

ALABAMA DEPARTMENT OF HUMAN RESOURCES FOOD ASSISTANCE DIVISION
ADMINISTRATIVE CODECHAPTER 660-4-4
FOOD STAMP OVERPAYMENT

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660-4-4-.01 Definition Of Frequently Used Terms.

(1) Overpayment (Overissuance). The receipt by a household of food stamps (coupons) in excess of its actual entitlement.

(a) Agency (Administrative) Error. Any claim for an overpayment caused by the agency's action or failure to take action on information known to the agency. The County Food Assistance Office must consider as "known to the agency" only that information that is or has been reported to the Food Assistance Office and/or the Family Assistance Office. Information known to a service worker, child support worker or adult services worker is not considered known to the Food Stamp Office for the purpose of establishing a claim.

Administrative Errors that may result in a claim include, but are not limited to:

- The county department failed to take prompt action on a change reported by the household.
- The county department incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
- The county department continued to provide the household food assistance benefits after its certification period ended without a redetermination of eligibility.
- The county department failed to provide a household a reduced level of benefits when the Family Assistance (FA) grant was approved or changed.

- Data was incorrectly entered in the computer, resulting in an incorrect allotment being issued to the household.
- The county department either failed to take timely action on information provided through the Income Eligibility Verification System (IEVS) which was considered verified upon receipt, or failed to follow up on IEVS information which was not considered verified upon receipt.

(b) Inadvertent Household Error. Any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.

Situations that may result in an IHE claim include but are not limited to the following:

- The household unintentionally failed to provide the county department with correct or complete information.
- The household unintentionally failed to report to the county department changes in its household circumstances.
- The household unintentionally received benefits that it was not 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.

(c) Intentional Program Violation. An occurrence whereby a household member or representative intentionally makes false or misleading statements, conceals or withholds facts, misrepresents, or otherwise commits any act that constitutes a violation of any state or federal food stamp statute.

A claim is considered a Suspected Intentional Program Violation (SIPV) claim until a determination is made that an Intentional Program Violation occurred through either the Administrative Disqualification Hearing process or court proceedings. 4-4-2

(d) Trafficking means:

1. The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

2. The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;
3. Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;
4. Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or
5. Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.
6. Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

Benefits that are trafficked are considered Suspected Intentional Program Violations (SIPV).

(2) Disqualification. A part of any penalty rendered for an intentional program violation against the individual(s) adjudged or accepting guilt for the violation.

(a) (Administrative) Disqualification Hearing. The State is responsible for investigating any case of alleged Intentional Program Violation (IPV). It should be ensured that cases in which there is sufficient documentary evidence to substantiate that an individual has committed one or more acts of IPV are acted upon either through the Administrative Disqualification Hearing (ADH) or referral to a court of appropriate jurisdiction.

(b) Court Action. Action in a court of appropriate jurisdiction on a case involving a suspected intentional program violation.

(c) Waiver of Rights. An agreement in which an individual accepts the penalties for an intentional program violation

without necessitating the disqualification hearing and/or court action.

(d) Disqualification Period. A period set by statute based on the frequency of occurrence of intentional program violation(s).

Author: Jeremy Barnes

Statutory Authority: 7 C.F.R. 273.16, 273.18; Code of Ala. 1975, §§ 38-2-6, 41-22-1 through -27.

History: Effective June 28, 1983. Emergency amendment effective October 1, 1983. Emergency amendment of October 1, 1983 rescinded October 24, 1983. **Amended:** Filed October 9, 2018; effective November 23, 2018.

660-4-4-.02

Action On Inadvertent Overpayment.

Inadvertent overpayment may be the results of agency or household error. In all cases a claim must be established and collection action must be initiated. Repayment may be accepted in a lump sum or in negotiated payments. These may be in the form of cash, food stamps, offsets from underpayment, use of small claims court, income tax intercepts, or, in the case of participating households, voluntary withholding of part of the allotment.

Author: Jeremy Barnes

Statutory Authority: 7 C.F.R. 273.16, 273.18; Code of Ala. 1975, § 38-2-6.

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660-4-4-.03

Action On Overpayment As A Result Of Intentional Program Violation.

(1) If an overpayment occurs and an intentional program violation is suspected, the county may initiate action for an administrative disqualification hearing or appropriate court action. After notification of the impending action, the suspect may negotiate to waive his/her rights and become immediately subject to disqualification and collection action.

(2) Individuals found to have committed an IPV either through an ADH, by a court of appropriate jurisdiction, or by a signed waiver or consent agreement, shall be ineligible to participate in the food assistance program:

- For a period of twelve months for the first IPV.
- For a period of twenty-four months for the second IPV.

- Permanently for the third occasion of any IPV.
- Individuals found by a federal, state or local court to have used or received benefits in a transaction involving the sale of a controlled substance shall be ineligible to participate in the program for a period of twenty-four months upon the first occasion of such violation and permanently upon the second occasion of such violation.
- Individuals found by a federal, state or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.
- Individuals convicted by a federal, state or local court having trafficked benefits for an aggregate amount of \$500 or more shall be permanently ineligible to participate in the food stamp program upon the first occasion of such violation.
- Individuals found to have made a fraudulent statement or representation with respect to their identify and/or place of residence in order to receive multiple benefits simultaneously shall be ineligible to participate in the Food Stamp Program for a period of 10 years.

There are situations where a client is suspected of multiple Intentional Program Violations over a period of time. Multiple violations may be the subject of a single hearing. The client may be found guilty of each violation separately, but only one disqualification penalty shall be imposed.

- When there are two or more separate program violations causing
 - overissuances at different times, but discovered at the same time, one claim shall be established and one penalty imposed when fraud is confirmed.
- When there have been two program violations occurring at essentially the same time, but the second violation is not discovered until the client is already serving a disqualification period, a second disqualification shall not be imposed. This is due to the fact that a disqualification for that period of time is already being served.
- The second violation must have occurred after the client was interviewed about the first violation and advised of penalties for subsequent violations before a second disqualification can be imposed. However, there must be a hearing to determine what classification should be given to this second violation.

- Should a second program violation occur after the claim for the first program violation has been established, a new claim shall be established. The next level of disqualification will be imposed if the household is found guilty of IPV.
- If a second disqualification, for whatever reason, is imposed while a client is currently serving a disqualification, the second disqualification shall run concurrently with the first disqualification.

If a court fails to impose a disqualification or a disqualification period for any IPV case, the agency shall impose the appropriate disqualification penalty specified in this section.

One or more IPV's that occurred prior to April 1, 1983 shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration. Only the individual found to have committed the IPV, or who signed the waiver or the consent agreement shall be disqualified and not the entire household.

Although the individual is disqualified, the household, as defined in Section 100, is responsible for making restitution for the amount of any overpayment. All IPV claims must be established and collected in accordance with established procedures.

The Disqualified Recipient Subsystem (DRS), found on the Comprehensive Claims System's fraud menu, allows states to share disqualification records. This system should be accessed to determine if the individual to be disqualified has any prior Intentional Program Violations in order to determine the appropriate period of disqualification for the current offense.

Once an individual has been found guilty of an IPV, the appropriate disqualification penalty should be registered on the Comprehensive Claims System Disqualification Add screen for tracking of the disqualification imposed and to allow adding the disqualification to the DRS.

(3) Repayment may be accepted in the same fashion as for inadvertent overpayment except if the household fails to negotiate a repayment agreement, a prescribed amount will automatically be withheld from the household allotment in all cases involving an active household. In addition, any negotiated amount may not be less than the prescribed amount of the allotment withholding.

(4) No household may benefit materially as a result of the disqualification of a household member.

Author: Jeremy Barnes

Statutory Authority: 7 C.F.R. 273.16, 273.18; Code of Ala. 1975, § 38-2-6.

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660-4-4-.04 Procedures For Administrative Disqualification Hearings.

(1) Disqualification hearings are conducted at the state level. The state agency may combine a fair hearing and an administrative disqualification hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that hearings will be combined. If hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not intentional program violation has occurred, the household shall lose its right to a subsequent fair hearing on the amount of the claim.

(2) Within 90 days of the date the accused is notified, the agency must conduct the hearing, arrive at a decision, and notify the household member and other appropriate persons of the decision.

(3) The individual or a representative of the individual may request a postponement of a hearing. This request must be made at least 10 days prior to the hearing date and postponement may not exceed 30 days. The time frame for the State is adjusted by the same number of days as the postponement.

(4) The hearing does not preclude the state or federal government from prosecuting the household member in a civil or criminal court or from collecting the overpayment.

(5) A copy of the state agency's published hearing procedures shall be provided the accused at the time of notification.

(6) If the individual cannot be located or fails to appear, the hearing shall be conducted in absentia.

(7) In rendering a decision, specific program violations must be cited for anyone found guilty.

(8) A state level decision is immediately binding and must be implemented on the county level the following month. If the individual wishes to pursue court action and the decision is subsequently reversed, benefits lost will be restored.

Author: Jeremy Barnes

Statutory Authority: 7 C.F.R. 273.16, 273.18; Code of Ala. 1975, §§ 38-2-6, 41-22-1 through -27.

History: Effective June 28, 1983. Emergency repealer effective October 1, 1983. Emergency repealer of October 1, 1983 rescinded October 24, 1983. **Amended:** Filed October 9, 2018; effective November 23, 2018.