

20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES

When an AG has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the coupon allotment received by the AG and the coupon allotment the AG was entitled to receive. The procedures and policy by which Food Stamp claims are referred, established, collected and maintained follow.

NOTE: Referrals are made for all over issuances, regardless of the dollar amount. Claims are not written for under \$50 unless there is a liable debtor receiving Food Stamps at the time the claim is referred, the error is discovered as the result of a QA review, or it is an IPV claim. In these three situations claims under \$50 are written and collected. IPV claims must be established regardless of the total amount or participation status of the liable debtor(s). See Section 20.2,E for definition of who is a liable debtor.

A. REFERRAL PROCESS

The establishment, notification and collection of Food Stamp claims is the responsibility of the IFM Claims and Collection Unit. The collection staff is known as Repayment Investigator (RI). Upon discovery of a potential Food Stamp claim, the Worker refers the case to the Repayment Investigator by completion of the BVRF screen in RAPIDS. In determining if a referral is appropriate, the Worker must consider the client's reporting requirements, the Worker's timely action and the advance notice period.

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

NOTE: If either of the following conditions exist, see the Fraud referral process in Section 20.6:

- The amount of FS overissuance due to client misrepresentation is greater than \$500, or
- The FS overissuance in combination with other overissued benefits of other programs due to client misrepresentation is greater than \$500.

B. PROCEDURES FOR ESTABLISHING FOOD STAMP CLAIMS

The following are responsibilities of the Criminal Investigator/Repayment Investigator in establishing a claim against the AG:

- Accepts all referrals regarding potential Food Stamp overissuances
- Reviews the case record and data system information
- Obtains third-party verifications to support allegations
- Identifies the month(s) for which the claim is to be established
- Classifies the claim as UPV or potential IPV
- Uses the Basis of Issuance charts and policy which were in effect at the time of the error and determines the amount of the overissuance
- Establishes an IPV by obtaining the client's waiver of, or presenting evidence at, an Administrative Disqualification Hearing (ADH) IPV through court action
- Notifies the AG of the overissuance
- Initiates and monitors collection activity on the claim
- Completes AIIP screen in RAPIDS which issues notification of disqualification.
- Notifies the Worker to initiate the disqualification.

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

The number of month(s) for which claims are established depend on whether it is an IPV or UPV.

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

1. UPV Claims

There are two types of UPV's, client errors and agency errors.

A UPV claim is established when:

- An error by the Department resulted in the overissuance.
- 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.
- It is determined by court action or ADH the client did not commit an IPV. The claim is pursued as a UPV.
- The AG received Food Stamps solely because of Categorical Eligibility, and it is subsequently determined ineligible for WV WORKS and/or SSI at the time they received it.

EXCEPTION: If the client misrepresented circumstances in order to receive cash assistance or SSI, the Food Stamp claim may be an IPV.

- The Department issued duplicate benefits and the overissued amount was not returned.
- The Department continued issuance beyond the certification period without completing a redetermination.

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.

A client error UPV is only established retroactively for the 6-year period preceding the month of discovery. An agency error is only established retroactively for the one-year period preceding the date of the claim.

The Repayment Investigator determines the month in which the overissuance initially occurred as follows:

a. Agency Errors

(1) Failure To Take Prompt Action

The first month of overissuance is the month the change would have been effective had the agency acted promptly.

(2) Computation Error

The first month of overissuance is the month the incorrect allotment was effective.

b. Client Errors

When the client fails to provide accurate or complete information, the first month of the overissuance is the month the incorrect, incomplete or unreported information would have affected the benefit level considering notice and reporting requirements.

NOTE: When determining the amount of overissuance due to the failure of the household to report earned income in a timely manner, the amount of benefits the client should have received is computed without applying the earned income disregard to any portion of the earnings the client did not report. This applies to IPV claims for benefits issued for October, 1987 and later and to UPV claims established on or after November 1, 1996.

NOTE: Depending on whether or not an AG has earned income or at least one WV WORKS recipient, reporting requirements may be different. See Section 2.2,B for the appropriate AG reporting requirements.

2. IPV Claims

IPV's include making false or misleading statements, misrepresentations, concealing or withholding information, and committing any act that violates the Food Stamp Act of 1977, Food Stamp regulations, or any State statute related 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 specified time, depending on the number of offenses committed.

An IPV can only be established in the following ways:

- The client signs an IG-BR-44, Waiver of Rights to an ADH; or

NOTE: Form IG-BR-44 is used only by Repayment Investigators/Criminal Investigators and Hearings Officers. When the client waives his right to an ADH, the disqualification cannot be changed by a subsequent Fair Hearing.

- By an ADH decision; or
- By court decision.

Once an IPV is established, a disqualification penalty is imposed on the AG member(s) who committed the IPV. See Section 9.1,A,2,g for penalties.

NOTE: Prior to 5/1/83, IPV's were referred to as fraud. When determining the appropriate penalty, all disqualifications prior to 5/1/83 are considered as one previous disqualification.

If a court fails to impose a disqualification period, the Department imposes the appropriate penalty as indicated in Section 9.1,A,2,g. If the court imposes a sanction that differs from those in Section 9.1,A,2,g, the court-ordered sanction is applied.

NOTE: Overlapping claim periods run concurrently. Regardless of participation status, a penalty must be imposed within 45 days of the ADH decision, the signing of the waiver, or the issuance of the court order.

If an overissuance is discovered more than 6 years after it occurs, no claim is established. When the client commits an IPV, the first month of the claim is the first month in which the benefit would have been effective considering the reporting and notice requirements.

After the first month is determined, the Repayment Investigator/Criminal Investigator identifies the subsequent months in which overissuances resulted from the same IPV act.

NOTE: When determining the amount of overissuance due to the failure of the household to report earned income in a timely manner, the amount of benefits the client should have received is computed without applying the earned income disregard to any portion of the income the client did not report. This applies to IPV claims for benefits issued for October, 1987 and later and to UPV claims established on or after November 1, 1996.

IPV claims must be established for trafficking-related offenses. Claims arising from trafficking-related offenses are the value of the trafficking benefits as determined by the individual's admission, adjudication, or documentation that forms the basis of the trafficking determination. Buyers and sellers of trafficked benefits are equally responsible for the claim.

D. FACTORS AFFECTING THE AMOUNT OF THE CLAIM

There are no special factors affecting the amount of the Food Stamp claim.

E. COLLECTING THE CLAIM

Collection action is initiated against the AG which received the overissuance. When the AG composition changes, collection is pursued against any and all AG's which include a liable debtor.

The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- S Adult or emancipated minors in the AG
- S Disqualified individuals who would otherwise be required to be included
- S An unreported adult who would have been required to be in the AG had he been reported
- S Sponsors of alien AGs when the sponsor is responsible for the overpayment
- S An authorized representative of an AG if he is responsible for the overpayment

For AG's containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment by coupon allotment reduction is mandatory for all claims when a liable debtor is certified for Food Stamps. RAPIDS automatically begins recoupment and posts these payments to the claim.

NOTE: When the reduction causes the benefit to be reduced to zero, the AG must remain active if otherwise eligible. The AG is subject to all program requirements, including redetermination. This ensures that the benefit reduction is credited in RAPIDS.

1. Collection Priority

Collections may be made on only one claim at a time. Claims are collected in the following priority order:

- IPV
- UPV, Client
- 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.

EXCEPTION: Payments received due to a court order are credited to the specific claim, regardless of the priority order or age of the claim. Also, payments received from TOP are credited to the targeted claim.

2. Claim Notification

a. UPV Claims

The AG is notified of the Food Stamp claim by computer-generated notification/demand payment letters from RAPIDS. Enclosed with the letter is a repayment agreement, form ES-REPAY-1 and a postage-paid envelope.

b. IPV Claims

In the case of a potential IPV, the AG is notified of the claim by one of the following:

- S An appointment letter scheduling a face-to-face interview
- S A letter explaining the claim, cause and amount, which includes a Waiver of rights to an Administrative Disqualification Hearing (ADH)
- S A request that the client return the signed Waiver.

(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-REPAY-1, 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 AG is sent a computer generated letter notifying them of the claim amount. Form ES-REPAY-1 and a postage-paid envelope are enclosed.

3. Collection Procedures

a. Offsetting Lost Benefits

A claim, whether UPV or IPV, must be collected by offsetting when lost benefits are owed to the AG, but have not yet been restored. The OFS Worker determines the amount of corrective benefit due the household and initiates issuance in RAPIDS. The auxiliary code used by the OFS Worker causes RAPIDS to search for outstanding Food Stamp claims and offset the claim, if appropriate.

b. Treasury Offset Program (TOP)

All IPV and client UPV claims are subject to collection through the Treasury Offset Program (TOP). Claims which have a payment balance of at least \$25, are delinquent and are not over 10 years old, are subject to referral for collection of the claim by offset of the client's federal income tax refund and any federal benefits/payments. Agency caused UPV claims, established on or after 11/1/96, are eligible for Treasury Offset Program collection under the condition described above. Judgement claims are not subject to the 10-year limitation.

Outstanding claims may be combined to reach the \$25 threshold when evaluating for Treasury Offset Program (TOP) targeting.

F. DETERMINING THE REPAYMENT AMOUNT

The minimum amount of repayment is determined as follows.

1. UPV Client and Agency Errors

(a) Current Recipients

The current coupon entitlement is reduced by 10% or \$10, whichever is greater.

(b) Former Recipients

Form ES-REPAY-1 offers the liable debtor the following options for repayment.

(1) Lump Sum Payment

One payment is made to pay the claim in its entirety.

(2) Installment Payments

When the AG is financially unable to pay the claim in one lump sum, regular monthly installment payments are accepted. The minimum amount of the monthly payment is \$50. If the CI/RI determines that the AG cannot afford the minimum payment, the payment amount is negotiated on a case-by-case basis.

Lump sum or installment payments may be made by money order, cashier's check, and certified check. Personal checks are accepted until one is returned for insufficient funds. Payments in cash or Food Stamps are acceptable; checks and money orders are made payable to the West Virginia Department of Health and Human Resources and are mailed or brought to the local office. If a client wishes to pay with cash or Food Stamps, he should be discouraged from sending them through the mail. If he does so, however, it is accepted. For security reasons, the client should be advised to write "Cancelled" on the face of each coupon prior to mailing. All such payments are forwarded to the Financial Clerk.

The Financial Clerk is responsible for collecting all repayments. If payments are received by mail, they are forwarded to the Financial Clerk, who is responsible for the record keeping and forwarding the payment to the State Office.

Upon notification from the Financial Clerk by the DF-25 form, the Repayment Officer posts the payments to RAPIDS.

2. IPV Errors

(a) Current Recipients

The current coupon entitlement, after the disqualified member(s) has been removed from the AG, is reduced by 20% of the entitlement or \$20, whichever is greater. The reduction is based on the entitlement amount prior to the removal of the disqualified member.

(b) Former Recipients

Form ES-REPAY-1 offers the client the following options to repay when no liable debtor is certified for Food Stamps.

S One payment is made to pay the claim in its entirety.

S When the AG is financially unable to pay the claim in one lump sum, regular monthly installment payments are accepted. The minimum amount of the monthly payment is \$50. If the CI/RI determines that the AG cannot afford the minimum payment, the payment amount is negotiated on a case-by-case basis.

G. RIGHT TO A FAIR HEARING

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 type and amount of the claim. 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.

H. REFERRAL MANAGEMENT MAINTENANCE OF THE FOOD STAMP CLAIM

1. Time Limits to Establish Claims

Claims should be established by the end of the quarter following the quarter of receipt of the referral. However there are no time limits pertaining to the length of time between discovery of a claim and establishment of the claim.

2. Status of Claims

All claims remain in open status as long as the debt has been submitted to TOP and remain eligible for TOP targeting. When the claim is no longer eligible for TOP targeting, the claim is changed to terminated status.

NOTE: When all liable debtors are deceased, the claim is terminated. When all liable debtors have declared bankruptcy for a dischargeable debt, the claim is changed to bankrupt status. When it is determined that a claim was not properly established due to a Fair Hearing decision, improper notice, or incorrect determination by IFM staff, the claim status is changed to invalid. When the claim status is changed to invalid due to improper notice, a new claim may be established after proper notice procedures are followed.

3. Notification Of Delinquent Payments

A delinquent notice letter is sent to an individual with an open status claim when 60 days elapses since the last payment.

4. Receipts

Clients who make cash payments or for whom a TOP payment is collected, receive a receipt at the end of the month in which the payment is posted.

5. Action Required When Client Moves

(a) Clients Moving Out of West Virginia

If another state contacts a county office inquiring about a claim of a former recipient, the Worker forwards the inquiry to the appropriate Repayment Officer.

(b) Clients Moving From Another State to West Virginia

When a Food Stamp application is made in West Virginia by an individual moving from another state, and the applicant indicates he received Food Stamps in the other state, the Worker must determine if repayment is owed in the other state.

If the client states that he owes a repayment to the other state, the Worker notifies the RI immediately, but continues to process the application.

6. Repayment of An Overpaid Claim

The Department may not under any circumstances retain more than the total amount of all outstanding claims. When this occurs as a result of collection from more than one AG, benefits must be restored.

RI's and Financial Clerks are responsible for cash refunds when a claim has been overpaid. If benefits must be restored, IFM notifies the Worker.

The refund must be made by the method of payment which caused the claim to be over, i.e., recouped benefits, cash, Food Stamps or any combination of these methods paid to the Financial Clerk. When a cash refund is appropriate, IFM will notify the Financial Clerk.

EXCEPTION: All refunds due to TOP offsets must be referred to the IFM state office to the attention of the Administrative Services Assistant or the Chief Investigator.

7. Effect of Bankruptcy

The Department, acting on behalf of the United States Department of Agriculture (USDA), may act as a creditor for a bankrupt AG against which the Department has established a claim. When the county receives a "Notice to Creditor" document from the Bankruptcy Court, it must immediately forward it to the RI. The RI changes the RAPIDS claim status to "B" for agency and client error claims and forwards the document to the IFM State Office. Further collection action is suspended.

EXCEPTION: When a claim is a type "F" IPV, the RI determines if the claim is an administrative IPV or court adjudicated. Administrative IPV's are changed to claim status "B" and further collection activity is suspended. Court adjudicated claims which declare Chapter 7 bankruptcy are not dischargeable and remain in "O" status. Court adjudicated claims which declare Chapter 13 bankruptcy are dischargeable and the RI changes the status to "B". If there is more than one liable debtor, all liable debtors must declare bankruptcy for the claim to be changed to "B" status. If not, the status must remain open.