
**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Intentional Program Violation (IPV) Claims**

FNS 820 Intentional Program Violation (IPV) Claims

Change #3-2016

October 1, 2016

820.01 GENERAL POLICY

- A. A claim must be established if the overissuance occurred in the 12 months prior to the month of discovery.

Discovery means that you are aware of sufficient facts to suspect that an overissuance occurred. The primary importance of the date of discovery is that it defines the prior 12-month period.

- B. Establish a claim for any months of overissuance which occurred within six years prior to the date of discovery.

Do not include in the claim calculation any amount of the overissuance which occurred in a month more than six years from the date the overissuance was discovered.

- C. Use policy in effect at the time the overissuance occurred.

- D. Regardless of the detection source, review all potential Food and Nutrition Services overissuances timely to determine if referral to program integrity staff is required. The date of discovery is the date Program Integrity receives the referral. **The referral must be investigated, a claim established, if appropriate, and a suspected Intentional Program Violation pursued within required time frames.** Initiate disqualification procedures by referring to criminal court or scheduling an ADH for a potential IPV claim within 180 days of the date of discovery. See Section 800 for investigation procedures. See Sections 710 and 825 for disqualification instructions. Change the claim type to "U" (Undetermined pending ADH) or "P" (Undetermined pending criminal court) when disqualification procedures are initiated.

Enter established claims in EPICS before the 180th day, close unsubstantiated referrals in EPICS before the 180th day. All potential overissuances must be investigated even if the timeliness standards cannot be met.

If the process of investigating and establishing a claim is not completed within the time frames listed in 820.01,D, 1-7, the case is considered overdue. Federal regulations require that time frames be tracked and corrective action implemented when more than 10% of referrals in a county are more than 180 days old. **The 180 day time limit to establish a claim must be met even if a "U" or "P" is entered in EPICS.**

1. Complete a referral and key a referral into the Enterprise Program Integrity Control System (EPICS) within 30 calendar days of detection of a potential overissuance. The date of detection is the date of discovery. This establishes a file in EPICS to track the claim.
2. Request all necessary verifications within 30 calendar days of receipt of the referral if possible.
3. Allow 30 calendar days for the return of the requested verification.
4. The date of receipt of the verification is the substantiation date of the potential overissuance. Determine whether or not there is a suspected Intentional Program Violation within 60 calendar days of the substantiation date of the potential

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overissuance. See Section 825.03, Establishing An IPV Disqualification, for methods of determining an IPV.

5. Key a claim into EPICS as an Agency Error or Inadvertent Household Error when it is determined that an Intentional Program Violation was not committed, but an overissuance does exist.
 6. An Administrative Disqualification Hearing (ADH), waiver of the ADH, Disqualification Consent Agreement (DCA), or court action must be initiated within 60 days of the determination that a suspected Intentional Program Violation exist. Change the claim type from "S" to "U"-Pending ADH or "P"-Pending Court Action in EPICS. EPICS automatically enters a "U/P Creation Date" once a claim type is changed to "U" or "P". **The 180 day time limit to establish a claim must be met even if a "U" or "P" is entered in EPICS.**
 7. Change the claim type to IPV in EPICS, once a decision is made using one of the methods listed in 820.01, D, 6. See 820.07, F below for keying timeframes. Key the disqualification in EPICS also. See Section 825, Intentional Program Violation Disqualifications.
- E. Establish a claim regardless of the amount if Quality Control discovers the overissuance.
- F. Establish a claim regardless of the amount if the overissuance is a result of trafficking.
- G. Establish a claim regardless of the amount if at least one of the debtors is in an active Food and Nutrition Services case at the time the overissuance amount is determined. Enter all debtors in EPICS, whether they are currently participating in Food and Nutrition Services or not when a claim is established and there are multiple debtors.
- H. Establish a claim for a non-participating household if the overpayment amount is more than \$125.00. This applies unless your county has a State-approved Claims Management Plan for a different amount.
- I. Collect the overissuance from all adult members of the FNS Unit when one member of the FNS Unit is found guilty of trafficking Food and Nutrition Services. Collect the overissuance only from the individual found guilty of trafficking when that individual is outside the FNS Unit and no one in the FNS Unit had knowledge of the trafficking. Example: An authorized representative.
- J. Trafficking claims are independent of the issuance and certification process. Therefore, two claims may be established if a person is found to have an overissuance and traffics those overissued benefits. Trafficking claims are established by:
1. The individual's admission by signing a waiver of Administrative Disqualification Hearing;
 2. Administrative Disqualification Hearing or subsequent State Level Hearing; or
 3. Adjudication by a court that may or may not include a Disqualification Consent Agreement.

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820.02 METHODS TO ESTABLISH AN INTENTIONAL PROGRAM VIOLATION (IPV)

A claim is an IPV if an individual has been found guilty by any one of the following methods.

1. Administrative Disqualification Hearing (ADH);
2. A waiver of the ADH;
3. Court Action; **or**
4. Disqualification Consent Agreement handled by the District Attorney.

Refer to Section 710, Administrative Disqualification Hearings, and Section 825, Intentional Program Violation Disqualifications, for instructions on each of these methods.

Establish consistent guidelines with your local District Attorney to define which suspected IPV cases will be handled by ADH or Court Prosecution. Guidelines should be based on factors such as, the number of violations and the amount of the claim. Do not base this decision on a person's ability to pay or cooperation with your investigation. Selective prosecution is not allowed.

820.03 DETERMINING THE FIRST MONTH OF OVERISSUANCE

A. The Simplified Reporting Category applies to all FNS units except for:

- 1. A SNAP FNS unit.**
- 2. A Transitional FNS unit.**

Refer to Section 400 for Simplified Reporting Category.

B. Apply the following rules for applications and recertifications to determine the first month of overissuance.

1. The 10th-10-10 rule referred to in this section allows:
 - a. 10th of the month, following the month of change, for a household to report a change in situation; and,
 - b. 10 calendar days for the caseworker to react to the change. 10 days are allowed even if the caseworker could have reacted sooner; and,
 - c. 10 work days for Notice of Adverse Action.
2. Applicant Households (Initial, Reapplications, and Late Recertifications)
 - a. The first month of overissuance for information reported incorrectly at the time of the application interview is the first month of the certification period.
 - b. An applicant household is required to report changes which occur after the date of the interview, by the 10th of the month, following the month in which the notice of eligibility is received. To establish the first month of overissuance, apply the 10th-10-10 rule from the month after the month in which the notice of eligibility is received.

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3. Ongoing Cases

- a. The first month of overissuance is the first month affected had the change been reported timely.
- b. All ongoing households are required to report changes by the 10th of the month, following the month of the change. The month a participant first becomes aware of a change is the month that a change becomes known to them. Use this month to determine the month to report.
- c. Reportable changes for Simplified Reporting cases are:
 - (1) An increase in income that causes the FNS unit to exceed the maximum allowable gross income limit for its size (130% of the poverty level).
 - (2) FNS units that include an ABAWD must report when the ABAWD stops working an average of 80 hours per month (non-waiver counties).
- d. If you are unable to determine the month the participant first became aware of the change, use the month the participant started work or received the first check (for example, SSA, SSI, VA).
- e. Once the month of change is established, allow the household until the 10th of the following month to report.

Allow ten calendar days for the agency to act on the change, even if the county may have acted sooner. Also, allow ten working days for the Notice of Adverse Action to expire. Document the 10th-10-10 dates on the [DSS-1682](#).

EXAMPLE: A Simplified Reporting recipient begins a new job May 1. According to the 8550, the household is over 130% of the federal poverty level. The client does not report the new income, and certification ends October 31. The new income should have been reported by June 10. Allow 10 calendar days for the caseworker to react to the change or June 20, and 10 work days NOAA would have expired July 7. The first month of overissuance is August. Calculate actual income for each month of the certification period.

4. Recertifications

Recertifications are completed by the FNS unit household to continue eligibility. The first month of the new certification period is the first month of overissuance when the recipient does not report changes or anticipated changes at recertification.

- a. If a change is not reported at recertification interview, the first month of overissuance is the first month of the new certification period.

EXAMPLE: Certification period expires April 30. Recertification interview was held April 4. Client was hired for a job on April 2. May is the first month of overissuance.

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- b. If a change is not known or anticipated at recertification, the client is required to report the change by the 10th of the month, following the month in which the notice of eligibility is received

EXAMPLE: Certification period expires April 30. Recertification interview was held April 4. Client was hired for a job on April 11. The case was processed on April 20. Allow three mailing days for client to receive the notice of eligibility, April 23. This change must be reported by May 10.

Allow ten calendar days to act, or May 20. Allow the ten working day Adverse Action Notice to expire June 5. July is the first month of overissuance.

820.04 DETERMINING THE OVERISSUANCE AMOUNT

- A. Verify participation. Do not include in the claim calculation any months in which the household did not participate.

Check the benefits in NCFASST on the Person Page under the Financial Transactions tab.

- B. Use the actual unreported income received by each household member, actual expenses for deductions (except utility expenses), household size, and other household circumstances for unreported information/changes. Refer to Section 4080.22, Utility Deductions, of the North Carolina Integrated Eligibility Manual, for allowable deductions for utility expenses. Consider ineligible and disqualified members when determining appropriate utility and standard deductions.

Do not reverify reported income unless there is reason to believe the income has changed. Continue to budget the actual anticipated converted amount that was used in the original budget. Use deductions that were allowed in the original budget unless there was an unreported change in the month of overissuance. In this instance, use actual verified deductions for all expenses, except utilities. Refer to Section 4080.22, Utility Deductions, of the North Carolina Integrated Eligibility Manual.

EXCEPTION: Do not allow the earned income deduction for that portion of the earned income which was not reported. If the household reports part but not all earned income, allow the deduction for the part that was reported.

Use the Program Integrity trial budget for calculation. Enter unreported earned income as unearned on the Program Integrity trial budget to prevent earned income deductions. The claim amount is the difference between the correct allotment and the allotment the household received.

EXAMPLE: The household reported receipt of ongoing weekly contributions but failed to report wages. The overissuance budget should reflect the converted weekly contribution already budgeted and actual earned income for each overissued month. Complete the Program Integrity trial budget, entering the earned income as unearned income to disallow the earned income deduction.

NOTE: See Sections 820.03, 820.04 and 820.05 to determine the overissuance amount.

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- C. For each month of the overissuance, verify each source of unreported income. Use actual income; do not convert.

Use the Division of Employment Security (DES) wage match when actual wages are not available to compute the overissuance. Refer to 820.05, Determining the Overissuance Amount When Verification Cannot Be Obtained.

Use the gross quarterly income, divided by three months, to obtain the average amount per month. If the employment was less than three months, average the gross amount over the period of time between the start and stop dates of employment. Refer to 820.05, Determining the Overissuance Amount When Verification Cannot be Obtained.

Determine the initial month of overissuance by contact with the client or employer to obtain the date of first pay. If the client fails or refuses to provide necessary information or the information cannot be obtained from a third party, refer to 820.05 for further instructions, because it is possible that the amount of the claim cannot be determined.

- D. Consider any countable income from certain ineligible and all disqualified household members. See Section 260, Income.
- E. **Verify and allow dependent care expenses each month as a deduction. Allow the actual amount of dependent care cost the FNS unit is responsible for paying.** If unreported information makes a household eligible for a medical deduction, verify and allow actual expenses as a deduction.
- F. Count money from means-tested State and Federal assistance payments such as WFFA and SSI intended for the overissued month even if mailing cycles result in the receipt of two payments in one month and none the next month. For other income, count income in the month received.
- EXAMPLE:** SSI payments are received December 1 and December 31 and none are received in January due to the January 1 holiday. Count one payment each for December and January.
- G. For payments that are mailed, add three days mailing time to the date of the check to determine the month received.
- H. Count the actual amount of WFFA, SSI, RSDI, or VA received, even when it represented an erroneous payment.
- I. Do not include in the computation any portion of income that was a lump-sum payment unless the lump sum includes the current month's benefit payment.
- J. For prorated or annualized income, count the prorated or annualized amount for each month of overissuance, even in months when the income was not actually received (Example: Annualized self-employment income).
- K. Do not include in the computation any month in which the FNS Unit received Transitional Food and Nutrition Services (TFNS) unless there was dual participation by a member of the FNS Unit, or an IPV disqualification was not imposed timely.
- L. Count the gross Social Security amount when a federal offset occurs to a Social Security payment. BENDEX information will continue to show the gross amount and will not record any information regarding the offset. Use the BENDEX record as verification of the gross amount.

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- M. The amount of the overissuance for a trafficking claim is the amount of the benefits trafficked. The USDA-FNS charge letter is evidence that can be used in a hearing or court. However, the investigation must produce additional evidence to substantiate the claim.
- N. Complete a [DSS-1682](#), Report of Erroneous Issuance.
1. Document the [DSS-1682](#) to substantiate the determination of the first overissuance month. See Section 835, Report of Erroneous Issuance ([DSS-1682](#)), for instructions.
 2. Attach appropriate verification.
 3. **Attach the Program Integrity trial budget prinouts.**
 4. A second party review of the [DSS-1682](#) to ensure its accuracy and completeness is required.
- O. When using actual income and deductions on the [DSS-1682](#), an underissuance may occur. If the amount of the correct allotment (Item 8j.) is greater than the amount of the allotment received (Item 8i.) for the corresponding month use "0" in Item 8 k. for that month. Do not include any month in which this occurs in the total overissuance calculation.
- P. For overissuances which involve agency and/or client responsible errors and/or IPV's in the same month, establish multiple claims.
1. Calculate the agency responsible overissuance. The result from Item 8 j. on the [DSS-1682](#) represents the correct allotment taking into consideration the agency errors only. See Section 810.03, Determining the Overissuance Amount.
 2. Complete another [DSS-1682](#) to determine the client responsible overissuance. Use the figures from Item 8j. (Correct Allotment) on the AE claim for the corresponding months in Item 8 i. (Allotment Received) on the suspected IPV claim.
 3. In Item 8 j. (Correct Basis of Issuance) on the suspected IPV claim, use all corrected information, both agency and client responsible. The result from the second [DSS-1682](#) represents the client responsible portion of the erroneous issuance.
 4. The suspected IPV claim must be established as an IPV by an ADH, Wavier of ADH, or court proceedings. Establish as an IHE if not established as an IPV.

EXAMPLE: An overissuance was determined because the income maintenance caseworker (IMC) failed to react to a BENDEX that showed an increase of more than \$100 per month of SSA benefits. The household also failed to report a new source of earned income which began in the same month. After applying the 10-10-10 rule, the first month of overissuance is September.

NOTE: See Sections 820.03 to determine the first month of overissuance.

Complete the first [DSS-1682](#), using only the correctly budgeted SSA payment. This is the AE claim. Complete the second [DSS-1682](#), using the figures from Item 8 j. (Correct Allotment) on the AE claim as the actual basis of issuance in Item 8 i. on the IHE claim. In Item 8 j. of the IHE claim, use the correctly budgeted SSA payment and unreported earnings. The result of the second [DSS-1682](#) is the client error.

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- Q. Enter the claim information for the possible IPV claim in EPICS with a claim type of “P” if pending for court action or “U” if pending for a hearing. Change the status to IPV once an IPV is established using Administrative Disqualification Hearing, Waiver, Disqualification Consent Agreement or court decision. See Section 825, Intentional Program Violation Disqualifications. The date established is the date the worker determines the overissuance amount and enters the suspected IPV claim into EPICS as a claim type “U” or “P”.

820.05 DETERMINING THE OVERISSUANCE AMOUNT WHEN VERIFICATION CANNOT BE OBTAINED

A. Third Party Fails/Refuses to Cooperate

If a third party fails/refuses to provide requested verification, take the following actions:

1. If a response is not received from the first request for verification within 30 calendar days, send a second request.
2. If a response to the second request is not received within 15 calendar days, contact the client. Use the [DSS-8231](#), Request for Information, to request the necessary verification or assistance in obtaining verification. Do not require the client to come into the office or make threats to obtain cooperation or a response.
3. Calculate the overissuance using wage match or other readily available sources when the client is unable to provide the required verification.
4. It is not possible to establish a claim if verification cannot be obtained from any source. Document and flag the certification record and claims file that there is an outstanding claim which cannot be established.
5. Do not terminate a case or deny future participation if the claim cannot be established due to the failure or refusal of a third party to cooperate.
6. Document the partially completed [DSS-1682](#) as a suspected overissuance and the reason the claim has not been established. Unsubstantiate and close the referral in EPICS. Open a new referral if the verification becomes available later.

B. Client Failure/Refusal to Cooperate with the Investigation

If the client fails/refuses to provide verification or refuses to authorize a third party to release information, do not consider the household totally ineligible for the months when a suspected overissuance may have occurred. Send the client a written request ([DSS-8231](#), Request for Information) for the needed information requesting a reply in writing or by telephone. Do not require the client to come into the agency. Document attempts to obtain the verification. Take the following actions:

1. If the household is participating, send a [DSS-8553](#), Notice of Adverse Action, to propose termination of the case, only if the investigation verified information that makes the entire case ineligible for ongoing benefits. Do not terminate or threaten to terminate a participating household for failure to cooperate with an investigation.

If the household is not participating, flag the case to alert an intake worker that Program Integrity needs to see the applicant. The case worker will need to verify the cause of the suspected IPV as it effects the application and possible eligibility.

2. Calculate the overissuance using information verified through any readily available source. For example, use wage match for unreported wages. If the client contests

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the use of wage match and verification is subsequently received, recalculate the claim using the verified information.

3. If verification cannot be obtained and it is not possible to establish a claim, document and flag the certification record and the claims file that there is an outstanding claim which cannot be established.
4. Document the partially completed [DSS-1682](#) as a suspected overissuance and the reason the claim has not been established. Unsubstantiate and close the referral in EPICS.
5. Open a new referral and establish the claim if the client subsequently cooperates.

820.06 CLIENT INTERVIEWS

- A. Do not require a client under investigation to come into the agency to discuss the amount of the claim or the type of the claim. A client's participation during an investigation is strictly voluntary. Mail a [DSS-8230](#), Program Integrity Appointment Notice, to notify client of appointment. Mail a copy of the [DSS-8230](#) to any known legal or authorized representative. Keep a copy in your file.
- B. Schedule and conduct a home visit with the household, if appropriate. Mail a [DSS-8230](#), Program Integrity Appointment Notice, at least three working days prior to the home visit. Mail a copy of the [DSS-8230](#) to any known legal or authorized representative. Keep a copy in the investigative file. Cancel a home visit if the client refuses to allow a home visit.
- C. Continue the investigation if the client does not cooperate with the interview or home visit. Establish a claim without a client interview, if the client does not keep the appointment, and the evidence is clear and convincing to prove the overissuance.

820.07 HOW TO ESTABLISH AN INTENTIONAL PROGRAM VIOLATION (IPV)

A claim is an IPV if an individual has been found guilty of an IPV, or agreed to guilt using any one of the following methods:

- A. Administrative Disqualification Hearing (ADH);
- B. A waiver of the ADH;
- C. Court Action; **or**
- D. Disqualification Consent Agreement handled by the District Attorney. This must be associated with a Deferred Prosecution Agreement.

Refer to Section Section 710, Administrative Disqualification Hearings, for instructions on ADH.

- E. Notice of disqualification must be mailed to the household for the following:
 1. Decision rendered by ADH - Issue [DSS-8558](#), Action Taken/Administrative Disqualification Hearing.
 2. Decision reached by state hearing - Issue [DSS-8557](#), Notice of State Disqualification Hearing Decision.
 3. Waiver of Administrative Disqualification Hearing - Issue [DSS-8587](#), Action Taken on Waiver of Administrative Disqualification Hearing.
 4. Court action - Issue [DSS-8586](#), Notice of Disqualification.

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F. When a guilty decision is made by one of the methods listed in 820.07, A-D, enter the disqualification and claim in EPICS. Notice of Adverse Action is not required. **The date of the DSS-8558, DSS-8557, DSS-8587, or DSS-8586 is considered the disqualification decision date and must be entered in EPICS when establishing a disqualification.** Disqualifications are effective the first calendar day of the month as follows:

1. ADH hearing officer's decision – The month following the 16th day after the ADH hearing officer's guilty decision is received by the recipient if a State appeal is not requested. This allows the recipient 15 days to request a state hearing,
2. The month following 30 days after the receipt of a guilty decision by a state hearing officer, if a state hearing was requested,
3. The month following notification of disqualification after a waiver of ADH is signed, or
4. As ordered by a court.
5. Report the effective date of a disqualification on a participating household to the caseworker immediately to avoid a possible agency error.

820.08 COLLECTING THE IPV CLAIM ESTABLISHED THROUGH ADMINISTRATIVE HEARINGS OR WAIVERS

A. Initiating Collection Action

1. Initiate collection action when the claim information is entered into EPICS. Enter each claim, including those where the total amount of the claim is collected through offset. Enter all debtors in EPICS.
2. EPICS sends the [DSS-8554](#), Letter of Overissuance, to each debtor if the amount due is greater than 0. It incorporates a repayment agreement for nonparticipating households. A [DSS-8554](#) is not sent when a change in claim category occurs. A [DSS-8554](#) is sent when a claim pending an ADH (U) or pending in court (P) is determined to be an IPV (V).
3. An individual debtor with multiple claims is not considered delinquent as long as one claim is being paid in accordance with a repayment agreement or through allotment reduction.
4. **Restored benefits** are benefits owed to the recipient because of an underissuance. Do not restore benefits more than 12 months prior to the date of discovery. **EPICS and NCFASST will not issue restored benefits when the debtor has a claim in EPICS.** Calculate the amount of restored benefits owed to the recipient, and post that amount as a payment in EPICS with a payment type code of O. Do not offset supplemental benefits. Document your action in the eligibility file and in EPICS notepad.
5. All household members who were 18 years old or older at the time of the overissuance are debtors on the claim. This includes household members that were not reported to the agency. Do not include as debtors any household members who were not in the household at the time of the overissuance.

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B. Participating Household

1. The [DSS-8554](#), Letter of Overissuance, notifies the participating household that an allotment reduction will be effective the month following the month in which the ten working day notice expires.
2. The household may request a fair hearing, within 90 days of the [DSS-8554](#), Letter of Overissuance, if it disagrees with the amount of the claim established, the recoupment amount, or that the claim has been previously paid in full. A fair hearing cannot overrule an ADH hearing decision, state hearing decision, court findings, or a signed waiver of ADH. If the household requests a fair hearing within the ninety-calendar day period and the household's certification period has not expired, continue benefits on the basis authorized immediately prior to the notice.

Cease all collection action once a fair hearing has been requested. Upon a request for a fair hearing, enter "X" in the Food Stamp Appeal Indicator field on the Debtor Detail screen in EPICS. Fax the State Office/Attn: Program Integrity a written request to block the debtor from TOP and DOR interception until a hearing decision is received. The request must be signed by the investigator and Program Integrity Supervisor and contain justification for the request. Fax the request to 919-334-1265. Request removal of the TOP and DOR blocks once the hearing decision is received. Fax a request to State Office/Attn: Program Integrity with two signatures to 919-334-1265. If a recoupment improperly occurs after a request for an appeal, restore the amount recouped until the appeal is resolved.

EXAMPLE: An IPV claim is established on September 10. The [DSS-8554](#) is sent to the FNS Unit. The ninety calendar days from the Letter of Overissuance expires on December 9. A recoupment of \$20.00 began on December 1. The debtor requested a fair hearing on December 5. Place "X" in the Food Stamp Appeal Indicator to block recoupment for January. No restoration of benefits is due the debtor unless the hearing officer decides that the overissuance is less than the amount recouped for December.

The Fair Hearing decision will be rendered by the State Hearing Officer. If an oral or written argument was not requested within the 10 calendar days, the county will mail a [DSS-8658](#) Post Hearing Repayment Notice. The date of the [DSS-8658](#) must be entered in EPICS on the Debtor Detail screen.

3. If the household contacts the agency wanting to make an additional payment, accept a lump-sum payment, EBT debit, or a monthly cash payment. Negotiate a repayment agreement with the client. Use [DSS-8604](#) to document the repayment agreement. Key the cash payment(s) in EPICS with a code of "FSC", to allow allotment reduction to continue.
4. **NCFAS**T automatically begins an allotment reduction when the last cash payment date in EPICS is more than two months delinquent, or when cash payments are posted as "FSC."
5. Participating households on allotment reduction may contact the agency and sign a repayment agreement if they wish to pay an additional amount in cash or EBT benefits. Participating households may not elect to increase the amount of recoupment beyond the standard 20% or \$20, whichever is greater.
6. Participating households that do not wish to be recouped may choose to negotiate a repayment agreement to make cash payments. Use [DSS-8604](#) to document the repayment agreement. A participating household must agree to pay at a higher amount than 20% of the allotment or \$20, whichever is greater.

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C. Nonparticipating Household

1. The [DSS-8554](#), Letter of Overissuance, notifies the nonparticipating household of the methods of repayment available and the requirement to return the signed notice within ten days. Initiate further collection action, as appropriate, to include civil court, tax intercept, or wage garnishment if the notice is not returned by the deadline.
2. The household may request a fair hearing within 90 days of the date of the Notice of Overissuance, if it disagrees with the amount of the claim established or that the claim has been previously paid in full. Cease all collection action once a fair hearing has been requested. Fax the State Office/Attn: Program Integrity a written request to block the debtor from TOP and DOR interception until a hearing decision is received. The request must be signed by the investigator and Program Integrity Supervisor and contain justification for the request. Fax the request to 919-334-1265. Request removal of the TOP and DOR blocks once the hearing decision is received. Fax a request with two signatures to 919-334-1265.

The Fair Hearing decision will be rendered by the State Hearing Officer. If an oral or written argument was not requested within the 10 calendar days, the county will mail a [DSS-8658](#) Post Hearing Repayment Notice. The date of the [DSS-8658](#) must be entered in EPICS on the Debtor Detail screen.

3. Mail a [DSS-8604](#) to a debtor who returns the repayment agreement portion of a [DSS-8554](#) and it is not accepted by the county. Include in the notice why the repayment agreement is not accepted and what would make it acceptable.
4. EPICS automatically begins recoupment when a debtor that was not participating becomes active again.

D. Methods Of Payment

1. Lump Sum - If financially able, a household may pay in one lump sum. Do not require the household to use all its resources to make a lump-sum payment.
2. **Cash Payments – (Voluntary Repayment Agreement, Civil Court, Restitution, etc.).** If a debtor is unable to pay the claim in one lump sum, negotiate a Voluntary Repayment Agreement (VRA). Use [DSS-8604](#) to document the repayment agreement. **Enter the Voluntary Repayment Agreement on the repayment approach screen in EPICS.** Once a [DSS-8604](#) is signed by the debtor and the county representative, it is consider binding unless the debtor defaults on payments. Give the debtor or their authorized representative a copy of the signed [DSS-8604](#).
3. Allotment Reduction - The allotment is reduced by 20% of the entitlement or \$20, whichever is greater. **NCFASST recoups the entire allotment if the allotment is \$20 or less.** The demand letter is sent by EPICS when the claim information is entered.

NOTE: Do not initiate allotment reduction on initial allotments. This applies to retroactive allotments and months where allotments are prorated. If multiple claims are outstanding, recoupment will be posted to the oldest claim first.

4. Wage Garnishment – Garnishment is a method of collection for IPV claims only. Accounts **must be 60 days delinquent and a civil action must be initiated** in order for garnishment proceedings to begin. The garnishment cannot exceed 20% of the monthly net income (gross earned income minus legally withheld deductions such as Federal and State taxes, Social Security, etc.) Income must be verified by

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contacting the employer or the client. **The Division of Employment Security (DES) wage match can be utilized as a last resort.**

NOTE: Wage Garnishment should only be used after all other means of collecting payments have been exhausted. For example, if the claim is being recouped or cash payments are being made, garnishment is not allowed.

Garnishment is not an option when an individual has been found guilty of an IPV in criminal court and has been ordered by the court to pay restitution. If the individual does not pay in accordance with the court order, a separate civil action can be filed. This needs to be coordinated with the probation officer.

- a. The county department of social services **must** obtain a civil judgment against the individual for the amount of the fraudulently received benefits and the cost of the action to recover the benefits prior to garnishment. Obtain a judgment after the civil court hearing is held or by default of the hearing. Default of the hearing occurs when the individual fails to appear for the hearing or fails to make a plea regarding the matter. Refer to [Figure 820-1](#).
- b. The county department of social services may petition the district court for an Order of Garnishment.
- c. The Petition for Order of Garnishment (refer to [Figure 820-2](#)) must include all of the following.
 - (1) Indication that the person is a former recipient;
 - (2) An explanation of which public assistance programs are involved;
 - (3) The amount of the fraudulent overpayment;
 - (4) Circumstances surrounding the fraudulent benefit and why it is fraudulent;
 - (5) Information that all administrative methods to collect the benefits have been exhausted unsuccessfully;
 - (6) Verification that county department of social services has obtained a civil judgment (A copy must be attached.);
 - (7) The name and the address of the garnishee - usually the individual's employer;
 - (8) The amount of the individual's net earned income; **and**
 - (9) Verification that the proposed garnishment does not exceed 20% of the individual's net earned income.
- d. The petition for an Order of Garnishment must be served on the individual and on the garnishee. The service must be in accordance with Rule 4 of the North Carolina Rules of Civil Procedure, which states that upon the filing of the complaint, a summons shall be issued within five days. The summons shall run in the name of the State and be dated and signed by the clerk of court or his deputy clerk. Service must be made within 30 days after the summons has been issued.

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- e. The individual and the garnishee have 30 days from the date of service to respond to the petition in accordance with Rule 12 of the Rules of Civil Procedure. A hearing is set and heard before a district court judge. If the judge enters an Order for Garnishment (refer to [Figure 820-3](#)), a copy must be served on the individual, as well as the garnishee. The order must include sufficient findings of facts to support the action by the court and the amount to be garnished each pay period. A certified letter must also be mailed to the garnishee advising him of his responsibilities regarding the Order of Garnishment. Refer to [Figure 820-4](#).

NOTE: The Order for Garnishment may be entered in the county where the individual resides, or is found, or in the county where the overpayment occurred. The order may be served personally or by certified or registered mail, with return receipt requested.

The order is subject to review for modification and dissolution upon filing of a motion in the cause.

- f. The amount to be garnished is based on the individual's verified monthly net earned income. The amount garnished each pay period may be increased an additional \$1, which is a processing fee retained by the garnishee (employer) for each payment under the order. The \$1 processing fee is the responsibility of the garnishee.
- g. Upon receipt of the Order of Garnishment, the garnishee transmits, without delay, to the Clerk of Superior Court the amount ordered by the court to be garnished. The funds are then disbursed to the county department of social services.
- h. Any garnishee that violates the terms of an order of garnishment is subject to punishment for contempt.
- i. The court may not enter an order for garnishment if they find that the order jeopardizes the individual's ability to:
- (1) become or remain financially self-sufficient or
 - (2) remain off public assistance or
 - (3) secure basic necessities.

The investigator must complete budgets to determine if the garnishment would jeopardize the individual's ability to remain self-sufficient.

- j. The county is responsible for removing the judgment in the Clerk of Court's Office once the overpayment and court cost are paid in full. The county must remove the judgment within 30 days of the last payment.

5. Voluntary debit to active or reactivated EBT account.

- a. A FSU can choose to make a voluntary payment from its EBT account toward an outstanding Food and Nutrition Services claim, in addition to allotment reduction. For a one-time reduction, the FNS Unit may give oral permission either in person or via telephone. For verbal one-time reductions, document the reduction on the [DSS-8217](#), Account Debit Request. For recurring reductions, the FNS Unit must provide written authorization to have the benefits deducted from the EBT account. The [DSS-8217](#), Account Debit Request, must be completed, signed by the head of household and by the caseworker. In addition to the head of household, the head of household's

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- spouse or authorized representative can provide authorization for the EBT debit.
- b. The FNS Unit may give written permission on the [DSS-8217](#) in advance for EBT debits. This means that the FNS Unit may give permission to do an EBT debit for a particular amount each month for a specific period of time. The FNS Unit may revoke this agreement **at any time**.
 - c. The [DSS-8217](#) must contain the following information:
 - The amount of the payment,
 - The frequency of the payment, i.e., monthly or one-time only,
 - The period of time the agreement is for.
 - d. Once the recipient signs the [DSS-8217](#), process the EBT account debit through the Adjustment/Repayment screen on the eFunds administrative terminal. Procedures for this function are contained in the eFunds Administrative Terminal User's Manual. The debit is on-line and occurs immediately.
 - e. After the recipient's account has been debited, key it as a payment in EPICS. Enter the Method of Collection on the Payments Screen as "EB" – Electronic Benefit Transfer.
 - f. Within 10 calendar days of obtaining the FNS Unit's written or oral permission for an EBT debit, give or mail the recipient his copy of the [DSS-8217](#), Account Debit Request, noting the amount and date of the debit and the claim balance.
6. Involuntary and voluntary debits to stale/dormant EBT accounts (accounts not accessed for six (6) months or more):
- a. When there has been no debit activity on an EBT account for six (6) months or more, the stale EBT benefits may be used to repay an outstanding claim balance. Stale benefits appear on the Aged Authorization Detail Report in XPTR.
 - b. Give or mail the FNS Unit written notification of the intent to apply the EBT benefits to the outstanding claim. Give the FNS Unit ten calendar days to object to the use of the benefits to pay the claim. If the FNS Unit objects to the EBT account debit, do not process the debit.
 - c. If the FNS Unit does not respond or object to the notification that an EBT debit will occur, apply the EBT benefits to the outstanding Food and Nutrition Services claim balance. Process the EBT account debit on the Adjustment/Repayment screen of the eFunds administrative terminal. After the recipient's account has been debited, key it as a payment in EPICS. Enter the Method of Collection on the Payments Screen as "EB" – Electronic Benefit Transfer.

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7. Expungement
 - a. If the household's benefits have been expunged within the previous three years, reduce the claim by the amount of expunged benefits. Check Data Warehouse for expunged benefits prior to beginning collection action.
 - b. To apply the expungement to the claim in EPICS, enter the amount of the expunged benefits as the payment amount and "EX" – Expungement as the method of collection. No retention is received for expungements. Do not apply any amount which exceeds the claim balance.

EXAMPLE: If the expunged amount is \$100.00 and the claim balance is for \$80.00, apply \$80.00 as the payment.
8. Treasury Offset Program (TOP) through the United States Treasury Department
 - a. Delinquent debts are automatically submitted to TOP to intercept federal payments using the EPICS system.
 - b. See Section 845 for more information.
9. Department of Revenue (DOR) setoff through the NC Department of Revenue
 - a. Delinquent debts are automatically submitted to the NC Department of Revenue to intercept NC income tax refunds using EPICS.
 - b. See Section 850 for more information.
10. North Carolina Education Lottery (NCEL)
 - a. Delinquent debts are automatically submitted to the NC Education Lottery for interception of lottery winnings.
 - b. The selection criteria for NCEL and DOR interception is the same.
 - c. See Section 865 for more information.

E. Unspecified Joint Cash Collections

An unspecified joint cash collection is when payments are received in response to correspondence that contained both Food and Nutrition Services and other program claim(s) and the debtor does not specify to which claim to apply the collection. When an unspecified joint cash collection is received for a combined public assistance/Food and Nutrition Services recipient claim, each program must receive its prorata share of the amount collected.

F. Compromising Claims

1. The court may order the amount of the claim to be compromised. This means that the court may order a different amount than the actual amount of the overissuance.
2. Any claim not under a current court order or any portion of a claim that is not under a current court order may also be compromised (reduced) if the county can reasonably determine that a household's economic circumstances indicate that the claim will not be paid in three (3) years. For example, if the only debtor is in a nursing home, deceased, or is elderly or disabled and needs all current income, assets, and Food

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and Nutrition Services for essential living expenses, compromise the remaining balance of the claim.

3. To compromise a claim in EPICS, fax a request to the State Office/Attn: Program Integrity. The request must be signed by the investigator and Program Integrity Supervisor and include justification for the compromise. Fax the request to 919-334-1265.
4. Apply restored benefits to the full amount of the claim, including any claim amount that was compromised. Do not collect against supplemental benefits, which are benefits due for the current month.
5. If a compromised claim not under a current court order subsequently becomes delinquent, the compromised portion of the claim may be re-instated and subject to collection. To uncompromise the claim in EPICS, fax a request for compromise to the State Office. The request must include justification of the compromise and be signed by the investigator and the Program Integrity Supervisor. Fax the request to 919-334-1265 to the State Office/Attn: Program Integrity.

G. Termination of Claims

1. Do not terminate a claim against a participating household. To terminate an existing claim in EPICS, the claim must be Collection (CO) status and have a balance.

Access the Referral Detail screen and key "Y" in the CLOSE REFERRAL field, key the reason code 'TX' in the REASON CLOSED field and press the F9 key. The claim will show in "TE" - Terminated status.

NOTE: Terminated claims are submitted to TOP, DOR, and NC Education Lottery for intercept, and NCFast for recoupment.

2. Terminate a claim if any of the following conditions exist:

a. If the claim:

- (1) Balance is \$25 or less; and
- (2) Has been delinquent for 90 days or more; and
- (3) Cannot be combined with other claims that result in an overall claim balance of \$25.00 or more.

b. The claim is delinquent for three years or more and will not be pursued through the Treasury Offset Program (TOP);

c. The household cannot be located, regardless of the balance.

d. The claim has been submitted for at least one year for TOP and state tax intercept and demand letters have been sent at least once every six months and you have sent at a minimum:

One follow-up demand letter for claims less than \$100.00.

Two follow-up demand letters for claims of \$100 or more through \$400.

Three follow-up demand letters for claims of more than \$400 and the cost of further collection action is likely to exceed the amount that can be recovered.

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- e. All adult debtors are deceased and the agency is not planning to pursue collection against the estate.
- 3. Terminated claims may be reactivated if a new collection method or a specific event (such as winning the lottery) increases the likelihood of collecting the claim. To reactivate a terminated claim in EPICS, access the Claim Detail screen and key in the Referral ID and press the F11 key. The claim will show in "CO" - Collection status.
- 4. EPICS will automatically reactivate a claim when a recoupment or an intercept from the Treasury Offset Program (TOP), N.C. Debt Set-Off, or NC Education Lottery is posted.

820.09 OVERCOLLECTION OF CLAIMS

- A. Overcollections appear in EPICS in the overcollection column:
 - 1. On the Payment History by Referral Screen;
 - 2. On the Payment History by Individual Screen; and
 - 3. On the Payment Screen.
- B. When a claim is overcollected via:
 - 1. Recoupment - Refund any overcollection to the household in benefits. Use the [DSS-8593](#) to restore benefits.
 - 2. Cash Payments - The refund must be made in cash.
 - 3. Tax or Lottery Intercept - The State Controller's Office issues the refund.
 - 4. Expunged Benefits - Do not restore any benefits.

820.10 DELETION AND CLOSURE OF CLAIM

- A. Fax a written request for deletion to the State Office/Attn: Program Integrity on county letterhead to 919-334-1265 when:
 - 1. A claim is found to be invalid in an ADH or State Level Hearing, or
 - 2. A claim is found to be invalid by the courts, or
 - 3. A claim is entered in EPICS in error.
 - 4. Due to system audit requirements, the following cannot be deleted, but may be adjusted and closed.
 - a. A claim with payment history.
 - b. A claim with a disqualification.
 - c. A claim with a debtor certified for TOP.
- B. Request an adjustment closure of claim when:

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1. All debtors are deceased at least six months and the county has verified their estate is exhausted or they do not have an estate;
3. All debtors filed bankruptcy, and the bankruptcy court has discharged the debt.;
3. All debtors are in a nursing home, and it is unlikely they will ever pay on the debt.
4. The system will not allow a deletion as in 820.10, A, 4 above.

The request for deletion or closure must include:

1. Claim Name
2. PDC Number
3. EPICS Referral ID Number
4. Individual ID Number
5. Category of Claim
6. Date Established
7. Reason for deletion
8. Name, Title, and telephone number of individual submitting claim for deletion
9. Current balance as shown in EPICS.
10. Investigator's signature
11. Program Integrity Supervisor's signature
12. The date of death, if applicable.
13. Justification for the request. Justification includes, but is not limited to: copy of death certificate, copy of bankruptcy order, etc.

Mail or fax the request to:

North Carolina Division of Social Services
Economic and Family Services/Program Integrity
820 S. Boylan Ave.
Raleigh, NC 27603

2420 Mail Service Center
Raleigh, NC 27699-2420
Fax: (919) 334-1265

820.11 COLLECTING THE IPV CLAIM ESTABLISHED BY COURT ACTION

A. Repayment Directed By the Court

1. No further collection action is needed when the court directs repayment through the Clerk of Court's Office. Take no action which is contrary to the court order.
2. Obtain a copy of the court order or other document which provides details of the repayment ordered. The court order replaces the Repayment Agreement. Be sure to obtain information concerning any sentence imposed, probation period, the length of time allowed for repayment, and any disqualification ordered by the courts.
3. Notify the court or probation officer if the individual fails to pay as ordered, but do not pursue other means of collection. Do not invoke allotment reduction unless the probation officer has the order amended to allow for allotment reduction. Change the Payment Method to "R" on the Repayment Approach screen in EPICS when a probation officer provides verification that the order has been amended to include allotment reduction. Otherwise, EPICS will not invoke an allotment reduction on a

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court-ordered IPV claim for the debtor. Do not send demand letters for repayment. Consult with your attorney to explore alternatives.

4. Pursue other means of collection if the individual fails to pay as ordered, and the court order expires. Other means include allotment reduction, cash payments, wage garnishment, tax intercept, and civil court. Consult with the probation officer to verify that the court order was not extended before initiating collection activity.
5. Pursue collection of a claim when restitution is a condition of probation, the individual fails to complete probation successfully, and serves an active sentence for the crime. Collection methods include, allotment reduction, cash payments, wage garnishment, tax intercept, and civil court. Use allotment reduction against benefits of any individual who was an adult household member of the original overissued case during the overissuance period. Refer to 820.08 D., Methods of Payment, for other means of collection from any financially responsible person.
6. Pursue collection against the individual and/or any financially responsible person when a parole board remits restitution and the individual has a civil liability.
7. Take the following actions when a court orders community service in lieu of restitution.

Send a letter to the household. Explain that the household must notify the agency when the community service work is completed. Also explain that if community service work is not completed (or only partially completed), the household will be required to pay back the balance of the overissuance.

- a. When the community service work is completed, enter the total value of the work completed by compromising the claim to zero. To compromise the claim in EPICS, go to the Payments Screen and key "AJCA" in the Method of Collection field and the amount. Follow instructions in the Collections section of the EPICS Users Manual.
- b. Request payment for the difference between the overissuance and the amount of work performed if the client does not fulfill the total work obligation within the court specified time frame. Compromise the claim by keying an "AJCA" for the total value of the community service completed. Follow the procedures below to establish the work value to offset.
 1. Divide the hours worked by the hours required to be worked.
 2. Multiply the result by the total claim amount.
 3. Subtract the result from the total claim amount.
 4. Send a demand letter for the claim balance.

EXAMPLE: Client is court ordered to perform 100 hours of community service as payment of a \$500 claim. Client completes only 53 hours.

1)	53 Hours Worked	÷	100 Hours Ordered	=	.53 Result
2)	.53 Result	X	\$500 Total Claim Amt.	=	\$265 Value of Comm. Svc.
3)	\$500 Total Claim Amt.	-	\$265 Value of Comm. Svc.	=	\$235 Balance to Collect

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Work closely with the county attorney and local court officials to make sure they understand the preceding policy. This will ensure that court decisions reflect collection activities which are administratively practical for Food and Nutrition Services.

8. The county may choose to seek civil court action to collect the claim if restitution is prohibited by the criminal court.

B. Repayment Not Directed by the Court

1. Pursue collection against any financially responsible individual if the court orders that **no** restitution or reduced restitution be paid, or the court does not address restitution. Refer to 820.08 D., Methods of Payment, for means of collection.
2. The household may request a fair hearing if it disagrees with the amount of the claim established, the recoupment amount, or that the claim has been previously paid in full. Continue benefits on the basis authorized immediately prior to the notice if the household requests a fair hearing within the ninety calendar day period and the household's certification period has not expired.
3. Invoke allotment reduction on a participating household if the individual is found not guilty. Pursue other collection methods, including civil action, if a non-participating household is found not guilty. The claim type is IHE. To pursue allotment reduction, enter an "R" - Recoupment in the Payment Method on the debtor's Repayment Approach screen in EPICS.
4. The [DSS-8554](#), Letter of Overissuance, notifies the nonparticipating household of the methods of repayment available and the requirement to return the signed notice within ten days. Initiate further collection action as appropriate to include civil court, tax intercept, or wage garnishment if the notice is not returned by the deadline.
5. Negotiate a repayment agreement with the client if he/she contacts the county requesting a repayment arrangement.

820.12 CLAIMS RECORD RETENTION

- A. Follow policy in Section 135 regarding retention of claims, with the following exception. Use the date of the last payment that paid the claim in full as the last transaction date.
- B. Retain the original signed waiver, original signed ADH decision, or copies provided to the county DSS office by the Clerk of Court Office that were used to establish the claim as an IPV until you have verified that the disqualified person is deceased. Follow policy in Section 820.12 to request a deletion of the disqualification.
- C. **Records for IPV claims may be maintained electronically, but must be maintained permanently.**