



Department of Human Resources
311 West Saratoga Street
Baltimore MD 21201

FIA ACTION TRANSMITTAL

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**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS AND ELIGIBILITY STAFF
FISCAL OFFICERS**

**FROM: CHARLES E. HENRY, EXECUTIVE DIRECTOR

TED MARTIN, CHIEF FINANCIAL OFFICER**

RE: CHANGES IN CLAIMS/OVERPAYMENT POLICY

PROGRAM AFFECTED: FOOD STAMP PROGRAM

ORIGINATING OFFICE: OFFICE OF POLICY, RESEARCH AND SYSTEMS

SUMMARY

On August 2, 2000, the Food and Nutrition Service published final rules - Recipient Claim Establishment and Collection Standards with an implementation date of August 1, 2001. This action transmittal highlights the changes in policy. It also includes current policy in certain sections so that the changes are in context.

CURRENT POLICY

Much of the current policy regarding claims was not changed substantially or was streamlined. Overpayment procedures have changed over the past year because of increased CARES support. You should also refer to the Overpayment and Underpayment Desk Guide for CARES procedures.

NEW POLICY

➤ Trafficking Related Claims

- ◆ In addition to establishing a claim because a recipient was overpaid, we will now establish claims when an amount is owed because of trafficked benefits.
- ◆ "Trafficking" means the buying or selling of food stamps benefits for cash or consideration other than eligible food. It also includes the exchange of food stamp benefits for firearms, ammunition, explosives or controlled substances.

- ◆ Claims arising from trafficking-related offenses is the value of the trafficked benefits as determined by:
 - The person's admission
 - Adjudication; or
 - The documentation that forms the basis for the trafficking determination.

➤ Definitions

- ◆ The “date of discovery” is the date that the case manager has sufficient information to determine that an overpayment or trafficking offense occurred.
- ◆ The “date of establishment” is the date that the initial demand letter is sent to the household.

➤ Time Frame for Establishing a Claim

- ◆ The local department **must** establish the claim before the last day of the quarter following the quarter in which the overpayment or trafficking was discovered.

This is the current time frame for establishing an overpayment. It is extremely important that local departments ensure that all overpayments are established within this period of time. **The State is required to ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this time frame.**

Reminder: The date of discovery is the date that the case manager has sufficient information to determine that an overpayment or trafficking occurred.

Example: The agency identified the suspected overpayment in October. On December 13, all verification needed to calculate the overpayment was received (date of discovery). March 31 would be the last day for establishing the claim by sending a demand letter.

➤ Acceptable Forms of Payment for an Overpayment

The State may collect a claim by:

- ◆ Reducing benefits prior to issuance. This includes allotment reduction and offsets to restored benefits.
- ◆ Reducing benefits after issuance. These are benefits from the household’s EBT account.

- ◆ Accepting cash or any of its generally acceptable equivalents. This includes checks and money orders. It also includes credit or debit cards if the agency has the capability to accept these payments.
- ◆ Conducting our own offsets and intercepts. When a delinquent overpayment is referred to the Central Collection Unit, they use various methods to collect these claims such as the Treasury Offset Program.
- ◆ Requiring a household to perform community service. This form of payment must be ordered by a court and specifically be in lieu of paying any claim.

➤ Methods of Collecting Payment

The local department may collect payments for claims against households in any of the following ways:

- ◆ Reduction in the Food Stamp Allotment
We already collect overpayments with allotment reduction. The new rules increased the minimum amount for intentional program violations (IPV) to the greater of \$20 or 20 percent.

The following chart summarizes recoupment policy.

The local department must:	Unless:
1. Automatically collect claims by reducing the amount of the monthly benefits the household receives.	The claim is being collected at regular intervals at a higher amount.
2. For an IPV claim, limit the amount reduced to the greater of \$20 per month or 20% of the household's monthly allotment.	The household agrees to a higher amount.
3. For a CE or AE claim, limit the amount reduced to the greater of \$10 per month or 10% of the household's monthly allotment.	The household agrees to a higher amount.
4. Not reduce the initial allotment when the household is first certified.	The household agrees to this reduction.
5. Not use additional involuntary collection methods against individuals in a household that is already having its benefits reduced.	The additional payment is voluntary, or the source of the payment is irregular and unexpected such as a State tax refund or lottery winnings offset.

- ◆ Benefits from EBT accounts.

- The local department must permit households to pay claims using benefits from its EBT account.

1. For collecting from active or reactivated EBT benefits....	
The local department... needs written permission, which may be obtained in advance and which must include the information described in the section below the table.	Or... oral permission for one time reductions with the local department sending the household a receipt of the transaction within 10 days.
2. For collecting from stale EBT benefits...	
The local department... must mail or otherwise deliver to the household written notification that it intends to apply benefits to the outstanding claim.	And... Give the household at least 10 days to notify you that it does not want to use these benefits to repay the claim.
3. For making an adjustment with expunged EBT benefits	
The local department... must adjust the amount of a claim by subtracting any expunged amount from the EBT account that is more than one year old, if you are aware of it.	And... This can be done anytime.

- At a minimum, any written agreement with the household to collect a claim using active EBT benefits must include:
 - The statement that this is voluntary;
 - The amount of the payment;
 - The frequency of the payments (i.e. monthly or one-time only);
 - The length, if any, of the agreement; and
 - A statement that the household may revoke the agreement at any time.
- Attached are pages from the EBT Training Manual that describe online entry for benefit recovery and reactivating a dormant account.
- ◆ Lump Sum - There is no change in policy for collecting a claim through a lump sum payment.
- ◆ Installments - There is no change in policy for collecting a claim through installments.
 - Reminder: For active cases the negotiated payment amount can not be less than the amount that may be recovered through allotment reduction.
 - The household may use its Electronic Benefit Transfer (EBT) account to make full or partial payment of any monthly installment.

- ◆ Public Service. If authorized by a court, the household may pay the value of a claim by performing public service. Enter on CARES the portion of a claim that is “worked off” as compromised. Narrate thoroughly.

➤ Failure to Comply with a Payment Schedule and Determining Delinquency

- ◆ The new rules define delinquency. A claim is delinquent when:
 - The claim has not been paid by the due date and the household has not made a satisfactory payment agreement.

Note: The date of delinquency is the due date on the initial demand letter.

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

Note: The date of delinquency is the due date of the missed payment. The claim will remain delinquent until the payment is received in full, allotment reduction is invoked, or the local department decides to either resume or re-negotiate the repayment schedule.

- ◆ A claim is not delinquent if another claim for the same household is being paid through an installment plan or recoupment.
- ◆ A claim is not subject to the requirements for delinquent debts if the local department is unable to determine the delinquency status because collection is coordinated through the courts.

➤ Administrative Hearings and Claims

- ◆ A claim awaiting an administrative hearing is not considered delinquent.
- ◆ If the hearings official determines that a claim does, in fact, exist against the household, the local department must re-notify the household of the claim. Delinquency is based on this subsequent notice.
- ◆ If the hearing official determines that a claim does not exist, the claim is terminated and written off.

➤ Criteria for Terminating Collection Action

Terminate any claim for a **non-participating household** if it meets **any** of the following criteria:

- ◆ Any claim found to be invalid in an administrative hearing, administrative disqualification hearing or court determination.
- ◆ Any claim in which all adult household members are deceased and the local department does not plan to pursue collection from the estate.
- ◆ Any delinquent claim that has less than \$30 remaining on the claim.
- ◆ Any claim that is delinquent for 3 years unless there are plans to pursue the claim through the Federal Offset Program. These cases would have been referred to the Central Collection Unit. CCU may refer these cases for collection through the Treasury Offset Program (TOP).
- ◆ The household cannot be located.

➤ Claim Compromise

Reminder: If the full or remaining amount of any claim cannot be liquidated in three years, the local department may compromise the claim by reducing it to the amount that allows the household to make restitution within three years.

Information about compromising claims will be on the demand notice that notifies the customer about the claim. Local departments need to establish a procedure to handle situations that warrant claims compromise.

ACTION DUE

The federal rule is effective August 1, 2001.

INQUIRIES

Please direct policy questions to Kay Finegan at (410) 767-7939.

Attachments

cc: DHR Executive Staff
FIA Management Staff
Constituent Services
OIM Help Desk
RESI

CARES PROCEDURES

To establish a Trafficking related claim on CARES:

- First determine the amount of the trafficking related claim off-line,
- From the **RMEN** select **Option C-Add a Pre-CARES BEG**,
- Type the Assistance Unit Number in the **AU ID** field,
- Press **Enter** and the **BEMG** displays,
- Complete the following fields on the **BEMG** screen:
 - **Issuance Month**
 - **Type of Error** (overpayment)
 - **Amount** (amount calculated off-line)
 - **Reason** (CE or FR)
 - **Notice Text** – be very careful and precise with the wording. This text will appear on the overpayment notice (Notice 18) exactly as typed.
- Press **Enter** to commit the data and return to the **RMEN**,
- Narrate your actions.

PAYING OFF BEGS USING EBT FOOD BENEFITS

When a customer decides to pay off his/her overpayment with an available **EBT** benefit, the following steps should be taken:

- I. The local fiscal staff must verify the customer's **FS/EBT** available balance and the outstanding **BEG** balance in **CARES** and **EBT**. (See Attachments A & B)
- II. The **FIA** worker authorizes withdrawal of the customer's benefits by completing form **FNS-135; Affidavit of Return or Exchange of Coupons**. (Attachment C) The form should be completed as follows:
 - #1. Recipient (Name & mailing address)
 - #2. Name of LDSS and address
 - #3a. Check the box for "Payment of a Claim"
 - #8. Remarks - "Pay BEG with EBT" and include the amount
 - #9. Customers - Sign & date
 - #10. Caseworker - Sign & date
 - #11. Fiscal – Sign & date
- III. The **FIA** worker retains the last copy of the **FNS-135** form for the case record and gives the customer the original and copy 1 to take to the local Fiscal Office.
- IV. Local fiscal staff should perform the online EBT entry in the Citibank Account Repayment Screen (See the three pages of Attachment D from the EBT Training Manual for instructions.)

- V. The local fiscal clerk then goes into the **CARES** system accessing the **RMEN-BENEFIT ERROR SUBMENU**. Using selection “**M**”, enter Receipt Maintenance Data (RECM), enter the Food Stamp AU number, “**CL**” as source of payment, and enter the amount in the Cash amount field. The **RECM** screen will display all **FS BEGs** associated with this AU. Select the **BEG** to which the payment is to be applied. Place a “Y” in the select field and press “enter”. Press **PF13, (RECP)**, then the receipts (**RECP**) screen is displayed with the receipt amount, account ID, subaccount number, and the Head of Household name fields completed. The fiscal clerk should then complete the required fields (indicated with a red asterisk) and press “enter” to commit the information. This will return to you to the **RECM** screen. Then press “enter” to complete the update successfully. The local fiscal staff should forward a copy of the **FNS-135** form, the successfully completed **CARES** update screen, and the Citibank Account Repayment Screen, to the finance officer for review.
- VI. The finance officer should sign the **FNS-135** form and with a copy of the Citibank Account Repayment Screen, forward to:

CARES Fiscal Unit
Room 925
311 W. Saratoga Street
Baltimore, MD 21201

- VII. **CARES Fiscal Unit** staff will reconcile this transaction to the Daily Statistical EBT Report.