to TOP may have any eligible federal payment due to them intercepted through TOP.

All liable persons are equally responsible for the full amount and any fees associated with TOP.

The Finance Division of the Virginia Department of Social Services is responsible for the administration of TOP. The Finance Division's system will determine if claims are delinquent, refer claims for TOP certification and will keep all payment and intercepts information.

#### Referral Process

Recipient claims that are delinquent for **120** days and are legally enforceable must be referred to TOP. This excludes a debtor who is a member of a participating household whose benefits are being reduced.

Legally enforceable claims are those where the debtor:

- received a 60-day notice;
- was given the right to appeal;
- no longer participates in the Supplemental Nutrition Assistance Program; and
- currently has an outstanding balance. The outstanding balance must be more than \$25.

#### Exceptions to Referring to TOP

Claims will not be referred to TOP if any of the following apply:

- The debtor is currently paying on any approved existing claim;
- The claim is in pending status because collection has been postponed awaiting a court or Administrative Disqualification Hearing (ADH) decision;
- The debtor enters into a repayment agreement and makes a payment during the 60 day notice period;
- A court orders the debtor to pay the claim through court or a probation office;
- The debtor is a member of a participating household undergoing allotment reduction; or
- The debtor has filed for or is in bankruptcy proceedings.

#### Notification

The debtor must be given 60 days notice of the impending referral to TOP. The 60-day notice will be sent to an address that has been verified as an adequate address by Food and Nutrition Service (FNS). The notice will inform all liable debtors that the claim amount and the appropriate action needed to prevent the debt from being offset. The notice must advise the debtor of the right to appeal the referral at both the state and federal level. The notice must also provide the timeframe for requesting an appeal.

The LDSS may negotiate a new repayment agreement any time prior to the end of the 60-Day Notice period. A new repayment agreement will prevent any further involuntary collection if the terms of the agreement are kept. The repayment agreement must be initiated in an attempt to repay the claim in full within 36 months of receipt of the 60-day notice. When this is not possible due to the client's financial situation, the repayment amount should be a minimum payment of \$25.00 per month. The Agency must evaluate the financial hardship prior to accepting a repayment of less than \$25 per month.

If a claim has been certified to TOP, only the State TOP Coordinator may negotiate a new repayment agreement

### TOP Appeal

A debtor should request an appeal within 30 days of the 60-day notice. Regardless of the request date, the local department of social services must conduct a desk review and render a decision. The request for an appeal must be in writing to the local department of social services. A TOP appeal is a desk review, not a fair hearing, which is completed by the local supervisor or designated staff. The desk review is to ensure the debt is past due and legally enforceable. The local department of social services must verify that:

- The request for the review was timely;
- The client received an initial demand letter or there is a court order;
- The claim calculation is complete and accurate;
- The claim is delinquent; and
- The debtor is not currently in a participating household.

The decision from a TOP appeal must be in writing within 30 days of request. The decision must give instructions for requesting a federal appeal, contain the FNS address, instruct the debtor to send proof of the reason why the claim is not past due and legally enforceable and instruct the debtor to provide the applicable case number. Send TOP appeal requests to

Attn: Treasury Offset Program Review  
Supplemental Nutrition Assistance Program  
USDA/Food and Nutrition Service  
Mercer Corporate Park  
300 Corporate Blvd  
Robbinsville, New Jersey 08691-1598

### Claims in TOP

When a claim is in TOP, the Division of Finance must ensure:

- That the date of delinquency is correct;
- The status of the debt is accurate;
- The balance is adjusted when payments are made outside of TOP; and
- All refunds due to over collection by TOP are reported to TOP.

**Inactivating Claims in TOP**

A claim must be made inactive in TOP if:

- The debtor is a member of a participating household whose benefits are being reduced;
- DOF renders a decision that an acceptable arrangement has been made for the debtor to resume payments; or
- There is any pending litigation on the claim.

**Removing Claims from TOP**

A claim must be removed from TOP if:

- FNS or the Treasury Department instructs the local department of social services to remove the claim;
- The claim is paid in full;
- The claim is disposed of through a hearing, termination, compromised, bankruptcy proceeding or any other means;
- The claim was referred in error;
- The debtor is a member of a participating household whose benefits are being reduced; or
- DOF renders a decision that an acceptable arrangement has been made for the debtor to resume payments.