



**George E. Pataki**  
Governor

**NEW YORK STATE**  
**OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE**  
40 NORTH PEARL STREET  
ALBANY, NY 12243-0001

**Robert Doar**  
Commissioner

## Administrative Directive

### Section 1

<b>Transmittal:</b>	04-ADM-01
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Temporary Assistance
<b>Date:</b>	April 2, 2004
<b>Subject:</b>	Establishing and Collecting Food Stamp Overissuance Claims
<b>Suggested Distribution:</b>	Temporary Assistance Directors Food Stamp Directors CAP Coordinators TOP Coordinators Accounting Directors Fraud and Overpayment Coordinators Staff Development Coordinators
<b>Contact Person(s):</b>	Eastern Regional Team at 1-800-349-8859, ext. 3-1469
<b>Attachments:</b>	Calculation of Total Overpayment Amount Worksheet (LDSS-4778) Calculation of Total Overpayment Amount Worksheet (CNS) Notice of Food Stamp Overpayment (Demand Letter) (LDSS-3156) Notice of Food Stamp Overpayment (Demand Letter) (LDSS-3156 NYC) FS Repayment Agreement (LDSS-4053)
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
01 INF-17 97 ADM-23 97 ADM-19 97 ADM-4 93 ADM-8		387.19	7 CFR 273.18	FSSB XV (all)	00 LCM-6 97 LCM-4

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## Section 2

### I. Purpose

The purpose of this release is to provide guidance and new policy in the areas of Food Stamp (FS) claim establishment and collection. This comprehensive release on claims includes information to give workers a better understanding of the claims process, the role of the Cash Management System (CAMS), Welfare Management System (WMS) and the collection activities of the Treasury Offset Program (TOP). It outlines changes required by United States Department of Agriculture (USDA) regulations promulgated on July 6, 2000 that affect claim establishment tracking and client notices. In addition, this Directive announces a change in claim calculation policy to allow the use of actual, rather than projected, income.

### II. Background

The emphasis on claims establishment in overall FS program integrity has increased in the past decade. The FS claims process has come under increasing scrutiny by all levels of government, from federal USDA Office of Inspector General audits of the program to the annual USDA required Management Evaluations of claims now performed by this Office. While input from all of these sources has contributed to the understanding of problem areas in claim establishment, the information gathered on-site at local districts is a major influence on policy revisions in this Directive.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) made significant changes to the claims process. Further emphasis on increasing the accuracy of the entire claims process resulted from the federal requirement creating the Treasury Offset Program (TOP) for closed cases with delinquent Food Stamp overpayment claims. New York State plans final implementation of TOP in the third quarter of 2004. Final federal PRWORA regulations necessitated minor technical corrections to program rules as well as establishment of a tracking system for claims establishment.

### III. Program Implications

**This Directive contains program and policy information that workers and supervisors need in order to accurately establish Food Stamp client overpayment claims. It also identifies the processes and standards that local district management staff must implement and maintain to insure adequate support for efficient and effective FS claim management and establishment. This Management information is in bold throughout the Directive for easy identification.**

Increased FS program integrity will result from these comprehensive instructions regarding claims establishment and tracking. Clear guidelines and definitions will foster greater accuracy in claims development.

**The local district must:**

- **Identify and correct deficiencies in claim establishment, collection and documentation based on information in this release.**
- **Establish local standards for date of discovery that are in compliance with State guidelines.**
- **Establish standards to track and control the length of time it takes to establish a claim in order to comply with federal establishment timeframes.**
- **Implement use of actual income to calculate overpayment amounts.**
- **Implement use of appropriate overpayment claim notices and forms.**

### IV. Required Action

#### A. Responsibility for Recovering Overpayments

##### 1. Local District Responsibility

**The local district must:**

- **Establish, based on standards defined in this Directive, an overpayment claim against any participating (active/open) household or non-participating (inactive/closed) household that has received more FS benefits than it was entitled to receive or has trafficked benefits.**
- **Make all reasonable efforts to identify and collect established claims including but not limited to:**
- **Checking at application to determine if anyone in the applicant household has an outstanding claim in the local district where the application is filed or in any other local district.**
- **Maintaining accurate and complete claim records.**
- **Cooperating with other local districts regarding cross-local district claim collection.**

## **2. Household and Individual Liability**

All adult household members are individually and collectively responsible for the value of any overpayment of benefits to the FS household. Adults are responsible for repayment while members of the household that received the overpayment and remain responsible even after they leave the household, or the case is closed.

For purposes of claims establishment and collection, an adult is defined as:

- A household member who is 18 years of age or older when the overpayment occurs, or
- Is less than 18 years of age but is the head of the household when the overpayment occurs.

Overpayments may be recovered from more than one source at a time. For example, the original household may continue to pay the overpayment through FS benefits reduction, while an adult who left the household makes cash payments to the agency. However, total collections must not exceed the total amount of the established claim. If excess funds are collected they must be returned.

Any sponsor of an alien and the alien's household is individually and collectively responsible for the value of any benefits overpaid as a result of incorrect information being provided by the sponsor. However, if the alien's sponsor had good cause or was without fault, the alien's household is solely liable for repayment of the overpayment.

**The local district must:**

- **Establish procedures to identify and collect repayments from multiple sources.**
- **Establish procedures to insure that total collections do not exceed the total claim amount.**
- **Establish procedures to fairly return any excess amount collected to multiple sources.**

## **3. No Overpayment**

The following situations do not constitute an overpayment and, therefore, no claim is established:

- There is no overpayment due to lack of signature when the client receives benefits without signing the application, if the client is otherwise eligible for the benefits. However, if the client receives benefits to which he or she is not otherwise entitled, there is an overpayment.

- There is no overpayment when the client receives benefits in the wrong local district, if the client is otherwise eligible for the benefits. However, if the client receives benefits to which he or she is not otherwise entitled, there is an overpayment.
- There is no overpayment if a change was not a reportable change under the change reporting requirements applicable to the household.

## **B. Definitions**

### **1. Types of Claims**

There are three types of claims: Agency Error (AE), Inadvertent Household Error (IHE) and Intentional Program Violation (IPV).

#### **Agency Error (AE) claims, formerly called Administrative Error Claims**

An AE occurs when a local district action or failure to take action causes an overpayment. This includes, but is not limited to, cases in which the local district worker:

- Fails in accordance with the change reporting requirements that apply to the household to take prompt action on a reported change.
- Incorrectly computes a household's income or deductions, or otherwise assigns incorrect FS benefits.
- Fails to reduce FS benefits because of a Family Assistance grant change.
- Issues FS benefits for any month in which a disqualification period for an Intentional Program Violation should have been imposed.

#### **Inadvertent Household Error (IHE) claims**

An IHE occurs when there is a misunderstanding or unintended error on the part of an applicant or recipient. This includes, but is not limited to, cases in which a FS applicant or recipient household:

- Unintentionally fails to provide the local district with correct or complete information.
- Unintentionally fails to report changes in household circumstances.
- Receives aid continuing benefits pending a fair hearing decision and the hearing decision later determines the household was not entitled to the benefits.
- Is determined to have received an overpayment or participated in trafficking and the local district is pursuing, but has not yet completed, establishment of an Intentional Program Violation.

A claim originally established as an IHE claim may be changed to an Intentional Program Violation (IPV) claim if further investigation proves that the overpayment was caused by willful misrepresentation to deliberately mislead the agency and the claim is classified as an IPV through appropriate administrative or court action.

#### **Intentional Program Violation (IPV) claim**

An IPV occurs when an individual intentionally:

- Makes a false or misleading statement, or misrepresents, conceals or withholds facts.
- Commits any act that constitutes a violation of the federal FS Act, the federal FS Program Regulations, or any State regulation relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).
- Traffics in Electronic Benefit Transfer (EBT) benefits.

One of the following must occur for a claim to be classified as an IPV:

- Determination by a court of appropriate jurisdiction that a household member committed an IPV.
- Determination at an Administrative Disqualification Hearing (ADH) held by the New York State Office of Temporary and Disability Assistance that a household member committed an IPV.
- A household member signs a disqualification consent agreement (DCA) to avoid prosecution for a suspected IPV in a court of appropriate jurisdiction.
- A household member signs a waiver of his or her right to an ADH.

In addition to having the obligation to repay the monetary amount of an IPV claim, a household member determined to have committed an IPV is disqualified from program participation for a specified period of time. While most IPV's result in a monetary loss to the program, in some circumstances the household's willful misrepresentation may be sufficient grounds for a disqualification penalty even if no benefits were paid.

**The local district must:**

- **Establish and collect potential IPV claims as IHE claims prior to the determination of IPV, unless directed by the local district attorney not to establish an IHE pending the IPV court action. Local districts are encouraged to work with the local district attorney's office to limit the circumstances for delaying collection by not initially establishing the claim as an IHE and to pursue IHE overpayment collection on as many potential IPV's as possible.**
- **Establish and implement a local district claim management process to deal with suspected IPV claims. Overpayments found not to be IPV's must be established and collected as IHEs after completion of the IPV process, if not previously established.**

**2. Discrepant Information**

Discrepant information is any previously unknown event or circumstance that may affect or, in the past, may have affected FS eligibility or benefit amount. It may be reported by the client, reported by someone other than the client or discovered through a quality control review or other management review. Evaluate all discrepant information to determine if a case change is required and if any overpayments have occurred.

**The local district must:**

- **Establish and implement a local district procedure for promptly evaluating all discrepant information and keeping track of all instances where the information results in a claim against the household.**

**3. Date Of Discovery**

The Date of Discovery for purposes of computing overpayments is the date the local district becomes aware that there is discrepant information that may affect the benefit amount of the case. The Date of Discovery is used with other information to determine the start date ("From Date") and length of the claim period.

The Date of Discovery must be as soon as possible after the information arrives at the agency but may take into consideration reasonable periods for clerical processing and information prescreening. These include, but are not limited to, mail sorting and routing and reasonable periods of time to determine that the information is legitimately related to the household. Do not wait for verification of the information.

Example: A piece of information is date stamped as received in the mailroom on the 15<sup>th</sup>. It is given to the supervisor of the Eligibility Unit on the 17<sup>th</sup>. It would be appropriate for the agency to define the Date of Discovery as the 17<sup>th</sup>.

Example: The supervisor receives information on the 17<sup>th</sup> but does not assign it to a worker for action until the 24<sup>th</sup>. Defining the Date of Discovery as the 24<sup>th</sup> would not be acceptable.

The following are examples of some Date of Discovery standards:

- The date the worker has direct contact with a recipient, such as a recertification interview or telephone call
- The date a supervisor receives a change report or periodic reporting form for distribution to a worker
- The date a worker receives a change report or periodic reporting form from the client or the mailroom
- The date a worker or supervisor directly receives information specific to a case from someone other than the recipient
- The date a supervisor directly receives information gained through a Quality Control review, Management Evaluation review, case record or other management review that must be distributed to a worker for action
- The date the worker discovers a discrepancy when reviewing a case record.

The Date of Discovery for an Agency Error (AE) overpayment is the date that the agency discovers the error that led to the overpayment, not the date the information was reported but not processed by the agency.

**Local districts must:**

- **Establish and implement local district policies and procedures for assigning the Date of Discovery based on local organizational structure and local district procedures for handling change information.**
- **Establish and implement local district procedures regarding identifying the Date of Discovery for computer match information.**

#### **4. Date Of Claim Establishment**

The date of establishment is the date the initial claim notification is sent to the household.

### **C. Discrepant Information Assessment**

Assess all discrepant information to determine its effect on the current case situation and to determine if there was an overpayment in the past.

#### **1. Changes To Active Cases**

If the discrepant information requires a change to the current active case make the change within the appropriate change action time frame.

#### **2. Potential Overpayment**

Assess discrepant information to determine if an overpayment occurred, even if the case is closed or is about to be closed. Enter the reason for the decision to pursue an overpayment claim in the case record, if it appears that the discrepant information caused any overpayment in the past.

Example: The worker determines during a recertification interview on 1/15/04 that a member of the household had an increase in earned income. The client's statements and some of the information on the pay stubs seem to indicate that the client has been receiving this amount of income for quite a while, maybe even before the last recertification interview in July 2003. The worker includes the increased income in the budget for the new certification period. The worker also makes the following notation in the record; " Information reported at the recertification on 1/15/04 (date of

discovery) indicates household may have received an increase in earned income in April 2003. Investigation to determine if a FS overpayment occurred is required.”

Depending upon local district procedures, the worker will then either develop the claim or refer the case to the unit that is responsible for claim development.

The local district also has the option, but is not required, to develop procedures requiring workers to record why a claim is not being pursued. Such notations document that workers are actively seeking to identify all potential overpayment claims and strengthen the effectiveness of the local district’s claims management procedures.

#### **D. Tracking Claims Establishment**

Establish all claims as soon as possible after the Date of Discovery of the discrepant information, but no later than the last day of the fifth month after the month of discovery. This time frame complies with USDA requirements to implement adequate management procedures to insure all overpayment claims are established in a timely manner. It applies to closed cases as well as to active cases.

The USDA standard requires establishment of at least 90% of all claims within this time frame. Failure to meet the minimum compliance standard may result in federal penalties.

Continue work on the claim until it is finished, even if claim establishment is not completed within the time frame. Claims not established within the time frame are part of the overdue claims establishment backlog while the work is being completed. Once established, such claims count toward the claims overdue percentage. A local district’s claims overdue percentage should not exceed 10%.

Example: Discrepant information that caused an overpayment is reported to the worker on January 15. This is the date of discovery. The worker must assess the information and complete all the actions needed to calculate and establish the overpayment claim by June 30 or the action is overdue.

The Cash Management Subsystem (CAMS) automatically tracks the length of time it took to establish a claim by calculating the amount of time between the date in the date of discovery field and the date in the claims establishment field. Data derived from this CAMS information provides support for local district tracking procedures and process improvement. This data is also used in State and federal management reports and reviews.

#### **Establish and implement local district procedures to:**

- **Track the steps of the claims determination process to ensure that all actions are completed within the allowed time.**
- **Provide early identification of potential claims establishment backlogs.**
- **Track resolution of backlogs, if they develop.**
- **Report to the Office of Temporary and Disability Assistance, as required.**

#### **E. Claims Calculation**

There are three steps to calculating an overpayment claim:

- Assessing if a household failure to report a change, report of incorrect information or omission of information actually resulted in an overpayment
- Determining the claim period and
- Determining the amount of the overpayment.

## 1. **Determining If an Overpayment Occurred/Review of Change Reporting**

The first step in the claims establishment process is to determine if an overpayment occurred. Use the reporting rules that would have applied to the case situation if all facts and figures had been reported to the agency at the proper time to determine if an overpayment actually occurred. What follows is a brief review of the change reporting rules.

There are three types of Change Reporting:

- Six-Month Reporting
- 10-Day (10-10-10) Reporting
- Quarterly Reporting

In addition, there are special reporting rules for households that receive Transitional Benefit Alternative (TBA) benefits and households that receive New York State Nutrition Improvement Project (NYSNIP) benefits.

Each type of reporting specifies when information must be reported. For purposes of claims establishment, the date of a change is the date the change to household circumstances happened or the date income or resources were received, not the date the household may have known that a change in household circumstances, income or resources was going to occur in the future.

### **Six-Month Reporting**

For Food Stamp purposes all TA/FS, NTA/FS and Mixed FS recipients must report household information and changes using six-month reporting standards except the following:

- Households certified for less than six months (a partial initial month benefit plus five full months counts as six months for purposes of the six-month reporting system);
- Households with zero income. Households receiving TA benefits are considered to be receiving income. They are not zero income cases;
- Participants who live in group homes and have SSI or SSA income;
- Migrant or seasonal farm-worker households;
- Homeless households;
- After May 1, 2004, households in which all adult members are aged and/or disabled and all income is unearned.

Six-month reporting households must report current household circumstances and income:

- At recertification interviews
  - When an increase in income causes the household's income to exceed 130% of the poverty level for the household size for any calendar month. This report must be made within ten days after the end of the calendar month in which the income increase is received.
  - During the 6th month of the household's certification period (Six-Month Contact) using the LDSS-4310 Periodic Report **even if there are no changes** if the:
    - Case is a NTA/FS or a FS Mixed case **and**
    - Case's certification period is seven full months or more.
- (Note: Until October 2004, NTA/FS and FS Mixed cases with certification periods of seven full months or more and with only **unearned income** are required to return a LDSS-3151 Change Report form, and **only if** the household has a change.)
- During the 6th month of the household's certification period (Six Month Contact) using the local district TA Eligibility Questionnaire if the:
    - Case is a TA/FS case **and**

- Case's certification period is seven full months or more

In addition to the above reporting points, a household with a member subject to the Able Bodied Adult without Dependents (ABAWD) rules must report when work hours fall below 80 hours a month

Six-Month Reporting households are not required to report changes at any other time, such as during a six-month certification period. Further, Six-Month Reporting households are not required to cooperate in verifying information from an outside source during a six-month certification period.

The change reporting rules for Six-Month Reporting households apply to all changes, not just to changes in income less than 130% of the poverty level. They apply even if the change will make the household ineligible once it is reported.

Example: A Six-Month Reporting household's certification period is 6/1/04 to 11/30/04. In July, the household receives an inheritance that puts the household over the Food Stamp resource level. The household is not required to report this information. If the household still has the resource at the time of the next recertification interview, it must be reported. If it is not reported, there is an overpayment from the start of the next recertification period.

While a Six-Month Reporting household is not required to report a change except as specified above, a worker must take action on changes during the certification period of a Six-Month Reporting household if:

- The household voluntarily reports and verifies changed information;
- The household reports and verifies change information to comply with TA or other program requirements; or
- The agency receives verified change information from a source outside the household.

Failure to take such action is an Agency Error overpayment.

Temporary Assistance does not use six-month reporting. Use the change reporting standard for FS benefits, not the TA reporting standard, when assessing a TA/FS or FS Mixed household for a potential FS overpayment. This will result in situations where there is a TA overpayment but no FS overpayment

Example: A TA/FS household fails to report a change within 10-days after the change occurred as required by the TA change reporting rules. However, Six-Month Reporting rules apply to the FS portion of the case. If the change did not raise the household's income to more than 130% of the poverty level for the household size, there is an overpayment for TA but there is no overpayment for FS.

### **10-Day (10-10-10) Reporting**

The following households must report household information and changes using 10-day reporting standards:

- Households certified for less than six months (a partial initial month benefit plus five full months counts as six months for purposes of the six-month reporting system);
- Households with zero income. Households receiving TA benefits are receiving income and are not zero income cases;
- Participants who live in group homes and have SSI or SSA income;
- Migrant or seasonal farm-worker households;
- Homeless households;

- After May 1, 2004, a household in which all adult members are aged and/or disabled and all income is unearned.

10-Day reporting households must report all changes within 10 days of the date the change occurs except for the changes listed on the LDSS-3151 Change Report form. Changes listed on the LDSS-3151 must be reported at the household's next recertification.

The agency has 10 days to make the changes after a household's report. The household must receive a 10-day timely and adequate notice of change.

To simplify and standardize program procedures for claims establishment, the second month after the month the change occurred is designated as the initial overpayment month in 10-Day Reporting situations. This is true even if the actual calendar dates indicate that the change to the case could have been made as early as the month after the change occurred.

### **Food Stamp Quarterly Reporting**

In the past, there was also Quarterly Reporting (QR). While QR is no longer a change-reporting standard for FS households, there may be claims for past periods when QR was in use.

TA/FS households with earned income were required to report FS changes using Quarterly Reporting standards until April 2001. NTA/FS households with earned income were required to report FS changes using Quarterly Reporting standards until July 2001. Because of the limits on how far back a claim can go from the Date of Discovery, the need to use Quarterly Budgeting rules will only occur for cases in which an IPV overpayment is being determined for a period before April or July 2001. Eventually, there will be no claims established using Quarterly Reporting rules.

FS Quarterly Reporting households were only required to report changes on the Quarterly Report and at recertification. This included TA/FS and Mixed-FS households that were required to report all changes within 10 days for TA in addition to at recertification and on the Quarterly Report. Failure of a Quarterly Reporting household to report a change within 10 days would have resulted in a TA overpayment but not a FS overpayment.

Use Quarterly Reporting rules only if the household actually received Quarterly Reports. If the household never reported receiving income and, therefore, never received a Quarterly Report, the household is processed as a 10-Day Reporting household for purposes of claim calculation.

### **Transitional Benefit Alternative (TBA)**

Households receiving Transitional Benefit Alternative (TBA) benefits after a TA case is closed do not have to report any changes during the TBA period.

### **New York State Nutrition Improvement Project (NYSNIP)**

SSI households participating in the New York State Nutrition Improvement Project (NYSNIP) are required to report changes to the local district:

- At recertification, and
- At the 24-month contact point of a 48-month certification period.

## **2. Determining the Period Of The Claim**

### **Initial Month of Overpayment**

The initial month of overpayment is determined by when the household was required to report the information and how the information would have been processed if reported timely.

Use the FS reporting standards, not the TA standards, when determining an overpayment for the FS part of a TA case. The start date for the FS overpayment may be different from the start date of the TA overpayment or there may be an overpayment for TA but not for FS.

#### Overpayment at Application

For all three change-reporting types, the initial month of payment is the first month the household was certified to receive FS benefits if the household fails to:

- Report correct information on the application or during the application interview or
- Report changes that occur after the application interview but during the application processing period.

#### Overpayment at Recertification

For all three change-reporting types, changes that a household was not required report during the certification period (or a for a QR household during the quarter) must be reported at recertification. The initial month of overpayment is the first month of the new certification period when inaccurate or incomplete information is reported at recertification.

Example: A Six-Month Reporting household had a certification period January 1, 2003 to June 30, 2003. The household received an increase in income on February 15, 2003. The household was not required to report the increase when it occurred because the income did not put the household over the 130% level.

The household did not report the income during the recertification interview in June. The case was reauthorized for the period July 1, 2003 to December 31, 2003. In August, the agency discovered the increase. July 2003 is the initial month of overpayment.

Example: A Six-Month Reporting household had a certification period January 1, 2003 to June 30, 2003. The household received an increase in income on February 15, 2003. The increase did not put the household over the 130% level.

The income was reduced back to the original level in May. During the recertification interview in June, the household did not report that the income increased for a short period during the certification period.

In August, the agency discovers the household had increased income in February, March and April. There is no overpayment. The household was not obligated to report the increased income because it was no longer being received when the household recertified in June.

#### Overpayment at Six-Month Contact Point or Quarterly Reporting Point

Overpayments for changes that are not reported at a required six-month contact by a Six-Month Reporting household with a certification period longer than six months are processed the same as changes not reported at recertification. The first month of overpayment is the seventh month of the certification period.

Overpayments for changes not reported on a quarterly report are processed the same as changes not reported at recertification. The first month of overpayment is the first month of the quarter following the quarter in which the change occurred.

#### Changes During the Certification Period

##### *Six-Month Reporting: Exceeding 130% of Poverty Level/ABAWD rule*

Six-Month Reporting households are required to report during a certification period when income exceeds 130% of the poverty level or when the work hours of a household

member subject to the ABAWD rules drop below 80 hours per month. The report must be made by the 10<sup>th</sup> of the month following the month in which the change occurred.

An increase in income reported by a Six-Month Reporting household during the certification period must be evaluated prospectively. There is no overpayment if the increase in income did not continue during the second month after the change and the household was no longer over the 130% standard.

If a Six-Month Reporting household fails to report an increase in income that results in the household's income exceeding 130% of the poverty level and the income continued past the second month following the change, the initial month of overpayment is the second month following the month that the income exceeded 130% of the poverty level.

Once it is determined that the household is ineligible due to the 130% standard, the ineligibility continues for claims establishment purposes until the next reporting point (e.g. recertification, six month contact), even if the household's income falls below 130%.

Example: A household had a certification period of February to July. The household's income exceeded 130% in March. The household was required to report this by April 10, but did not. The worker discovered this in July during the recertification interview.

When developing the claim the worker looked at income received in March and April and determined that the household continued to receive the increased amount in April and May. In June, the household's income decreased to below the 130% level.

There is an overpayment for May, June and July. The household is reauthorized benefits from August to January because income is now below 130%.

Food stamp overpayments for TA/FS households must be determined using Food Stamp reporting rules. This may result in a TA overpayment but no food stamp overpayment when there is a change during a household's certification period.

Example: A TA/FS household must report changes within 10 days to comply with Temporary Assistance (TA) requirements. The household is a Six-Month Reporting household for Food Stamps. The certification period is March to August.

The household fails to report that a household member started a part-time job on April 23. The household's gross income increase does not go above 130% of the poverty level.

There is a TA overpayment. There is no FS overpayment. There will be a FS overpayment starting in September, if the household fails to report the increase in income at recertification.

There is also an overpayment if a household with a member subject to the ABAWD rules fails to report that work hours fell below 80 hours in a month it is the third month of ABAWD eligibility and the reduction of work hours is expected to continue in the next month. The overpayment starts the month after the month that the person's hours fall below 80. An AE overpayment is established for the month following the month the hours fell below 80 for the third time, if the household reports the change on time. An IHE or IPV overpayment is established if the household does not report this type of change or reports it late.

There is no overpayment if the household fails to report work hours below 80 per month during the first or second month of ABAWD eligibility. However, workers should stress to persons subject to ABAWD rules the importance of timely and accurate reporting regarding hours worked to help them avoid overpayments and, in some cases, an IPV disqualification.

### *Six-Month Reporting: Voluntary Report or Report from Outside the Household*

Failure to act on changes voluntarily reported and verified by the household or reported and verified by a source outside the household, including other program areas of the local social services agency cause any agency error overpayment. The overpayment starts in the second month following the month in which the change information was reported to the agency (not the month in which the change occurred).

### *10-Day Reporting (10-10-10)*

For 10-Day Reporting households, all changes during a certification period must be reported within 10 days after they occur, the worker has 10 days to make the change and a timely 10-day notice is sent to the client. For purposes of administrative ease, the start date of an overpayment caused by failure of a 10-10-10 reporting household to timely report a change is the second month following the month in which the change occurred. This policy is used even if the actual calendar dates of the change would have made it possible to change the budget for the month after the change if the household had reported on time.

Example: A 10-day reporting homeless household started receiving income on March 1. The household should have reported the change by March 10<sup>th</sup>, but did not. The worker would have been required to send a notice by March 20<sup>th</sup>. The 10-day notice time frame would have ended March 30<sup>th</sup>. The first month of overpayment is May.

### *Food Stamp Quarterly Reporting*

Food Stamp Quarterly Reporting households were only required to report changes on the quarterly report and at recertification.

### **Initial Month of Overpayment Vs. Start Date of the Claim Period**

The initial month of overpayment is not always the start of the claim period. The initial month of overpayment is determined by application of change reporting rules as discussed above.

The type of claim and the Date of Discovery of the discrepant information determine the start date of the claim period. A household is required to repay the overpayment that occurred during the months covered by the claim period. A household is not required to repay overpayment amounts that occurred outside the claim period.

For claims classified as AEs or IHEs, the claim period may go back one full year (12 months) from the Date of Discovery. In some instances, the actual AE and IHE overpayment may extend back further than the beginning date of the overpayment claim period.

Example: On June 25, 2004, the worker determines that the agency failed to budget new unearned income that a Six-Month Reporting household reported during a recertification interview held in January 2003. The household's new certification period started February 1, 2003.

The household was overpaid starting in February 2003. The worker classifies the overpayment as an AE.

The time period between the Date of Discovery, June 25, 2004 and the date the overpayment started is longer than 12 months. A household cannot be held liable for AE or IHE overpayment amounts for a past period longer than one year from the Date of Discovery. The start date of the overpayment claim period is July 1, 2003, one year from the Date of Discovery.

For claims classified as IPVs, the claim period may go back up to six years (72 months) from the date of discovery.

Example: If, in the above example, the household had not reported the information and an IPV determination is obtained, the start date of the claim period is February, 2003 because the period of an IPV claim can go back up to 72 months.

Count the month of discovery as Month One when counting back to determine the start date of the claim period.

Example: In the above example, the month of discovery is June 2000.

Month 1- June 2004  
Month 2- May 2004  
Month 3- April 2004

Month 12 - July 2003  
(Start date if the claim is an AE or IHE)

Month 17-February 2003  
(Start date if the claim is an IPV)

### **End Date of the Claim Period**

The end date of the claim period is the date the change is made to the case or the date the information no longer applies to the case. The claim period includes overpayments made during the time between the date of discovery and when the change is made, including the notice time period. The total claim period can exceed 12-months for AEs and IHEs or 6 years for IPV's when these "forward" months are included.

Example: A Six-Month Reporting household reported an increase in income at recertification. The new certification period started on February 1, 2002. On June 25, 2003 the worker discovers the agency failed to make the change. This is an AE overpayment.

The worker sends timely notice to change the current case as of July 31, 2003. The claim period is July 2002 (one year back from the date of discovery) to 7/31/03 (the date the change is made to the case). The claim period is 13 months.

### **3. Determining The Amount Of The Claim**

The FS overpayment is the difference between the FS benefits the household received and the benefits the household should have received.

Determine a corrected benefit amount for each month of overpayment. Subtract the corrected amount from the amount that was received to determine the overpayment amount for each month. Record the overpayment calculation on the paper LDSS-4778 Calculation of Total Overpayment Amount worksheet. This information will be needed to complete the CNS or manual notice that is sent to the household.

### **Determining the Amount Issued /Amount of Benefit Received**

Use the Benefit Issuance Control System (BICS) "Case Record of Assistance" inquiry screens to determine the amount of EBT benefits issued to the household each month or if any benefits were returned or expunged. Under New York State's Electronic Benefit Transfer (EBT) system, a benefit is considered received as soon as it is posted and available in the household's account. The benefit does not have to be accessed (used) to be considered received. Benefits returned by the household or expunged are not considered received by the household.

Amounts of benefits authorized to the household but withheld as a recoupment to repay a prior overpayment are sometimes counted as benefits issued. If there is a recoupment for a prior overpayment in a month for which a new overpayment is being calculated, determine if the new overpayment occurred in the same period as the previous overpayment.

- If the new overpayment occurred in the same period as the prior overpayment, the amount of the recoupment being taken to repay the prior overpayment is not counted as benefits received. **Do not add** the recoupment amount to the EBT-issued benefit to determine the actual amount of benefits received for the month.
- If the new overpayment did not occur in the same period as the prior overpayment, the amount of the recoupment being taken to repay the prior overpayment is counted as benefits received. **Add** the recoupment amount to the EBT-issued benefit to determine the actual amount of benefits received for the month.

Use copies of past budgets to identify if a recoupment for a previously established claim was taken during a month in which a new overpayment is being calculated.

Example: In January 2004, a worker is calculating an overpayment for two cases, both for the period January 2003 to December 2003. Both households have a recoupment for a prior overpayment that was being collected during the period the new overpayment occurred.

Case #1: Household #1 had a previous overpayment for February and March 2003. It was recouped from benefits paid in April 2003 through November 2003. During that period the household was entitled to \$100 per month but \$10 was withheld to repay (recoup) the overissuance. The household received \$90 in benefits each month in their EBT account.

Do not include the amount of the recoupment as part of the amount of benefits issued from April 2003 to November 2003. Use \$90 as the amount of benefit issued. This is because the overpayment months of the prior claim (February 2003 and March 2003) occurred within the overpayment period of the new claim (January 2003--December 2003).

Case #2: Household #2 had a previous overpayment from June 2002 through December 2002. The recoupment started in January 2003 and will continue until June 2004. From January 2003 to December 2003 the household was entitled to \$100 per month but \$10 was withheld from the benefit to repay (recoup) the overpayment. The household received \$90 in benefits each month in their EBT account.

Add the recoupment amount to the amount of EBT benefits issued to determine the total amount of benefits issued. Use \$100 as the benefit issued. This is because the overpayment months of the prior claim (June 2002–December 2002) does not occur within the overpayment period of the new claim (January 2000 - December 2000).

### **Determining Corrected Benefit Amount**

#### Earned Income Deduction

For all three types of change reporting, do not apply the earned income deduction to any part of the earned income that the household failed to report timely when determining the actual entitlement amount for IHE or IPV overpayment calculation. The earned income deduction is used when calculating an AE overpayment.

Example: At recertification, a Six-Month Reporting household reports earned income of \$100 a week but fails to report income of \$25 per week from a second part-time job. When calculating the corrected benefit amount in order to calculate the overpayment amount, the earned income deduction is applied to the \$100 a week income but not to the \$25 a week from the part-time job.

#### Use Actual Income Received

Workers use prospective averaged income when initially calculating FS eligibility and benefit amount. This requires using information at hand to make the best estimate of what the household expects to receive in income in the coming months. If the income varies

from week to week an average pay amount must be calculated. That average pay must then be “converted” to reflect that there are 4.3 weeks in an average month.

When calculating an overpayment claim amount, the worker has access to a household’s actual income records for the period in the past when the overpayment occurred. There is no need for a projected best estimate of income since the actual amount received is known.

For all three types of change reporting, use actual income received in a month rather than projected monthly income, to determine the corrected benefit amount when calculating a FS overpayment claim. Do not average and convert.

### **Corrected Benefit: Six-Month Reporting Household**

#### **Freezing Income and Circumstances**

To determine the corrected benefit amount for a Six-Month Reporting household for all overpayments except those due to the household’s income exceeding 130% of poverty:

- Determine the first month of the claim (not overpayment) period;
- Calculate the amount of benefits the household should have received using the household circumstances and income that occurred during the first month of the claim (not overpayment) period;
- Freeze the income and other case circumstances. Do not change the corrected benefit amount to reflect variations in income and other household circumstances between reporting points, unless the household’s income starts to exceed 130% of poverty in any of the months. This is the corrected benefit for each month until the next reporting point.

Example: Based on circumstances reported at a December 2003 recertification, the worker authorized a benefit for the period January 2004 to June 2004 using earned income of \$100 a week. During the next recertification interview in June, the worker finds out that another household member had unreported unearned income of \$75 a week when the case was recertified in December 2003. The worker also finds out that the earned income was raised to \$125 in February. After the increases, the household’s income remained under 130 % of the poverty level.

The household was overpaid for the months of January through June because of the unreported unearned income of \$75 per week. The worker figures the corrected entitlement for these months using the actual income received in January, \$175 a week.

The increase in the earned income that occurred in February is not counted because the household was not required to report this change until the next recertification.

#### **Failure to Report Income Exceeding 130% of the Poverty Level**

To determine the corrected benefit amount for a Six-Month Reporting household for overpayments due to failure to report household income has exceeded 130% of the poverty level:

- Determine the first month of the claim (not overpayment) period;
- The household was ineligible for all months in which benefits were received beginning the first month of the claim period. The corrected benefit amount is \$0 (zero). It does not need to be calculated. The total amount of the benefit issued each month is the overpayment;
- The household remains ineligible until reapplying or recertifying, **even if** the income goes below 130% of the poverty level.

Example: A Six-Month Reporting household had a certification period of January through June. During the recertification interview in June, the household reports receiving a new source of income in February which caused the household's income to exceed 130% of the poverty level. The new income amount continued in March. The household also reports the income stopped as of May. The household income was below 130% of the poverty level in May and June.

The household should have reported the income change by March 10. The case would have been closed before April. The household was overpaid during April, May and June. The amount of the overpayment is the total of all the benefits received in those months.

Based on the household's circumstances during the June recertification interview, the household is eligible for FS. The worker reauthorizes the household with a certification period of July to December. A claim is established against the household for April through June.

Extra Paycheck in Calculation Month

In some instances, a Six-Month Reporting household may receive more than the usual number of paychecks in a month because of the payday schedule ("5-paycheck month"). If there was an extra payday in the month identified as the first month of the claim period, eliminate the extra amount from the overpayment calculation. Use the amounts of the four most recent weeks of earned income to determine the income to use when determining the corrected benefit amount.

**Corrected Benefit Amount: 10-Day (10-10-10) Change Reporting**

To determine the corrected benefit amount for a 10 Day Reporting household:

- Determine the first month of the claim (not overpayment) period;
- Calculate a corrected benefit amount for each month of the claim period using each month's actual household circumstances and income;
- Allow for the change reporting time period and income limit reporting rules for any changes that occur during the months of the claim period.

Example: A 10-day change reporting FS recipient residing in a group home had a certification period of January to December. The individual had no income. The FS recipient started receiving \$150 monthly from a pension on February 15 but did not report it. In June the pension was raised to \$300. In September, the recipient started receiving an annuity payment of \$200 per month. The worker discovers the unreported incomes during a recertification interview in December. The claim period is April to December 31. The income amounts to use to determine the corrected benefit are as follow:

January	\$ 0	
February	\$ 0	(Change in circumstance-pension income. 10-10-10 rule)
March	\$ 0	
April	\$150	(2 <sup>nd</sup> month following the month pension income started)
May	\$150	
June	\$150	(Increase pension 10-10-10 rule)
July	\$150	
August	\$300	(2 <sup>nd</sup> month following pension increase)
September	\$300	(Change in circumstance-annuity income 10-10-10 rule)
October	\$300	
November	\$500	(2 <sup>nd</sup> month following month annuity income started)
December	\$500	

### Extra Paycheck in Calculation Month (10-Day Reporting)

In some instances, a 10-Day Reporting household may receive more than the usual number of paychecks in a month because of the payday schedule (“5-paycheck month”). If there was an extra payday in any month of the claim period, eliminate the extra amount from the overpayment calculation. Use the amounts of the four most recent weeks of earned income to determine the income to use when determining the corrected benefit amount.

### Underpayments During Claim Period (10-Day Reporting)

If the calculation of corrected benefit amount shows there was an underpayment in a month included in the claim period, consider that month as having no overpayment (\$ 0). Do not subtract the underpayment amount from the total claim amount to reduce the amount of the claim.

#### Example:

MONTH	ISSUED	CORRECT	OP
June	\$ 150	\$ 125	\$ 25
July	\$ 150	\$ 125	\$ 25
August	\$ 150	\$ 200	\$ 0
September	\$ 150	\$ 125	\$ 25
Total Overpayment			\$75

Issue restored benefits to the household for underpayments caused by the agency. Do not issue restored benefits for overpayments caused by the household’s failure to timely report. Offset restored benefits against established overpayment claims.

### **Switching from One Type Reporting to the Other: Six-month and 10-Day Reporting**

#### 10- Day Reporting to Six-Month Reporting

Use the 10-10-10 Change Reporting time rules to determine the first month of overpayment when a 10-Day reporting household has a change that makes it a Six-Month Reporting household. Use Six-Month Reporting rules to determine the amount of the overpayment. Six-Month Reporting rules apply to determining the corrected benefit amount even though the household did not report the change.

Example: A household with no income was opened with a certification period of June to November. The household was required to report changes according to the 10-Day Reporting requirements. In July, a household member started a part-time job for \$100 a week but did not report it. In September the pay for the part-time job was raised to \$225.

During a recertification interview in November, the worker discovers that the income was not reported and calculates an overpayment. The household’s income did not go above 130% of poverty during any of these months. The amount of earned income used to calculate the overpayment is as follows:

<u>Month</u>	<u>Earned Income Received</u>	<u>Corrected Income</u>
July	\$ 300 (worked three weeks)	\$ 0 (10-10-10 period)
Aug	\$ 350	\$ 0 (10-10-10 period)
Sept	\$ 400 (4 paychecks @ \$100)	\$ 400 (Start of OP)
Oct	\$ 500 (4 paychecks @ \$125)	\$ 400 (Income frozen Sept amt)
Nov	\$ 625 (5 paychecks @ \$125)	\$ 400 (Income frozen Sept amt)

The claim period is September through November.

### Six-month Reporting to 10-Day Reporting

If a household no longer meets the requirements to be a Six-Month Reporting household, the Six-Month Reporting rules continue to apply until the end of the household's certification period or next required six-month contact.

#### **4. Claims During TBA Period**

If an overpayment results because the worker does not use the correct budgeting method to determine the TBA benefit when the TA case closes, a claim for the overpayment amount is established against the household. The claim starts with the month in which the first TBA benefit is paid to the household and ends with the last month the TBA benefit is paid.

If the Food Stamp benefit is in error at the time that the TA case closes and the worker uses this information as the basis for determining the TBA benefit, there is no overpayment if the worker uses the correct budgeting method to determine the TBA benefit amount.

The local district must not decrease benefits during the TBA period. There is no overpayment if a change occurs during the TBA period that would decrease the benefits even if the change is reported and verified by a household member or a source outside the household.

Do not reduce TBA benefits by starting an overpayment recoupment for a new claim during the TBA period. Negotiate a repayment agreement for case repayment, if the case closes after the TBA period or start of a recoupment, if the case stays open after the TBA period.

#### **5. Claims and New York State Nutrition Improvement Project (NYSNIP) Households**

Establish a claim:

- Starting in the second month following the month the interim contact form was mailed to the household, for any benefits received after failing to respond to the interim contact request. Continue the claim period until the month in which the household had appropriate contact with the local district.
- If a household fails to report required changes in information or reports misinformation at the interim contact or at recertification.
- If the agency fails to act on information on the SDX that causes an overpayment.

### **F. Collecting the Claim—Repayment Methods**

Make all reasonable efforts to collect the overpayment amount for both open and closed cases, once a claim is established.

#### **1. Recoupment: Active Cases**

Collect overpayment claims through FS benefits reduction (recoupment) during any period when there is an open case.

The recoupment amount for IHE and AE claims is 10% of the household benefit amount, or \$10, whichever is greater. The recoupment amount for IPV is 20% of the household benefit before it is reduced due to the IPV disqualification or \$20, whichever is greater. One- and two-person households receiving the minimum benefit of \$10 may have their FS benefits reduced to zero due to FS recoupment.

Claims against active cases must be collected through recoupment unless:

- The household voluntarily requests to make monthly repayment through another method (e.g., cash, return of an EBT FS benefit), and

- The amount to be collected each month will exceed the amount of the recoupment

This applies to all types of claims: AE, IHE and IPV.

A household may voluntarily elect to make payment in addition to the recoupment amount at any time.

Before September 1996, AEs could not be collected through any means unless the household agreed to repayment and completed a repayment agreement. This was changed with the implementation of PRWORA. All AE overpayments, including those established before September 1996, are now collected through recoupment when there is an active case.

When starting a recoupment for the first time to collect an AE established before September 1996, review the past record to determine if the household received proper notice at the time the AE claim was initially established. If there is any doubt as to whether proper notice was sent, send appropriate notice to establish the claim.

## **2. Direct Collection: Inactive/Closed Cases**

Persons who incur FS overpayments are obligated to repay the overpayment even if no longer in receipt of assistance. This includes overpayment claims established while receiving benefits and overpayment claims established at or after case closing.

Negotiate a Repayment Agreement with the household when a case with an outstanding claim balance closes, a claim is established at case closing or a claim is established after the case is closed.

**Establish and implement local district procedures for establishing a Repayment Agreement and for continuing collection efforts if a person:**

- **Fails to enter into a repayment agreement;**
- **Does not make a payment in accordance with an established repayment schedule;**
- **Pays less than the agreed upon amount.**

The Cash Management Subsystem (CAMS) can be used to send regular billing statements, or a local district can initiate other collection activities. CAMS also provides an Aging Report that tracks the length of time the claim has been delinquent. After the claim has been delinquent for more than six months, it can be referred to the Treasury Off-Set Program (TOP) for collection from federal benefits.

## **3. Treasury Offset Program (TOP): Inactive/Closed Cases**

The Treasury Offset Program (TOP) is a collection method for delinquent FS overpayment claims. Final implementation of the revised TOP process in New York State is planned for the third quarter of 2004. All local districts will be required to participate in TOP.

Delinquent Food Stamp overpayment claims are referred to the U. S. Treasury for collection from any federal payments potentially due the individual who is responsible for the overpayment. Federal payments eligible for offset include tax refunds, federal salaries, federal pension benefits or Veteran's Benefits. Offset of Social Security payments is planned as a future enhancement.

Cases are identified for a TOP collection after an automated review of CAMS shows the:

- Client responsible for the overpayment is not a current recipient of FS benefits **and**
- Debt is less than 10 years old **and**
- Claim is delinquent.

The retention of documentation is critical for the proper certification of FS overpayments to the TOP program. Claim documentation must be retained as proof of the overpayment claim. This information must also be made available to the client. The client is entitled to the supporting information upon request at anytime, up to and including the appeal process.

#### **4. Offsetting Restored Benefits: Active and Inactive/Closed Cases**

Offset restored benefit amounts against overpayment amounts. Use this repayment method for both active and closed cases that receive restored benefits.

Check to see if there is an outstanding overpayment amount before issuing a restored benefit. If there is an outstanding claim balance, do not issue the benefit to the client.

In upstate local districts, deduct the restored amount from the WMS claim balance and change the claim balance in WMS and CAMS. In New York City follow the local procedures in the Family Independence Administration (FIA) FS Recoupment Subsystem. See Section J of this Directive for more information about WMS and the FIA FS Recoupment Subsystem.

#### **5. Benefit Expungement: Active and Inactive/Closed Cases**

All unredeemed FS benefits in an account are expunged (erased) from the EBT System if there are no benefits redeemed for 270 days. Unredeemed benefits are offset against any outstanding claim balance before they are expunged. This process applies to both active and closed cases. The offset is done automatically for claims listed on CAMS.

Benefits which are unredeemed for 270 days or more when expunged may not be restored. Benefits expunged when unredeemed for less than 270 days may be restored at client request. Adjust the claim balance in CAMS and WMS if benefits previously offset against a claim are later restored to the client.

#### **6. Voluntary Repayment: Active and Inactive/Closed Cases**

Clients may make extra voluntary payments to reduce overpayment claim amounts at any time. These may be cash repayment, repayment using EBT FS benefits, increasing the FS benefits reduction (recoupment) to a higher amount than required or making payments in addition to the amount required by a repayment agreement or recoupment percentage.

A household with an active case may make voluntary payments in addition to repayment through recoupment. However, a household may not substitute a voluntary repayment for a recoupment unless the voluntary payment is more than the recoupment amount.

**Establish and implement local district worker and supervisory procedures regarding accepting extra voluntary repayments. Ensure that the worker knows the appropriate action to take or referral to make if a client wants to make a voluntary repayment.**

#### **7. Switching Collection Methods**

Change the collection method when a case status changes from active/open to inactive/closed or vice versa. Send the household a notice explaining the change in collection method and the outstanding amount of the claim.

In this situation, the household has a right to a fair hearing to challenge the amount of the claim balance or the appropriateness of the collection method. The household does not have fair hearing rights regarding the fact that there is an overpayment. The household had the opportunity to challenge the overpayment when it was established.

## **G. Establishing The Claim**

### **1. Establishing A New Claim**

#### **Notice**

Establish the claim by sending all appropriate notices once the type, period, amount and repayment method of the claim are determined.

The date on the Demand Notice is the date the claim is established, provided the notice is not returned as undeliverable. If returned as undeliverable, a claim is not established.

#### **Systems**

Enter information about the claim into WMS upstate and into the Family Independence Administration (FIA) Recoupment Subsystem in New York City.

Enter Upstate claim information into the Cash Management Subsystem (CAMS) for all closed cases. Use of CAMS for active cases is optional. Enter claim information for active cases into CAMS, if the district uses CAMS for active cases.

**Establish a claim control process for active cases that meet the requirements established by the OTDA Office of Finance if the local district does not use CAMS for active cases.**

In New York City there is an interface between the FIA Recoupment Subsystem and CAMS. Information entered into the Recoupment Subsystem is automatically transmitted to CAMS. No separate action is required to ensure that the data goes to CAMS.

### **2. Waiving Claim Establishment**

#### **Pre-Establishment Cost Effectiveness Determination**

In the following instances, claim establishment may be waived because it may not be cost effective to establish and subsequently collect an overpayment:

##### **Closed Case with Claim Less Than \$125**

It is a local district option to waive establishment of a claim if the case is closed and the amount of the claim is \$125 or less. The local district can establish an establishment threshold of any amount between \$1 and \$124. This includes IPV claims, unless the court decision establishing the IPV prohibits waiving the establishment of the claim. The IPV disqualification penalty is imposed even if the establishment of the overpayment claim is waived.

If a local district chooses to use an establishment threshold for closed cases, the policy must be applied to all cases fitting this situation. It cannot be used on a case-by-case basis.

Document in the case record that no claim was established because the case is closed and the amount is less than the local threshold when processing a closed case for which the establishment of the claim is waived. This resolves the discrepant information. The information does not have to be reviewed again if the case reopens.

A local establishment threshold pertains only to establishing the claim. If a claim was established and the balance is below the threshold when the case is closed or falls below the threshold after the case is closed, collection efforts must be continued. In such situations, consider writing-off the claim.

Establish and collect claims of any amount for active cases.

### All Members Deceased

Claims establishment may be waived if all persons who would be responsible for repaying the claim are deceased. Claims may be established against the estate of deceased household members. It is a local district option to waive establishment of a claim against the estate of deceased household members. This option may be used on a case-by-case basis. It does not need to be applied to all cases fitting the situation.

Document in the case record that no claim was established because all members of the case are deceased, if this option is used.

### No Adult Household Members

Do not establish a claim if all members of the household were under the age of eighteen and none of them were head of the household when the overpayment occurred.

## **3. Responsibility For Claims Established In Another Jurisdiction**

### Household Continuing to Receive FS benefits

If a household with a claim established in another New York local district or another state moves to a new district and continues to receive FS benefits in the new district, responsibility for collecting the claim is transferred to the new district.

Notify the old local district or state to terminate the claim. Change CAMS to reflect that the new local district will collect the recoupment.

Make sure that the uncollected balance of the claim is accurate when reestablishing the claim. Information in CAMS is considered accurate. It does not have to be verified by additional contact with the previous county. If there is no CAMS information because the previous district does not use CAMS or the claim was established in another state, contact the old district or state to find out the current uncollected claim balance.

The household must be informed of the amount still owed when the claim is reestablished in the new district.

Do not obtain copies of the documentation used to initially establish the claim when reestablishing it. This documentation remains with the county that originally established the claim.

The new local district is responsible for issues dealing with the accuracy of the balance and collection for the period of time after the claim is established in the new district if a client requests a Fair Hearing. The old local district or state remains responsible for issues dealing with the original establishment of the claim and the accuracy of the balance and collections during the period before the claim was transferred to the new local district.

At times, there may be Fair Hearing requests regarding issues for the period of time before the claim was transferred. The new local district may have to appear at the Fair Hearing on behalf of the old local district or state due to location and travel considerations. If this happens, obtain the information and documentation needed for the hearing from the old local district or state at that time.

### Households Not Continuing to Receive FS Benefits

If a household moves and does not continue to receive FS benefits, the old local district remains responsible for collection.

Obtain a repayment agreement from the household and continue to collect the overpayment. If the household does not cooperate use other collection methods such as TOP.

## H. Notices

Providing proper notice of an overpayment is a critical step in the claims process. The date of the notice is the date the claim is considered established. Failure to provide proper notice can result in the claim being overturned in a Fair Hearing or being rejected from automated collection processes such as the Treasury Offset Program (TOP).

The following are the approved notices for claims establishment. No other notice, such as a local Confession of Judgment, may be substituted for the State approved CNS or manual notices when establishing a FS overpayment claim.

### 1. **Claims Establishment Notices: Demand Notice, Calculation of Total Overpayment Amount Worksheet, Repayment Agreement**

The following must be sent to the household to establish the claim:

- Demand Notice
- Overpayment Calculation Explanation
- Repayment Agreement, if claim can not be collected through recoupment

#### Demand Notice

The Demand Notice tells the household about the:

- Amount of the overpayment
- Period of the overpayment
- Reason for the overpayment
- Date of discovery
- Type of claim
- Method of repayment

The household has fair hearing rights on all aspects of the claim listed above when a claim is being established.

The Demand Notice also provides:

- Information that the local district may continue to pursue an IPV even though an IHE has already been established; and
- Information that an unpaid claim will be referred for collection including automated collection by the federal government even after the case is closed.

The Demand Notice is also used to notify the household about the current balance of a claim.

#### Calculation of Total Overpayment Amount Worksheet

Send the Calculation of Total Overpayment Amount worksheet whenever a claim is being established to:

- Support the amount of overpayment stated on the Demand Notice.
- Show amounts of overpayment month-by-month.
- Support the agency's position during agency conferences, Fair Hearings and TOP challenges.

The manual version of this notice can be used by the worker as a calculation aid when the amount of the overpayment is being calculated.

#### Repayment Agreement

Send the Repayment Agreement when:

- Establishing a claim at case closing.
- Establishing a claim after the case is closed.
- Closing a case with a previously established claim.

It is also used when a household with an active case requests to make a voluntary repayment that is in excess of what is being recouped.

**Establish and implement local district procedures to monitor the sending and return of the Repayment Agreement. The procedures must include at a minimum:**

- **Identification of who sends the agreement, who monitors the return of the agreement and where the agreement is sent when it is returned.**
- **Provisions for discussing with the recipient the specifics of the repayment so that any necessary billing can be set up.**
- **The process to use when the Repayment Agreement is returned.**
- **The process to use if the Repayment Agreement is not returned, including efforts to continue to try to obtain a repayment agreement.**

Do not send the Repayment Agreement to an active case unless the recipient wants to make a voluntary repayment.

## 2. Producing the Establishment Notice

### Active Cases CNS

Use the following CNS codes to generate Establishment Notices for active cases:

Type of overpayment	CNS Code if recoup will start in WMS	CNS Code if recoup will be pended in WMS
Agency Error (AE)	R 21	R 24
Inadvertent Household Error (IHE)	R 22	R 25
Intentional Program Violation (IPV)	R 23	R 26

When any of the above codes are used and the appropriate worker entry fields are completed, they generate the CNS Demand Notice, which includes the Calculation of Total Overpayment information. Codes R 23 and R26 also generate the information about the Food Stamp disqualification penalties.

### Closed/Closing Cases CNS

Use the following CNS codes to generate Establishment Notices for closed cases or when establishing a claim at case closing:

Type of overpayment	Code
Agency Error (AE)	R 27
Inadvertent Household Error (IHE)	R 28
Intentional Program Violation (IPV)	R 29

When any of the above codes are used and the appropriate worker entry fields are completed, they generate the CNS Demand Notice, the Calculation of Total Overpayment information and the Repayment Agreement. Code R 29 also generates the information about the Food Stamp disqualification penalties.

**Manual Notices**

The following are the manual claims establishment notices for active, closed and closing cases:

- **LDSS 3156 - Notice of Food Stamp Benefits Overpayments** is the Demand Notice for AE and IHE overpayments.
- **LDSS 4799 - IPV Disqualification Notice** is the Demand Notice for IPV overpayments. It also tells the household about the FS disqualification penalties.
- **LDSS 4778 - Calculation of Total Overpayment Amount** is used with both the **LDSS3156** and **LDSS 4799** to explain how the overpayment was calculated.

The manual Repayment Agreement for closed and closing cases is:

- **LDSS 4053 - FS Repayment Agreement**

**3. Notifying Household of the Effect Claim Will Have on Current Benefits**

**CNS Notices**

In addition to the information about the amount of the claim and how it was calculated on the Demand Notice and the Calculation of total Overpayment Amount worksheet, inform a household with an active case of the effect the recoupment of the overpayment will have on current benefits. Use the notices or the comparable CNS language that inform the household about eligibility and benefit amount. The notice codes vary depending upon the type of action being completed.

**Manual Notices**

The manual notices used for this purpose are:

<b>LDSS-3152</b>	<b>Action Taken on Your FS Case</b>
<b>LDSS-3152 (NYC)</b>	<b>Action Taken on Your FS Case (NYC)</b>
<b>LDSS-3620</b>	<b>Notice of Intent to Change Benefits (Timely and Adequate)</b>
<b>LDSS-3620 (NYC)</b>	<b>Notice of Intent to Change Benefits (Timely and Adequate) (NYC)</b>
<b>LDSS-3621</b>	<b>Notice of Intent to Change Benefits (Adequate Only)</b>
<b>LDSS-3621 (NYC)</b>	<b>Notice of Intent to Change Benefits (Adequate Only) (NYC)</b>
<b>LDSS-3969</b>	<b>Notice of Action on Your Application/Benefit for the Child Assistance Program...</b>
<b>LDSS-4013</b>	<b>Action Taken on Your Application: Public Assistance...</b>
<b>LDSS-4014</b>	<b>Action Taken on Your Recertification: Public Assistance...</b>
<b>LDSS-4015</b>	<b>Notice of Intent to Change Benefits: Public Assistance...(Timely &amp; Adequate)</b>
<b>LDSS-4016</b>	<b>Notice of Intent to Change Benefits: Public Assistance...(Adequate Only)</b>

For IPV Claims, use the **LDSS 4799 - IPV Disqualification Notice** to inform the household about the effect the IPV claim will have on current benefits.

#### 4. **Updating the Household About the Claim Balance**

When a household switches from one-repayment method to another (i.e. recoupment to cash, cash to recoupment) send notice of the total balance of all overpayments owed. In this situation, there are Fair Hearing rights on the accuracy of the claim balance and repayment method. There are no Fair Hearing rights on the criteria used to originally establish the claim (i.e., original amount, period, reason, date of discovery and type).

##### **CNS Notices**

Use the following CNS codes to generate a Claim Balance notice:

<b>Action</b>	<b>CNS Code</b>
Active Case is Closing (Recoupment to cash repayment)	L 99
A closed case with an outstanding AE or IHE is reopening (Cash repayment to recoupment)	L 92
A closed case with an outstanding IPV is reopening (Cash repayment to recoupment)	L 94

The worker must complete the BALANCED OWED field for the CNS notice. In addition to generating the Balance Owed Notice, code L99 also generates the Repayment Agreement.

##### **Manual Notices**

If using manual notices, use the **LDSS - -3156-Notice of Food Stamp Overpayment** to update the household about the balance owed when the repayment method for the household changes. Also send the **LDSS - 4053-Repayment Agreement** when the case is going from active/opened to closed.

#### 5. **Households That Cannot Be Located For Claims Establishment**

A claim is not established if the FS Demand Letter Notice (manual or CNS) is returned to the agency as undeliverable. However, there may be a good chance to collect the overpayment if the household members come back on FS or can otherwise be located at a later date.

Make reasonable efforts to get undelivered notices to household members liable for repayment. If such attempts fail, terminate the claim in CAMS.

When a claim is terminated (“written-off”), it is no longer subject to continued collection and reporting requirements. However, the information about it stays in CAMS. If a new collection method or a specific event subsequently increases the likelihood of further collection, the claim may be reinstated.

If contact is made with the household at a later date, send the appropriate notices to establish the claim and change the claim status in CAMS. In districts that do not use CAMS for open cases, reinstate the claim in the local accounting system.

Do not attempt any collection of the overpayment until the household receives appropriate notice of the claim by receiving the manual or CNS Demand Notice.

**Establish and implement local district procedures to:**

- **Control claim notices returned as undeliverable so that these claims are terminated in CAMS**

- **Ensure that workers identify terminated claims when contact is renewed with a household member**
- **Ensure that proper notice to establish the claim is sent to the household when contact is re-established and that the claim is removed from terminated status in CAMS**
- **Insure proper manual controls if the district does not use CAMS for active cases.**

Failure of the household to return a Repayment Agreement does not mean the mail was undeliverable. Even if the Repayment Agreement is not returned, the claim is considered established unless the Demand Notice is returned marked “undeliverable”.

Continue to make efforts to obtain a Repayment Agreement and to bill the household.

## **I. Documentation**

### **1. Types of Documentation**

Maintain all documentation that supports the decisions about the claim amount, type, period and repayment method. At a minimum, this includes but is not limited to:

- The source of the discrepant information, such as a verbal report from the client, a change report form, information received from an outside source, or computer print-out.
- Application or recertification forms that apply to the time period of the overpayment.
- Verification of the discrepant information, such as pay stubs or employer letters.
- Copies of manual notices.
- Records relating to the amount of benefits that were received.
- Budget calculations used to determine the benefit amount that the client should have received - this can be represented as copies of scratchpad budgets representing the entire period of overpayment.
- The Calculation of Total Overpayment Amount worksheet with the month-by-month overpayment summary showing the Date of Discovery, Date of Establishment, amount issued to the household, the amount to which the household was actually entitled, the overpayment amount for each month and the total amount of the overpayment.

Documentation may be paper originals, copies of originals, electronically imaged documents or an electronic record such as information retained in WMS and CAMS. It may be kept in a separate claims file or in the general case record. If kept in the general case record, the information must be clearly identified that it supports a claim and what claim it supports. Information must be readily retrievable for local district, federal, State, client, or fair hearing review. Failure to adequately document claims establishment information can result in the claim being overturned in a Fair Hearing, TOP review or other challenge.

### **2. Record Retention Requirements**

Keep closed case documentation according to the USDA time limits outlined below:

- **IPV Disqualification Records:** Indefinite. These records must be retained for the life of the individual or until USDA notifies the State that the record is no longer needed.
- **Work Requirement Violation Records:** Indefinite. Permanent work rule disqualifications must be retained for the life of the individual or until s/he reaches age 60, whichever occurs first.
- **Claims Records:** 3 years after the claim is either satisfied or closed administratively.
- **Issuance Records:** 3 years from the date the federal debt is paid for cases with claims.

In addition, follow these State requirements:

- General Program Records: 6 years from the date of origin.
- Certification Records 6 years from the end of the date of certification or, if under investigation, until the investigation is resolved or the penalty imposed.
- DSS-3214 “Status of Claims Against Households”: 6 years.
- CAMS Reports: 6 years.

## V. Systems Implications

### 1. WMS Claims Procedures

This section outlines the WMS activities used to process claims in new, active and closed cases.

#### Upstate

##### Establishing a new claim

To enter a new claim in WMS for an active case on the ABEL FS Input screen enter:

- Claim Type using one of the following codes:
  - 1 Agency Error
  - 2 Client Error
  - 4 PA Fraud/FS IPV
- Enter the Claim Balance
- If the Claim Type as ‘4’ FS IPV, enter the number of people disqualified

ABEL calculates the amount of the ongoing monthly FS Benefit reduction, the number of months it will take to collect the overpayment and the final month’s remaining recoupment amount.

The household may enter into a voluntary repayment agreement to make a monthly repayment that is greater than the required 10% or 20% recoupment amount. If this occurs, the household must complete a “FS Repayment Agreement”. Enter the amount of the voluntary repayment in the “Amount” field. ABEL will not calculate a recoupment amount. The voluntary repayment amount will be used as the recoupment amount.

Write a recurring FS Payment Line using Payment Type “96” or “X6”. WMS brings the monthly Claim amount being recouped from the stored ABEL Budget to the bottom of data-entry Screen 6. The monthly recoupment amount is transmitted to BICS and that amount is subtracted from the total claim balance in WMS. For districts using CAMS for active cases, the amount of the recoupment is also automatically posted to the CAMS claim.

When doing subsequent months’ budgets for the case, enter ‘Y’ in the RECALC field on the FS Input Screen. The overpayment balance, the number of months to recover the overpayment and any remaining final month overpayment amount are updated each time a subsequent budget is stored with a ‘Y’ entered in the RECALC field on the FS Input Screen.

When writing single issue FS payment lines using either Pay Type X1, X3, 91, 93, 94, 95 or 97, if there is no ABEL budget to access, enter the claim amount at the bottom of data-entry Screen 6. This ensures accurate crediting of the recoupment amount in CAMS in districts using CAMS for active cases. Under certain circumstances, WMS will automatically bring a Claim Amount to Screen 6, if there is a stored budget that matches the amounts and dates of the single-issue payment. Complete details for updating CAMS

using single-issue pay lines are contained in the following two “Dear WMS Coordinator” Letters: November 14, 2003, Attachment I, #3, and July 10, 2003, Attachment I, #3.

Prepare appropriate manual or automated notices with reason(s) and corresponding budgetary information for the action taken on the case and amount to be recovered.

#### Previous Claims/Order of Collection

ABEL has room to show two outstanding claims. The first claim occurrence field is the claim currently being collected. If it is filled, enter the new information in the second occurrence field. Collection will start on the new claim after the collection on the previous claim is complete.

If there already are two outstanding claims, entry of the information into ABEL is pended. Follow local procedures for pending the claim entry into WMS. Enter information about the claim into CAMS even though the entry into WMS has been pended. Send appropriate notice to the household, even if the entry into WMS is pended.

Collection of IPV takes precedence over collection of AE and IHE claims. If the new claim is an IPV, and the first prior claim occurrence is not an IPV claim, suspend the claim that is in the first field. Do this by removing the non-IPV from the first claim occurrence field and putting it in the second occurrence field. If there already is a claim in the second occurrence field, move that claim to pending.

If the first occurrence is an IPV, do not suspend it. Put the new IPV claim in the second field. If the rare third claim is an IPV, pend WMS entry for the new IPV. For AE and IHE claims, collect the oldest claim first.

#### Previous Claims at Case Opening

When opening a new case, determine if any one in the new case has an outstanding claim. There is a Recoupment Indicator on the WMS Clearance Report if the individual being matched is or was a member of a case that currently has, or had when closed, an outstanding TA recoupment balance, an outstanding FS claim balance or both. The indicator is labeled R/C on the clearance report, with values of P for TA recoupment, F for FS claim or B for both. Also, information may be obtained about previously established overpayment through other sources such as direct contact with other local districts or states and the state Disqualified Recipient Subsystem (DRS) or CAMS.

Enter these claims into WMS for collection. If there is more than one claim enter IPV's first and all other claims next with the oldest claim listed first.

#### Establishing a Claim at Case Closing or on a Closed Case

Claims established at case closing or after a case closes are not entered into WMS when established.

#### Fair Hearings

If a client requests a Fair Hearing and is entitled to aid-to-continue take the following actions:

- Cancel the payment line reducing the FS benefits
- Recalculate and store a new ABEL Budget without including the overpayment claim that is in dispute
- Re-write the payment line in an amount not reflecting the claim recovery

If the district is upheld in the hearing, reestablish the claim. This includes recalculating the claim to include the amount of the overpayment accrued during the aid-to-continue period. Reenter the claim in WMS. Make sure CAMS information is updated.

Remove claim from CAMS, if the district decision is overturned.

## New York City

### New Claims

In NYC, claim data for both opened and closed cases is processed and maintained in the FS Recoupment Subsystem. This subsystem is designed and maintained by the New York City Family Independence Administration (FIA) in accordance with standards defined by OTDA.

Amounts entered into the subsystem are recouped automatically when the regularly recurring FS benefit is issued. Setting the claim collection priority is done by the system. It does not require any worker action. Claim information from the recoupment subsystem is sent to the State CAMS system.

Follow the Recoupment Subsystem procedures issued by the FIA to establish or change a claim for a NYC case.

### Claims at Case Opening

When opening a new case, determine if any one in the new case has an outstanding claim. There is a Recoupment Indicator on the WMS Clearance Report if the individual being matched is or was a member of a case that currently has, or had when closed, an outstanding TA recoupment balance, an outstanding FS claim balance or both. The indicator is labeled 'Recoup' on the clearance report, with values of 'Y' or 'N'. Also, information may be obtained about previously established overpayment through direct contact with other counties or states and from the state DRS system.

Follow the Recoupment Subsystem procedures to insure that outstanding claims are recorded in the subsystem.

### Fair Hearings

For a case entitled to Fair Hearing aid-to-continue, take the following actions:

If the recoupment transaction is in 04 clockdown status (also known as 10 day timely notice), enter an FH status of "2" (aid continue) through the Fair Hearing Update subsystem.

If the recoupment is not clocking down, give aid-to-continue through the FS recoupment subsystem (action code 5).

## **2. Cash Management Subsystem (CAMS)**

CAMS, the Cash Management Subsystem is the portion of Benefit Issuance Control System (BICS) that allows for the cash collection and accounting of claims established due to the client being overpaid. The Accounting or Resource Unit staff is normally the unit responsible for the actual entry of data into CAMS. For information on the actual entry of data into CAMS refer to the Cash Management Procedural Manual that is published by the Bureau of Financial Services.

For open cases, CAMS receives the recoupment information that appears on WMS screen 6 for "recurrings" or is entered for "single issues." On the fourth weekend of the month a batch job is run in CAMS to update claims with recoupment data. The amount of the recoupment is updated to the outstanding claim resulting in reduction of the outstanding balance of the claim. It is critical to enter "single issues" on screen 6 to allow the recoupment process to update the claim.

Two types of reports identify situations where the CAMS claim information is inconsistent with the information received from WMS. If a claim exists for the case but no recoupment was received, a report can be requested to identify the situation. The Accounting or Resource Unit must then notify the worker that ABEL should be changed to include a recoupment in the budget calculation. An automated, monthly report will be generated, if a recoupment is received but no claim has been established. This would

indicate to Accounting or the Resource Unit that they must contact the worker to obtain the overpayment information.

CAMS is used to post voluntary repayments that the client makes to the local district for closed cases. These repayments are posted to the claim and reduce the outstanding balance by the amount of the repayment. In addition, CAMS can generate a billing statement for these cases. These statements identify the amount of all outstanding claims and request that payment be made. The Billing Statements are produced on a schedule determined by the local districts. When claims for closed cases are established, Accounting or the Resource Unit indicates whether a bill should be generated for that particular claim.

Send CAMS billing statements periodically to remind of outstanding claims if a former recipient refuses to enter into a repayment agreement with the agency or does not make the payments required by a repayment agreement. Do not use CAMS billing statements in place of the initial Demand Letter. Local districts must establish procedures regarding how often billing statements will be sent. There is no State requirement regarding frequency of demand letters. However, local districts with poor collection records may be required to develop a Corrective Action Plan to improve collection activity.

The most important financial report that is generated for FS over issuances is the DSS-3214 (FS Benefits Program – Status of Claims against Households). CAMS generate this report monthly for submission to the State. The accumulation of the DSS-3214's becomes the basis of the State's reported over claim information to the federal Government. The report includes all the recoupment and repayment data as well as identifying all new or terminated claims. The ending balance for the report indicates the total amount of outstanding FS benefits claims and becomes the beginning balance for the next month's report.

Closed/Inactive case claims for which payments are delinquent are referred to the Tax Offset Program (TOP) for collection from federal tax refunds. A case is considered delinquent when no payments have been collected for at least six months.

## **VI. Effective Date**

This directive is effective immediately.

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### **Issued By**

**Name: Patricia A. Stevens**

**Title: Deputy Commissioner**

**Division/Office: Division of Temporary Assistance**