
**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

**FNS 845 Treasury Offset Program (TOP)
Change #2-2010
June 1, 2010**

845.01 GENERAL POLICY

The Treasury Offset Program (TOP) is authorized by the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996 (DCIA), and the Food, Energy, and Conservation Act of 2008. The overall purpose is to maximize collections of delinquent debts owed to the federal government by ensuring quick action to enforce recovery and the use of all appropriate collection tools. FNS recipient claims are considered federal debts and are, therefore, covered under the DCIA.

Under DCIA, the United States Treasury Department has been given the primary responsibility to act as the federal collection agent for delinquent debts. The Treasury Department now has the responsibility for the Treasury Offset Program (TOP), Federal Salary Offset Program (FSOP), and Administrative Offset Program (ADOP). The Administrative Offset, effective in 1999, includes offset from most federal payments including, but not limited to, travel reimbursements, payments to contractors with the federal government, federal salaries, and Social Security benefits. Supplemental Security Income (SSI) recipients are excluded from the Administrative Offset Program.

845.02 RULES FOR SELECTING CLAIM DEBTORS FOR TOP

Debtors are submitted to TOP as individual debtors, not joint debtors of the same claim. Therefore it is possible to intercept multiple debtors for the same claim and have an overcollection. It is also possible to submit one debtor to TOP when another debtor is not submitted because payments are made according to a county approved repayment agreement by the second debtor and not the first debtor. Enter repayment agreement information on the Repayment Approach Screen in EPICS. Divide equally the repayment amount on the Repayment Approach Screen between co-debtors that enter into a joint repayment agreement. EPICS will not read a repayment agreement amount less than \$10.00. Divide equally any payments received for joint repayment agreements between the co-debtors involved. EPICS reads and blocks or unblocks debtors according to the Repayment Approach screen and payment history. Delinquent debtors are also submitted for DOR interception. See Section 850 for DOR rules.

- A. EPICS selects debtors for submission to the Treasury Department using the following criteria:
1. Claim must be in Collection or Terminated Status (Referral Status = "CO" or "TE" respectively).
 2. Claim type must be "IPV," "IHE," "AE," or "SIE."
 3. Total of all selected claim current balance amount(s) for each debtor must be \$25.00 or more.
 4. Must not be in Recoupment Status.
 5. Debtor must be delinquent.
Delinquency is defined as:
 - a. The claim establishment date is 30 days old, and

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

- b. The debtor is not currently being recouped for this or another claim, and
- c. The debtor has not entered into a county approved repayment agreement and made his/her payments according to the repayment agreement, or
- d. The debtor entered into a county approved repayment agreement, but missed payments, or paid less than the agreed upon amount.

- 6. Only TOP eligible claims are considered when EPICS determines delinquency for TOP. TOP eligible claims do not include those with a Federal Tax Indicator of H, S, L, X, I, D, E, or P or a Federal Tax Appeal Indicator of R or Y.
- 7. Enter a county approved repayment agreement on the repayment approach screen in EPICS. Ensure the DATE SIGNED is entered unless the debtor has agreed to TOP interception along with regular payments. EPICS reads repayment approach screens only when the DATE SIGNED is populated. EPICS compares the repayment approach to payment history and certifies or de-certifies the debtor accordingly. Use [DSS-8604](#) to document repayment agreements. This form contains all the requirements for the debt to be submitted to TOP should the debtor default on the agreement. Repayment agreements are null and void if a debtor misses even one payment. Remove the DATE SIGNED from the repayment approach field for all voided repayment agreements.
- 8. The debtor is not considered delinquent and will not be submitted to TOP if a claim is being recouped, regardless of the number of claims. If the debtor has not reached Stage A, he will not be submitted for Pre-Offset Address Request. If the debtor has reached Stage A, he will not go to Stage B and a 60-day notice will not be sent.
- 9. Once the debtor has been certified to TOP, he is not considered delinquent and will be removed from TOP certification if he is being recouped or makes payments in accordance with the information in the repayment approach screen. EPICS generated code of "D" (certified but deferred due to delinquency rule) will replace the "C" (certified) when the debtor is removed from TOP.
- 10. The debtor will be recertified and re-submitted to TOP if recoupment stops, the debtor fails to make payments in accordance with the information in the repayment approach screen. EPICS will remove the "D" code and replace it with a "C."
- 11. Payment will be accepted and posted if an intercept payment is received after "D" is entered in EPICS since the debtor was eligible to be certified to TOP. The intercept will occur due to a lagtime in the Treasury Department reading TOP files sent by EPICS.

B. The following types of payments are considered when determining delinquency:

C	Cash
R	Recoupment

C. EPICS looks at "Methods of Collection" (payments) for the past 60 days, keeping track of the total dollar amounts of all payments and adjustments. Currently, only the ADJ-Adjustment/Reversal adjustment offsets a payment for delinquency determination. This is an adjustment to a payment and not to the claim balance.

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

- D. Any claim that has been identified as meeting the selection criteria for submission to TOP will have its Federal Tax Indicator flag on the debtor detail screen set to "A" (Address request for pre-offset) when the case is selected and sent to TOP for an address; "B" (Begin 60-day notice period) when the 60-Day Notice is mailed; and "C" (Certified request on TOP file) when the debt is sent to TOP for offset. EPICS sets these values.

845.03 DEBTORS NOT INCLUDED FOR TOP

- A. Debtors in Benefit Reduction Status. A debtor is not referred for TOP if he/she is participating in FNS.
- B. Debtors that have a county approved repayment agreement that is entered in EPICS and are paying according to that agreement.
- C. Debtors that have filed bankruptcy and the claim is included in the bankruptcy. If a debtor files for bankruptcy, fax a request to block the debtor(s) from TOP to the State office, Attn: Program Integrity at 919-334-1266. The request should include the reason for the request, identifying information, the investigator's and supervisor's signatures and have a copy of the bankruptcy notice attached.

NOTE: Criminal judgments should not be discharged through bankruptcy, but, if it is included, honor the bankruptcy.

- D. A claim cannot be submitted to TOP for any debtor when one or all debtors were prosecuted and ordered to pay under a court judgment as long as the court ordered payments are being met. Request the State office block or unblock debtors as needed via fax to 919-334-1266 attention Program Integrity. Include identifying information, justification for the block, and the investigator's and supervisor's signatures.

845.04 PROCESS OF CERTIFICATION FOR TOP

- A. Pre-Offset Address Request (Stage A)
1. Each month EPICS submits delinquent FNS claims which have not previously been submitted to TOP for a pre-offset address request to obtain the IRS address. These are listed on the Claims Selected for Pre-Offset Address Report, FRD406-2. This report is available in X/PTR.
 2. EPICS enters "A" in the Federal Tax Indicator field on the Debtor Detail screen when the pre-offset address request is sent to TOP.
 3. TOP provides valid addresses to EPICS for the debtors whose social security numbers TOP was able to process. The unmatched or unprocessable records are listed on the FRD-221-1. This report is available in X/PTR. Records listed on the FRD-221-1 could not be processed because the social security number was incorrect or the individual's name, in combination with the social security number, did not match the TOP data. Review this report and make any necessary changes to the name and/or social security number in order for debtors to be processed by TOP. See EPICS Manual, Section 103, VI., for instructions to correct erroneous name and/or Social Security Number data for TOP records.
 4. Once TOP returns valid addresses for the claims that were sent for the pre-offset address request, EPICS rechecks the selection criteria for submitting to TOP and sends 60-day notices to the individuals who still meet the criteria. The addresses provided by TOP are used in sending these notices.

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

B. 60-Day Notice Period (Stage B)

1. EPICS changes the Federal Tax Intercept code from "A" to "B" indicating that the [DSS-8605, Notice of Intent to Submit Debt to TOP](#) was sent. Only those claims which meet the selection criteria will receive a notice.
2. EPICS produces a report weekly for each county. The report FRD-221-3, 60-Day Notification Report, is available in X/PTR. This report verifies which claim debtors were mailed a [DSS-8605, Notice of Intent to Submit Debt to TOP](#). It is sorted by individual name and program. It is possible for a claim debtor to be intercepted for more than one claim and these claims can be in one or more counties. A [DSS-8605](#) will be issued for each of the claims.
3. The debtor may request a review during the 60-day notice period, if he believes the debt is not owed or that all or part of the debt is not past due or legally enforceable. The appeal codes are listed below and should be entered in the Federal Tax Intercept Appeal Indicator field on the Debtor Detail Screen when a hearing is requested or waived. This request or waiver must be in writing.

R	- Request a hearing after receipt of the 60-Day Notice
Y	- Hearing is in favor of the debtor and the TOP selection process ends with no certification
N	- Hearing is in favor of the county. TOP selection process proceeds.
W	- Debtor waives his right to a hearing. The debtor can waive his right to a hearing anytime during the 60-Day Notice period. This request should be in writing and kept in the investigative file in the county.

4. Take the following actions when a debtor requests a review:
 - a. The county should place "R" in the appeal indicator, schedule a local review, ask the client to bring any evidence that may support that the claim is not legally enforceable, and hold the review. In addition, counties should use the following guidelines to do a complete review:
 - (1) Verify FNS participation status of the debtor during the claim period.
 - (2) Verify the current collection status of the claim debtor.
 - (3) Verify that the claim meets the criteria for referral to TOP.
 - (4) Verify that the letter of overissuance and/or demand notices were sent.
 - (5) Consider any evidence provided by the debtor.
 - b. Determine whether or not the claim is legally enforceable during the local conference by the following means:
 - (1) The evidence verifies that the debtor is in bankruptcy and the claim is part of the bankruptcy.
 - (2) The evidence verifies that the payment on the claim was not past due.

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

- (3) The debtor paid an acceptable amount determined by the county on the claim during the 60-day notice appeal period.

NOTE: Claims meeting these guidelines must be exempt from TOP and the debtor must be notified of the decision. Place “Y” in the appeal indicator field to show review in favor of the debtor. The county must change “Y” to space to allow for future TOP submissions unless other action is required. For example, erroneous claim and claim must be closed. The county should request claim closure or deletion of erroneous claims following policy in section 810, 815, or 820.

EXAMPLE: If review was with regard to a payment that was not posted by the county and the debtor provides receipt to show a payment but later becomes “delinquent” on claim, set “Y” back to space or future TOP submission will not occur.

5. Notify the debtor of the decision. Use form [DSS-8606 Notice of Local TOP review Decision](#). This form provides the debtor with information of the right to request further review of his claim by USDA. The debtor has 30 calendar days from the decision date to make this request in writing to USDA. Therefore, wait 30 calendar days from the decision date before changing the appeal indicator field from “R” to “N” if the local review decision resulted in favor of the county. This gives USDA time to contact the Food and Nutrition Services & Energy Programs Unit to report that a request for further review was received from the client.
6. USDA notifies the Food and Nutrition Services & Energy Programs Unit when a debtor request further review in writing. The Food and Nutrition Services & Energy Programs Unit will notify the county by telephone and follow up with a memo that the debtor has requested further review. The county must ensure that “R” is in the Federal Tax Intercept Appeal Indicator field. USDA will review the case.
7. The Food and Nutrition Services & Energy Programs Unit is notified of USDA’s decision once the review is complete. The Food and Nutrition Services & Energy Programs Unit notifies the county of the Federal decision.
 - a. Enter “N” in the Federal Tax Intercept Appeal Indicator field on the Debtor Detail Screen if decision is in favor of the State/County action to intercept.
 - b. Enter “Y” in the Federal Tax Intercept Appeal Indicator field on the Debtor Detail Screen if decision is in favor of the debtor.
 - c. Change the “Y” to space to allow for future submission to TOP unless other action is required such as closing the claim. Decide the action required on a case-by-case basis depending upon the situation.
8. The county can continue to pursue collection through TOP if a request for review is received after the 60 day notice period has expired. However, the debtor is still entitled to the review. Follow policy and procedures in this section for a TOP review when the request is received after the 60th day, however, do NOT enter any codes to block the interception process.
9. Enter county approved repayment agreements in EPICS on the Repayment Approach Screen. Enter the date the repayment agreement was signed in the Repayment Signed Field unless the debtor has agreed to make payments and

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

TOP interceptions. EPICS will certify and de-certify debtors accordingly. Monitor exemption codes by the FRD452, Claims Exempt From TOP Report, located in X/PTR.

C. Certification (Stage C)

1. A debt is certified when:
 - a. A hearing decision was against the debtor;
 - b. The debtor waived his right for an appeal; or
 - c. The debtor never responded to the 60-day notice.

All certified debts are sent to TOP for intercept.

2. All claims submitted to TOP will be listed on the TOP Offset Report (FRD-222-2). It is sorted by certified debtors for each county. The report is produced weekly and is available in X/PTR.

845.05 CLAIMS EXEMPT FROM TOP OFFSET REPORT (FRD452)

The FRD-452 report lists all claims that are currently exempt from the TOP Offset process because the Federal Tax Intercept Indicator is either "H," "L," "S," "X," "P," "I," "D," or "E." Federal Tax Appeal Indicator Codes "R" and "Y" appear on this report. These codes are used when a debtor requests and wins a review during the 60-day notice period (Stage B). Code "I" is used to inactivate a claim after the 60-day notice period is over and the debt is TOP certified.

845.06 BANKRUPTCY

- A. Block TOP offset for a debtor that filed bankruptcy and included the claim in the bankruptcy. The Federal Tax Intercept Indicator must be updated at the Claim Debtor level in order to block a debtor. Fax a request to block a debtor to 919-334-1266, State Office, Attn: Program Integrity. Include the following, reason for the request, identifying information, and the investigator's and supervisor's signatures.
- B. Provide the State Office a copy of the bankruptcy documentation in order for the debtor to be refunded a TOP interception that took place after the debtors filed bankruptcy. Attach a request with the debtor's identifying information, reason for the block, and the investigator's and supervisor's signatures. Documentation is forwarded to the State Office by way of USDA when a debtor notifies TOP directly they are under a bankruptcy stay. Counties are then provided a copy of documentation. In some cases, TOP will reverse an offset when they receive bankruptcy documentation from a debtor. When this occurs, the State is notified of a reversal and USDA will provide a copy of the bankruptcy documentation. The regular reversal process will apply, and the debtor will be refunded by the TOP. (See policy on reversals in Section 845.11.)

845.07 FEDERAL SALARY OFFSET PROGRAM (FSOP)

- A. Employees of federal agencies are excluded from the Federal Tax Offset Program. Federal employees are subject to the Federal Salary Offset Program (FSOP). This program serves as a means of collecting debts that federal and United States Postal Service (USPS) employees owe county departments for overissued Food and Nutrition Services.

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

- B. All claims submitted for TOP are matched against federal employee records to identify claims owed by federal employees and are stripped from the files of claims referred to TOP.
- C. Procedures for FSOP are just like TOP. Counties will see no difference in the way these cases are handled.

845.08 ADMINISTRATIVE OFFSET

Administrative offset is defined as the withholding of funds payable by the federal government to an individual to satisfy a claim. Sources for this type of offset include, but are not limited to:

- A. Federal retirement payments;
- B. Vendor payments;
- C. Federal expense reimbursement payments;
- D. Federal travel payments; **and**
- E. Social Security payments (certain restrictions apply to Railroad Retirement and Black Lung payments).
 - 1. TOP may intercept up to 15% of a monthly social security payment from individuals. Debtors are entitled to keep up to \$750.00 of their social security benefits per month.
 - 2. Debtors subject to administrative offset (example: social security payments) receive a 60-day notice from EPICS and the Treasury Department. They also receive another notice at 30 days from the Treasury Department. Active debtors on the TOP file with a current balance greater than \$25.00 are offset.

845.09 HOW PAYMENTS ARE APPLIED

- A. EPICS applies intercept payments to eligible claims. Claims are paid off in the order of oldest claim first among non-judgment claims, then in order of oldest to most recently established judgment claim. Payment is applied to claims at random when two or more claims have the same establishment date.
- B. All TOP payments are recorded as a 'T' for the method of collection. Payments are visible on the Payment History by Referral and Payment History by Individual ID screens once posted in EPICS. These payments show on the Collection Report (FRD441) as a payment type 'T'.
 - 1. One of three system-generated notices is sent to the debtor to report the results of the intercept. [DSS-8610, TOP Paid in Full Notice](#), is sent to advise the debtor that TOP money was collected, posted and the claim balance paid in full. [DSS-8609, TOP Balance Due Notice](#), is sent when a TOP payment is collected, posted, and the debtor still has a remaining balance. [DSS-8607, TOP Refund Notice](#), is sent when a TOP collection occurs and the claim balance is zero or less than what was collected resulting in a refund. The letter specifies the amount of the refund.
 - 2. The State Controller refunds the debtor any money intercepted that exceeds the total amount owed by the debtor.

**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Treasury Offset Program (TOP)**

845.10 REFUNDS

- A. Payment is still applied if a debtor becomes non-delinquent from the time the intercept occurs and the time EPICS applies the payment. A refund is issued to the claim debtor for the amount of any overcollection. The State Controller's Office refunds the amount overcollected, plus the IRS collection fee if the debt is submitted to TOP in error.
- B. Any amount intercepted, which is an overcollection, cannot be applied to a claim for another program, or to a FNS claim that was not submitted to TOP.
- C. All TOP refunds are made by the State Controller to the debtor. TOP refunds appear on the FRD105 Refund Report for TOP and DOR Overcollections. This report is produced daily and is available in X/PTR. Food and Nutrition Services & Energy Programs Section provides an updated address or contacts the county to assist in getting an updated address when a refund check is returned as non-deliverable.

845.11 REVERSALS

- A. The IRS sometimes intercepts an individual tax refund and later discovers that the intercept was made in error. IRS does not notify the state of the reason for the error. When this occurs, IRS recovers the intercept from the State so the debtor can be reimbursed for the incorrect intercept. In order to do this, IRS deducts the "incorrect" intercept from the next "batch" of intercept monies sent to the State.
- B. EPICS posts a reversal and adjusts the claim balance to reflect the reversal. [DSS-8608](#), TOP Reversal Notice is generated by EPICS and mailed to the debtor to advise that a previous TOP collection has been reversed and that their claim balance has been increased. Reversals appear on the Collection Report (FRD428) as an ADJ (adjustment). They also appear on the FRD441. The FRD441 report contains the reversed amount, debtor name and receipt number.