

APPENDIX 1- LEGAL AUTHORITY COLLECTION AND DISPOSITION OF CLAIMS

SEC. 13. [7 U.S.C. 2022] (a) GENERAL AUTHORITY OF THE SECRETARY.—

(1) DETERMINATION OF CLAIMS.—Except in the case of an at-risk amount required under section 16(c)(1)(D)(i)(III), the Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this Act or the regulations issued pursuant to this Act, including, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients, including the power to waive claims if the Secretary determines that to do so would serve the purposes of this Act. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies. The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 16 of this Act to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 14 of this Act.

(2) CLAIMS ESTABLISHED UNDER QUALITY CONTROL SYSTEM.—

To the extent that a State agency does not pay a claim established under section 16(c)(1), including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 16(c)(7). If the State agency appeals such claim (in whole or in part), the interest on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 1 year after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned. (3) COMPUTATION OF INTEREST.—Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues. (4) JOINT AND SEVERAL LIABILITY OF HOUSEHOLD MEMBERS.— Each adult member of a household shall be jointly and severally liable for the value of any overissuance of benefits.

(b) COLLECTION OF OVERISSUANCES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of benefits issued to a household by—

- (A) reducing the allotment of the household;
- (B) withholding amounts from unemployment compensation from a member of the household under subsection (c);
- (C) recovering from Federal pay or a Federal income tax refund under subsection (d); or
- (D) any other means.

(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of benefits without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

- (A) 10 percent of the monthly allotment of the household; or
- (B) \$10.

(4) PROCEDURES.—A State agency shall collect an overissuance of benefits issued to a household under paragraph

(1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.

(5) OVERISSUANCES CAUSED BY SYSTEMIC STATE ERRORS.—

(A) IN GENERAL.—If the Secretary determines that a State agency overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

(B) PROCEDURES.—

(i) INFORMATION REPORTING BY STATES.—Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance of benefits to households by the State agency in the applicable fiscal year.

(ii) FINAL DETERMINATION.—After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

- (I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and
- (II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

(iii) ESTABLISHING A CLAIM.—Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal to the value of the overissuance caused by the systemic error.

(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative and judicial review, as provided in section 14, shall apply to the final determinations by the Secretary under clause (ii).

(v) REMISSION TO THE SECRETARY.—

(I) DETERMINATION NOT APPEALED.—If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

(II) DETERMINATION APPEALED.—If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial review under clause (iv), and a finding of liability on the part of the State, the appealing

State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

(vi) ALTERNATIVE METHOD OF COLLECTION.—

(I) IN GENERAL.—If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount due.

(II) ACCRUAL OF INTEREST.—During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

(vii) LIMITATION.—Any liability amount established under section 16(c)(1)(C) shall be reduced by the amount of the claim established under this subparagraph.

(c)(1) As used in this subsection, the term “uncollected overissuance” means the amount of an overissuance of benefits, as determined under subsection (b)(1), that has not been recovered pursuant to subsection (b)(1).

(2) A State agency may determine on a periodic basis, from information supplied pursuant to section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)), whether an individual receiving compensation under the State’s unemployment compensation law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law) owes an uncollected overissuance.

(3) A State agency may recover an uncollected overissuance—

(A) by—

- (i) entering into an agreement with an individual described in paragraph (2) under which specified amounts will be withheld from unemployment compensation otherwise payable to the individual; and
- (ii) furnishing a copy of the agreement to the State agency administering the unemployment compensation law; or

(B) in the absence of an agreement, by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the unemployment compensation.

(d) The amount of an overissuance of benefits, as determined under subsection (b)(1), that has not been recovered pursuant to such subsection may be recovered from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code or a Federal income tax refund as authorized by section 3720A of title 31, United States Code.

§273.18 Claims against households.

(a) *General.* (1) A recipient claim is an amount owed because of:

(i) Benefits that are overpaid or

(ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

(2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.