

1020 RESTORATION OF LOST BENEFITS

1020.05 ENTITLEMENT TO RESTORATION OF BENEFITS

REV:10/1985

Benefits are restored to a household whenever:

- * the loss was caused by an agency error; and/or,
- * there is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits; and/or,
- * there is an administrative disqualification for intentional program violation which was subsequently reversed as specified in 1020.25.

Benefits must be restored even if a household is currently ineligible.

Benefits are restored for not more than twelve (12) months prior to whichever of the following occurred first:

- * The date the agency receives a request for restoration from a household; or,
- * The date the agency is notified or otherwise discovers that a loss to a household has occurred.

The agency must restore to a household benefits which were found by any judicial action to have been wrongfully withheld. If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits must be restored for a period of not more than twelve (12) months from the date the court action was initiated.

When the judicial action is a review of the agency action, the benefits must be restored for a period of not more than twelve (12) months from the first of the following dates. The date the agency receives a request for restoration; if no request for restoration is received, the date the fair hearing action was initiated; but, never more than one (1) year from when the agency is notified of, or discovers, the loss.

1020.05.05 No Restoration of Benefits

REV:10/1985

Benefits are not restored if a household is otherwise at fault.

Examples of errors for which benefits are not restored:

- * A household does not report a change which increases benefits;
- * A household fails to provide verification without good cause; or,

- * A household provides incorrect information caused by household error, which results in loss of benefits.

1020.10 ERRORS DISCOVERED BY THE AGENCY

REV:02/1995

If the agency representative determines that a loss of benefits has occurred, and a household is entitled to restoration of these benefits, action to restore the benefits must automatically be taken. No action by the household is necessary. However, benefits are not restored if the benefits were lost more than twelve (12) months prior to the month the loss was discovered by the agency in the normal course of business, or were lost more than twelve (12) months prior to the month the agency representative was notified in writing, or orally, of a possible loss to a specific household. The household is notified of its entitlement, the amount of benefits to be restored, any off-setting that was done, the method of restoration, and the right to appeal through the hearing process if the household disagrees with any aspect of the restoration of lost benefits.

1020.15 DISPUTED BENEFITS - RIGHT TO A HEARING

REV:10/1985

If it is determined that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the agency representative or any other action taken by the agency representative to restore lost benefits, the household may request a hearing within 90 days of the date the household is notified of its entitlement. If a hearing is requested prior to or during the time benefits are being restored, the household receives the lost benefits as determined by the agency representative pending the results of the hearing. If the hearing decision is favorable to the household, the agency representative restores the lost benefits in accordance with that decision.

1020.15.05 Time Limits For A Hearing

REV:10/1985

If a household believes it is entitled to restoration of lost benefits but the agency representative, after reviewing the case file, does not agree, the household has 90 days from the date of the agency determination to request a hearing. The agency representative restores lost benefits to the household only if the hearing decision is favorable to the household. Benefits lost more than twelve (12) months prior to the date the agency was initially informed of the household's possible entitlement to lost benefits are not restored.

1020.20 COMPUTING THE AMOUNT TO BE RESTORED

REV:02/1995

After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the twelve (12) month time limit described in 1020.10, 1020.15 and 1020.15.05, the amount of the restoration

is authorized as outlined in this section. A notice is sent documenting how the amount to be restored was calculated and the reason lost benefits were restored.

1020.20.05 Incorrect Allotment

REV:10/1985

If the household was eligible, but received an incorrect allotment, the amount to be restored is the difference between the actual and the correct allotment. The loss of benefits is calculated only for those months the household participated.

Delay, Denial or Termination of Benefits

If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss must be determined as follows:

- * If an eligible household's application was delayed, the months for which benefits were lost are determined in accordance with procedures in Section 1012.35 for determining whether the delay was caused by the household or the agency representative.
- * If an eligible household's application was erroneously denied, the month the loss initially occurred is the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.
- * If a household's benefits were erroneously terminated, the month the loss initially occurred is the first month benefits were not received as a result of the erroneous action.

After determining the date the loss initially occurred, the loss is calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

1020.20.10 Determination of Eligibility for Restoration

REV:10/1985

For each month affected by the loss, the agency representative must determine if the household was actually eligible. In cases which have no information in the household's case file to document that the household was actually eligible, the agency representative advises the household of what information must be provided to determine eligibility for those months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household is ineligible.

1020.20.15 Calculation of Benefits for Restoration

REV:10/1985

For the months the household was eligible, the agency representative calculates the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

1020.20.20 Offsetting Claims

REV:06/1986

If a claim against a household is unpaid or held in suspense as provided in Section 1024 "Collection of Claims" the amount to be restored must be offset against the amount due on the claim before the balance, if any, is restored to the household. Prior to offsetting a claim, verify with the Collection, Claims and Recoveries (CCR) Unit the correct balance of the claim. When a claim is offset, an AP-154A must be completed and forwarded to the CCR Unit so that the recoupment file can be updated.

Example: A household received \$20 allotment for the months of January, February and March when it should have received \$40 each month. The agency has a claim of \$25 against the household. The amount to be restored is computed as follows:

DATE	ALLOTMENT ELIGIBLE FOR	AMOUNT RECEIVED	DIFFERENCE
January	\$ 40.00	\$ 20.00	\$ 20.00
40.00	20.00	20.00	February
20.00	20.00	March	40.00
	Total:		\$ 60.00
	Amount Offset by Claim:		25.00
	Amount to be Restored:		\$ 35.00

At the point in time when the household is certified and receives an initial allotment, the initial allotment must not be reduced to offset prior claims, even if the initial allotment is paid retroactively.

1020.25 IPV RESTORATION RESTRICTIONS

REV:10/1985

An individual disqualified for an intentional program violation is entitled to restoration of any benefits lost during the months that s/he was disqualified, not to exceed twelve (12) months prior to the date of agency notification, only if the decision which resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the period of disqualification based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the disqualification period imposed by an administrative disqualification in a separate court action.

Calculating Lost Benefits for IPV

For each month the individual was disqualified, not to exceed twelve (12) months prior to agency notification, the amount restored, if any, is determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate.

If the household received a smaller allotment than it should have received, the difference equals the amount to be restored.

Participation in an administrative disqualification hearing in which the household contests the agency assertion of intentional program violation is considered notification that the household is requesting restored benefits.

1020.30 METHOD OF RESTORATION

Rev: 09/2006

Regardless of whether a household is currently eligible or ineligible, the agency representative must restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. This allotment is added to the current EBT account. This amount is in addition to the benefit a currently eligible household is entitled to receive.

1020.35 CHANGES IN HOUSEHOLD COMPOSITION

REV:10/1985

Whenever lost benefits are due a household in which the household's membership has changed, the agency representative restores the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the agency representative cannot locate or determine the household that contains a majority of household members, the agency representative restores the lost benefits to the household containing the head of the household at the time the loss occurred.