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4600.00.00 BENEFIT RECOVERY

This chapter presents policy and procedures on the following:

- Identifying Over-Issuances (Section 4605);
- Types of Over-Issuances (Section 4610);
- Time Limits for Over-Issuance Referrals (Section 4615);
- Over-Issuance Calculation (Section 4620);
- Official Determination of Fraud (Section 4625);
- Persons Responsible for Repayment (Section 4630);
- Cancelling a Claim (Section 4635);
- Initiating Collection Action (Section 4640);
- Recovery Methods (Section 4645);
- Transmittal of Repayment (Section 4650);
- Ending Collection Activity (Section 4655);
- Tracking IPV Disqualifications (Section 4660); and
- Footnotes for Chapter 4600 (Section 4699).

4605.00.00 IDENTIFYING OVER-ISSUANCES

The claims process begins with the identification of an over-issuance.

An over-issuance exists when an AG:

- received benefits it was not eligible to receive

- received benefits in an amount greater than it was eligible to receive or,
- for SNAP only, when any benefits were trafficked.

Trafficking is defined in 7 CFR 271.2.

The source of the identified discrepant information could be from:

- An untimely reported change;
- Information from individuals inside/outside the AG;
- Workers review of Data Exchanges
- Fair hearing decision;
- Quality Control (QC) referral;
- Management Evaluation (ME) review;
- Compliance Division referral
- Central Office referral; or
- Reports made by other individuals

Over-issuances may also occur when:

- Action on a reported change was not implemented or was not implemented timely;
- Data is entered incorrectly;
- Errors are made in benefit calculation;
- Continued benefits received after the release of a hearing decision; or
- Failure to implement a change in regulation.

4605.05.00 Eligibility Worker Responsibilities

When a possible over-issuance is identified, the eligibility worker must enter a Benefit Recovery Referral and record the following information in comments.

- The cause of the over-issuance;
- How the over-issuance was discovered;
- The date the agency became aware of an over-issuance;
- The recipient(s) involved;
- The date the income or change started and/or stopped;
- The estimated length of over-issuance;
- Any explanation given for failure to provide information accurately or in a timely manner;
- Corrective action taken and the date such action was taken; and
- In instances involving misuse of SNAP benefits or EBT cards (the dates and source of the referral must be recorded).

If possible fraud is suspected, a suspected fraud task should be created in lieu of a referral.

When notified that attendance is required, prepare for appearance in court, a fair hearing, or for SNAP and TANF, an Administrative Disqualification Hearing (ADH).

4605.10.00 Benefit Recovery Unit Responsibilities

The Benefit Recovery (BV) unit is responsible for:

- the establishment of all over-issuance claims;
- the maintenance of the claim including repayment agreements and methods of repayment;

- Representing the state in hearings/court related to claim issues;
- Gathering evidence and preparing over-payments for possible fraud determination;
- Maintaining the Fraud Tracking System;
- Closing and terminating claims as needed;
- Working as a liaison between financial management, central office, compliance division, and other out of state and in state agencies; and
- Other duties related to claims and fraud investigations.

4610.00.00 TYPES OF OVER-ISSUANCES

An over-issuance must be classified as:

Agency Error;
 Inadvertent Household Error;
 Intentional Program Violation (fraud); or
 Any combination of the above.

In addition, there is one sub-type, PPV (Pending Program Violation). This type is used for SNAP when the claim is scheduled to go for an Administrative Disqualification Hearing, or to the county prosecutor.

4610.05.00 Agency Error Definition

An Agency Error (AE) claim is any claim for an over-payment caused by an action or failure to take action by the Division of Family Resources.

An agency error over-issuance can occur as a result of:

- A misapplication of policy;
- A calculation error;
- A computer processing error;
- Failure to take prompt action on available information;
- Some other error over which DFR has control.

4610.05.05 Agency Errors Not Requiring A Referral (S)

A claim will not be established for the sole reason that the agency failed to ensure that an AG:

- Signed the application form;
- Completed a timely review; or
- Was asked to provide a required form for completion.

**4610.10.00 Inadvertent Household Error/Client Error
Definition (S,C)**

Inadvertent household error is an over-issuance caused by a misunderstanding or an unintended error on the part of the AG. A TANF error of this type is coded client error (CE) and a SNAP error of this type is coded inadvertent household error (IHE).

For TANF or SNAP, a claim in which fraud is suspected is categorized as a client error until a fraud finding is established by an administrative hearing decision, a signed waiver, or a court of appropriate jurisdiction.

An inadvertent household/client error can occur as a result of:

- AG failure to provide correct or complete information;
- AG failure to report required changes in the AG's circumstances; and
- AG receipt of benefits (or more benefits than it was entitled to receive) pending a fair hearing decision.

4610.15.00 Pending Program Violation Definition (S)

The pending program violation code (PPV) is used for the SNAP program only. This code is only used for claims where a fraud determination is pending through an Administrative Hearing Decision, a Waiver to the Administrative Hearing, or a court decision. Claims should only be opened with a

PPV error code if an Administrative Hearing has been requested or a Waiver to the Administrative Hearing has been sent.

**4610.20.00 Intentional Program Violation (Fraud)
Definition**

An Intentional Program Violation (IPV)/fraud is the act of:

- Deliberately, intentionally making a false or misleading statement, or

Misrepresenting, concealing, or withholding facts from the agency for the purpose of establishing or maintaining benefit eligibility or increasing or preventing a reduction in the amount of the benefit. (f2)

Suspected fraud over-issuances can occur as a result of the AG:

- Misrepresenting information;
- Concealing information;
- Withholding information pertinent to determining eligibility, including untimely reporting;
- Failing to report a change in order to continue to receive benefits for which the AG was not entitled; or
- Intentionally altering or changing documents to obtain benefits to which the AG was not entitled.

A SNAP IPV may also exist if the AG:

- Intentionally used EBT card to buy nonfood items (such as alcohol, cigarettes, drugs, weapons, ammunition or explosives);
- Intentionally used or possessed improperly obtained EBT card;
- Intentionally traded or sold EBT SNAP benefits for cash or consideration other than eligible food. (This is client trafficking); or

- Committed any act that constitutes a violation of SNAP regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.

Fraud is a matter of legal determination. An IPV or fraud determination must be made through court action or an Administrative Disqualification Hearing (ADH) or a signed ADH waiver. For lengths of disqualification, refer to Section 4625.15.10 for SNAP penalties and Section 4625.15.15 for TANF penalties.

4610.20.05 Deterrents Against Fraudulent Activity

Fraud is deterred by use of the following in the application/interview process:

- Careful explanation of all eligibility requirements and rights and responsibilities to applicants/recipients;
- Diligent use of collateral contacts and other sources of information;
- Verification of facts;
- Alertness to conflicting/questionable information as provided by the client or misunderstanding by client of policy and verification requirements;
- Follow-up investigations where indicated.

4610.20.10 Identification of Possible Fraud

A suspected fraud task must be created if an eligibility worker observes signs of possible fraudulent activity such as:

- Questionable information being provided that cannot be successfully verified;

- Expenses exceeding income that cannot be explained/verified;
- Reluctance to provide needed information about income and/or resources;
- Unexplained and continued refusal to have certain pertinent references or relatives contacted; or
- Complaints or remarks of other persons.

Pending fraud investigations should never be discussed with the client.

4610.20.15 Investigation of Possible Fraud

The investigation must be conducted in such manner that:

- The legal rights of the AG are preserved;
- The privacy of the home is not invaded without consent;
- Search and seizure are not committed;
- The AG's right to due process of law is protected;
- The right to legal counsel is not obstructed; and
- Confidential information is used only for the administration of assistance.

If the results of the investigation indicates a basis for suspected fraud, the period of time during which it is believed that the AG fraudulently obtained assistance is to be made a part of the record.

The CODY system is to be used to record all investigations for all programs. All suspected fraud tasks, and benefits recovery referrals that result in suspected fraud, and referrals to the Bureau of Investigation must be entered in the CODY system as well. CODY cases must be maintained as case activity takes place.

4610.20.20 Evidence Used to Substantiate Fraud

Evidence to prove intent to fraud and the allegations regarding the specific fraud must be gathered and presented to support the case and use in calculating a possible over-issuance amount.

Evidence for intent can include such things as:

- Signed application;
- Rights and responsibilities;
- Interim contact form;
- Change form;
- Other verified instances of changes that effected eligibility.

To support the particular allegations of fraud a worker should include such things as (but not limited to):

- Verifications of income or resources from the source of the income or resource;
- Written records, statements or verbal testimony; or
- Recorded telephone calls to the agency or documentation of visits during which time the client had opportunity to report changes.

4615.00.00 TIME LIMITS FOR OVER-ISSUANCE REFERRALS (S)

For agency error (AE) and inadvertent error (IHE) cases, a Benefit Recovery referral will be made when the agency becomes aware that a potential over-payment has occurred.

An AE or IHE claim may go back 36 months or to the beginning of the over-payment, whichever is less.

An IPV claim must go back 72 months or to the beginning of the over-payment, whichever is less. (f7)

4615.05.00 Time Limits For Over-Issuance Referrals (C)

A Benefit Recovery referral will be made to recover any TANF over-issuance identified when:

- The AG or any member of the AG is ineligible for any payment month; or
- A benefit reduction would have occurred had a change of circumstances been appropriately and timely budgeted.

4615.10.00 Time Standards For Initiating Recovery

For SNAP and TANF, claims must be established (opened) by the end of the quarter after the quarter in which the claim was discovered. If there is a delay in the ability to establish the claim within the preferred timeframe, the claim **will still** be established.

The discovery date is separate and distinct from the referral date, and how the date is determined is defined below:

Claim Type	Discovery Date
Agency Error	Date documentation is received by DFR that verifies an overpayment exists
Inadvertent HH/Client error	Date documentation is received by DFR that verifies an overpayment exists
Pending Program Violation	Date documentation is received by DFR that verifies an overpayment exists
Intentional Program Violation	Date of the court judgment, ADH decision, or signed waiver.

Note: A claim is considered "open" when the client has been notified of the overpayment.

Example: A new hire data match dated 4/9 was received for the client. Verification of employment was requested per policy and was returned to DFR on 4/28. The documentation verified that employment began 1/3, and the client was over

the gross income limit in January. This change was not reported on an Interim Report received 2/2. The claim would be calculated using 4/28 as the discovery date and the claim opened as type PPV. An Administrative Disqualification Hearing decision was received on 12/3, indicating an IPV. The discovery date would then be changed to 12/3 per the IPV rules for discovery date and thorough case notes would be used to explain the change in discovery dates.

4615.15.00 Pending Claim Referral Time Priorities

A QC pending claim referral is to be completed within 30 days of the assignment **if possible**. All months affected by the QC discrepancy must be reviewed and included in the claim or restoration. The discovery date is per the rules above for AE, IHE, and PPV claim types. The remaining pending claim referrals will be worked per business rules, always working referrals on any open cases before those referrals on closed cases.

4620.00.00 COMPLETING THE BENEFIT RECOVERY REFERRAL

If it is discovered that an over-issuance has been made within the time frames noted in 4615.00.00, the eligibility worker is to complete the Benefit Recovery Referral including comments. Refer to Section 4605.05.00.

4620.05.00 Assigning the Referral to the Benefit Recovery Worker

After a Benefit Recovery referral has been made, a task is generated to the Benefit Recovery Unit. All claim referrals are to be assigned to a Benefit Recovery Worker within ten working days of the referral date.

4620.05.05 Over-Issuance Calculation

The BV worker is to complete a budget for each month an over-issuance is identified using the claim calculator. Calculations to determine over-issuances must be in accordance with eligibility requirements and budgetary procedures and allowances in effect at the time of the

over-issuance (not at the time of discovery and computation).

4620.05.05.05 Determining the First Month of Over-Issuance (C)

The determination of the first month of over-issuance is based upon:

- when the AG had knowledge of the change; and
- the eligibility worker's requirement to act upon reported information.

The first month of the claim will be the first of the month following the 36th day after the date the AG had knowledge of the change. The reason for this is as follows:

- 10 days for client to report change;
- 13 days for eligibility worker to act upon change; and
- 13 days for the mailed adverse action notice.

For employment, the date of knowledge is defined as the first day worked.

EXAMPLE :

Client began employment on July 15th and the 36th day would be August 20th, so the first month of the claim would be September 1.

Exceptions :

- If the client withholds information or gives erroneous information at the time of application the claim starts with the month of award.
- In situations where a member of the AG begins receiving benefits which they are not allowed to receive while receiving TANF (SSI, Foster Care, Adoption Assistance, Assisted Guardianship, Child Support), change processing time frames do not apply, and the claim would start with the first month benefits were received (in the case of child support, it would only affect months after the conversion date).

**4620.05.05.10 Determining The First Month Of Over-Issuance
- Simplified Reporting (S)**

The simplified reporting waiver allows for simplified reporting households (which is all SNAP households in Indiana) to report when the household income exceeds the Federal Poverty Level for their household size within ten days after the month in which the change occurs. Therefore, if the change is reported by the 10th day of the following month, no error or inadvertent household error claim will be involved.

EXAMPLE :

Client gets a raise on July 1 that will take effect the next week. She calculates that the raise will not put her over the 130% FPL. With the raise comes an increase in hours worked, so that at the end of August she adds up her gross pays and she is over the 130% FPL. If she reports this by the 10th of September, there is no error and no claim even though she knew of the raise on July 1 and even if the verification does not arrive in time to make the budget change until after adverse action for October.

A claim will not be established for the reason that the AG failed to report a change that it was not required to report. However, all reported changes, including those received via interface or other sources than the client's self-report must be worked. Failure to act timely on any reported change may result in an agency error.

In the situation where the income over 130% was not reported and the income fluctuates over and under the limit in succeeding months, a claim must be done for all months, using actual income, so that some months have decreased benefits and some months may have total ineligibility.

Exception: If the client withholds information or gives erroneous information at the application or redetermination interview, the claim starts with the beginning of the new certification period, whether or not it is 36 days later. If information is withheld from the Interim Report, the claim starts with the effective date of the Interim Report.

4620.05.10 Total Ineligibility

Failure to meet certain eligibility requirements will render an AG totally ineligible, thus negating the necessity for individual monthly calculations. These eligibility factors are:

- State residency;
- Excess resources;
- Excess gross income;
- Duplicate participation of an AG;
- Entire AG made up of ineligible aliens and/or ineligible students or individuals who fail to comply with SSN requirements;
- AG's refusal to provide requested information/verification (use Form 2244) concerning AG composition, income, or resources. Note: if the verifications are received by the 90th day from the mailing of the BV01, the claim should be re-calculated using actual information.

4620.10.00 Determining the Amount of Over-Issuance (S)

General procedure:

1. Eligibility factors that require individual monthly budgetary calculations to determine eligibility and allotment amounts will be figured off line.
2. If an over-issuance was caused by the AG's failure to report income, the worker will not include any newly reported deductions from that income such as dependent care.
3. 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.
4. Benefits are considered "issued" when posted to the EBT account.
5. Expunged benefits are not considered in the claim.

Recalculation by Element:

Household Composition other than ineligible member (including reclassification of AG members to non AG members):

- Add or subtract the individual from the AG.
- Add or subtract resources owned by the individual.
- Add or subtract the income of the individual. Certain income, such as child support, will normally remain with the payee, so if a child is removed, it must be verified who is now receiving the child support.
- Add or subtract expenses billed to the individual. Certain deductions, such as shelter, will normally remain as an AG expense even though they were billed to/paid by an individual who leaves the AG.

Household Composition - Ineligible Member due to IMPACT sanction or IPV disqualification:

- Subtract the individual from the AG size.
- Retain income, resources, and expenses of disqualified member. Recheck gross/net income limits based on revised AG size.
- Determine the AG totally ineligible if it fails the gross/net income test.
- Determine the corrected allotment if the AG passes the gross/net income tests.

For other ineligible members (SSN, non-compliance and ineligible aliens):

- Subtract the member from AG size. Retain their entire resource amount.
- Recalculate the gross income.
- Recalculate the net income prorating the ineligible member's income/expenses.

- Determine the corrected monthly allotment if the AG passes the gross/net income limits.

Income:

- Include actual TANF benefits received, even if there will be a TANF overpayment also.
- Compute correct actual gross income. Actual unconverted income for the month of claim is used if this income is the reason for the claim. Reported income or other elements do not need to be re-verified or re-calculated using actual amounts.
- Determine if the AG is gross income ineligible and therefore over-issued the total allotment.
- Determine correct net income, if the AG is not gross income ineligible. Do not apply the 20% 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.
- Determine the corrected allotment if the AG is net income eligible.

Deductions:

- Replace the previously used deduction with the correct figure only if the deduction is part of the reason for the claim. If that is not so, there is no need to re-verify this figure. Keep in mind that an unreported deduction from unreported income is not allowed.
- Recalculate the net income based on the changed deduction. The actual deduction for the month of the claim is used. Deductions paid weekly or biweekly are not converted to a monthly amount.
- Determine if the AG was over the net income limit.
- Calculate the correct allotment if net income eligible.
- AGs will be allowed the standard deductions in effect during the over issuance month.

- Dependent care and medical expense deductions that were previously verified are to be included in calculating the budget provided that the verification for these is recorded.
- The BV worker is not required to re-verify all factors pertaining to the household, only the discrepant data that the worker becomes aware of due to the circumstances regarding the claim.

4620.10.05 Determining the Amount of Over-Issuance From DWD Data Matches (S)

Unreported earnings that are identified by a data match with the Department of Workforce Development (DWD):

- Form 54455 should be sent to the client;
- Provide a 30 day period in which to provide verification of the earnings from the identified source;
- Advise client that if a response is not received, the agency will calculate and open a claim using the information available;
- The client is solely responsible for obtaining the wage information;
- The 10-13-13 rule does not apply in this process;
- If client fails to respond within 30 days, the agency will calculate the over-issuance by dividing the quarterly wage data into three equal parts and multiplying each by 30 percent;
- The above calculation approximates the SNAP allotment method used to calculate benefit amounts. This will be used as the over-issuance amount, but must not exceed the actual issuance amount.

Example:

Quarterly Wages = \$2550.00 ÷ 3 = \$850.00 X 30% = \$255.00

\$255.00 is the amount of the over-payment. The client received \$367.00 each month, so the corrected benefit amount would be \$112.00 so the overpayment amount = \$250.00 for each month of the quarter.

4620.10.10 Determining the Amount of Over-Issuance in Trafficking-Related Claims (S)

"Trafficking" means the buying or selling of SNAP or other benefit instruments for cash or consideration other than eligible food. Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by a signed waiver of ADH or an ADH or court decision. The claim is not established unless and until a decision of trafficking for a specific amount has been made.

4620.15.00 Claim Thresholds (S)

In order to process claims faster and more efficiently, over-payment referrals on claims for SNAP non-recipients:

- may be cancelled if the claim will be under \$125.00.

Overpayment referrals on claims for SNAP recipients:

- may be cancelled if the claim will be under \$75.00.

At any point the BV worker determines the claim will be under the threshold, the BV worker may cancel the claim referral.

Exceptions to the claim referral thresholds:

- All QC overpayments are to be established without regard to thresholds.
- Effective 10/19, any case reviewed by Quality Control that incurred an error between \$1 and \$37 should also have an overpayment or under-issuance established without regard to thresholds.
- A claim of any amount (even zero) may be referred for an Administrative Disqualification Hearing (ADH) because IPV disqualifications are a deterrent to future fraud attempts. (f10)

4620.20.00 Agency and Inadvertent Error in Same Month

In the event that both an agency error and inadvertent household/client error are identified within the same month, the steps below must be taken. If an IPV existed

within the same month as an IHE/CE and AE, the IPV would be calculated in the same manner after the IHE/CE.

- Secure the actual calculations for the month of possible over-issuance.
- Determine the eligibility/allotment after correcting only on the factors which were agency error(s).
- Determine the total over-issuance caused by agency error (step 1).
- Use the recalculated budget which contains the corrected agency error information and recalculate that budget using the information which was originally incorrect due to Inadvertent Household Error (IHE)/Client Error (CE) or Intentional Program Violation (IPV) (step 2).
- Compare the allotment/benefit recalculated in step one to the allotment/benefit recalculated in step two. The difference will be the amount of over-issuance used to calculate an IHE/CE/IPV claim.

NOTE: The total over-issuance due to AE, IHE/CE or IPV error cannot exceed the actual amount originally issued.

4620.25.00 Categorically Eligible AGs With Over-Issuances (S)

AGs cannot be retroactively determined to be not categorically eligible for SNAP.

If it is determined that the entire AG was not eligible for TANF or included as a member of the TANF AG (see Section 2414.10.05) or SSI for a period of time when the AG was receiving SNAP as a categorically eligible AG, a determination of the reason the AG was ineligible for TANF or SSI needs to be made. If the AG received an over-issuance during this period because a change that was required to be reported occurred in AG composition or income and was not reported or reflected in the budget calculations, a claim may exist.

4620.30.00 Determining the Amount of Over-Issuance (C)

The agency is to recover any over-issuance identified when:

- The AG or any member thereof is ineligible for any payment month; or
- A benefit reduction would have occurred had a change of circumstances been appropriately budgeted.

Actual income and circumstances must be used in determining over-issuances for past time periods.

4620.30.05 Budgeting Improperly Retained Support Payments (C)

If assigned support is not sent to the Indiana Child Support Bureau, that income must be included in the TANF budget to determine the AG's award. All monthly support payments received directly must be shown as unearned income to the AG in the month of receipt.

4620.30.10 Reducing An Over-payment With Child Support Collections (C)

When child support collections have been made for a month when a TANF over-issuance has been calculated, it is necessary to determine whether the support retained by the Child Support Bureau completely reimbursed the TANF grant in that month. If the child support payment fully reimbursed the original TANF grant, no TANF over-issuance exists. However, child support payments that partially repay the TANF grant require further consideration as follows:

- Child support collections which equal or are less than the corrected TANF grant do not result in a reduction in the TANF over-issuance as the support did not fully reimburse the corrected grant.
- Child support collections which are greater than the corrected TANF grant require an adjustment in the over-issuance calculation. The over-issuance is reduced by the amount of surplus support which was left after the corrected grant was reimbursed.

4625.00.00 OFFICIAL DETERMINATION OF FRAUD

Fraud **must** be determined by one of the following:

A court with appropriate criminal jurisdiction,

A disqualification consent agreement;

An administrative disqualification hearing;

A waiver of administrative hearing.

Only the above circumstances can determine if a person has committed fraud. In all these cases an IPV disqualification must be imposed.

NOTE: Once an ADH has been requested Hearings and Appeals staff will offer a waiver to the client scheduled for the ADH. If the client signs a waiver, the ADH is not required.

For TANF only: the incident of alleged fraud must have occurred on or after May 1, 1995. (f4)

4625.05.00 Referral to County Prosecutor

The Bureau of Investigation (B of I) will decide whether to refer a case for prosecution. Prosecutors determine whether a case will be prosecuted. The Bureau of Investigation is responsible for providing the necessary documentation to the prosecutor, and all available evidence is provided with the referral. The referral must be recorded in CODY.

Claim repayment is not to be discussed with a client who has a pending court action. Claims will **NOT** be opened until the case is adjudicated. The PPV/CE claim should be calculated using IPV guidelines as listed in Section 4620.10.00. The amount of the over-issuance will be needed for the court action. The claim status should be changed to RP (Referred for Prosecution) status.

The Indiana welfare fraud statute (35-43-5-7) requires that the accused person must knowingly or intentionally:

- Obtain public relief (or assistance) by impersonation, false statement or other means;
- Acquire, possess, use, transfer, sell, trade, issue or dispose of public relief or an authorization document used to obtain public relief;

- Use, transfer, acquire, issue or possess a blank or incomplete authorization document to secure public relief;
- Counterfeit or alter an authorization document to receive public relief or use, transfer, acquire or possess a counterfeit or altered authorization document; or
- Conceal information for the purpose of receiving public relief or assistance.

4625.05.05 Court Determination of Fraud

Fraud must be determined by a court of appropriate jurisdiction. When a conviction of Welfare fraud is made, the error type should be changed to IPV prior to sending the notice and entering the disqualification. If the conviction is for a charge other than Welfare Fraud, then the error type will be changed to IHE for SNAP and left CE for TANF and no disqualification will take place. If the court designates a repayment schedule through the court or probation, Court Probation (CP) must be entered as the repayment method. A court ordered disqualification penalty takes precedence over the standard disqualification penalty.

Prior to April 1, 2018, if the court ordered restitution was less than the claim, unless the court order strictly forbade any further collection after the restitution was paid, the court ordered amount was opened as IPV, and the balance could be collected as an IHE claim. These IHE over-issuances that were established prior to April 1, 2018 are still enforceable.

Effective April 1, 2018, only IPV over-issuances for the court ordered judgment will be opened. The balance of the over-issuance will not be subject to an IHE over-issuance. Small Claims Court can no longer be used to determine fraud but it can be utilized to assist in collection efforts (See Section 4645.25.00).

4625.10.00 Referral for Administrative Disqualification Hearing/Waiver to ADH (S, C)

For suspected fraud involving SNAP and/or TANF, the agency may elect to refer the fraud to the Office of Hearings and Appeals (OHA) or send the client a waiver of the Administrative hearing. If a signed waiver is received admitting or not admitting to the issue, an ADH is not needed. The referral for ADH or the sending of a waiver must be recorded in CODY.

For SNAP only, when using an ADH to establish the IPV category, the BV worker must change the error type to PPV (Pending Program Violation) and open the claim before the ADH. If the AG is currently receiving SNAP benefits, an allotment reduction should be started immediately.

Sending the notice of overpayment and requesting the ADH should be done concurrently so that an IPV hearing may be consolidated with a fair hearing if requested. The only exception to this is if it is a trafficking over-issuance where an ADH decision must be made before opening the over-payment.

If the over-payment is for TANF benefits, leave the error type as CE (Client Error) when opening the over-payment and requesting the IPV hearing.

If the administrative law judge (ALJ) sustains the request for the IPV, the error type must be changed to IPV before entering the disqualification information.

4625.15.00 - IPV Disqualification

An IPV disqualification is a penalty or period of ineligibility imposed on an individual who has been found guilty of fraud as a result of:

- An Administrative Law Judge Decision granting the request for disqualification;
- The agency receives a waiver signed by the client;

- The agency is notified of a criminal court determination that Welfare fraud was committed. Both a misdemeanor and a felony are considered fraud. Or:
- A judicial disqualification consent agreement is signed. This can only be presented by a prosecutor.

4625.15.05 Imposing the IPV Disqualification

The IPV penalty is imposed after receiving notification that the individual has been found guilty of an IPV.

For SNAP, the period of disqualification begins the first month following the month that the Agency received the written notice of the hearing decision, waiver or court consent agreement, regardless of whether the individual is currently receiving SNAP. For individuals being disqualified based on a court decision, the disqualification must begin within 45 days of that decision.

For TANF, the period of disqualification may not be imposed on an individual who is not currently in TANF-eligible status. When there is no current TANF eligibility, the begin and end dates do not display in the eligibility system. The Fraud information is entered and the dates will not display, nor will the disqualification be in place until the individual reapplies and is found eligible. The system will begin the disqualification at the appropriate time (no later than the first day of the second month which follows the date of notice) if the client is currently eligible for TANF. (f5)

The benefit recovery worker must send the AG a Notice of Disqualification within one working day, regardless of their participation status.

The disqualified individual's income is budgeted, but the individual's needs are not. (f6) For more information see Section 3450.45.10.10.

Collection action as an IPV claim is to be implemented the month after the Notice of Disqualification is received by the AG.

- If the claim error type of the related claim is CE or PPV, it must be changed to IPV.

SNAP disqualifications must be entered immediately into the state system, which will interface with the national electronic Disqualified Recipients System (eDRS). eDRS is used by all states to share disqualification information for applicants/recipients, and therefore information must be shared as soon as it is known.

A copy of the Notice of Disqualification, the ADH decision, judicial review, waiver of ADH or Disqualification Consent Agreement is required to be present in the electronic case file before a disqualification can be applied. It must also be placed in CODY.

If the request for disqualification is denied or the individual is found not guilty in criminal court or through an ADH, change the error type to IHE for SNAP and collection activity will continue based on the IHE/CE category requirements.

4625.15.10 SNAP IPV Disqualification Periods (S)

The length of disqualification for a SNAP IPV will be will be determined as follows: (f5a)

- One year for the first violation;
- Two years for the second violation;
- Permanently for the third violation;

Unless the following conditions exist:

- Two years for a first finding by a court for purchasing a controlled substance with SNAP;
- Permanently for the second finding by a court for purchasing a controlled substance with SNAP;

- Ten years for a finding that a fraudulent statement or representation about identity or place of residence was made in order to receive duplicate benefits (there do not have to be benefits issued in order for this rule to apply). Unsuccessful attempts to commit fraud in this manner will be treated in the same manner as successful attempts;
- Permanently for a court **conviction** of a trafficking offense of \$500 or more occurred in a single transaction or multiple transactions;
- Permanently for the first finding by a court for purchasing firearms, ammunition or explosives with SNAP.

4625.15.15 TANF Fraud Disqualification Periods (C)

When the fraud is determined by an ADH or an ADH Waiver:

- First occurrence results in a six-month disqualification;
- Second occurrence results in a twelve-month disqualification; or
- Third occurrence results in permanent TANF ineligibility.

For an individual who is convicted of a (Welfare fraud) misdemeanor:

- The first occurrence will result in a twelve month disqualification;
- The second occurrence will result in a twelve month disqualification; or
- The third occurrence will result in a permanent disqualification. (f5b)

For an individual who is convicted of a (Welfare fraud) felony:

- The first occurrence will result in a ten year disqualification;

- The second occurrence will result in a ten year disqualification;
- The third occurrence will result in a permanent disqualification. (f6b)

4630.00.00 PERSONS RESPONSIBLE FOR REPAYMENT

The individuals who are responsible for repayment of an over-issuance vary by program. The following sections discuss these differences.

4630.05.00 PERSONS RESPONSIBLE FOR REPAYMENT (S)

All adult AG members, 18 years or older, who were adult members of the AG at the time the over-issuance occurred will be jointly and individually liable for the value of any over-issuance of benefits.

- If the claim is because an adult was not in the household, that person is **not** liable.
- If the claim is because a mandatory adult was actually in the household and their income and resources should have been counted, they are considered liable.
- a person connected to the household, such as an authorized representative or alien sponsor, who actually trafficks or otherwise causes an overpayment or trafficking is liable. (f11)
- If there were no AG members age 18 or older at the time the over-issuance occurred, the payee will be held liable.
- If an AG member under age 18 is found guilty of an IPV, that member will also be held liable for the associated claim.

Liable individuals must be carefully and accurately identified at the time that the claim is opened.

The BV unit may pursue recovery action against any AG which contains an identified liable member of an over-issuance, regardless of what AG they are now a member. The BV unit

will pursue recovery action against an AG which contained an AG member found guilty of committing an IPV and which received the over-issuance for which the claim was established.

4630.10.00 Persons Responsible For Repayment (C)

For TANF claims that occurred after 8/22/1996, all adult AG members, 18 years or older, who were adult members of the AG at the time the over-issuance occurred will be jointly and individually liable for the value of any over-issuance of benefits.

Note: The caretaker relative is considered a member of the AG even while sanctioned.

If there were no AG members age 18 or older at the time the over-issuance occurred, the payee will be held liable. If an AG member under age 18 is found guilty of an IPV, that member will also be held liable for the associated claim.

**4630.15.00 Responsibility For Repayment in
Alien/Sponsor Cases**

Any individual sponsor of an alien, and the alien, will be jointly and individually liable for any over-issuance made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information. (f13)

For all TANF claims, if the sponsor had good cause, he will not be held liable for the over-issuance and recovery will not be made from him. (f14) Good cause for the sponsor's failure to provide correct information regarding his income and resources is limited to the legal incompetence of the sponsor at the time the information was provided to the agency. (f15)

For SNAP, if the alien's sponsor had good cause or was without fault for supplying the incorrect information, the alien's unit shall be solely liable for repayment of the over-issuance.

**4630. 20.00 Over-issuances Against Drug/Alcoholic
Treatment Centers (S)**

The drug/alcoholic treatment center is strictly liable for all losses or misuse of SNAP benefits held on behalf of

residents and for all over-issuances which occur while the individuals are residents of the treatment center. (f16)
This means that individual claims against center residents cannot be filed and collection action cannot be taken against the resident. The name of the resident shall be retained, however, for audit/review purposes.

If it is determined that a drug/alcoholic rehabilitation center has misused the SNAP benefits in its possession, the Central Office will notify Benefit Recovery and request that a claim be prepared.

4630. 25.00 Over-Issuances Against Group Living Arrangement Persons (S)

Individuals in a group living arrangement who apply for benefits on their own behalf are solely responsible should an over-issuance occur.

If a group living arrangement is designated as the authorized representative and applies for benefits on behalf of an individual, the group living facility will be solely responsible should an over-issuance occur.

4635.00.00 CANCELING A CLAIM

Claims should be cancelled under the following circumstances:

- A claim was entered in error
- A hearing decision determines the claim is incorrect.

Cancelled claims should have all payments reversed before cancelling. If all payments were allotment reductions and the claim is cancelled before reversing, an auxiliary will automatically be generated to the client for the amount of the allotment reductions. No payments can be posted to a cancelled claim.

4640.00.00 INITIATING COLLECTION ACTION (S)

Collection activity will begin once the Benefit Recovery worker opens the claim. This will generate the Demand Notice to the payee of the AG for repayment of the claim.

Claims against an AG with multiple claims will be collected in sequence. When a collection or allotment reduction is

received, the payment will be posted to the oldest IPV claim first, then IHE claims, then AE claims. Maximum involuntary allotment reduction amounts are identified in Sections 4645.10.05 (S)

For SNAP only, allotment reduction is entered the same day the claim is opened.

4640.05.00 Recipient Notification of Over-Issuance (S)

The notice of overpayment must be issued to the household who is subject to collection of a claim. The Notice of Overpayment contains:

- A statement that a claim due to an over-issuance of SNAP benefits exists;
- The amount of the over-issuance;
- The reason for the claim;
- The name(s) of the liable individuals(s);
- The AG's right to a fair hearing;
- A demand for repayment; and
- A statement that allotment reduction is mandatory while any liable individual is receiving SNAP; and
- The available methods of repayment. (f17)

Allotment reduction must be entered in the eligibility system immediately after opening the claim. Only one Notice of Overpayment is sent.

- Each liable individual is listed on the one notice that is mailed to the payee.
- Collections can continue as long as the notice is not returned in the mail, the claim is not under appeal, or the client is not paying through the court.

Note: When fraud has been determined by a court of appropriate jurisdiction, the error type is changed from PPV to IPV **before** the claim is opened, generating the notice of overpayment as an IPV.

4640.10.00 Monitoring Responses to Notices (S)

Responses to the notice of over-issuance must be monitored to assure adequate follow-up on financial recovery activities.

The Notice of Overpayment (BV01) requires that an AG select a method of repaying the claim within 30 days of the notice. Mandatory allotment reduction will be imposed on cases currently certified, and begins with the allotment after the next recurring run.

For recipients/non-recipients, responses can be categorized as:

- Mail is returned as undeliverable;
- A partial payment or a repayment in full is returned; or
- A request for a fair hearing is received.

NOTE: If an ADH has also been requested, contact Central Office Hearings Section with the request for fair hearing so that the hearings can be consolidated. If the BV01 notice is for a claim that was determined to be fraud in judicial court, the reduction of benefits is appealable; the removal of an IPV disqualified individual is not.

The benefit recovery worker is responsible for:

- Monitoring all responses to the over-issuance notices
- Entering appropriate repayment methods
- Forwarding a repayment agreement (FI0047) upon client request.

4640.15.00 Recipient Notification of Over-Issuance (C)

After determining the amount of over-issuance, Benefit Recovery must notify the AG of the over-issuance. This notice allows the AG the opportunity to indicate a method and amount of voluntary repayment. Thirty days are to be allowed for the completion and return of the form.

- If a current AG fails to return the form, Benefit Recovery is to initiate recovery by benefit reduction wherever possible.
- If a former AG fails to return the form, other collection methods may be pursued.

4640.15.05 Repayment Negotiation (C)

If the BV worker and a current AG cannot reach an agreement on a repayment schedule or the AG fails to sign a repayment agreement, the BV worker is to begin mandatory recovery procedures. Timely notice must include the reason for the mandatory benefit reduction.

The guidelines for an acceptable repayment schedule for inactive recipients are:

A minimum monthly payment of \$50; or

A monthly payment of 3% of the original claim amount (that would allow for complete repayment within three years), whichever is greater.

If the BV worker is unable to negotiate a repayment agreement with an AG who is no longer a recipient, appropriate action under state law is to be taken.

4640.15.05.05 Action Taken When Payor Defaults (C)

Default occurs when an AG fails to perform as he has agreed under the repayment agreement.

Active Cases:

When an individual or a current AG defaults on the repayment agreement, the benefit recovery worker is to initiate mandatory benefit reduction. Timely notice must include the reason for initiating benefit reduction.

Inactive Cases:

When an individual or an AG who is not currently active defaults on the repayment agreement, the agency may pursue collection through State Tax Intercept.

4645.00.00 RECOVERY METHODS

Recovery of amounts of over-issuance will be made by one or more of the following methods:

Lump sum and/or installment payments;

Benefit/allotment reduction; (TANF and SNAP)

Offset of under-paid benefits (restorations); (SNAP and TANF) (f18)

Voluntary repayment of electronic benefits

Child support credit (TANF only);

Interception of lottery winnings;

Federal pay and/or State tax refund interceptions; or

A combination of the above.

The agency must notify the overpaid AG of the amount and cause of over-issuance as well as the various repayment methods available. For SNAP, the benefit recovery worker shall initiate allotment reduction immediately, when possible. For TANF, the benefit recovery worker must allow a minimum of 30 days for the AG to respond prior to initiating recovery activity.

Sections 4645.05.00 through 4645.10.30 describe methods of repayment.

4645.05.00 Lump Sum and Installment Payments

AG's may repay in a lump sum or in approved installments, including those who have been court ordered to repay, as

long as the court does not require a specific manner of payment.

Any payment will be accepted and credited to the claim, but only payments for the minimum amount of 3% or the original claim amount or \$50.00, whichever is greater, will prevent the claim from being delinquent.

Payments are due between the 1st and the 28th of each month. If the minimum acceptable payment is not made by that date, the claim is delinquent. When a SNAP claim is delinquent for 120 days, federal payments can be intercepted. See Treasury Offset Program (TOP) section 4645.40.00.

If the client has both a TANF and SNAP over-payment and does not specify to which claim a repayment should be applied, the payment is to be divided equally between each program. (f18a)

When the claim is paid in full, the system will automatically close the claim. All payments and reversal of payments are managed by FSSA Financial Management.

4645.05.05 EBT Voluntary Repayments (S, C)

Voluntary repayments of over-issued benefits can be deducted from benefit accounts on the EBT Administrative Terminal (AT). The client must provide a written or verbal statement approving the repayment and the EBT Coordinator or their designee will enter the repayment amount into the AT and Debit the SNAP or TANF account. In cases where the over-issuance claim has not yet been established (opened) the return transaction can be recorded in the system by a state worker. This will then show in the issuance history that the benefits were returned and a claim will not be necessary. It is important that all "repayments" listed on the Monthly Administrative Transaction Detail Report (ARADMTM on EBT Cognos reports) are recorded on the issuance history screens.

4645.10.00 Benefit/Allotment Reduction

Benefit/allotment reduction is used to recover over-issuance from active AGs.

4645.10.05 Allotment Reduction (S)

The system will determine the maximum amount of the allotment reduction and alert the benefit recovery worker if a repayment method has not been chosen.

For non-fraud (AE, IHE, and PPV) claims, the amount of SNAP recovered each month will be 10% of the AG's monthly allotment or \$10 per month, whichever is greater.

For cases in which a fraud determination has been made, the amount will be 20% of the AG's entitlement (which is computed by the system and is based on what the benefit would be with the disqualified individual included in the household) or \$20, whichever is greater. (f20)

The system will automatically adjust the allotment reduction amount when the allotment changes.

The minimum benefit for a one or two person AG is not applicable when allotment reduction is applied.

4645.10.10 Benefit Reduction (C)

Benefit reduction may be used to recover over-issuances from current AGs. This may be a voluntary arrangement. In some situations it is a mandatory process. The system will alert the benefit recovery worker to initiate benefit reduction. All categories of TANF may be recouped from each other.

The AG will be given at least 13 days advance notice of the benefit reduction.

If benefit reduction is made from the TANF grant, the AG must retain from a combination of the assistance payment, liquid resources, and gross income, 90% of the amount a family of the same composition with no income would receive in TANF benefits. (f22)

Prior to initiating benefit reduction procedures, the eligibility worker should ascertain whether the Child Support Bureau has already repaid all or part of the TANF grant for the month in question.

When the amount of the TANF payment for a month prior to any benefit reduction is \$10 or more but benefit reduction reduces the amount of the TANF payment to under \$10, a TANF benefit is to be issued for the under \$10 amount.

If the recoupable amount exceeds the TANF grant, the entire grant must be recouped. If, through benefit reduction, the amount payable to the TANF AG is reduced to zero, members of the TANF AG are still considered TANF recipients. (f21)

**4645.10.10.05 Computation of the Amount of Recoupable
Income (C)**

Computing the amount of recoupable income an AG has is a six step procedure:

Step 1: Compute the amount of the over-issuance by comparing the corrected budget to the original TANF budget for the month the over-issuance occurred. The difference between the corrected budget and the original TANF budget for the month in which the over-issuance occurred is the amount of over-issuance.

Step 2: Determine the amount the family is to retain each month from all sources:

- a) Total adjusted needs;
- b) Compute TANF grant without counting income;
- c) Multiply the above figure by .90;
- d) This equals the amount to be retained.

Step 3: Determine the amount of the TANF grant before benefit reduction:

- a) Total adjusted needs;
- b) Subtract countable income; drop the cents
- c) This equals the TANF grant.

Step 4: Determine the total income:

- a) TANF grant from Step 3;
- b) Add gross income;
- c) Add liquid resources;
- d) This equals the total income.

Step 5: Determine the monthly income available for benefit reduction:

- a) Total available income from Step 4;
- b) Subtract amount to be retained from Step 2.
- c) Drop the cents

Step 6: Determine the amount of grant to which the family is entitled:

- a) TANF grant from Step 3;
- b) Subtract income available for benefit reduction in Step 5 from Step 3.

The system will alert a benefit recovery worker at the time of reapplication when there is an outstanding claim balance. It will also calculate the monthly benefit reduction amount.

EXAMPLE 1

A mother received unemployment compensation benefits of \$120.00 per month for 2 months prior to reporting the income. She started receiving benefits on 12-10 and the reduction would have been budgeted for February. For February and March she was overpaid \$120.00 per month, for a total of \$240.00. She failed to respond to a notice of overpayment and failed to sign a repayment agreement, so a mandatory benefit reduction was initiated.

- (1) Amount of overpayment \$240.00
- (2) Amount to be retained
 - (a) Adjusted needs \$346.50
 - (b) Grant without income \$346.00
 - (c) Grant x .90 = \$311.40
- (3) Grant before benefit reduction
 - (a) Adjusted needs \$346.50
 - (b) Income -\$120.00
 - (c) TANF grant \$226.00
- (4) Income
 - (a) TANF grant \$226.00
 - (b) Add income of + \$120.00
 - (c) Add liquid resources of + \$0
 - (d) Total \$346.00
- (5) Income available for benefit reduction
 - (a) Income \$346.00
 - (b) Subtract amount to be retained of \$311.40
 - (c) Amount available \$34.00
- (6) Amount of grant entitled to
 - (a) TANF grant \$226.00
 - (b) Amount to be recouped -\$34.00
 - (c) Current grant entitlement \$192.00

If no other changes occur, \$34.00 would be recouped from the TANF grant for 7 months. In the 8th month the remaining \$2.00 would be recouped.

If the benefit reduction amount exceeds the TANF grant, the entire grant must be recouped. If, through benefit reduction, the amount payable to the TANF assistance group is reduced to zero, members of the AG are still considered TANF recipients.

EXAMPLE 2

For one month, a TANF unit had resources totaling \$1,700.00, making them totally ineligible. The TANF payment was \$288.00. The unit now has \$700.00 savings and is otherwise eligible.

- (1) Amount of overpayment \$288.00
- (2) Amount to be retained
 - (a) Adjusted needs \$288.00
 - (b) Grant without income \$288.00
 - (c) Grant x .90 = \$259.20
- (3) Grant before benefit reduction
 - (a) Adjusted needs \$288.00
 - (b) Income -\$0
 - (c) TANF grant \$288.00
- (4) Income
 - (a) TANF grant \$288.00
 - (b) Income +\$0
 - (c) Liquid resources +\$700.00
 - (d) Total \$988.00
- (5) Income available for benefit reduction
 - (a) Income \$988.00
 - (b) Amount to be retained -\$259.20
 - (c) Amount available \$728.00
- (6) Amount of grant entitled to
 - (a) TANF grant \$288.00
 - (b) Amount available \$728.00
 - (c) New grant \$0

The entire TANF grant would be recouped for one month.

The monthly amount of benefit reduction is subject to change if the income or liquid resources fluctuate. Grant reductions due to benefit reduction must receive timely and adequate notice.

When a former AG with an outstanding over-issuance reapplies and is found to be eligible, the agency must recover the over-issuance. If benefit reduction is necessary, current income, liquid resources, and the TANF payment, are to be used to determine the monthly benefit reduction amount.

4645.15.00 Offset of Over-Issuance (S, C)

An under-issuance results when an AG receives fewer benefits than it should receive in a month.

For the current month, the restoration must be done by auxiliary. For previous months, the restoration must be done by the benefit recovery under-issuance system. Fiats and auxiliaries must be completed by eligibility staff.

Federal regulations stipulate that in the event a claim has been established against a household, any benefits to be restored due to an under-issuance to the AG can be offset against the claim amount. If the amount of benefits to be restored exceeds the claim amount for an over-issuance, the remaining balance will be restored to the AG and the claim will be satisfied. A system generated notice is sent to the household if the benefit recovery under-issuance system is utilized. If the restoration is done by ordinary auxiliary, a manual notice is required.

For TANF, the agency is required to restore benefits to an AG that was under-issued benefits. (f23)

For SNAP, the agency is to restore benefits to an AG that was under-issued benefits only when the under-issuance was the result of an agency error or an administrative disqualification which was later reversed. Restoration must not go back further than 12 months from the time the agency knew or was told of the under-issuance (f24)

EXCEPTION: Retroactive initial benefits (could include fiats) are not to be offset against outstanding claims.

For TANF, retroactive corrective payments are not to be considered as income or as a resource to the AG in the month of receipt or the following month. (f25)

A referral to the benefit recovery unit for the determination of possible over-issuance does not constitute an outstanding claim. The restoration of benefits to a household must not be delayed on the basis of a referral to benefit recovery.

4645.20.00 Community Service Credit Hours (S)

AGs who have been court ordered to complete community service hours as part of their restitution may have the amount of their over-issuance reduced by the dollar value of the service they perform. Each hour is assumed to be worth federal minimum wage unless specified otherwise by the court. When all hours ordered have been completed,

documentation must be received by the County Prosecuting Attorney's office prior to adjusting the over-issuance amount.

4645.25.00 Civil Action

All steps necessary to institute civil action can be taken when the benefit recovery unit determines that such action is required to recover over-issuances from former AGs. If there is a judgment from Small Claims Court, a repayment method of SC must be entered.

If the former AGs receive SNAP or TANF benefits at a later date, appropriate benefit/allotment reduction action must be taken.

4645.30.00 Hearing Requested on Over-Issuance

An AG can request a fair hearing in written form or verbally for the SNAP AG, regarding the circumstances of an over-issuance, the amount of over-issuance, or the repayment plan established by the benefit recovery unit.

When an AG requests an appeal of the claim, the benefit recovery worker must code the claim as being under appeal. This prevents the claim from being referred to TOP. If a delinquency date has already been set, Financial Management must be notified of the appeal. Once a hearing decision is issued, an alert will be generated to notify the worker of the results. If the agency decision is sustained, the worker will request a new notice be generated to the AG giving them another 30 days to sign a repayment agreement and make their first payment. If the agency decision is not sustained, the claim will need to be cancelled and any payments that had been collected will need to be refunded. The Administrative Law Judge may remand it back to the county to make adjustments in which case a new Notice of Overpayment (BV01) would be sent.

- For TANF only: When an AG requests a hearing in response to the notice regarding the amount of repayment, the benefit recovery worker is responsible for submitting the request for hearing to Hearings And Appeals Section.
- For SNAP and TANF, if the AG requests a hearing within 13 days from the date of the Notice of Case Action, the benefit reduction will be removed and the previous

benefit continued pending the hearing. When the final hearing decision is received, repayment will begin the following month in the amount specified by the hearing decision.

For claims that are appealed untimely, the ALJ must first address the timeliness issue before allowing a hearing to be held. The claim should not be coded as under appeal until the ALJ makes the decision to allow the hearing. If the hearing is allowed, the above steps must be followed.

4645.35.00 Treasury Offset Program (TOP) (S)

TOP is the name for Treasury Offset Program (TOP). In addition to tax refunds, TOP can intercept portions of Federal salaries and future collections from RSDI and other Federal payments. The client is charged a fee for every TOP collection done.

Inactive persons who do not sign a repayment agreement, or make a minimum payment within 30 days of the mail date of the Notice of Overpayment (BV01) will be referred to Financial Management. Financial Management will conduct an address verification check. For all valid addresses, a one-time 60 day demand letter will be sent by Financial Management. Federal policy allows for a TOP intercept even if this letter is returned in the mail because the address provided by the Treasury Department is considered a person's legal address.

If an agreement has not been made by the 60th day, the claim may be eligible for the Treasury Offset Program (TOP). After 120 days of delinquency these debts will be referred to TOP for collection.

A separate 60 day notice will be sent for each claim. A payment must be received for each debt monthly to avoid being referred to TOP. Federal pay intercepted by TOP will be electronically posted in the system. If the Financial Management Section receives voluntary payments that are made to avoid offset, they will be posted also.

4645.35.05 Benefit Recovery Responsibility for TOP (S)

Each established claim must be supported by Benefit Recovery records. The Benefit Recovery worker must insure that the correct liable individuals are listed for each claim. If a claim is appealed, a notice is returned in the

mail, or the payments are being made through court/probation department, the proper coding must be entered to prevent a referral to TOP. Financial Management must be notified if one of these codes is entered after the delinquency date is set. If a claim that is being cancelled or terminated has been previously sent to Financial Management for TOP collections, Financial Management must be notified of the cancellation/termination.

4635.35.10 Request For TOP Review (S)

A Fair Hearing Request should **not** be accepted for TOP collection efforts. Instead, a state review should be done per the following instruction.

Benefit Recovery should review all past due SNAP claims to determine if they are legally enforceable and meet the following criteria for TOP:

- Claims have a balance of at least \$25, and
- The liable individuals are not actively receiving SNAP in Indiana, and
- Collection is not barred by bankruptcy, and
- The former recipient is not making claim payments according to a current agreement.

Provide the former recipient with written notification of the results of the review with the State Form FI-0044, Results of Treasury Offset Program (TOP) Review.

This notice informs the former recipient that the DFR was either correct to pursue a Treasury Offset because the debt is past due and legally enforceable, or it was incorrect and any money inadvertently withheld through a Treasury Offset will be refunded. It also informs the former recipient that they may ask for a federal review by writing to:

Treasury Offset Program
Food and Nutrition Service
77 W. Jackson Blvd., 20th Floor
Chicago, IL 60604-3591

The request must be received within 30 days of the date of

this letter and include the name and Social Security Number or case number. While FNS is reviewing the case the claim will not be referred to TOP for collection. When the review is completed FNS will provide a written notice stating its decision and the reason(s) for the decision.

FNS will contact Benefit Recovery for copies of the claims material to review the claim. FNS will send a written notice of the decision to Benefit Recovery.

FNS will review the claim only once. Benefit Recovery will send a copy of the FNS decision letter to the Financial Management Section.

4645.40.00 State Tax Intercept Program

State tax refunds are calculated by IDOR (Indiana Department of Revenue). IDOR then reviews the file to determine a match/no match of certified candidates provided by FSSA Financial Management (FM) for an offset of taxpayer's refunds. Priorities as established by IDOR and FSSA are:

1. IDOR
2. Child Support
3. DWD
4. TANF
5. SNAP
6. CCDF
7. Housing

The state program is similar to TOP with these exceptions.

- The letter to the former recipient has a 30 day deadline.
- The 30 day letter is sent each time the former recipient is certified for intercept and includes a repayment agreement which states the minimum amount acceptable. I
- If a repayment agreement was previously signed and all payments have not been made, the former recipient does not have the option to sign another agreement.
- ALL payments must be current from the previous agreement in order to prevent an offset of their tax return. It is therefore important that repayment

agreements be noted in the claim comments so that refunds will not be erroneously released in the future.

- If a repayment agreement has never been signed the former recipient may sign the repayment agreement and make the required minimum repayment amount to avoid the tax offset.
- Former recipients must be informed that payments must be made each and every month by the due date to avoid tax offset and that they have only one opportunity to sign the repayment agreement.
- Former recipients have the right to appeal the tax offset. (f27a) Appeals will not stop the offset, but if the decision is favorable to the former recipient, they will receive a refund from Financial Management after a hard copy of the decision is received, unless another category is delinquent and notice has been issued, i.e. SNAP tax offset appeal was found favorable to client, but there was a delinquent debt owed for Section 8 Housing, the offset would then be applied to it.

4650.00.00 TRANSMITTAL OF REPAYMENT

Payments must be mailed to:

FSSA Claim Repayment
P.O. Box 621007
Indianapolis, IN 46262-1007

All checks or money orders should be made payable to "State of Indiana". The person's name, claim number, RID number or Social Security Number should be on the payment. The check and/or money order are receipts of payment. Financial Management will post all payments.

Payments will be refunded if no claim exists.

4655.00.00 ENDING COLLECTION ACTIVITY

Collection activity is terminated when certain events occur which make it virtually certain no further payments will be received.

4655.10.00 Terminating Collection

Bankruptcy:

Office of Attorney General Attorneys shall act on behalf of, and as, USDA-FNS in any bankruptcy proceeding against bankrupt AGs owing SNAP claims. FSSA shall possess any rights, priorities, interests, liens, or privileges, and shall participate in any distribution of resources, to the same extent as USDA. Acting as USDA-FNS, the Office of the Attorney General shall have the power and authority to file objections to discharge, proofs-of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions, or objections which USDA-FNS might have filed. Office of Attorney General also has this authority for TANF claims.

- When an overpayment claim is listed as a debt in a bankruptcy proceeding, Central Office will receive a notice entitled Order for Meeting of Creditors and Fixing Times for Filing Objections to Discharge and for Filing Complaints to Determine Dischargeability of Certain Debts, Combined with Notice Thereof and of Automatic Stay.
- Upon receipt of this notice Benefit Recovery should stop collection immediately and send a copy of this order to the Central Office Financial Management Section, 402 West Washington Street, Room E442, Indianapolis, Indiana 46204. Certain acts and proceedings against the debtor are automatically stayed. (11 USC Section 364(a)) Before further collection activity is continued or initiated, FSSA must get an exception to the stay. The criteria for obtaining an exception to the stay are set forth in 11 USC Section 362(b). Under the provisions of this subsection, it is unlikely that an exception to the stay could be sought in good faith and it most likely would not be granted even if sought, unless the claim is IPV.
- Benefit Recovery will consult with the Office of Attorney General regarding the filing of an objection to the discharge of the debt or the

filing of a complaint to determine dischargeability. 11 USC Section 523 provides for certain exceptions to discharge. Subsection (a)(2)(B) might cover the SNAP claims determined to be IPV's if all criteria set out therein were met. The Order referenced in the above subsection will specify deadlines by which objections and complaints must be filed.

Claims **other than IPV/fraud** will most likely be dischargeable. For IPV/frauds, contact Office of Attorney General.

- Whether to seek an exception to the discharge **must be carefully evaluated** because 11 USC Section 523(d) provides for a judgment against the creditor for costs and attorney's fees if the court finds the position of the creditor in requesting a determination of dischargeability was not substantially justified.
- If the bankruptcy results in discharge of the claim (release of the debt) and all liable individuals are parties to the Bankruptcy, then Benefit Recovery will list this claim as terminated. If there is a liable individual who is not a party to the bankruptcy, do NOT use status 'TB'. Instead, code the individual as terminated.
- If the bankruptcy results in a distribution of assets where the DFR is allotted an amount of that distribution, the amount collected shall be credited against the claim overpayment. Claims in 'TB' status can be re-opened if necessary.
- If an exception to the discharge is obtained, Benefit Recovery and Financial Management will be informed and shall resume collection.
- Bankruptcy does not terminate pending SNAP IPV disqualifications.

Paid-in-Full:

A claim is terminated when a claim is paid in full. If other claims exist, allotment/benefit reduction is to be initiated on the next claim(s).

NOTE: FSSA/DFR may not collect more than the total amount of over-issued benefits unless a court orders interest payment. In the event of court ordered interest, Benefit Recovery should contact the Central Office Financial Management Section for instructions.

Death of All Adult AG Members:

Benefit Recovery will terminate a claim against an AG when all liable individuals who were members of the AG at the time the over-issuance occurred have died, leaving no estate or redeemable property.

Terminated Claims:

A SNAP claim may be determined uncollectible and subject to termination when it is ten years old and there is no court judgment. The ten years are counted from the establishment of the claim (the date the initial BV01 notice is sent). **No claims which have been referred for TOP will be terminated.** There is no time limit for TANF and Medicaid claims, however all claims over 10 years old with a balance under \$25.00 will be terminated. Voluntary payments on this type of terminated claim will be accepted or restorations due an AG may be used to offset a terminated (status TR) claim.

If the liable individual on a terminated claim again becomes a recipient, allotment reduction will be resumed.

4655.20.00 Transfer of Claims

When Benefit Recovery learns that an uncollected SNAP claim exists in another state that claim may be transferred to the state where a liable person is currently receiving assistance.

There is no procedure for transferring a TANF claim to or from another state but see 4660.05.20 for entering an out of state TANF IPV disqualification.

4655.20.10 Inter-State Claims Transfers (S)

SNAP claims may be transferred from one State to another to increase the possibility of full claims collection.

If another State with a claim against an individual or group of individuals, learns that they are receiving SNAP benefits in Indiana, that State may contact Benefit Recovery. They will inquire as to whether Indiana will accept the claim. If Indiana agrees to accept the claim, the other State will send copies of all claim material, including any recomputed budgets. If an individual or group of individuals for whom a claim exists in Indiana is receiving SNAP benefits in another State, Benefit Recovery is to contact the state where the liable individuals are receiving SNAP and ask if they will accept the claim if the liable person(s) requested this transfer.

Once a claim is transferred to another State, any funds collected by the receiving State belong to that State and the USDA-FNS. None of the repayment will be diverted to the State that originated the claim.

If the claim has already been sent to TOP, then Indiana will keep the claim and not transfer.

4655.25.00 Reversed Disqualification

In cases in which the determination of IPV is reversed by a court of appropriate jurisdiction, the disqualification must be reversed and Benefit Recovery must initiate reinstatement of the individual in the program if the AG is otherwise eligible. If benefits were lost as a result of the disqualification they must be restored.

If the claim is to be re-entered as an inadvertent or agency error, the payments must first be reversed by Financial Management before the claim is cancelled. After the claim has been re-entered and opened, the payments can be added to the new claim. The disqualification will be removed from Indiana's system which will update the national eDRS.

4660.00.00 TRACKING IPV DISQUALIFICATIONS

The electronic Disqualified Recipient System (eDRS) is a Federal program in which States are required to participate. The purpose of eDRS is to track IPV

disqualifications both current and already served, nationwide.

In Indiana, data for eDRS is tracked on our disqualification screens. This information is necessary to determine the length of any future disqualification periods. In order for an IPV disqualification to be imposed Benefit Recovery must have a copy of the ADH decision, Waiver of ADH, judicial review or Disqualification Consent Form, and a copy of the Notice of Disqualification.

If an IPV disqualification is in effect in Indiana or in another State, the eligibility worker will be alerted during application processing. .

Disqualification information must be reviewed to determine if the person listed as disqualified in another State is the same individual that is appearing in our system. If it is determined that there is a match, Benefit Recovery must immediately contact the contact person in the other State and request a copy of the decision and the notice of disqualification. The contact person and the contact person's phone number are listed on the disqualification screen. **The disqualification cannot occur until Benefit Recovery receives this documentation.** Authorization of the case may not be delayed in order to receive this information so it is vital to request this documentation as soon as the pending IPV is discovered.

Benefit Recovery should also ask the other State if a claim exists and the status of the claim. The other State has the option of transferring the claim to Indiana. See Manual Section 4655.20.00.

4660.05.00 Entering IPV Disqualifications (S)

Once it has been determined that an IPV disqualification exists, the benefit recovery worker must enter this information in the eligibility system. A new IPV disqualification cannot be entered unless a claim already exists. If there is no claim amount to enter, a \$0 claim must be established. IPV is the only claim status which allows \$0 claims. Care must be taken to close the zero balance claim after the disqualification has been entered.

Disqualification from another state can be entered without entering a claim.

4660.05.05 Entering Disqualifications At Application (S)

When a current IPV disqualification from out of state is discovered at application processing and the disqualified individual has applied for the program for which the IPV exists and they have never been known to our current system, contact the Policy Help Desk for how to proceed prior to authorization. Allotment Reduction is not to be deducted from the initial benefits including the current month and any previous months authorized at application.

4660.05.10 Entering Disqualifications During Certification (S)

If the individual is already certified for SNAP when a current IPV is discovered, use standard claims procedures when entering the claim unless no claim amount exists. Out of State Disqualifications will be input on the appropriate screen. If the disqualification is not started timely, an agency error claim may exist.

4660.05.15 Entering Prior Disqualifications (S)

Individuals who have served an IPV disqualification from another state before they became known to Indiana's system, will have that disqualification information entered so that if subsequent disqualifications are entered, the correct timeframe for the disqualification is entered. Documentation must be secured from the other state before any disqualification can be entered.

4660.05.20 Entering Out-Of-State IPVS (C)

If an individual has been found guilty of a TANF Intentional Program Violation (IPV) in another state, the disqualification(s) must be entered in the eligibility system after copies of the disqualification findings and notices of disqualification have been obtained from the other state. The disqualification for these IPVS **cannot be imposed**; but if the individual is found guilty of committing an IPV in Indiana, the violations committed in

other states will be used in determining the length of any subsequent TANF IPV disqualification. (f35)

**4660.10.00 REQUESTS FROM OTHER STATES REGARDING
DISQUALIFICATIONS (S)**

Disqualification information from Indiana is being made available to the DRS - Disqualified Recipient Subsystem, for distribution to other State agencies. (f36)
Representatives from these agencies will phone/email requesting copies of disqualification findings and notices of disqualification. Copies of these documents must be sent within 24 hours of the request. The original documents must be retained with the state.

4699.00.00 FOOTNOTES FOR CHAPTER 4600

Following are the footnotes for Chapter 4600:

- (f1) 7 CFR 273.18(a)(ii)
- (f2) 470 IAC 10.1-12
- (f3) 470 IAC 14-3-7
- (f4) IC 12-15-2-19
- (f5a) 45 CFR 233.20;
- (f5b) 470 IAC 14-3-7
- (f6) 42 CFR 431.230
- (f6a) 7 CFR 273.16(b); Section 13942 of P.L. 103-66
- (f6b) 470 IAC 14-3-7
- (f7) 7 CFR 273.18(c)(1)(i)
- (f8) 7 CFR 273.18(d)(1)
- (f9) 7 CFR 273.18(c)(2)
- (f10) 7 CFR 273.18(e)(2)
- (f11) 7 CFR 273.18(a)(4)
- (f12) 45 CFR 233.20 (a)(13)(i)(A)(1) and (B)
- (f13) Social Security Act, Section 415; 45 CFR 233-52
- (f14) 45 CFR 233.52
- (f15) 470 IAC 10.1-5-2
- (f16) 7 CFR 273.11(e)(6)
- (f17) 7 CFR 273.18(e)(3)
- (f18) 470 IAC 10.1-5-2
- (f18a) 7 CFR 273.18(g)(9)
- (f19) 7 CFR 273.18(g)(2)
- (f20) 7 CFR 273.18(g)(1)(ii)
- (f21) Social Security Act, Section 402 (a)(22);
45 CFR 233.20
- (f22) 470 IAC 10.1-5-2
- (f23) 45 CFR 233.20
- (f24) 7 CFR 273.17

- (f25) Social Security Act, Section 402 (a) (22);
45 CFR 233.20
- (f26) 42 CFR 433.36
- (f27) IC 33-11.6-4-13
- (f28) IC 12-15-9-1; Social Security Act, Section
1917(b) (1) as amended by P.L. 103-66 (OBRA-93)
- (f29) IC 12-15-2-19
- (f30) IC 12-15-9-5
- (f31) IC 12-15-9-2
- (f32) 405 IAC 2-8-1(e) (2)
- (f33) IC 29-1-8-1
- (f34) IC 12-15-9-6; 405 IAC 2-8-2
- (f35) 45 CFR 235.112(c) (3)
- (f36) 7 CFR 273.16(h) (2) (i)