



COLORADO
Office of Economic Security
Division of Food & Energy Assistance

Colorado SNAP Claims Handbook

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TABLE OF CONTENTS

INTRODUCTION.....	3
4.801.1 CLASSIFICATION OF CLAIMS.....	4
AGENCY ERROR (AE).....	4
INADVERTENT HOUSEHOLD ERROR (IHE).....	4
INTENTIONAL PROGRAM VIOLATION (IPV).....	5
4.801.2 ESTABLISHING CLAIMS AGAINST HOUSEHOLDS.....	6
ESTABLISHMENT GUIDELINES.....	6
AE GUIDELINES.....	6
IHE GUIDELINES.....	6
IPV GUIDELINES.....	7
TRAFFICKED BENEFITS.....	7
TIMELY ESTABLISHMENT OF A CLAIM.....	8
4.801.3 CALCULATING THE AMOUNT OF A CLAIM.....	9
AE AND IHE CLAIMS.....	9
IPV CLAIMS.....	10
NON-SYSTEM DETERMINED CLAIMS (NSDC).....	11
NOTIFYING THE HOUSEHOLD OF A CLAIM.....	11
CLAIM CALCULATION FORM.....	11
DEMAND LETTER.....	12
PAYMENT PLANS.....	12
CLAIM COMPROMISE.....	12
4.801.4 COLLECTING PAYMENTS ON CLAIMS.....	15
LIABLE RECIPIENTS.....	15
HOUSEHOLD MEMBER TURNS 18 DURING THE OVERPAYMENT PERIOD.....	15
DIVORCE DECREES.....	15
DETERMINING DELINQUENCY.....	15
UNSPECIFIED JOINT COLLECTIONS.....	16
4.801.41 METHODS OF COLLECTING PAYMENT ON CLAIMS.....	17
LUMP SUM.....	17
SNAP ALLOTMENT REDUCTION.....	17
PAYMENTS.....	17
TAX INTERCEPT PROGRAM.....	18
DEPARTMENT OF REVENUE (DOR) INTERCEPTS.....	18
FEDERAL TREASURY OFFSET PROGRAM (TOP).....	19
PURSUING OTHER COLLECTION ACTIVITIES.....	22
4.801.42 CRITERIA FOR SUSPENDING COLLECTION ACTION.....	23
4.801.43 CRITERIA FOR TERMINATING COLLECTION ACTION.....	23
4.801.5 CLAIMS DISCHARGED THROUGH BANKRUPTCY.....	24
FEDERAL BANKRUPTCY AND TOP OFFSET.....	24
4.801.6 INTERSTATE CLAIMS COLLECTION.....	25
4.801.7 LOCAL OFFICE RETENTION OF RECOVERIES.....	26
4.802 APPEAL PROCESS.....	27

COLORADO SNAP CLAIMS HANDBOOK

CONTINUATION OF BENEFITS PENDING FINAL AGENCY DECISION.....	27
4.803.1 DOCUMENTATION AND REPORTING REQUIREMENTS.....	28
CASE FILE RETENTION.....	28

INTRODUCTION

This handbook is intended to supplement and clarify Colorado regulations concerning the Supplemental Nutrition Assistance Program (SNAP). It has been organized to match the Colorado Code of Regulations (CCR) headings for ease of reference. The CCR is maintained by the Colorado Secretary of State and is published for public reference at [§ 10 CCR 2506-1](#). All Colorado SNAP regulations must comply with Title 7 of the Code of Federal Regulations, Subtitle B, Chapter II, [Subchapter C](#).

Under Section 15(d) of the Food Stamp Act, benefits are an obligation of the United States within the meaning of 18 United States Code (USC) 8. The provisions of Title 18 of the United States Code, “Crimes and Criminal Procedure, Relative to Counterfeiting, Misuse and Alteration of Obligations of the United States” are applicable to SNAP benefits. Copies of the U.S. Code are available for public inspection by contacting the SNAP Director during regular business hours at the Colorado Department of Human Services, SNAP Program, 1575 Sherman Street, Denver, Colorado 80203; or at a state publications depository library. No later editions or amendments are incorporated.

Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of SNAP benefits may subject an individual, partnership, corporation, or other legal entity to prosecution.

4.801.1 CLASSIFICATION OF CLAIMS

If benefits are overissued for any reason, a claim against the household must be established as long as it complies with the thresholds outlined in this handbook. Claims shall be classified according to the following standards.

AGENCY ERROR (AE)

AEs may occur at the point of expedited SNAP issuance, regular SNAP issuance, during the processing of recertifications or Periodic Report Forms (PRFs), and at any point mid-certification.

- If the circumstances leading to the overpayment are system-caused or solely result from interfacing systems beyond the client's control, any resulting claim shall be categorized as an AE.
- If the circumstances leading to the overpayment are solely attributable to incorrect data entry completed by a worker or untimely or incorrect action by the agency/local office, any resulting claim shall be categorized as an AE.

Examples may include:

- The local office failed to take prompt action on a change reported by the household;
- The local office incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
- The local office continued to provide the household with SNAP benefits after its certification period expired without a redetermination of eligibility;
- The local office failed to reduce SNAP benefits when a household's other public assistance grant increased.

INADVERTENT HOUSEHOLD ERROR (IHE)

IHEs may occur at the point of expedited SNAP issuance, regular SNAP issuance, during the processing of recertifications and PRFs, and at any point mid-certification.

- If the circumstances leading to the overpayment are attributable to the household's misunderstanding or misrepresentation of their circumstances, but the misrepresentation is either not fraudulent or has not yet been determined to be fraudulent, any resulting claim shall be categorized as an IHE.
 - Should the local office suspect that the misrepresentation was intentional, the local office shall refer the case for further investigation.
 - Claims that are awaiting a determination of fraud shall first be established as an IHE. An affirmative determination of fraud shall result in the claims being considered IPV claims. The IHE claim can either be terminated and re-created as part of the IPV claim or the claim type can be updated to IPV.
- Examples of IHE may include, but are not limited to:
 - The household unintentionally failed to provide the local office with correct or complete information;
 - The household unintentionally failed to report changes in its household circumstances;
 - 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;
- The household was receiving SNAP solely because of basic categorical eligibility and the household was subsequently determined ineligible for Colorado Works or Supplemental Security Income (SSI) during the time that the benefits were being received. The claim must be based on a change in net income and/or household size;
- The Social Security Administration failed to take action that resulted in the household's incorrectly receiving SSI and therefore granted basic categorical eligibility for SNAP. The claim must be based on the change in net income and/or household size.

INTENTIONAL PROGRAM VIOLATION (IPV)

When an IPV has been substantiated, any related IHE claim must be included in the IPV claim or recategorized as an IPV claim. Substantiation occurs when the recipient has signed a waiver of an Administrative Disqualification Hearing (ADH), or has signed a Disqualification Consent Agreement (DCA) with a court having appropriate jurisdiction, or an ADH has been held and ruled in favor of the County, or the IPV matter has been affirmatively decided by a court having appropriate jurisdiction.

- Prior to an ADH waiver or DCA being signed, or the determination of IPV/fraud through a court having appropriate jurisdiction, the claim against the household shall be handled as an IHE claim.
- When an IHE claim has been identified through the IPV investigation, the IHE claim should be created, and collection action should begin immediately. After the IPV has been substantiated, the IHE claim can be terminated, and a new IPV claim can be created, or the claim type can be adjusted.

4.801.2 ESTABLISHING CLAIMS AGAINST HOUSEHOLDS

ESTABLISHMENT GUIDELINES

Establishment guidelines will differ by claim type. Claims cannot be established against the household for changes that it was not required to report. For guidance about when reported changes should affect benefits, reference the SNAP 21 DAY COUNT desk aid.

Claims shall be established against the following recipients:

- All adult household members age eighteen (18) years of age or older at the time the over-issuance occurred.
- A person connected to the household, such as an authorized representative, who trafficks or otherwise causes an over-issuance to occur.

AE GUIDELINES

The following establishment guidelines apply to AE claims. When classifying a claim as an AE, first ensure that it meets the criteria described in section 4.801.1.

- The household is actively receiving SNAP benefits and the value of the claim is greater than \$200; or,
- The household is not actively receiving SNAP benefits and the value of the claim is greater than \$400; or,
- The overpayment was discovered through a Federal or State-level Quality Assurance review.

An AE claim shall not be established for more than twelve (12) months from the date the local office was notified of the error, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive.

The CBMS case status will be your indicator as to if the household is actively receiving SNAP.

IHE GUIDELINES

The following establishment guidelines apply to IHE claims. When classifying a claim as an IHE, first ensure that it meets the criteria described in section 4.801.1.

- The value of the claim is greater than \$200 whether the household is actively receiving or not; or,
- The overpayment was discovered through a Federal or State-level Quality Assurance review.

An IHE claim shall not be established for more than twelve (12) months from the date the local office was notified of the error, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive. If a claim is being pursued for IPV but has not yet been substantiated, it should be established and pursued as an IHE.

IPV GUIDELINES

There is no minimum threshold for an IPV claim. A claim associated with an IPV must be calculated back to the month the act of IPV first occurred and cannot be established for a period more than six (6) years from the date the local office was notified, in writing or orally, or discovered through the normal course of business that an error occurred which led to the household receiving more benefits than it was entitled to receive.

TRAFFICKED BENEFITS

Agencies are expected to take action against recipients identified as violating SNAP by trafficking benefits. Claims shall be established for benefits that are trafficked. The value of claims resulting from trafficking related offenses is the value of the trafficked benefits as determined by the recipient's admission, through adjudication, or the documentation that forms the basis for the trafficking determination. Documentation must be entered into CBMS and could include such items as notarized statements or printouts from the EBT systems.

Trafficking occurs in the following scenarios:

- The buying, selling, stealing, or otherwise affecting 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; or,
- The exchange of SNAP benefits or EBT cards for firearms, ammunition, explosives, or controlled substances; or,
- A SNAP participant, including the participant's designated authorized representative, knowingly transfers SNAP benefit to another who does not, or does not intend to, use the SNAP benefits for the SNAP household for whom the SNAP benefits were intended; or,
- The reselling of food that was purchased with SNAP benefits for cash; or,
- Obtaining a cash deposit when returning water or other containers that were purchased with SNAP benefits. Purchasing water containers is an eligible food item that can be paid for with SNAP benefits; however, when the container is returned, the deposit should be returned to the client's EBT card and not given to the client in cash; or,
- Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits and accessed via Electronic Benefit Transfer (EBT) cards, card numbers, and personal identification numbers (PINs), or by manual voucher and signatures or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

TIMELY ESTABLISHMENT OF A CLAIM

“Timely” establishment of a claim means that the local office shall establish all claims before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered. The local office must establish a claim even if it cannot be established within that time frame.

- The discovery date for claims resulting from trafficking is the date of the court decision or the date the household signed an ADH waiver or a DCA.
- The discovery date for IHE and IPV non-trafficking claims shall be the date that verification used to calculate the over-issuance is obtained.
- The discovery date for AE claims is the date that the local office was notified, in writing or orally, or discovered through the normal course of business that an agency error occurred that caused the household to receive more benefits than it was entitled to receive.

4.801.3 CALCULATING THE AMOUNT OF A CLAIM

AE AND IHE CLAIMS

If the household received a larger allotment than it was entitled to receive, the local office shall establish a claim against the household that is equal to the difference between the allotment that the household received and the actual allotment it should have received. Benefits authorized under the Colorado Electronic Benefits Transfer System (CO/EBTS) shall be used to calculate the claim. After calculating the amount of a claim and establishing claims, the local office must offset the amount of the claim against any amounts that have not yet been restored to the household. Expungements and any return of benefits that occur must be used to offset the amount of the claim.

The claim must also be offset against restored benefits owed to:

- Any household that contains a member who was an adult member of the original household.
- Any household that contains an authorized representative that caused the overpayment or trafficking.

In no circumstance may the local office collect more than the amount of the claim.

If a household receives both Temporary Assistance for Needy Families (TANF) and SNAP and misreports information to TANF in accordance with the TANF reporting requirements, and the misreport of information to TANF resulted in the household being overpaid TANF or ineligible for TANF, any resulting SNAP claim should be based on the actual TANF issued.

The correct allotment shall be calculated using the same methods applied to an actual certification. The twenty percent (20%) earned income deduction shall not be applied 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; therefore, any portion of the claim that is due to earned income being reported in an untimely manner will be calculated without allowing the twenty percent (20%) earned income deduction. The actual circumstances of the household shall be used to calculate the claim. In instances when a claim is caused by the household's failure to report information as required, the amount of the claim is based on the allotment difference from what the household actually received compared to what the household would have received if the household had reported the information as required. For example, if a simplified reporting household did not report income at the initial application as required, the income used to calculate the overpayment would be the income that the household actually received in the month of application, as this would have been used to determine the household's ongoing monthly amount. Actual income received each subsequent month is not required to calculate each month of the claim, as any fluctuation in monthly income that was received by the household after the initial month of application was not required to be reported by the household. If the household failed to report a change in household circumstances that would have resulted in an increase in benefits during the time period of the claim, the local office shall act on the change in information as of the date the change was reported to the local office.

When a household certified below 130% FPL fails to report an increase in household income over 130% FPL, the local office shall establish the claim for each month in which an over-issuance of SNAP has occurred.

- In cases involving household failure to report an increase in income within the required timeframes, the first (1st) month affected by the household's failure to report shall be the first (1st) month in which the change would have been effective had it been timely reported. However, in no event shall the determination of the first (1st) month in which the change would have been effective be any later than two (2) months from the month in which the change occurred. For purposes of calculating the claim, the local office shall assume that the change would have been reported properly and timely acted upon by the local office.
- If the household timely reported an increase in income but the local office failed to act on the change within the required timeframes, the first (1st) month affected by the local office's failure to act shall be the first (1st) month the office would have made the change effective had it acted timely. If a Notice of Adverse Action was required, the local office shall assume, for the purpose of calculating the claim, that the Notice of Adverse Action period would have expired without the household requesting a fair hearing.

IPV CLAIMS

Prior to a waiver or consent agreement being signed, or the determination of IPV/fraud through an ADH or court of appropriate jurisdiction, the claim being pursued as an IPV claim shall be established and pursued as an IHE claim.

For each month that a household received an over-issuance due to an act of IPV/fraud, the local office shall determine the correct amount of SNAP benefits, if any, the household was entitled to receive. If the household member is determined to have intentionally failed to report a change in its household's circumstances, the claim shall be established for each month in which the failure to report would have affected the household's SNAP allotment. Once the amount of the IPV claim is established, the local office shall offset the claim against any amount of lost benefits that have not yet been restored to the household.

In cases where a household member was found guilty of fraud by a court of appropriate jurisdiction, the local office should request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and recipient.

In cases where a claim starts as an IHE but has been re-established as an IPV, it is necessary to code the claim as an IPV when completing the FS-36A.

NON-SYSTEM DETERMINED CLAIMS (NSDC)

NSDC is a manual data entry process to claim back overpayment of benefits that needs to be completed if CBMS does not create a claim automatically due to data entry or system issues.

An NSDC is necessary when an overpayment occurs for reasons which may include, but are not limited to:

- CBMS did not produce a system-determined claim.
- CBMS did not produce the claim for all months that should have been included.
- CBMS did not correctly lump months together.
 - For example, two claims are created in CBMS (one under threshold and one above threshold) for consecutive months: In this instance, both claims should be canceled and an NSDC should be created.
- EBT benefits were issued to the incorrect Social Security Number (SSN).
- SNAP QA has identified an overpayment through a case review and the overpayment cannot be created as a system-determined claim.

NOTIFYING THE HOUSEHOLD OF A CLAIM

Local offices shall initiate collection action on AE claims and IHE claims by sending the household a State-prescribed written demand letter for the over-issuance. The letter shall inform the household of its rights and responsibilities concerning repayment of the claim as well as providing information on the availability of free legal services. All households that owe a claim shall be sent a demand letter. If the claim or the amount of the claim was not established at a fair hearing, the local office must provide the household with a one-time notice of adverse action.

If the hearing official determines that a claim does exist against the household, the household must be re-notified of the claim. 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.

The local office shall mail the household an explanation of how the claim was calculated, showing each month and the cause for the claim. The State-prescribed form shall be used to determine and calculate the amount of the claim and to notify the household of the calculation. The form shall be mailed on a schedule that coincides with the mailing of the automated demand letter.

CLAIM CALCULATION FORM

The FS-14 form accessed through the Colorado Benefits Management System (CBMS) is the only state-approved claim calculation form for SNAP. The FS-14 shall be used to notify the household of the method in which the claim was calculated and the reasons contributing to the overpayment. The FS-14 screen must be completed manually in CBMS for each claim. The FS-14 shall be utilized to outline specific reasons or circumstances for the claim to help the household understand the debt. It is crucial to avoid jargon and acronyms. The FS-14 shall be mailed on a schedule that coincides

with 30 days of the automated demand letter.

DEMAND LETTER

The demand letter is a CBMS-generated notice. The date that the demand letter is sent is the date that the claim is considered established for tracking purposes. If the office receives an address determination on a delinquent debtor during the address request process for the 60-Day Notice for the Tax Offset Program (TOP), the local office should use that address to notify the client of the delinquent debt and pursue the TOP offset. However, if the address determination files reveal the debtor is deceased, a notice should not be sent because the address is no longer valid. At this point, the local office could terminate the claim unless the claim can be pursued against other liable debtors.

PAYMENT PLANS

Households participating in the program are subject to allotment reduction in accordance with Section 4.801.41.B. Allotment reduction must begin with the first allotment issued ten (10) calendar days after the demand letter is mailed.

When a household is subject to allotment reduction, then a repayment agreement is not necessary unless the household wants to make voluntary payments in addition to the allotment reduction or elects to make monthly payments in an amount greater than what would be repaid through allotment reduction.

If a household is not participating in the program, then the local office shall negotiate a payment schedule with the household for repayment of any amounts of the claim not repaid through a lump sum payment or through allotment reduction.

- Payments shall be accepted in regular installments.
- The household may use SNAP benefits as full or partial payment of any installment.
- The local office shall ensure that the negotiated amount of any payment schedule to be repaid each month through installment payments is at an amount that will ensure the claim will be collected within three years or is a minimum amount of \$50 a month. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged. However, both the local office and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changed enough to warrant such action.

CLAIM COMPROMISE

Per Food and Nutrition Service (FNS) guidance, a compromise should only be considered for non-participating households that are expected to make cash payments. Households participating in SNAP will have recoupments applied to their current benefit amount. Regulations dictate the percentages for administrative recoupment at a reduced rate to ensure households still receive an adequate amount of benefits each month. Since participating households are paying toward the claim through recoupments, the debt must continue to be collected upon in its entirety. Administrative recoupment does not take into consideration repayment within three years as the intent is to ensure that

households still receive an adequate amount of benefits each month.

Counties must follow SNAP CDHS claims compromise guidance and MAY NOT create separate claims policies.

The local office must use the Claims Compromise Calculator to determine if the non-participating household's economic circumstances reflect that the claim will not be repaid within three years.

- Consideration should be given to the future earning potential of the household over the next three (3) years to pay back the claim based on age, disability, and other household factors.
- The amount the calculator identifies as able to be repaid based on the current household circumstances is the amount the claim shall be immediately compromised to.
- If a delinquent household has already been referred to TOP for collection, the local office should not compromise the claim.
- All relevant details considered in the determination of the hardship must be completely documented in case comments.
- If, at a later date, the household indicates they are still unable to repay the claim, a compromise may be considered regardless of previous compromises.

Expenses outside of what is allowed in determining SNAP eligibility should not be considered when evaluating for hardship.

- Normal considerations when determining a household's economic circumstances:
 - Income - all earned and unearned income must be factored into the decision.
 - Expenses that are necessary for living such as rent/mortgage and required utilities such as heat/water.
 - Other bills or expenses that would be allowed when making a SNAP eligibility determination.
- Examples of considerations that should not be factored into the compromise decision:
 - Cable or subscription fees
 - Internet
 - Note: Internet expenses may only be considered in the compromise if the household is dependent upon internet for phone service. This is a rare circumstance which occurs only in very rural areas. If this consideration applies in the compromise determination, ensure that it is thoroughly documented.
 - Incurred high cell phone carrier plans and new phones
 - Credit card bills and minimum payment amounts
 - Loan payments on vehicles, higher education, or unnecessary medical bills such as braces.

The full amount of the claim, including any amount compromised, may be used to offset restored benefits. Benefits issued in the current month are not to be regarded as restored benefits. Restored benefits are benefits issued to correct previous month's

allotments. A local office may not offset claims against such issuances.

Compromise Examples

1. A household submits a request for a hardship compromise in repaying the \$3000 client error SNAP debt. They state they are unable to pay the claim due to loss of income and an overwhelming amount of bills. The submitted bills include internet, cable tv, car payment, outstanding credit card bill, mortgage, and insurance. What actions should the local office consider in this scenario?
 - If the household is delinquent and in TOP, do not compromise.
 - If the household is active on SNAP, do not compromise and allow administrative recoupment to start the debt repayment process..
 - If the household is not active but submitted a new application for assistance, await the outcome of the eligibility determination.
 - If not active on SNAP and if not recertified, request verification of allowable expenses and all income if you cannot use what was provided for the new application. Client statement is unacceptable.
2. A household submits a compromise request for their \$1500 agency error SNAP claim. They have cited that they are on disability and have multiple health issues that are chronic and most likely not curable. The household's rent just increased, and medication costs have increased as well due to the rising costs of healthcare. The household is on SNAP. What actions should the State consider in the scenario?
 - Allow administrative recoupment to continue, as it's already a reduced rate.
 - The local office should obtain documentation verifying these expenses to see if the increase in rent and medical deductions would increase the monthly SNAP allotment.
3. A household submits a compromise request for their \$3500 client error SNAP claim. They are not currently active on SNAP because they are over the income eligibility limits. However, the household is claiming that they cannot repay the overpayment due to high credit card bills, a car payment, and a rent increase from their landlord. The household is delinquent and has never submitted a repayment agreement. What actions should the State consider in the scenario?
 - Request verification of all income and expenses. Taking client statement would not be appropriate.
 - Has the household circumstances changed enough that they would be eligible for SNAP? If yes, recommend they reapply.
 - Is the debt delinquent and in TOP? If yes, let the debt go through TOP.
4. A household submits a compromise request for their \$4500 agency error SNAP claim. They are not currently active on SNAP due to being over income limits and turned in documentation to show that they are going through cancer treatments that make it impossible to work and have been making \$50 cash payments on the claim. The household would not be eligible for SNAP despite being unable to work at this time.
 - Request all documentation of income and expenses.
 - Request confirmation that they are unable to work.

- Determine what a reasonable monthly payment would be based on income, after taking into consideration all necessary living expenses (same expenses taken into consideration at eligibility).
- Calculate feasibility of repayment in the three-year timeframe - and reduce the claim down to that amount.
 - If the household's circumstances should change or they become active on SNAP, then the claim can be restored

4.801.4 COLLECTING PAYMENTS ON CLAIMS

LIABLE RECIPIENTS

All adult household members age eighteen (18) years or older at the time the overissuance occurred, sponsors, or other persons, such as an authorized representative who actually trafficked or otherwise caused an overpayment or trafficking to occur, that are connected with the household shall be jointly and severally liable for the value of any over-issuance of benefits to the household.

The local office has the authority to pursue disqualification of recipients regardless of whether they are currently participating in SNAP or not. If the local office has clear and convincing evidence that the recipient used SNAP benefits in a fraudulent manner, disqualification shall be pursued through administrative disqualification procedures or prosecution.

HOUSEHOLD MEMBER TURNS 18 DURING THE OVERPAYMENT PERIOD

If a household over-issuance spans a year during which a child becomes an adult, the now-adult child is liable for each month of over-issuance after they become an adult. The 18-year-old is a joint debtor only for the months in which they were aged 18 and onward. If the local office wishes to pursue allotment reduction against the household, they may calculate the reduction amount based on the entire household allotment, regardless of the age or current eligibility of individual household members.

DIVORCE DECREES

The judge's ruling that each of the former spouses pay half of the claim would stand and is not inconsistent with SNAP statute and regulations which require that each adult member of the household is jointly and severally liable for the claim. FNS' concern is that the claim gets paid and the judge in this case has ruled how that is to occur. The court usually enforces these collections.

DETERMINING DELINQUENCY

Claims shall be considered delinquent under the following circumstances:

- If a claim has not been paid by the due date on the demand letter or a satisfactory payment arrangement has not been made. The claim shall remain delinquent until payment is received in full, an allotment reduction is invoked, or a new repayment schedule is negotiated. The date of delinquency for such claims is the due date on the initial demand letter.
- If a satisfactory payment arrangement has been made for a claim and payment has not been received by the due date specified in the established repayment

schedule, the date of delinquency for such claims 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 demand letter. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or once the local office resumes or renegotiates the repayment schedule.

For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred twenty (120) calendar days.

Claims shall not be considered delinquent under the following circumstances:

- If another SNAP claim for the same household is currently being paid, either through an installment agreement or an allotment reduction, and the local office expects to begin collection on the claim once the prior claim(s) is settled.
- If collection is coordinated through the court system and the local office has limited control over collection action.
- If a household timely requests a fair hearing on the existence or amount of the claim and the local office suspends collection action pending a final agency decision. A claim awaiting a fair hearing decision shall not be considered delinquent.
- If the hearing officer determines that a claim does in fact exist against the household, the household shall be sent another demand letter. Delinquency shall be based on the due date of this subsequent demand letter and not on the initial pre-hearing demand letter sent to the household. If the hearing officer determines that no claim should exist, the claim shall be terminated and all collection activity ceased.

UNSPECIFIED JOINT COLLECTIONS

When an unspecified payment is received for both a public assistance and SNAP claim for which ORFI received only one hard copy referral or for two or more claims included on the same demand letter or billing statement, each program will receive its pro rata share of the amount collected if the debtor did not specify to which claim the amount was to be applied.

4.801.41 METHODS OF COLLECTING PAYMENT ON CLAIMS

LUMP SUM

The local office shall collect payments for total or partial payments of a claim in one lump sum if the household is financially able to pay the claim; however, the household shall not be required to liquidate all of its resources to make this repayment. If the household requests to make a lump sum cash and/or food benefit payment as full or partial payment of the claim, the local office shall accept this method of payment.

SNAP ALLOTMENT REDUCTION

CBMS will automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives unless 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. If the claim has multiple liable recipients who are now in separate households, CBMS will begin recoupment from each separate household. Allotment reduction will automatically occur if the recipient does not respond to the initial demand letter.

- Prior to allotment reduction, the local office will use CBMS to send a repayment agreement. The repayment agreement outlines the formula used to determine the amount of SNAP to be recovered each month, the amount of SNAP the local office expects will be recovered each month, and the availability of other repayment methods.
- The household's allotment will be reduced based on the recoupment amounts for each type of claim unless a payment schedule has been negotiated with the household.
 - For AE and IHE claims, the amount of SNAP to be recovered each month from a household shall either be ten percent (10%) of the household's monthly allotment or ten dollars (\$10) each month, whichever is greater.
 - For IPV claims, the amount of SNAP benefit reduction shall either be twenty percent (20%) of the household's monthly allotment or twenty dollars (\$20) per month, whichever is greater.

Benefits authorized for an initial month will not be reduced to offset a claim. Ongoing benefits will be recouped based on the above criteria.

PAYMENTS

- Agencies are not authorized to collect fees from participants for credit card payments on claims.
- A household may pay all or a portion of the claim by using benefits from its EBT account.
 - The office shall obtain written permission from the household to deduct benefits from the EBT account to pay a claim. The written agreement shall be obtained prior to removing benefits from the EBT account and shall include:
 - A statement that this collection activity is strictly voluntary;
 - The amount of the payment;

- The frequency of the payments (i.e., whether monthly or one time);
- The length of the agreement;
- A statement that the household may revoke this agreement at any time.
- If the household provides oral permission, the local office can make a one-time deduction from an active EBT account for a one (1)-time payment on the specified claim. The local office shall provide the household with a written receipt within ten (10) business days. The receipt shall contain the information used for an active EBT account and indicate that this is a one-time reduction.
- The local office may recover overpayments of public assistance benefits through the offset (intercept) of a recipient's state income tax refund.

TAX INTERCEPT PROGRAM

FEDERAL TREASURY OFFSET PROGRAM (TOP)

The TOP, including the Federal Salary Offset Program (FSOP), is a mandatory government-wide delinquent debt matching and payment offset system in which the Colorado SNAP Program participates. The TOP allows the collection of delinquent debts by intercepting any allowable payment from the federal government. Federal payments eligible for offset include federal income tax refunds, federal employee salary, federal retirement payments (including military), contractor or vendor payments, and federal benefits such as Social Security and railroad retirement.

A delinquent claim may be submitted to the USDA, Food and Nutrition Service (FNS) for the Treasury Offset Program (TOP). In order to submit a claim to the Federal Treasury Offset Program, the claim must be determined to be past due and legally enforceable. To determine that a claim is past due and legally enforceable, it must be determined that notification and collection attempts have taken place.

For purposes of the Federal Treasury Offset Program (TOP), a delinquent claim is one which is past due more than one hundred twenty (120) calendar days, as set forth in the United States Code regarding delinquent claims.

A claim is not considered delinquent if a fair hearing is pending concerning the claim, or the claim has either been discharged by bankruptcy or is subject to the automatic stay of the bankruptcy; or the claim is not considered delinquent as described within Section 4.801.4, E, 2.

TOP, including the Federal Salary Offset Program (FSOP), is authorized to apply a processing fee each time a successful offset for collection occurs. Federal payroll offices participating in the TOP process may add another separate processing fee. The delinquent SNAP debtor is responsible for the fee each time it is applied. A TOP offset taken in error and later refunded will have the processing fee refunded, except for partially refunded offsets.

At the time delinquent debts are sent to be certified by FNS to be intercepted by the Federal Treasury Offset Program, all delinquent debts for each recipient are sent at one time. Prior to a claim being certified to the Food and Nutrition Service as a debt owed to the local office, the recipient shall be mailed an offset notice. The notice shall provide the following information:

- The local office has documentation that the recipient identified with his or her Social Security Number (SSN) is liable for the specified unpaid balance of the claim; and
- The recipient has been notified about the claim and prior collection efforts have been made. The claim is past due and legally enforceable. All adults are liable for the overpayment of SNAP if they were household members when the SNAP benefits were over-issued. False statements concerning such liability may subject recipients to legal action (see Section 4.801.4, A); and,
- Debts over one hundred twenty (120) days delinquent are to be referred to the Treasury for an administrative offset. The local office intends to refer the claim within sixty (60) days of the date of the notice unless the recipient makes other repayment arrangements acceptable to the local office; and,
- Instructions on how to pay the claim, including the name, address, and telephone number of a person in the local office who can discuss the claim and the intended offset with the recipient; and,
- The recipient is entitled to request a review of the debt's eligibility for referral to TOP. Individual review requests must be honored, regardless of whether they are received after the deadline requested. Claims that are currently under review will not be referred for the tax intercept.
- The notice shall include all claims for the household that are to be certified to TOP.

The recipient should contact the local office if he or she believes that a bankruptcy proceeding prevents the collection of the claim or if the claim has been discharged in bankruptcy.

In some circumstances, the married recipients may want to contact the IRS before filing his/her income tax return. This is true if the recipient is filing a joint return and his or her spouse is not responsible for the SNAP claim and has income and withholding and/or estimated federal income tax payments. In such cases, the spouse may receive his or her portion of any joint return based on procedures prescribed by the IRS.

A federal employee may have his or her net disposable pay subject to garnishment under the offset. The Treasury may garnish up to fifteen percent (15%) of the net disposable pay. A federal employee may petition for a hearing only at the federal level to dispute the existence or the amount of the claim. The hearing occurs after the review period at the state level and the subsequent submission to the Treasury as a valid offset.

The Office of Appeals within the Colorado Department of Human Services will review the proposed offset. The Office of Appeals shall find that the claim is past due and legally enforceable unless the household can provide documentation to show:

- The claim is not delinquent or was already paid, and the recipient provides proof

of payment.

- The recipient is not the person that is liable for the claim.
- A bankruptcy action prohibits collection of the claim because the automatic stay under Section 362 of the Bankruptcy Code is in effect with respect to the recipient or his or her spouse, or that the claim was discharged by a bankruptcy proceeding.
- There is some other reason that the claim is not delinquent or is not legally enforceable.

The decision by the Office of Appeals will be issued by means of written findings regarding the review. The written findings shall include notice to the recipient who requested the review regarding the following:

If the Office of Appeals determines that the claim is past due and legally enforceable:

- The recipient shall be notified that the claim will continue to be referred for the offset; and,
- The recipient is entitled to have the Food and Nutrition Service (FNS) review the Office of Appeal's decision. FNS must receive a request to do so within thirty (30) calendar days after the date of the local office's notice of review decision. A request for FNS review shall include the recipient's SSN. The notice shall also provide the address of the regional office including the phrase "Tax Offset Review" in the address.
- If the Office of Appeals determines that the claim is not past due or legally enforceable, it shall notify the recipient and the local office that the claim will not be referred for the offset.
- While the Office of Appeals or FNS is conducting a review of the debt, the debt is not eligible for referral to TOP.

A TOP claim must be delinquent in order to be submitted to TOP, and a claim cannot be considered delinquent if the household is paying on any claim -- even if it is a separate claim in a separate state. If there were two or more adult household members in the previous state's case, and all those members constitute the same household in the gaining state, all adults being recouped in the new state cannot be referred to TOP for claim collection. However, if any of the liable household members are not in the new state and are not included in the case where recoupment is taking place, those members could be submitted to TOP for collection of the claim in the previous state. State and Federal SNAP staff have no control over the order in which the Treasury offsets or collects debt. A local office's only requirement is to submit the debt in accordance with claims and TOP regulations and that is, again, once it reaches delinquency. Once a debt is submitted to TOP, the priority of collection is at the discretion of the Treasury, based on their rules, with Federal debt at the top of the list for collection.

PURSUING OTHER COLLECTION ACTIVITIES

The local office 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. Counties should not pursue additional collection actions against participating households that are paying off a claim through recoupment. Current regulations do not expressly permit a local office to charge the household fees when a claim is brought to small claims court. However, if as a part of the court's judgment against a client, the court assesses fines, fees, court costs, etc., this would be regarded as a matter solely between the client and the court.

Releasing information to credit bureaus about SNAP debts that have not been the subject of litigation is prohibited.

4.801.42 CRITERIA FOR SUSPENDING COLLECTION ACTION

The provisions within this section apply to AE claims, IHE claims, and IPV claims unless otherwise stated.

- Collection action on a claim shall be suspended only under the following circumstances:
 - A court decision postpones collection activity for a period of time.
 - A non-participating household's address is unknown and the local office is pursuing an updated address. The claim should not be suspended for longer than six (6) months of no response. After the six months the claim should be terminated as the household members can not be located, as long as the claim has been previously sent to TOP.

4.801.43 CRITERIA FOR TERMINATING COLLECTION ACTION

A terminated claim is a claim in which all collection action has ceased and is no longer considered a receivable subject to continued Federal and state/local office collection and reporting requirements.

A claim should be terminated in the following situations:

- When an AE or IHE claim becomes part of a founded IPV, the local office can terminate the initial claim and establish the claim anew as an IPV.
- The claim has been delinquent (has no payments or treasury offset) for three or more years. Prior to terminating such a claim, it must be submitted for federal offset.
- The claim has been found to be invalid by an administrative fair hearing decision or a court determination.
- All adult members are deceased and the local office is not pursuing collection from the estate. Any decision on whether or not to pursue collection action should be made on a case-by-case basis depending on the amount of the claim, the resources of the estate, and the cost-effectiveness of pursuing collection.
- The claim is twenty-five dollars (\$25) or less and delinquent for ninety (90) calendar days.
- The household members can not be located.

Voluntary payments from a household on a terminated claim should not be accepted and do not reactivate the claim. A terminated claim cannot be reactivated to pursue collection.

Claims that are found to be invalid shall not be terminated but shall instead be canceled (discharged).

4.801.5 CLAIMS DISCHARGED THROUGH BANKRUPTCY

IPV claims tied to an actual determination of fraud through either an ADH or a court hearing cannot be discharged through bankruptcy. If a recipient signs an ADH waiver and admits to committing fraud or guilt when accepting the disqualification, the IPV claims cannot be discharged through bankruptcy. If the recipient signs the ADH waiver without admitting to fraud or guilt, there is no actual determination of fraud and the IPV claim may potentially be dischargeable through bankruptcy. Debts involving fraud are not dischargeable in either a Chapter 7 or Chapter 13 bankruptcy proceeding.

IHE and AE claims are eligible to be discharged through bankruptcy. If the local office receives information that an eligible claim is subject to a bankruptcy proceeding, the local office shall use CBMS to update the status of that claim from “Active” or “Open” to “Suspended.” If the local office has any doubt about the status of the filing, they should consult the appropriate court. The local office should advise the court about the circumstances of the claim, especially whether it is an IPV claim. Upon receiving information that the claim has been discharged through bankruptcy, as long as there are no other liable recipients excluded from the bankruptcy proceedings, the local office shall use CBMS to terminate the claim.

Local offices/counties shall act on behalf of and as an agent of, FNS in any bankruptcy proceedings against bankrupt households owing SNAP claims. Local offices shall possess any rights, priorities, liens, and privileges and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, local offices shall have the power and authority to file objections to discharge proof of claims, exceptions to discharge, petition for revocation of discharge, and any other documents, motions, or objections that FNS might have filed.

FEDERAL BANKRUPTCY AND TOP OFFSET

US Bankruptcy Courts are technically a part of the US Federal District Courts. Thus, Federal bankruptcy law applies, which is statutory and would always preempt FNS regulations, unless there was direct and explicit statutory authority supporting the regulation. Non-IPV SNAP debts are dischargeable in bankruptcy. It is assumed that the bankruptcy action here is a Chapter 7, as opposed to a Chapter 11 reorganization of the bankrupt’s debts. In Chapter 7, all debts (proper under the Bankruptcy Code) are discharged. All Federal payments and offset claims against the debtor in bankruptcy should either halt or go to the bankruptcy trustee once the automatic stay goes into effect (i.e. the bankruptcy petition is filed).

4.801.6 INTERSTATE CLAIMS COLLECTION

The local office/agency is responsible for initiating and continuing collection action on any SNAP recipient claim regardless of whether the household remains in the “home” state or county.

There are three methods of collecting “out-of-state” IPV claims. Two of the methods involve transferring collections to a new state of residence.

- The Disqualified Recipient Subsystem (DRS) could be used to facilitate transfers of IPV claims. Under DRS, counties will have access to contacts in the original state(s) of residence for obtaining verification of disqualification. Those contacts could also provide documentation about the associated claim, which would enable the new states of residence to recoup claims not otherwise collected.
- The Federal income tax refund intercept program provides a means for counties to collect IPV and IHE claims from recipients who live anywhere in the United States and who have recently filed a Federal income tax return.
- “Piggy-backing” on DRS, arrangements between neighboring states to share claims information, and tax intercept/salary offset are cost-effective ways to collect out-of-state claims.

If the amount of the claim was established at a hearing in the other state, the household is not entitled to another hearing on the claim amount again in the new state. If the claim amount was not established at a fair hearing in the other state, the household would be entitled to a hearing in the new state. When obtaining the claim information from the other state, the new state/local office should also obtain any information on whether or not there was a fair hearing and if the claim amount was addressed. If more than 90 days have lapsed since the household received the demand letter for collection in the first state, a fair hearing would not be granted in the new state/local office. If the amount was never established at a hearing in the other state, the hearing in the new state would be based on the claim amount, not the fact that the claim was transferred.

Similarly to state transfers, when a household moves from one county to another, the debt is still a debt owed through the state of Colorado and the claim must be collected. Counties must work together to ensure all claims are collected.

Whatever method is used, ensure that the claim does not get over-collected.

No local office may suspend, compromise or terminate benefits from a Federal benefit program or take other adverse action without independently verifying the information, notifying the recipient of its findings, and waiting for the expiration of any time period established for the Federal benefit program for the recipient to respond to that notice.

4.801.7 LOCAL OFFICE RETENTION OF RECOVERIES

Counties may retain twenty percent (20%) of collections from IHE claims and thirty-five percent (35%) of collections from IPV/fraud claims. The total amount of collections from AE claims is retained by the USDA, Food and Nutrition Service.

Regulations prohibit the local office from assessing charges against households for interest and administrative costs on recipient claims.

Recipient claims cannot be increased or modified to cover collection agency costs. Therefore, a local office cannot add the collection fee to the overpayment amount already set against the household.

In cases where the court has found a recipient guilty of an IPV for buying/selling benefits, any court-ordered payments (reimbursements, repayments, restitution, fines, etc.) should be handled in the same way as any other claims collection. Even though the local office has not 'lost' money through the violations and a claim is not established against the household, the court action represents a claim (debt) against the household.

4.802 APPEAL PROCESS

CONTINUATION OF BENEFITS PENDING FINAL AGENCY DECISION

Households requesting a SNAP appeal may be entitled to continued benefits. Requirements surrounding continued benefits are more explicitly described at 4.802.2. If the local office action is upheld by the court decision, a claim shall be established against the household for all over-issuances. This includes over-issuances due to the household receiving a continuation of benefits that the household was determined not eligible to receive. Such claims shall be classified as IHEs. Such over-issuances are not subject to the thresholds outlined in this handbook.

4.803.1 DOCUMENTATION AND REPORTING REQUIREMENTS

The FS-36A is a report for all local office-level founded fraud, including claims where applicable. The FS-36A is due every quarter. It is housed within CBMS. Each local office must ensure that a timely, accurate FS-36A is submitted within CBMS each quarter.

The FS-36A informs a Federal report, the FNS366B, completed at the State level. The FS36A Report Summary page can be found on the left-hand navigation menu within the Benefits section under the heading “Recovery Reports.” Local office workers with “IPV Update” access have the ability to work on the current quarter, view the data for the previous quarters, and may work on more than one quarter at a time by switching between quarters.

CASE FILE RETENTION

The local office shall retain all Program records in an orderly fashion for audit and review purposes for no less than 3 years from the month of origin of each record. In addition: The local office shall retain fiscal records and accountable documents for 3 years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the Federal government have been liquidated. Administrative closure means that the local office has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include but are not limited to, claims and documentation of lost benefits.

Case records relating to IPV disqualifications and related notices to the household shall be retained indefinitely until the local office obtains reliable information that the record subject has died or until FNS advises via the disqualified recipient database system that all records associated with a particular recipient, including the disqualified recipient database record, may be permanently removed from the database because of the recipient’s 80th birthday.

Disqualification records submitted to the disqualified recipient database must be purged by the local office that submitted them when the supporting documents are no longer accurate, relevant, or complete. The local office will need to retain all disqualification documentation that supports the records that have been or will be electronically submitted to DRS as long as such records are accurate, relevant, timely, and complete.

Counties will contact other states to verify the information in the eDRS database. Counties need to retain any case file records that substantiate either pending disqualifications or disqualifications that are being or have been served.

This would include documents such as, but not limited to:

- signed DCAs
- court determinations
- signed waivers waiving the right to an ADH
- a hearing authority's decision
- notification of disqualification