
**FOOD STAMP CERTIFICATION
CLAIMS
Intentional Program Violation (IPV) Claims**

FS 820 Intentional Program Violation (IPV) Claims

Change #4-2006

August 1, 2006

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 stamp overissuances timely to determine if referral to program integrity staff is required. 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, or change the claim type to "U" or "P" to prevent an untimely referral. 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-Z, 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 overdue.

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

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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". A referral with a "U/P Creation Date" less than 180 days from the date of discovery is not overdue.
 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 820.06, 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 currently participating in the Food Stamp Program at the time the overissuance amount is determined. Enter all debtors in EPICS, whether they are currently participating in the Food Stamp Program 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 FSU when one member of the FSU is found guilty of trafficking Food Stamp Benefits. Collect the overissuance only from the individual found guilty of trafficking when that individual is outside the FSU. 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. This may result in the individual owing more benefits than were actually issued. 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.

820.02 METHODS TO ESTABLISH AN INTENTIONAL PROGRAM VIOLATION (IPV)

A claim is handled as 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;

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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.

Unless collection action is initiated as an inadvertent household error (IHE), the claim category is undetermined pending the outcome of the IPV determination. If a legal representative advises that collection action would prejudice the case, do not initiate collection action as an IHE.

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. Reporting History

1. The first quarterly report was generated for ongoing households in July 1995 for FSU's with fluctuating earned or unearned income. For definition of base periods see Section 268, Budgeting Stable Income; Section 270, Budgeting Fluctuating Income; and Section 273, Special Budgeting Procedures.
2. The last quarterly report was generated for ongoing households at the end of May 2003.
3. The first Semi-Annual Report, DSS-2435SR, was generated at the end of June 2003 for ongoing households with earned or unearned income. Refer to Section 268, Budgeting Stable Income, Section 270, Budgeting Fluctuating income, and Section 273, Special Budgeting Procedures. Refer to Section 450 for exceptions to Semi-Annual Reporting Requirements.

B. Apply the following rules for applications and recertifications to determine the first month of overissuance. The first month of overissuance can not be later than two months from the month in which the change in household circumstances occurred unless the FSU is subject to Semi-Annual Reporting requirements. Semi-Annual Reporting began June 1, 2003.

1. Use the 10-10-10 rule to determine when an overissuance begins for ongoing cases. This rule allows:
 - a. 10 calendar days for a household to report a change in situation.
 - 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 the Notice of Adverse Action to expire.

NOTE: The 10-10-10 rule does not apply to applications, reapplications, or Semi-Annual Reporting cases.

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2. Applicant Households (Initial and Reapplications)
- 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 has ten calendar days from the date of the Notice of Eligibility to report changes which occur after the date of the interview. To establish the first month of overissuance, apply the 10-10-10 rule from the day after the date on the DSS-8592, Notice of Action Taken. This does not apply to Semi-Annual Reporting households at reapplication.
 - c. Apply ongoing reporting rules to SR cases once the DSS-8592, Notice of Action Taken, is mailed. See 820.02, B, 4 for SR reporting rules.
3. Ongoing Cases except Semi-Annual Reporting
- a. The first month of overissuance is the first month affected had the change been reported timely.
 - b. A participating household is required to report changes within ten calendar days after the date the change becomes known. Add three days mailing time to the date of a change when the change notification is mailed to the client. Use this date to determine the ten calendar days allowed to report. Day one is the day following the day the change becomes known.
 - c. Reportable changes for Simplified and Standard cases include, but are not limited to:
 - (1) Monthly increase of earned income of more than \$100.00;
 - (2) Monthly increase of unearned income of more than \$100.00;
 - (3) Changes in household size and composition;
 - (4) Changes in residence;
 - (5) Changes in legal child support obligation; and
 - (6) Increase in reserves that exceed the limits.
- NOTE:** Not all the changes listed will result in a claim.
- d. If you are unable to determine the date the participant first became aware of the change, use the date the participant started work or received the first check (For example, SSA, SSI, VA).
 - e. Once the date of change is established, allow the household ten calendar days to report. Allow ten calendar days for the agency to act on the change, even if the county may have acted sooner. Also, allow the ten working days for the Notice of Adverse Action. Document the 10-10-10 dates on the DSS-1682.
- NOTE:** When excess reserve is the issue, apply the 10-10-10 rule to determine the first month of overissuance only. Do not apply the 10-10-10 rule to subsequent months in the overissuance period due to fluctuations below and above the reserve limits. Include in the overissuance only the months in which the reserve exceeded the limits on the first day of the month.

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4. Ongoing Semi-Annual Reporting Cases
- a. SR households are only required to report income in excess of 130% of Federal Poverty Level.
 - b. The household is required to report the change on or before the 10th calendar day of the month following the month the change occurred.
 - c. The caseworker has 10 days to react to the change. Allow 10 days even if the change could have been made sooner, and
 - d. Allow 10 work days for the Notice of Adverse Action.

EXAMPLE: An original member of a SR FSU begins working April 15th. His income for April is more than 130% of the Federal Poverty Level as recorded on the DSS 8550SR. The FSU has until May 10th to report. The caseworker has 10 calendar days for the Notice of Adverse Action to expire (May 20th). Allow 10 working days for the Notice of Adverse Action to expire. (June 3rd) July is the first month of overissuance.

5. Timely Recertifications

Timely recertifications are completed by the the FSU household by the 15th calendar day of the last month of the current certification period. Simplified and Standard FSU must report changes within 10 calendar days of the date a change becomes known if they complete a timely recertification. This does not apply to Semi-Annual Reporting cases.

- a. If a change is not reported and the ten calendar day period ends before the case is recertified, 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 11. Recertification was processed on April 25. The ten calendar days for client reporting expired April 21, prior to processing the case. May is the first month of overissuance.

- b. If the ten calendar day period for the client to report ends after the case is recertified, apply the 10-10-10 rule to determine the first month of overissuance. The client has ten calendar days from the date of the DSS-8592, Notice of Action Taken to report changes. Document the date the change becomes known on the DSS-1682.

EXAMPLE: Certification period expires April 30. Recertification interview was held April 4. Client was hired for a job April 11. The case was processed April 18, the notice mailed on April 21, and received by the client on April 24. The ten calendar days for the client to report expired May 1. The agency must allow ten calendar days to act, or May 11. Allow the ten working day Adverse Action Notice to expire May 25. June is the first month of overissuance.

- c. Semi- Annual Reporting cases are required to report all changes and anticipated changes at the time of recertification. 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.

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EXAMPLE: Certification period expires April 30. Recertification interview was held April 4. Client accepted a job on April 2, and anticipates starting the job April 11. Client did not report this anticipated change at the interview. The first month of overissuance is May.

6. Untimely Recertifications

- a. A household filing an untimely recertification in the last month of its certification period has ten calendar days to report changes which occur after the interview and before the certification period ends. This does not apply to SR cases.

If the ten days to report expires prior to the case being certified, the first month of overissuance is the first month of the new certification period.

EXAMPLE: Certification period ends on April 30. A household has an untimely recertification interview on April 24. A change occurs on April 28. The household has ten calendar days to report (May 8). The case is processed May 12. May is the first month of overissuance.

- b. If a change occurs after the certification period ends but before the case is certified, or the ten calendar days to report expires after the case has been certified, the household has ten calendar days from the date of the Notice of Eligibility to report. This does not apply to SR cases. Apply the 10-10-10 rule from the day after the date of the Notice of Eligibility.

EXAMPLE: Certification period ends on April 30. A household has an untimely recertification interview on April 24. A change occurs on May 2. Apply the 10-10-10 rule from the day after the date of the Notice of Action Taken, if the case is processed prior to May 12.

- c. If a change occurs after the certification period ends and the ten calendar days to report expires before the case has been certified, the first month of overissuance is the first month of the new certification period. This does not apply to SR cases.

EXAMPLE: Certification period ends April 30. The household has an untimely recertification review on April 24. A change occurs on May 2. The household has 10 days to report (May 12). May is the first month of overissuance if the case is processed May 12 or later.

- d. Semi-Annual Reporting cases are required to report all changes and anticipated changes at the time of recertification. 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.

EXAMPLE: Certification period expires April 30. Recertification interview was held May 4. Client accepted a job on May 2, and anticipates starting the job May 11. Client did not report this anticipated change at the interview. The first month of overissuance is May.

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.

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Check SLII using the Food Stamp Information System (FSIS) Case ID number. The word "authorized" under the Status field appears until the nightly update actually issues the benefit. Once the benefit is issued, "authorized" changes to "Issued" with the Issue Date displayed under the "Benefit Issued" field.

- 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. Effective March 1, 2003, the use of actual utility amounts ended. Refer to Section 280.09, Utility Expenses, 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 280.09, Utility Expenses.

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 FSIS SLAW screen for calculation. Enter unreported earned income as unearned on the SLAW screen 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 SLAW budget, entering the earned income as unearned income to disallow the earned income deduction.

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

Use the ESC 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. If unreported wages reveal a dependent care expense, verify and allow the actual expenses each month as a deduction. The dependent care cost cannot exceed \$175.00 per month for an individual over the age of two, and \$200.00 for an individual under the age of two. If unreported information makes a household eligible for a medical deduction, verify and allow actual expenses as a deduction.

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- 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 FSU received Transitional Food Stamps (TFS) unless there was dual participation by a member of the FSU, 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.
- 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 SLAW screen prints.
 4. A second party review of the DSS-1682 to ensure its accuracy and completeness is recommended.
- 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.

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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 for September because the income maintenance caseworker (IMC) failed to react to a BENDEX that showed an increase of SSA benefits. The household also failed to report a new source of earned income which began in July of the same year. After applying the 10-10-10 rule, the first month of overissuance is September.

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.

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. This establishes the U/P Creation Date, and stops the time clock. Change the status to IPV once an IPV is established using Administrative Disqualification Hearing, Wavier, 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 IPV claim into EPICS.

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.

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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 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.

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- 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.

Unless collection action is initiated as an Inadvertent Household Error (IHE), the claim category is undetermined pending the outcome of the IPV determination. If a legal representative advises that collection action would prejudice the case, do not initiate collection action as an IHE.

- 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.
- F. When a guilty decision is made by one of the methods listed in 820.06, A-D, enter the disqualification and claim in EPICS. Notice of adverse action is not required. 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

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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.
2. EPICS sends the DSS-8554, Letter of Overissuance, to the household 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 FSIS 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.
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.

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 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. Also, enter "H" in both the NC Debt Setoff Indicator field and the Federal Tax Appeal Indicator field on the Debtor Detail screen. Refer to Sections 845 and 850 for additional information. If a recoupment improperly occurs after a request for an appeal, restore the amount recouped until the appeal is resolved.

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EXAMPLE: An IPV claim is established on September 10. The DSS-8554 is sent to the FSU. 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. Place "H" in the NC Debt Setoff Indicator field and in the Federal Tax Indicator field. No restoration of benefits is due the debtor unless the hearing officer decides that the overissuance is less than the amount recouped for December.

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. Key the cash payment in EPICS with a code of "FSC" to allow allotment reduction to continue.
 4. FSIS 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. A participating household must agree to pay at a higher amount than 20% of the allotment or \$20, whichever is greater.
- 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 if it disagrees with the amount of the claim established or that the claim has been previously paid in full. The household has 90 days from the date of the DSS-8554 to request a fair hearing. 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. Also, enter "H" in both the NC Debt Setoff Indicator field and the Federal Tax Appeal Indicator field on the Debtor Detail screen. Refer to Sections 845 and 850 for additional information.
 3. If the household contacts the agency to request arrangements for repayment, negotiate a repayment agreement with the client. The repayment agreement should state that the entire debt is due and payable if the terms of the repayment agreement are not met. Those terms include payment amount, due dates, etc.
- 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.

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2. Cash Installments - Negotiate a cash installment repayment agreement if the household is unable to pay the claim in one lump sum. A signed cash repayment agreement is considered binding.
3. Allotment Reduction - The allotment is reduced by 20% of the entitlement or \$20, whichever is greater. FSIS 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 contacting the employer or the client. The ESC 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;

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- (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.
- 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.

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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 stamp claim, in addition to allotment reduction. For a one-time reduction, the FSU 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 (See Figure 810-2.). For recurring reductions, the FSU 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 spouse or authorized representative can provide authorization for the EBT debit.
- b. The FSU may give written permission on the DSS-8217 in advance for EBT debits. This means that the FSU may give permission to do an EBT debit for a particular amount each month for a specific period of time. The FSU 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 FSU'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 90 days or more):
- a. When there has been no debit activity on an EBT account for 90 days, 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 FSU written notification of the intent to apply the EBT benefits to the outstanding claim. Give the FSU ten calendar days to object to the use of the benefits to pay the claim.

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- c. If the FSU objects to the EBT account debit, do not process the debit.
 - d. If the FSU does not respond or object to the notification that an EBT debit will occur, apply the EBT benefits to the outstanding food stamp 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.
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.
- E. Unspecified Joint Cash Collections
- An unspecified joint cash collection is when payments are received in response to correspondence that contained both the food stamp 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 stamp 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

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income, assets, and food stamps for essential living expenses, compromise the remaining balance of the claim.

3. To compromise a claim in EPICS, go to the Payments screen and key "AJCA" in the Method of Collection field and the amount of the compromise.
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, go to the Payments screen and key "AJUC" in the Method of Collection field and the amount to be reinstated. Once a claim has been uncompromised, do not compromise it again.

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 and DOR for intercept.

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.
 - 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 or the household begins participating in the program again) increases the likelihood of collecting the claim. To reactivate a terminated claim in EPICS, access the Claim Detail screen and key in the

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Referral ID and press the F11 key. The claim will show in "CO" - Collection status.

4. EPICS will automatically reactivate a claim when an intercept from the Treasury Offset Program (TOP) or N.C. Debt Set-Off 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 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. Submit a written request for deletion to Food Assistance and Energy Programs Branch on county letterhead 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:

1. All debtors are deceased and the county does not intend to pursue their estates;
2. 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.

The request for deletion or closure must include:

1. Claim Name
2. FSIS Number
3. EPICS Referral ID Number
4. Individual ID Number
5. Category of Claim

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- 6. Date Established
- 7. Reason for deletion

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8. Name and Title of individual submitting claim for deletion
9. Telephone Number of individual submitting claim for deletion
10. Investigator's signature
11. Program Integrity Supervisor's signature

Mail or fax the request to:

North Carolina Division of Social Services
Food Assistance and Energy Programs Branch/Program Integrity
325 N. Salisbury St.
2420 Mail Service Center
Raleigh, NC 27699-2420

Fax: (919) 733-0645

Deleted: ¶

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 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 820.07 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.

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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	=	_____5 3 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

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 the Food Stamp Program.

- 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 820.07 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

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notice if the household requests a fair hearing within the ninety calendar day period and the household's certification period has not expired.

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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.