

MANUAL MATERIAL TRANSMITTED					
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DATE: January, 1996			TO: All Income Maintenance Manual Holders		

This change is being made to clarify and change policy as follows:

Chapter 13

The JOIN penalties have been clarified.

Chapter 20

Some changes have been made to Food Stamp Claim and Repayment Section at the request of IFM.

Questions should be directed to the IM Policy Unit in the Office of Family Support.

13.25 ACTION WHEN THE CLIENT REFUSES TO COOPERATE (AFDC/U)

When the mandatory participant refuses to cooperate with W&T, procedures aimed at resolving the problem and enabling participation in a responsible manner are instituted by the W&T Worker.

The steps in this process follow.

- Determination of whether or not the individual has refused to cooperate with W&T without good cause. If good cause exists, the Worker is not notified in any part of the process. If good cause does not exist, the W&T Worker notifies the Worker to apply appropriate sanctions at the conclusion of the JOBS Conciliation Process.
- If a Fair Hearing is requested, action is delayed until the Fair Hearing is held.
- For mandatory participants, the first JOBS sanction results in removal from the benefit group until the failure or refusal ceases.
- For mandatory participants, the second such failure or refusal results in removal from the benefit group until the failure or refusal ceases, or for three months, whichever is longer.
- For mandatory participants, any subsequent failure or refusal results in removal from the benefit group until the failure or refusal ceases, or for six months, whichever is longer.
- For JOIN participants, the first penalty is removal of the participant's needs from the benefit group until the failure to comply ceases, or three months, whichever is longer.
- For JOIN participants, the penalty for the second and any subsequent failure to comply is termination of AFDC/U benefits for all members of the benefit group at the time the failure to comply occurred, until the failure to comply ceases, or six months, whichever is longer.
- Voluntary participants do not have a penalty applied, but may be barred from JOBS enrollment or services.

Any voluntary referral, who has been barred from enrollment and who becomes a mandatory referral during the sanction period, must be referred to W&T as a

13.26 PENALTY WHEN THE MANDATORY PARTICIPANT IS SANCTIONED (AFDC/U)

A. W&T NOTIFICATION PROCEDURES

W&T advises the Worker of the length of the sanction to be applied. The DHS-1 shows the following:

- Case number
- Case name
- Participant's name, if different from case name
- Status of second parent
- Participant's SSN
- Participant's address
- Reason for sanction
- Length of JOBS sanction
- Name of W&T Worker
- Affect on Food Stamp eligibility

B. INCOME MAINTENANCE PROCEDURES

Upon notification of the sanction the Worker applies the appropriate penalty as follows:

- The sanctioned individual is removed from the benefit group.
- When a parent in an AFDC/U case is sanctioned, the second parent is removed from the benefit group, unless the second parent is participating in the JOBS program, whether or not the second parent would otherwise be exempt. The JOBS exemptions apply to the second parent, who would be required to participate when the parent who is required to participate fails to do so, with the exception of the exemptions relating to the care of children or of ill or incapacitated persons. If the parent

20.1 INTRODUCTION

The Department is responsible for accurately determining the client's eligibility for Food Stamps, AFDC/U and Medicaid. When it is discovered that excess benefits have been issued, through departmental error, client error or client misrepresentation, corrective action must be taken. The procedures to be followed depend upon the Program and the type of error. The material that follows, when used in conjunction with the State Repayment Officers' Handbook, provides detailed instructions for repayment and corrective procedures for all programs.

For corrective action related to underpayments, see Chapter 2.

- Establishes an IPV by obtaining the client's waiver of, or presenting evidence at, an Administrative Disqualification Hearing (ADH).
- Documents IPV through court action
- Notifies the benefit group of the overissuance
- Initiates and monitors collection activity on the claim
- Imposes disqualification sanctions
- Notifies the Worker of the end of the sanction period

C. IDENTIFYING THE MONTH(S) FOR WHICH CLAIMS ARE ESTABLISHED

Those clients who are not required to report quarterly are required to report changes within ten (10) days of the date the change occurs. If they do not and the change would have decreased benefits, a claim is to be established for any overissuance. This also applies to quarterly reporting clients when the change in circumstances concerns an issue not asked for on the quarterly report form.

Those clients who are required to report quarterly are NOT REQUIRED TO REPORT those items addressed on the monthly report form by any means other than the report form. Their reporting deadline is, therefore, the 7th of the processing month following the quarter the change occurred.

NOTE: Claims are not established for excess benefits received during the 13-day advance notice period.

EXAMPLE: A QR client sends in an incomplete form on July 7. The form is returned with an ES-NL-C on July 7th. The client returns a completed QR form within the 13-day advance notice period on July 19. A review of the form shows that the client's income has increased from the previous report period. Because it is too late to give the client advance notice of the decrease in benefits, a Food Stamp claim is not established.

1. UPV Claims

NOTE: Items a. and b. below are used when the overissuance is not contested in a Fair Hearing. If a Fair Hearing is held, the Hearings Officer's decision is final.

1. UPV

There are two types of UPV's, client errors and agency errors. Even though both are UPV's, some policies and procedures differ based on who caused the error.

A UPV claim is established when:

- An error by the Department resulted in the overissuance, except when the Worker failed to have the application form signed.
- An unintentional error made by the client resulted in the overissuance.
- The client's benefits are continued pending a Fair Hearing decision and the subsequent decision upholds the department's action.
- The Department is attempting to establish an IPV. Until this is established, the claim is collected as a UPV.
- It is determined the client did not commit an IPV. The claim is pursued as a UPV.
- The benefit group was receiving Food Stamps solely because of Categorical Eligibility, and it is subsequently determined ineligible for AFDC/U, GA for DA and/or SSI at the time they received it.
- The Department issued duplicate allotments and the benefit group did not return the incorrect allotment.
- The Department continued issuance beyond the certification period when a redetermination is not completed.

2. IPV

IPV's include making false or misleading statements, misrepresentations, the concealment or withholding of facts, and committing any act that violates the Food Stamp Act of 1977, Food Stamp regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamps.

The individual(s) who is found to have committed an IPV is ineligible to participate in the program for a

amount of the claim and provides him with a copy of form ARTS-CG-NL1.

NOTE: It is possible to conduct the interview by telephone when the client offers a compelling reason for not coming to the office. When this occurs, the interview requirements listed above must be followed. Form IG-BR-44 is mailed to the client for his signature(s), along with form IG-BR-44a, which explains the disqualification process.

(2) Use by Hearings Officer

An IG-BR-44 is attached to each notice to the client when an ADH is scheduled. If the client signs the form and returns it prior to the Hearing, the Hearing is not held. The

One or more disqualifications for fraud, which was the previous term used for IPV, under policy prior to 5/1/83, are considered as one previous disqualification, when determining the appropriate penalty.

If a court fails to impose a disqualification period, the Department imposes the penalties listed above.

(2) Time Limits

The disqualification must be imposed within 45 days of the date an IPV was established. The 45-day limit for imposing the disqualification begins on the date the Repayment Office/Investigator:

- Secures all necessary signatures on an IG-BR-44; or
- Receives an ADH decision establishing an IPV; or
- Receives a final court order establishing an IPV.

(3) Imposing the Penalty

Once the sanction is obtained, the Repayment Officer takes the following actions:

- Notifies the client of the date disqualification begins, and benefit reduction or termination as a result of the disqualification, using forms ES-NL-C and ES-NL-C1. See Chapter 6.
- Takes data system action to remove the disqualified individual(s).
- Begin repayment of the claim using IPV policy.

NOTE: If the individual is not eligible for Food Stamps at the time the disqualification period begins, the disqualification period is postponed until the individual applies for and is otherwise eligible. To receive the full sanction, it must be imposed effective

- UPV, Agency

Based on this priority list, payments are credited to the oldest claim first, until it is paid. Then, payments are credited to the next oldest claim.

The procedure includes the following:

1. Initiating Collection

a. UPV Claims

The benefit group is notified of the Food Stamp claim by computer-generated notification/demand payment letters from ARTS. Enclosed with the letter is a repayment agreement, form ES-FS-17, and a self-addressed stamped envelope. ARTS automatically sends up to 3 such letters requesting repayment depending upon the amount of the claim. The number of letters sent is as follows:

Claim of \$35 through \$50: 1 letter

Claim of \$51 through \$499: 2 letters

Claim of \$500 or more: 3 letters

b. IPV Claims

In the case of a potential IPV, the benefit group is notified of the claim by an appointment letter scheduling a face-to-face interview and detailing the claim, cause and amount.

(1) Repayment Interview

A Repayment Interview is conducted in conjunction with the interview to discuss the signing of the Waiver of Rights to an ADH. During the interview, the client is asked to sign form ES-FS-17, repayment agreement, after the options on the agreement are explained.

(2) Computer Generated Letter

When an IPV is established through an ADH or court decision, the benefit group is sent a computer generated letter notifying them of

EXAMPLE: The benefit group is entitled to \$3. This amount is rounded up to \$4 because there is no way to provide the client with \$3 in coupons. See Chapter 23.

d. Federal Tax Refund Offset Program (FTROP)

IPV and UPV client claims are subject to collection through the Federal Tax Refund Offset Program (FTROP). Any UPV client and/or IPV claim which has a payment balance of at least \$35, which is delinquent and which is not over 10 years old, is subject to referral for collection of the claim by offset of the client's federal income tax refund. Agency caused UPV claims are not eligible for FTROP collection. Judgment claims are not subject to the 10 year limitation.

4. Terminating The Collection Of A Claim

A claim is determined uncollectible after it has been suspended for 36 months after the date the claim was established. It is then terminated. However, at any time during this 36-month period in which the claim is suspended, the Repayment Officer must reduce or eliminate the claim by offsetting an amount that was lost and must be restored to the benefit group. This is done no matter when the claim was suspended. Even after the claim is terminated, the offset method of reducing or eliminating the claim is used for those claims terminated after 6/1/83.

H. RIGHT TO A FAIR HEARING REGARDING A CLAIM

The client has 90 days from the date of the initial notification/demand payment letter in which to request a Fair Hearing. The Hearings Officer only rules on the amount of repayment. If the client requests a Fair Hearing within 30 days, the Worker stops collection until the Fair Hearing is completed. If a Fair Hearing is requested between 30 and 90 days, collection action proceeds during the Fair Hearing process. Any adjustments in the amount of the claim, required by the Fair Hearing decision, are made after the decision.

IFM-2C is attached to the inside front cover of the case record. In addition, a repayment block or correspondence block must contain an ES-FS-5 and any other correspondence regarding the claim. The office transferring the record must also notify the Repayment Officer of the change. The receiving office must insure that the case remains coded for a CA reduction, or if the payment is by another method, that the client knows where to send the payments. For the client's convenience, he may submit payments to the office in the county in which he resides.

(2) Inactive Cases

When a client becomes delinquent in repayment and due to his financial circumstances, he is unable to pay the balance of the claim, repayment is delayed until reapplication and the client is found otherwise eligible. The Repayment Officer is responsible for contacting the client regarding repayment.

b. Interstate Claims

When a client who owes the Department for an overissuance moves out of state, or when a client who owes repayment to another state moves to West Virginia, follow-up action is required by the Repayment Officer.

(1) Clients Moving Out of State

If another state contacts a county office inquiring about a claim or eligibility status of a former recipient, the Worker forwards the inquiry to the appropriate Repayment Officer. Whenever possible, the Repayment Officer arranges for the client to continue to send payments to the Financial Clerk in the office where the claim is filed. If that is not possible, the Department relinquishes its rights to collection of the outstanding claim to the state or county where the client currently resides. The Repayment Officer changes the ARTS current pay status to H.

action is suspended, unless notification is received from the Claims Unit to resume collection. Refer to FTROP procedures for appropriate handling of claims processed through the FTROP offset.