Displaying title 7, up to date as of 1/18/2022. Title 7 was last amended 1/18/2022.

Title 7 - Agriculture
Subtitle B - Regulations of the Department of Agriculture
Chapter II - Food and Nutrition Service, Department of Agriculture
Subchapter C - Supplemental Nutrition Assistance and Food Distribution Program
Part 273 - Certification of Eligible Households
Subpart F - Disqualification and Claims

EDITORIAL NOTE ON SUBCHAPTER C OF CHAPTER II

Editorial Note: Nomenclature changes to subchapter C appear by Amdt. 381, 65 FR 64586, Oct. 30, 2000.

EDITORIAL NOTE ON PART 273

Editorial Notes: 1. OMB control numbers relating to this part 273 are contained in § 271.8.
2. Nomenclature changes to part 273 appear at 84 FR 15093, Apr. 15, 2019.

§ 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.

(3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

(4) The following are responsible for paying a claim:

(i) Each person who was an adult member of the household when the overpayment or trafficking occurred;

(ii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(b) ***Types of claims.*** There are three types of claims:

An . . .	is . . .
(1) Intentional Program violation (IPV) claim	any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16.
(2) Inadvertent household error (IHE) claim	any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
(3) Agency error (AE) claim	any claim for an overpayment caused by an action or failure to take action by the State agency.

(c) ***Calculating the claim amount*** -

(1) ***Claims not related to trafficking.***

(i) As a State agency, you		
must calculate a claim . . .	and . . .	and . . .

back to at least twelve months prior to when you become aware of the overpayment	for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred	for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

(ii) The actual steps for calculating a claim are

you . . .	unless . . .	then . . .
(A) determine the correct amount of benefits for each month that a household received an overpayment		
(B) 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	the claim is an AE claim	apply the earned income deduction.
(C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment	this answer is zero or negative	dispose of the claim referral.
(D) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account in accordance with your own procedures. The difference is the amount of the claim	you are not aware of any expunged benefits	the amount of the overpayment calculated in paragraph (c)(1)(ii)(C) of this section is the amount of the claim.

(2) ***Trafficking-related claims.*** Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

(i) The individual's admission;

(ii) Adjudication; or

(iii) The documentation that forms the basis for the trafficking determination.

(d) ***Claim referral management.***

(1) As a State agency, you

must . . .	and you . . .	unless . . .
establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered	will ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this time frame	you develop and use your own standards and procedures that have been approved by us (see paragraph (d)(2) of this section).

(2) Instead of using the standard in paragraph (d)(1) of this section, you may opt to develop and follow your own plan for the efficient and effective management of claim referrals.

(i) This plan must be approved by us.

(ii) At a minimum, this plan must include:

(A) Justification as to why your standards and procedures will be more efficient and effective than our claim referral standard;

(B) Procedures for the detection and referral of potential overpayments or trafficking violations;

(C) Time frames and procedures for tracking claim referrals through date of discovery to date of establishment;

(D) A description of the process to ensure that these time frames are being met;

(E) Any special procedures and time frames for IPV referrals; and

(F) A procedure to track and follow-up on IPV claim referrals when these referrals are referred for prosecutorial or similar action.

(3) States must establish claims even if they cannot be established within the timeframes outlined under paragraph (d) of this section.

(e) ***Initiating collection action and managing claims*** -

(1) ***Applicability.*** State agencies must begin collection action on all claims unless the conditions under paragraph (e)(2) of this section apply.

(2) ***Pre-establishment cost effectiveness determination.*** A State agency may opt not to establish and subsequently collect an overpayment that is not cost effective. The following is our cost-effectiveness policy for State agencies:

(i) You may follow your own cost effectiveness plan and		
opt not to establish any claim if . . .	unless . . .	or . . .
you determine that the claim referral is not cost effective to pursue	you do not have a cost-effectiveness plan approved by us	you already established the claim or discovered the overpayment in a quality control review.
(ii) Or you may follow the FNS threshold and		
opt not to establish any claim if . . .	unless . . .	or . . .
you determine that the claim referral is $125 or less	the household is currently participating in the Program	you already established the claim or discovered the overpayment in a quality control review.

(3) ***Notification of claim.***

(i) Each State agency must develop and mail or otherwise deliver to the household written notification to begin collection action on any claim.

(ii) The claim will be considered established for tracking purposes as of the date of the initial demand letter or written notification.

(iii) If the claim or the amount of the claim was not established at a fair hearing, the State agency must provide the household with a one-time notice of adverse action. The notice of adverse action may either be sent separately or as part of the demand letter.

(iv) The initial demand letter or notice of adverse action must include language stating:
(A) The amount of the claim.
(B) The intent to collect from all adults in the household when the overpayment occurred.
(C) The type (IPV, IHE, AE or similar language) and reason for the claim.
(D) The time period associated with the claim.
(E) How the claim was calculated.
(F) The phone number to call for more information about the claim.
(G) That, if the claim is not paid, it will be sent to other collection agencies, who will use various collection methods to collect the claim.
(H) The opportunity to inspect and copy records related to the claim.

(I) Unless the amount of the claim was established at a fair hearing, the opportunity for a fair hearing on the decision related to the claim. The household will have 90 days to request a fair hearing.

(J) That, if not paid, the claim will be referred to the Federal government for federal collection action.

(K) That the household can make a written agreement to repay the amount of the claim prior to it being referred for Federal collection action.

(L) That, if the claim becomes delinquent, the household may be subject to additional processing charges.

(M) That the State agency may reduce any part of the claim if the agency believes that the household is not able to repay the claim.

(N) A due date or time frame to either repay or make arrangements to repay the claim, unless the State agency is to impose allotment reduction.

(O) If allotment reduction is to be imposed, a due date or time frame to either repay or make arrangements to repay the claim in the event that the household stops receiving benefits.

(P) If allotment reduction is to be imposed, the percentage to be used and the effective date.

(v) The due date or time frame for repayment must be not later than 30 days after the date of the initial written notification or demand letter.

(vi) Subsequent demand letters or notices may be sent at the discretion of the State agency. The language to be used and content of these letters is left up to the State agency.

(4) ***Repayment agreements.***

(i) Any repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments.

(ii) The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

(5) ***Determining Delinquency.***

(i) Unless specified in paragraph (e)(5)(iv) of this section, a claim must be considered delinquent if:

(A) The claim has not been paid by the due date and a satisfactory payment arrangement has not been made; or

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

(ii) The date of delinquency for a claim covered under paragraph (e)(5)(i)(A) of this section is the due date on the initial written notification/demand letter. The claim will remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is invoked.

(iii) The date of delinquency for a claim covered under paragraph (e)(5)(i)(B) of this section is the due date of the missed installment payment unless the claim was delinquent prior to entering into a repayment agreement, in which case the due date will be the due date on the initial notification/demand letter. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or if the State agency determines to either resume or re-negotiate the repayment schedule.

(iv) A claim will not be considered delinquent if another claim for the same household is currently being paid either through an installment agreement or allotment reduction and you, as a State agency, expect to begin collection on the claim once the prior claim(s) is settled.

(v) A claim is not subject to the requirements for delinquent debts if the State agency is unable to determine delinquency status because collection is coordinated through the court system.

(6) ***Fair hearings and claims.***

(i) A claim awaiting a fair hearing decision must not be considered delinquent.

(ii) If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The language to be used in this notice is left up to the State agency. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household.

(iii) If the hearing official determines that a claim does not exist, the claim is disposed of in accordance with paragraph (e)(8) of this section.

(7) ***Compromising claims.***

(i) As a State agency, you may compromise a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years.

(ii) You may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17.

(iii) You may reinstate any compromised portion of a claim if the claim becomes delinquent.

(8) ***Terminating and writing-off claims*** -

(i) ***A terminated claim*** is a claim in which all collection action has ceased. A *written-off claim* is no longer considered a receivable subject to continued Federal and State agency collection and reporting requirements.

(ii) The following is our claim termination policy:

As a State agency, if . . .	Then you . . .	Unless . . .
(A) you find that the claim is invalid	must discharge the claim and reflect the event as a balance adjustment rather than a termination	it is appropriate to pursue the overpayment as a different type of claim (e.g., as an IHE rather than an IPV claim).
(B) all adult household members die	must terminate and write-off the claim	you plan to pursue the claim against the estate.
(C) the claim balance is $25 or less and the claim has been delinquent for 90 days or more	must terminate and write-off the claim	other claims exist against this household resulting in an aggregate claim total of greater than $25.
(D) you determine it is not cost effective to pursue the claim any further	must terminate and write-off the claim	we have not approved your overall cost-effectiveness criteria.
(E) the claim is delinquent for three years or more	must terminate and write-off the claim	you plan to continue to pursue the claim through Treasury's Offset Program.
(F) you cannot locate the household	may terminate and write-off the claim	
(G) a new collection method or a specific event (such as winning the lottery) substantially increases the likelihood of further collections	may reinstate a terminated and written-off claim	you decide not to pursue this option.

(f) ***Acceptable forms of payment.***

You may collect a claim by:	However . . .
(1) Reducing benefits prior to issuance. This includes allotment reduction and offsets to restored benefits	You must follow the instructions and limits found in paragraphs (g)(1) and (g)(3) of this section.

You may collect a claim by:	However . . .
(2) Reducing benefits after issuance. These are benefits from electronic benefit transfer (EBT) accounts	You must follow the instructions and limits found in paragraph (g)(2) of this section.
(3) Accepting cash or any of its generally accepted equivalents. These equivalents include check, money order, and credit or debit cards	You do not have to accept credit or debit cards if you do not have the capability to accept these payments.
(4) Conducting your own offsets and intercepts. This includes but is not limited to wage garnishments and intercepts of various State payments. These collections are considered “cash” for FNS claim accounting and reporting purposes	You must follow any limits that may apply in paragraph (g) of this section.
(5) Requiring the household to perform public service	This form of payment must be ordered by a court and specifically be in lieu of paying any claim.
(6) Participating in the Treasury collection programs	You must follow the procedures found in paragraph (n) of this section.

(g) ***Collection methods*** -

(1) ***Allotment reduction.*** The following is our allotment reduction policy:

As a State agency, you must . . .	Unless . . .
(i) Automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives	the claim is being collected at regular intervals at a higher amount or another household is already having its allotment reduced for the same claim (see paragraph (g)(1)(vi) of this section).
(ii) For an IPV claim, limit the amount reduced to the greater of $20 per month or 20 percent of the household's monthly allotment or entitlement	the household agrees to a higher amount.
(iii) For an IHE or AE claim, limit the amount reduced to the greater of $10 per month or 10 percent of the household's monthly allotment	the household agrees to a higher amount.
(iv) Not reduce the initial allotment when the household is first certified	the household agrees to this reduction.
(v) Not use additional involuntary collection methods against individuals in a household that is already having its benefit 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.
You may . . .	
(vi) Collect using allotment reduction from two separate households for the same claim. However, you are not required to perform this simultaneous reduction.	

As a State agency, you must . . .	Unless . . .
(vii) Continue to use any other collection method against any individual who is not a current member of the household that is undergoing allotment reduction.	

(2) ***Benefits from EBT accounts.***

(i) As a State agency, you must allow a household to pay its claim using benefits from its EBT benefit account.

(ii) You must comply with the following EBT benefit claims collection and adjustment requirements:

(A) For collecting from active (or reactivated) EBT benefits . . .		
You . . .	or . . .	and . . .
need written permission which may be obtained in advance and done in accordance with paragraph (g)(2)(iv) of this section;	oral permission for one time reductions with you sending the household a receipt of the transaction within 10 days	the retention rules do apply to this collection.
(B) For collecting from stale EBT benefits . . .		
You . . .	and . . .	and . . .
must mail or otherwise deliver to the household written notification that you intend to apply the benefits to the outstanding claim	give the household at least 10 days to notify you that it doesn't want to use these benefits to pay the claim	the retention rules apply to this collection.
(C) For making an adjustment with expunged EBT benefits . . .		
You . . .	and . . .	and . . .
must adjust the amount of any claim by subtracting any expunged amount from the EBT benefit account for which you become aware	this can be done anytime	the retention rules do not apply to this adjustment.

(iii) A collection from an EBT account must be non-settling against the benefit drawdown account.

(iv) At a minimum, any written agreement with the household to collect a claim using active EBT benefits must include:

(A) A statement that this collection activity is strictly voluntary;

(B) The amount of the payment;

(C) The frequency of the payments (i.e., whether monthly or one time only);

(D) The length (if any) of the agreement; and

(E) A statement that the household may revoke this agreement at any time.

(3) ***Offsets to restored benefits.*** You must reduce any restored benefits owed to a household by the amount of any outstanding claim. This may be done at any time during the claim establishment and collection process.

(4) ***Lump sum payments.*** You must accept any payment for a claim whether it represents full or partial payment. The payment may be in any of the acceptable formats.

(5) ***Installment payments.***

(i) You may accept installment payments made for a claim as part of a negotiated repayment agreement.

(ii) As a household, if you fail to submit a payment in accordance with the terms of your negotiated repayment schedule, your claim becomes delinquent and it will be subject to additional collection actions.

(6) ***Intercept of unemployment compensation benefits.***

(i) As a State agency, you may arrange with a liable individual to intercept his or her unemployment compensation benefits for the collection of any claim. This collection option may be included as part of a repayment agreement.

(ii) You may also intercept an individual's unemployment compensation benefits by obtaining a court order.

(iii) You must report any intercept of unemployment compensation benefits as “cash” payments when they are reported to us.

(7) ***Public service.*** If authorized by a court, the value of a claim may be paid by the household performing public service. As a State agency, you will report these amounts in accordance with our instructions.

(8) ***Other collection actions.*** You may employ any other collection actions to collect claims. These actions include, but are not limited to, referrals to collection and/or other similar private and public sector agencies, state tax refund and lottery offsets, wage garnishments, property liens and small claims court.

(9) ***Unspecified joint collections.*** When an unspecified joint collection is received for a combined public assistance/SNAP recipient claim, each program must receive its pro rata share of the amount collected. An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the SNAP and other program claim(s) and the debtor does not specify to which claim to apply the collection.

(h) ***Refunds for overpaid claims.***

(1) As a household, if you overpay a claim, the State agency must provide a refund for the overpaid amount as soon as possible after the State agency finds out about the overpayment. You will be paid by whatever method the State agency deems appropriate considering the circumstances.

(2) You are not entitled to a refund if the overpaid amount is attributed to an expunged EBT benefit.

(i) ***Interstate claims collection.***

(1) Unless a transfer occurs as outlined in paragraph (i)(2) of this section, as a State agency, you are responsible for initiating and continuing collection action on any SNAP recipient claim regardless of whether the household remains in your State.

(2) You may accept a claim from another State agency if the household with the claim moves into your State. Once you accept this responsibility, the claim is yours for future collection and reporting. You will report interstate transfers to us in accordance with our instructions.

(j) ***Bankruptcy.*** A State agency may act on our behalf in any bankruptcy proceeding against a bankrupt household with outstanding recipient claims.

(k) ***Retention rates.***

(1) The retention rates for State agencies are as follows:

If you collect an . . .	then the retention rate is . . .
(i) IPV claim	35 percent.
(ii) IHE claim	20 percent.
(iii) IHE claim by reducing a person's unemployment compensation benefit	35 percent.
(iv) AE claim	nothing.

(2) These rates do not apply to:

(i) Any reduction in benefits when you disqualify someone for an IPV;

(ii) The value of court-ordered public service performed in lieu of the payment of a claim; or

(iii) Payments made to a court that are not subsequently forwarded as payment of an established claim.

(l) ***Submission of payments to us.*** A State agency must send us the value of funds collected for IHE, IPV or AE claims according to our instructions. We must pay you for claims collection retention by electronic funds transfer.

(m) ***Accounting procedures.***

(1) As a State agency, you must maintain an accounting system for monitoring recipient claims against households. This accounting system shall consist of both the system of records maintained for individual debtors and the accounts receivable summary data maintained for these debts.

(2) At a minimum, the accounting system must document the following for each claim:

(i) The date of discovery;

(ii) The reason for the claim;

(iii) The calculation of the claim;

(iv) The date you established the claim;

(v) The methods used to collect the claim;

(vi) The amount and incidence of any claim processing charges;

(vii) The reason for the final disposition of the claim;

(viii) Any collections made on the claim;

(ix) Any correspondence, including follow-up letters, sent to the household.

(3) At a minimum, your accounting or certification system must also identify the following for each claim:

(i) Those households whose claims have become delinquent;

(ii) Those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household; and

(iii) Those households with outstanding claims that are applying for benefits.

(4) When requested and at intervals determined by us, your accounting system must also produce:

(i) Accurate and supported outstanding balances and collections for established claims; and

(ii) Summary reports of the funds collected, the amount submitted to FNS, the claims established and terminated, any delinquent claims processing charges, the uncollected balance and the delinquency of the unpaid debt.

(5) On a quarterly basis, unless otherwise directed by us, your accounting system must reconcile summary balances reported to individual supporting records.

(n) ***Treasury's Offset Programs (TOP)*** -

(1) ***Referring debts to TOP.***

(i) As a State agency, you must refer to TOP all recipient claims that are delinquent for 180 or more days.

(ii) You must certify that all of these claims to be referred to TOP are 180 days delinquent and legally enforceable.

(iii) You must refer these claims in accordance with our and the Department of the Treasury's (Treasury) instructions.

(iv) You must not refer claims to TOP that:

(A) You become aware that the debtor is a member of a participating household that is having its allotment reduced to collect the claim; or

(B) Fall into any other category designated by us as non-referable to TOP.

(2) ***Notifying debtors of referral to TOP.***

(i) As a State agency, you must notify the debtor of the impending referral to TOP according to our instructions relating to:

(A) What constitutes an adequate address to send the notice;

(B) What specific language will be included in the TOP referral notice;

(C) What will be the appropriate time frames and appeal rights; and

(D) Any other information that we determine necessary to fulfill all due process and other legal requirements as well as to adequately inform the debtor of the impending action.

(ii) You must also follow our instructions regarding procedures connected with responding to inquiries, subsequent reviews and hearings, and any other procedures determined by us as necessary in the debtor notification process.

(3) ***Effect on debtors.***

(i) If you, as a debtor, have your claim referred to TOP, any eligible Federal payment that you are owed may be intercepted through TOP.

(ii) You may also be responsible for paying any collection or processing fees charged by the Federal government to intercept your payment.

(4) ***Procedures when a claim is in TOP.***

(i) As a State agency, you must follow FNS and Treasury procedures when the claim is in TOP.

(ii) You must remove a claim from TOP if:

(A) FNS or Treasury instruct you to remove the debt; or

(B) You discover that:

(*1*) The debtor is a member of a SNAP household undergoing allotment reduction;

(*2*) The claim is paid up;

(*3*) The claim is disposed of through a hearing, termination, compromise or any other means;

(*4*) The claim was referred to TOP in error; or

(*5*) You make an arrangement with the debtor to resume payments.

(5) ***Receiving and reporting.*** As a State agency, you must follow our procedures on receiving and reporting TOP payments.

(6) ***Security or confidentiality agreements.*** As a State agency, you must follow our procedures regarding any security or confidentiality agreements or processes necessary for TOP participation.

[Amdt. 389, 65 FR 41775, July 6, 2000; 65 FR 47587, Aug. 2, 2000, as amended at 75 FR 78153, Dec. 15, 2010; 82 FR 2043, Jan. 6, 2017]