1024 COLLECTION OF CLAIMS

1024.05 INTRODUCTION

REV:02/2006

All actions pertaining to the collection of outstanding claims in the Food Stamp Program are handled by the Collections, Claims and Recoveries/Fraud (CCR/Fraud) Unit of the Department of Human Services. The office is located at the Louis Pasteur Building, 1st Floor, 600 New London Avenue Building #57, Cranston, RI 02920, and the telephone number is 462-2887.

1024.10 CRITERIA FOR COLLECTION ACTION

REV: 12/2005

The agency must initiate collection action against the household on all inadvertent household or agency error claim referrals unless the claim is collected through offset, or one of the following conditions applies:

* The amount of the claim referral is less than one hundred twenty-five dollars ($125), and the claim cannot be recovered by reducing the household's allotment. This threshold does NOT apply for overpayments discovered through the quality control system.

* The agency has documentation which shows that the household cannot be located.

* The household is a simplified reporting household and the change which resulted in an overissuance of food stamp benefits occurred during the certification period and was not required to be reported, according to the simplified reporting requirements as outlined in section 1018.05.05.03.

The agency may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for administrative disqualification, and the agency determines that collection action may prejudice the case.

1024.15 CRITERIA FOR COLLECTION ACTION ON IPV CLAIMS

REV:07/2002

If a household member is found to have committed an intentional program violation (by an administrative disqualification hearing official or a court of appropriate jurisdiction), or has signed either a waiver of hearing as discussed in Section 1034.30, or a consent agreement as discussed in Section 1034.40, the agency must initiate collection action against the individual's household. The agency must initiate such collection unless the household has already repaid the overissuance, the agency has documentation which shows the household cannot be located, or the agency determines that collection action may prejudice the case against a household member referred for prosecution. The agency initiates collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of misrepresentation of fraud by a court, or signed a disqualification consent agreement in cases referred for prosecution, the agency requests that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and the accused individual.

1024.20 INITIATING THE COLLECTION OF CLAIMS

REV:02/2006

A written demand letter entitled, "Demand Letter For Overpayment" is mailed or provided to the household by the CCR/Fraud Unit.

The claim is considered established as of the date of the initial demand letter or written notification.

This letter must inform the household of:

- The amount owed;
- The intent to collect from all adults in the household when the overpayment occurred;
- The type (Intentional Program Violation, Inadvertent Household Error, or Agency Error) and reason for the claim;
- The time period associated with the claim;
- How the claim was calculated; and
- The phone number to call for more information about the claim.
- That, if the claim is not paid, it will be sent to other collection agencies who will use various collection methods to collect the claim.
- The opportunity to inspect and copy records related to the

claim.

- Unless the amount of the claim was established at a hearing the opportunity for a hearing on the decision related to the claim. The household has ninety (90) days to request a hearing and is notified of available free legal representation.
- That, if not paid, the claim will be referred to the Federal government for federal collection action.
- That, if the claim become delinquent, the household may be subject to additional processing charges.
- That the CCR/Fraud Unit may reduce any part of the claim if it believes that the household is not able to repay the claim.
- The household can make written agreement to repay the amount of the claim prior to being referred for Federal collection action.
- The due date or time frame to either repay the claim or make arrangements to repay the claim, thirty (30) days from the date of the initial notification or demand letter, unless the CCR/Fraud Unit is able to impose allotment reduction.
- If allotment reduction is to be imposed, the percentage to be used and the effective date.

For all types of claims: agency error, inadvertent household error, and intentional program violation, the household must also be informed: if the household is participating in the program, that it must repay the entire amount of the claim in cash, check, money order, or funds from an EBT benefit account within ten (10) days of the notice. The household must also be informed that if it does not repay the entire balance, its benefits shall be reduced by the appropriate reduction formula listed in Section 1024.35.20. If the household is not participating in the program, it must be informed that it may elect to repay the entire amount of the claim in cash, check, or money order all at once, repay part of the claim, and then repay the rest in weekly or monthly installments.

As outlined above, the household representative checks off which method of repayment s/he has selected, signs the repayment agreement, and mails it back to the CCR/Fraud Unit.

Any household against which the agency has initiated collection action must be informed of its right to request renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change.

If the household pays the claim, payment is accepted and submitted to FNS in accordance with the procedures outlined in Section 1024.45.

1024.20.10 Households That Fail to Respond

REV:07/2002

If a household against which collection action for repayment of a claim has been initiated is currently participating in the program does not repay the entire overpayment within ten (10) days of the date the notice was mailed, the agency representative in the CCR/Fraud Unit initiates action to notify the household of a reduction in its household food stamp allotment by automatic allotment reduction. The agency representative in the CCR/Fraud Unit also records this action through an INRHODES system-generated case log entry.

For a non-participating household which does not respond to the demand letter, additional demand letters are sent on a regular basis. Furthermore, billing notices are sent monthly. These letters are sent until the household has responded by paying, or agreeing to pay the claim; until the criteria for suspending collection action, as specified in Section 1024.25 have been met; or until the agency initiates other collection actions.

The agency may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment. If the agency chooses to pursue other collection actions, and the household pays the claim, payments are submitted to FNS, in accordance with the procedures outlined in Section 1024.45. The agency's retention is be based on the actual amount collected from the household through such collection actions.

1024.20.15 Change in Household Composition

REV:07/2002

The agency must initiate collection action against any or all of the adult members of a household at the time an overissuance occurred. Therefore, if a change in household composition occurs, the agency may pursue collection action against any household which has a member who was an adult member of the household that received the overissuance. The agency may also offset the amount of the claim against restored benefits owed to

any household which contains a member who was an adult member of the original household at the time the overissuance occurred.

Under no circumstances may the agency collect more that the amount of the claim. In pursuing claims, the agency may use any of the appropriate methods of collecting payments listed below.

1024.22 REPAYMENT AGREEMENT

REV:07/2002

Any repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments. The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

1024.23 DELINQUENT CLAIMS

REV:07/2002

A claim must be considered delinquent if:

1. The claim has not been paid by the due date and a satisfactory payment arrangement has not been made; or

2. A payment arrangement has been established and a scheduled payment has not been made by the due date.

The date of delinquency for a claim under number 1. above is the due date on the initial written notification or demand letter.

The claim remains delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is imposed.

The date of delinquency for a claim under number 2. above is the due date of the missed installment payment. The claim remains delinquent until payment is received in full, allotment reduction is imposed, or if the CCR/Fraud Unit decides to either to resume or re-negotiate the repayment schedule.

A claim is not considered delinquent if another claim for the same household is currently being paid either through installment agreement or allotment reduction and the CCR/Fraud Unit expects to begin collection on the claim once the prior claim(s) is settled.

A claim awaiting a hearing decision is not considered delinquent.

If the hearing officer determines that a claim does in fact exist against the household, the household must be re-notified of the claim. (The language of this notice is left up to the state.

Demand for payment may be combined with hearing decision letter.

Delinquency must be based on the due date of this subsequent notice and not the initial pre-hearing demand letter sent to the household.

If the hearing officer determines that a claim does not exist, the claim is disposed of in accordance with Section 1024.30.

1024.25 COMPROMISING CLAIMS

REV:07/2002

The CCR/Fraud Unit may compromise a claim or any portion of a claim that if it can be reasonably determined that a household economic circumstances dictate that the claim will not be paid in three (3) years.

The full amount of the claim (including any amount compromised) may be used to offset benefits owed to the household in accordance with Section 1022.20.

Any compromised portion of a claim may be reinstated if the claim becomes delinquent.

1024.30 TERMINATING AND WRITING-OFF CLAIMS

REV:07/2002

A terminated claim is a claim in which all collection action has ceased. A written-off claim is no longer a receivable subject to Federal and state agency collection and reporting requirements.

If a claim is determined to be invalid, the claim must be discharged and reflected as a balance adjustment rather than a termination unless it is appropriate to pursue the overpayment as a different type of claim, (e.g., as an IHE rather than an IPV claim).

Claims must be terminated and written off, when:

- All adult household members are deceased;
- The claim balance is twenty-five dollars ($25) or less and the claim has been delinquent for ninety (90) days or more unless other claims exist against this household resulting in an aggregate claim total of greater than twenty-five dollars ($25);
- It is not cost effective to pursue the claim any further;
- The claim is delinquent for three (3) years or more, unless it is planned to pursue the claim through Treasury's Offset Program; or
- The household cannot be located.

A terminated and written-off claim may be reinstated if a new collection method or a specific event (such as winning the lottery) substantially increases the likelihood of further collection.

1024.35 METHODS OF COLLECTING CLAIMS

REV:07/2002

The agency may collect payment for claims using one of the following methods.

* Reducing benefits prior to issuance, including allotment reduction and offsets to restored benefits;
* Reducing benefits after issuance. These are benefits from electronic benefit transfer (EBT) accounts;
* Accepting cash or any of its generally accepted equivalents, including checks, money orders, and credit or debit cards; and
* Participation in the Treasury Offset Programs (TOP).

1024.35.05 Lump Sum Repayment

REV:07/2002

Any payment for a claim is accepted whether it represents full or partial payment. The payment may be in any of the acceptable formats listed in Section 1024.35.

1024.35.10 Installment Repayment

REV:07/2002

For non-participating households, the agency accepts installment payments made for a claim as part of a negotiated repayment agreement.

If the household fails to submit a payment in accordance with its repayment agreement, the claim becomes delinquent and is subject to additional collection actions.

1024.35.15 Food Stamp Benefits for Repayment

REV:02/2006

Food stamp benefits from an EBT account are accepted as partial or full payment of a claim if the household prefers to use this method of repayment.

1024.35.20 Reduction in Food Stamp Allotment

REV:07/2002

CCR/Fraud will automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives.

For an IPV claim, the amount reduced is limited to the greater of twenty dollars ($20) or twenty percent (20%) of the household's monthly allotment or entitlement.

For an IHE or AE claim, the amount reduced is limited to the greater of ten dollars ($10) or ten percent (10%) of the household's monthly allotment.

The agency shall not reduce the initial allotment when the household is first certified.

The agency will not use additional collection methods against individuals in a household that is already having its allotment reduced unless the household voluntarily makes additional payments.

1024.35.22 Benefits from EBT Accounts

REV:07/2002

A household is allowed to pay its claim using benefits from its EBT account. However, the following requirements must be met:

For collecting from active or reactivated EBT accounts, written permission must be obtained in advance; the agreement must include:

A statement that this collection activity is strictly

voluntary;
The amount of the payment;
The frequency of the payments, i.e., whether monthly or one-time only;
The duration of the agreement; and
A statement that the household may revoke this agreement at any time.

For collecting from stale EBT benefits, written notification must be mailed or otherwise delivered that CCR/Fraud intends to apply the benefits to the outstanding claim. The household must be given at least ten (10) days to notify the agency that it doesn't want to use these benefits to pay the claim.

For making an adjustment with expunged EBT benefits, the claim must be adjusted by subtracting any expunged amount from the EBT benefit account of which the agency becoms aware.

A collection from an EBT account mustmust be nonsettling against the benefit drawdown account.

1024.35.25.05 Treasury Offset Programs (TOP) Participation

REV:07/2002

Section 3701 of the Debt Collection Act, as amended by the Debt Improvement Act of 1996, Federal P.L. 104-134, authorizes the U.S. Treasury to collect delinquent claims through what is called Treasury's Offset Programs (TOP).

DHS through the Claims Collection/Fraud Unit will certify claims to Food and Nutrition Service for the purpose of referring delinquent claims for collection by Treasury. In order for this method of collection to be utilized, the CCR/Fraud Unit must determine that the claim is past due and legally enforceable. A claim is considered legally enforceable through the process of the establishment of the claim (see Section 1022 of this Manual).

After reasonable but unsuccessful efforts have been made to collect the claim (described in Section 1024 of this Manual), it is considered past due.

1024.35.25.05.05 Criteria for Claims for TOP Referral

REV:07/2002

The claim must meet the following requirements for Treasury Offset Programs (TOP) procedure.

The claim must be:

* an agency error, inadvertent household error, or intentional program violation;

* at least twenty-five dollars ($25) (may be a cumulative amount);

* delinquent for no longer than ten (10) years and no less than one hundred eighty (180) days unless a debt has been reduced to a final judgement entered by a court ordering the debtor to pay the debt - such debts are not subject to the ten (10) year limit;

* submitted in the name of one individual or must be reduced by any amount submitted as a separate claim for other individuals who are jointly or severally liable for the claim; and

* Not involved in a bankruptcy stay or discharged in bankruptcy.

In addition, the agency must notify the individual of the intended action prior to offset and of her or his appeal rights.

1024.35.25.05.10 TOP Notice Requirements and Appeals

REV:07/2002

The CCR/Fraud Unit will notify the individual of its intent to refer a claim to Treasury Offset Programs (TOP) and give the individual sixty (60) days to appeal the intended referral by presenting evidence that all or part of the claim is not past due or legally enforceable. The pre-offset notice or sixty (60) day notice shall contain the following information:

A. The amount of the claim;

B. That the individual has been previously notified of the claim and prior collection efforts have been made;

C. That the claim or debt is past due and legally enforceable;

D. The individual's social security number;

E. That the claim is to be referred to TOP unless the claim is paid within sixty (60) days of the date of the letter or makes other repayment agreements acceptable to the CCR/Fraud Unit;

F. Instructions about how to pay the claim, and the name, address, and telephone number of a worker in the CCR/Fraud Unit who can discuss the claim and the intended intercept with the individual.

G. That the individual has the right to appeal the offset by presenting evidence that all or part of the claim is not past due or legally enforceable. The notice will advise the individual that:

(1) The individual is entitled to appeal the intended referral for offset. The appeal request must be in writing and must be received by CCR/Fraud Unit not later than sixty (60) days after the date of the sixty-day notice.

(2) The written request for an appeal must include evidence or documentation that the claim is not past due or legally enforceable.

(3) An appeal is not considered received until the individual provides such evidence or documentation. (The contact person identified on the notice will discuss questions about presenting evidence with individuals who call to discuss the intended referral for offset.)

(4) The individual must present her/his social security number as identification with the appeal.

The notice must also state that a claim may not be referred for offset where a bankruptcy stay is in effect or if the claim has been discharged in bankruptcy.

Finally, the individual will be informed that s/he may want to contact the IRS in order to protect the refund of spouses not liable for the claim.

CCR/FRAUD UNIT REVIEW OF APPEALS

Any evidence presented by the individual must be considered, and a determination made whether the claim is past due and

enforceable. The individual must be notified in writing of the review determination.

If the determination is made that the claim does not meet the requirements for offset, in addition to notifying the individual, appropriate corrective action must be taken.

If DHS decides that the claim meets the requirements for offset, the notice of the review determination of the appeal must state that the agency intends to refer the claim for offset. The decision letter also notifies the individual that s/he may appeal that decision to Food and Nutrition Service (FNS) within thirty (30) days of the date of the notice of the decision. The address of the regional FNS office, including the line "TOP Offset Officer" will be contained in the decision letter. The individual is also advised to include her/his social security number with the appeal.

FNS REVIEW OF APPEALS

When FNS receives a timely appeal, the FNS Field Office will take one of two actions before the date CCR/Fraud Unit is required to certify files to FNS. If time permits, FNS will complete the review and notify the individual and the CCR/Fraud Unit. If not, FNS will notify CCR/Fraud Unit that it has not completed its review and the claim must be deleted from its final files certified to FNS for intercept.

When FNS receives an appeal from a state agency decision, it will request documentation from the CCR/Fraud Unit. FNS will notify the CCR/Fraud Unit and the individual of its review decision.

After FNS review, if a determination is made that the debt is past due and legally enforceable, the individual will be notified and advised by FNS that s/he has the right to pursue other appeals through the courts. If FNS determines that the claim is not past due and legally enforceable, FNS will request that CCR/Fraud Unit take any appropriate corrective action. The CCR/Fraud Unit will take any necessary corrective action and will notify the individual of its action.

1024.40 SUBMISSION OF PAYMENTS

REV:07/2002

The agency retains the value of funds collected for inadvertent household error, intentional program violation, or agency error

claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of a household member being disqualified. The State's letter of credit will be amended on a quarterly basis to reflect the State's retention of twenty percent (20%) of the value of inadvertent household error claims collected and thirty-five percent (35%) of the value of intentional program violation claims collected, as well as full retention by FNS of all agency error overissuance recoveries.

Reporting Payments to FNS

The CCR/Fraud Unit submits on a quarterly basis, Form FNS-209, Status of Claims Against Households, to detail the activities relating to claims against households. This report is due no later than thirty (30) days after the end of each calendar quarter and must be submitted to FNS even if the agency has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional program violation claims each quarter on Form FNS-209, the agency must also report these amounts on other letter of credit documents. In accounting for inadvertent household error and intentional program violation claims collections, the agency must include cash or food stamp coupon repayments and the value of allotments recovered or offset by restoration of lost benefits.

However, the value of benefits not issued during periods of disqualification must not be considered recovered allotments and is not used to offset an intentional program violation claim. In addition, the agency must establish controls to ensure that officials responsible for intentional program violation determinations do not benefit from the State share of recoveries.

Change in Claim Status

The agency may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that intentional program violation was committed, or receiving from an individual either a signed waiver or consent agreement, at the rate applicable to intentional program violation claims, once the determination or signed document is obtained. In such cases, the agency must include a note in an attachment to the quarterly report form, FNS-209, which shows the additional

amounts being retained on amounts already recovered as a result of the change in status of the claim.

Negligence

In cases where FNS has billed the agency for negligence, any amounts collected from households which were caused by the agency's negligence must be credited by FNS. When submitting these payments, the agency includes a note as an attachment to the FNS-209 of this section which shows the amount that should be credited against the State's bill.

1024.40.05 Overpayment of a Claim

REV:06/1986

If a household has overpaid a claim, the agency must pay the household any amounts overpaid as soon as possible after the overpayment becomes known. The household is paid by whatever method the agency deems appropriate, considering the household's circumstances. Overpaid amounts of a claim which have previously been reported as collected via the FNS-209, and which have been repaid to the household, must be reported in the appropriate column on the FNS-209 for the quarter in which the repayment occurred. The amount of the repayment is subtracted from the total amount collected. The appropriate retention rate is applied to the reduced collection total.

1024.50 CLAIMS DISCHARGED THROUGH BANKRUPTCY

REV:07/2002

The agency acts on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims.

The agency possesses any rights, priorities, interests, liens or privileges, and participates in any distribution of assets, to the same extent as FNS. Acting as FNS, the agency has the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority must be transmitted to FNS as provided in Section 1024.45.

1024.55 ACCOUNTING PROCEDURES

REV:07/2002

The agency is responsible for maintaining an accounting system for monitoring claims against households. This accounting system shall consist of both the system of records maintained for individual debtors and the accounts receivable summary data maintained for these debts.

At a minimum, the accounting system must be designed to readily accomplish the following:

* The date of discovery;
* The reason for the claim;
* The calculation of the claim;
* The date the claim was established;
* The methods used to collect the claim;
* The amount and incidence of any claim processing charges;
* The reason for the final disposition of the claim;
* Any collection made on the claim; and
* Any correspondence, including follow-up letters, sent to the household.

At a minimum, the accounting system must also identify the following for each claim:

* Those households whose claims have become delinquent;
* Those situations in which an amount not yet restored to a household can be used to offset a claim owe by the household; and
* Those households with outstanding claims that are applying for benefits.

When required, the accounting system must also produce:

* Accurate and supported outstanding balances and collections for established claims; and
* Summary reports of the funds collected, the amount submitted to FNS, the claims established and terminated, any delinquent claims processing charges, the uncollected balance, and the delinquency of the uncollected debt.

The accounting system must also reconcile summary balances reported to individual supporting records on a periodic basis.

1024.60 INTERSTATE CLAIMS COLLECTION

REV:07/2002

In cases where a household moves out of the area under the agency's jurisdiction, the agency should initiate or continue

collection action against the household for any overissuance to the household which occurred while it was under the agency's jurisdiction. The agency which overissued benefits to the household has the first opportunity to collect any overissuance.

However, if the agency which overissued benefits to the household does not take prompt action to collect, then the agency which administers the area into which the household moves should initiate action to collect the overissuance. Prior to initiating action to collect such overissuance, the agency which administers the area into which the household moves must contact the agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The State share of any collected claims, as provided in Section 1024.45 is retained by the State agency which collects the overissuance.