

## **1022 CLAIMS AGAINST HOUSEHOLDS**

### **1022.03 CLAIM DEFINED**

REV:07/2002

A recipient claim is an amount owed because of:

- \* Benefits that are overpaid, or
- \* Benefits that are trafficked. Trafficking is defined as buying or selling of benefit instruments such as EBT cards for cash or consideration other than eligible food.

This claim is a Federal debt subject to rules governing Federal debts. DHS must establish and collect the claim according to the following rules and those located in policy Section 1024.

### **1022.05 ESTABLISHING CLAIMS AGAINST HOUSEHOLDS**

REV:07/2002

A claim referral is the identification of a potential overpayment that needs to be investigated and established as a claim by the CCR/Fraud Unit.

There are three (3) types of claims:

#### Intentional Program Violation

Any claim for an overpayment or trafficking resulting from an individual committing an intentional program violation (IPV) as defined in Section 1034.15 when:

- \* An administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed an IPV; or
- \* An individual is disqualified as a result of signing a waiver of her/his disqualification hearing as discussed in Section 1034.30; or
- \* An individual is disqualified as a result of signing a disqualification consent agreement in a case referred for prosecution as discussed in Section 1034.40.

Prior to the determination of an intentional program violation or the signing of either a waiver of right to a disqualification hearing or a disqualification consent agreement in cases of deferred adjudication, the claim against the household is handled as an inadvertent household error claim.

#### Inadvertent Household Error

An inadvertent household error is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. This includes instances when the household unintentionally received benefits, or more benefits than it was entitled to receive, pending a fair hearing decision.

## Agency Error

An agency error is any claim that for an overpayment caused by the agency's action or failure to take action.

The following individuals are responsible for paying a claim:

- \* Each person who was an adult member of the household when the overpayment or trafficking occurred;
- \* A sponsor of an alien household member is the sponsor was at fault; or
- \* A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

### **1022.10 INADVERTENT HOUSEHOLD/AGENCY ERROR CLAIM**

REV:07/2002

A claim is established against a household for an overissuance which was caused by a misunderstanding or an inadvertent error on the part of the household, including continuation of benefits pending a hearing decision; or is the result of an agency error.

Claims include only those months of overissuance that have occurred within twelve (12) months of overissuance prior to the date the agency becomes aware of the overissuance.

#### **1022.10.05 Inadvertent Household Error Claim**

REV:07/2002

Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

- \* The household unintentionally failed to provide the agency with correct or complete information;
- \* The household unintentionally failed to report to the agency changes in its household circumstances; or
- \* The household unintentionally received benefits, or more benefits than it was entitled to receive, pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

#### **1022.10.10 Agency Error Claim**

REV:07/2002

Instances of agency error which may result in a claim include, but are not limited to, the following:

- \* The agency failed to take prompt action on a change reported by the household;

- \* The agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
- \* The agency continued to provide a household food stamp allotments after its certification period had expired without benefit of a reapplication determination; or
- \* The agency failed to provide a household a reduced level of food stamp benefits because its cash assistance amount changed.

The actual steps for calculating an agency error claim are:

- \* Determine the correct amount of benefits for each month that a household received an overpayment.
- \* Subtract the correct amount of benefits from the benefits actually received. The result is the amount of the overpayment.
- \* Reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account. The difference is the amount of the claim.

### **1022.10.15 When a Claim Cannot be Established**

REV:07/2002

Neither an inadvertent household error claim nor an agency error claim is established if the overissuance occurred as a direct result of:

- \* The agency's failure to ensure that a household fulfilled the procedural requirements of signing the application form or completing a current work registration form.

### **1022.10.20 Determining Initial Month of Overissuance**

REV: 02/2006

In all cases involving inadvertent household error or agency error claims, the first month of overissuance is the month the change would have been effective had it been reported in a timely manner with allowance for the advance notice period. In no instance, however, is the first month of overissuance any later than two (2) months from the month in which the change in household circumstances occurred. The agency representative determines the initial month of overissuance as follows:

- \* Households Subject to Change Reporting Requirements

Failure to Report Change Within Ten (10) Days

If, due to a misunderstanding on the part of the household, the household failed to report a change in its circumstances within ten (10) days of the date the change became known to the household, the first month affected by the household's failure to report is the first month the change would have been effective had it been reported in a timely manner.

Example:

The household received UCB on July 25th but, due to a misunderstanding, did not report to the agency until August

18th. The first month of overissuance would be September (which is the month the change would have been effective).

#### Change Reported Timely

When a household reports the change on time, but the agency representative does not act on the change in a timely manner, the first claim month is still the first month the change would have been effective.

Example:

A household reported on May 6th that a change in medical expenses occurred on May 5th. The change should have been made for June 1st but was not made until July 1st. The first month of overissuance was June.

If the Notice of Action was required but not sent, the agency representative assumes, for the purpose of calculating the claim, that the maximum advance notice period would have expired without the household requesting a hearing.

Example:

A household reported the change on May 25th. After allowing the ten (10) day advance notice time, the change would have been made for July 1st. July, therefore, is the first month of overissuance if the change was not made.

#### Benefits Issued Pending Hearing Decision

If a household requests the continuation of benefits pending a fair hearing decision, and receives an overissuance because its position is not sustained by the hearing decision, the first month of overissuance is the month that the change would have been effective had the household not asked for the continuation of benefits.

Example:

A household appeals an action intended for August 1st and subsequently receives a fair hearing decision sustaining the agency. August is the first month of overissuance.

#### \* Households Subject to Simplified Reporting Requirements

If 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 overissuance shall be calculated from the date of recertification, which is the time the household was required to report the change.

Example:

A simplified reporting household is granted Food Stamp Benefits in August. A household member begins working in October, within the household's certification period. The additional household income does not exceed 130% of the federal poverty level. If this information is reported at the next recertification in January, there is no overissuance of food stamp benefits as the household was not required to report the income change, according to the guidelines for a simplified reporting household. If the household does not report this income change at the recertification, January is

the first month of overissuance.

## **1022.10.25      Amount of the Claim Referral**

REV:07/2002

After excluding those months which are more than twelve (12) months prior to the date the overissuance of benefits was discovered, the field representative determines the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect.

The actual steps for calculating a claim are:

- \* Determine the correct amount of benefits for each month that a household received an overpayment.
- \* Do NOT apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim.
- \* Subtract the correct amount of benefits from the benefits actually received. The result is the amount of the overpayment.
- \* Reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account. The difference is the amount of the claim.

The agency representative determines that amount for active cases by entering the correct information in the appropriate months in STAT to reflect the actual income, resources, or household circumstances during the period of the overpayment. The agency representative records the circumstances pertaining to the overissuance in the Case Log (CLOG).

The agency representative utilizes SPEC/Coll to refer the overpayment to CCR/Fraud by coding the panel with the reason for the overpayment, the time period and amount of the overpayment, and enters a reference to the above-mentioned CLOG entry in the free-form text Comments section. (The relevant policy for INRHODES codes for Collections Referral is located in POLI D at PROC (General Procedures) Sections 1124.42 and 1124.44; it may also be accessed by using the Help Key (PF10) when working on the screen.)

The CCR/Fraud Unit then reviews each claim and institutes appropriate collection action. Before initiating collection action, the CCR Unit verifies, as appropriate, that the food stamp benefits were utilized. If the benefits were utilized, collection action is initiated as outlined in Section 1024.

## **1022.15      CRITERIA FOR ESTABLISHING AN IPV CLAIM**

REV:07/2002

A claim must be handled as an intentional program violation (IPV) claim only in the following instances:

- \* An administrative disqualification hearing (ADH) officer has determined that a household member has committed an intentional program violation.
- \* A court of appropriate jurisdiction has determined that a household member has committed an intentional program

violation.

- \* An individual is disqualified as the result of signing a waiver of right to a disqualification hearing.
- \* An individual is disqualified as the result of signing a consent agreement in a case referred for prosecution.

Prior to the determination of any of the above, a claim is handled as an inadvertent household error claim.

### **1022.15.05 Amount of the IPV Claim Referral**

REV:07/2002

For each month that a household received an overissuance due to an act of intentional program violation, the agency must determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of an intentional program violation claim is calculated back to the month the act of intentional program violation occurred, regardless of the length of time that elapsed until the determination of intentional program violation was made. However, the agency must not include in its calculation any amount of the overissuance which occurred in a month more than six (6) years from the date the overissuance was discovered.

### **1022.15.10 Determining Initial Month of Overissuance**

REV:07/2002

If the household member is determined to have committed an intentional program violation by failing to report a change in the household's circumstances, the first month affected by the household's failure to report is the first month in which the change would have been effective had it been reported. In no instance, however, is the first month of overissuance any later than two (2) months from the month in which the change in household circumstances occurred.

Example:

The household receives income on July 25th and allegedly does not disclose this information to the agency. The first month of overissuance would, therefore, be September.

### **1022.15.15 Determining the Amount of the IPV Claim**

REV:01/1997

If the household received a larger allotment than it was entitled to receive, the agency representative must establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received. When determining the amount of benefits the household should have received, the agency representative must not apply the twenty percent (20%) earned income deduction to earned income which the household failed to report in a timely manner in accordance with Section 1018.05.05.

### **1022.17 TRAFFICKING-RELATED CLAIMS**

REV:07/2002

Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

- \* The individual's admission;
- \* Adjudication; or
- \* The documentation that forms the basis for the trafficking determination.

## **1022.20            OFFSETTING CLAIM PRIOR TO RESTORING BENEFITS**

REV:01/2002

When calculating the amount of the claim, any amount of underissuance not yet restored in accordance with Section 1020, must be offset against the claim. The agency then institutes collection action for the remaining balance.

When there is any restoration of lost benefits which is used to offset an established claim, the balance of the claim is reduced by the amount of the offset through INRHODES.

## **1022.25            RESPONSIBILITY OF THE CCR/FRAUD UNIT**

REV:07/2002

Upon receipt of an electronic referral of an overpayment of food stamp benefits, the CCR/Fraud Unit representative determines whether the referral is due to agency error, inadvertent household error, or appears to meet the definition of intentional program violation (IPV). As appropriate, prior to any investigation, the Unit verifies that the benefit was used. The amount of the claim is calculated based on the referral. The date that the final determination of the type of error is resolved is known as the discovery date.

Collection action may be postponed on any claim where referral for possible prosecution is being made because collection action will prejudice the case.

Claims

Collection action on an alleged IPV claim may be handled initially as an inadvertent household error claim based on the amount of, and the circumstances relating to, the claim until a determination of an intentional program violation is made at either an administrative disqualification hearing or, where appropriate, through the court.

Upon receipt of the referral and obtaining other evidence of alleged intentional program violation, the Fraud Manager assigns the case for investigation.

Upon completion of the investigation, from the facts presented and/or obtained, a decision is made to reclassify the claim, recommend the case for disqualification, or refer the case for prosecution through the Attorney General's Office.

If disqualification is recommended, an administrative disqualification hearing is initiated by forwarding the recommendation to the Administrative Disqualification Hearing Office for scheduling. (See Section 1034.)

When final disposition of the case is received from the Attorney General's office or the court, the CCR/Fraud Unit sends a copy to the Administrative Disqualification Hearing Office, which in turn informs the agency representative, either through the Regional Manager or Chief Supervisor of such disposition so that appropriate action(s), if indicated, takes place.

Example:

A household reported the change on May 25th. After allowing the ten (10) day advance notice time, the change would have been made for July 1st. July, therefore, is the first month of overissuance if the change was not made.

Benefits Issued Pending Hearing Decision

If a household requests the continuation of benefits pending a fair hearing decision, and receives an overissuance because its position is not sustained by the hearing decision, the first month of overissuance is the month that the change would have been effective had the household not asked for the continuation of benefits.

Example:

A household appeals an action intended for August 1st and subsequently receives a fair hearing decision sustaining the agency. August is the first month of overissuance.

\* Households Subject to Simplified Reporting Requirements

If 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 overissuance shall be calculated from the date of recertification, which is the time the household was required to report the change.

Example:

A simplified reporting household is granted Food Stamp Benefits in August. A household member begins working in October, within the household's certification period. The additional household income does not exceed 130% of the federal poverty level. If this information is reported at the next recertification in January, there is no overissuance of food stamp benefits as the household was not required to report the income change, according to the guidelines for a simplified reporting household. If the household does not report this income change at the recertification, January is the first month of overissuance.