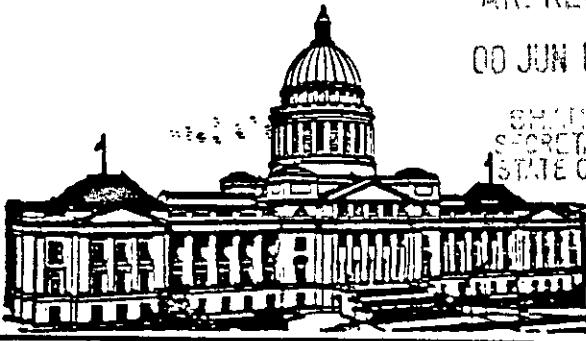


ARKANSAS REGISTER

FILED
AR. REGISTER DIV.

00 JUN 14 PM 4:08

Transmittal Sheet



SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office

Use Only:

Effective Date _____ Code Number 016.20.00-014

Name of Agency Department of Human Services

Department Division of County Operations

Contact Person Sandra Miller Phone 682-8251

Statutory Authority for Promulgating Rules PL. 104-193, Food Stamp Act of 1977

FSC 00-10

Intended Effective Date

Legal Notice Published May 16, 2000

Date

☐ Emergency

Final Date for Public Comment June 14, 2000

☒ 10 Days After Filing

Filed With Legislative Council. May 16, 2000

☐ Other

Reviewed by Legislative Council

Adopted by State Agency 7-1-00

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

[Signature]
Signature

682-8375
Phone Number

Director
Title

5/9/00
Date

NOTICE OF RULE MAKING

Pursuant to the Food Stamp Act of 1977 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. FSC 15000 section of policy has been updated to change AFDC to TEA, change food stamp allotment to food stamp benefits, clarification of certain sections and replace instructions for using DCO-216, DCO-217 and DCO 199, forms used to report overpayment.

Copies of the revised policy may be obtained by writing to the Division of County Operations, Attention: Food Stamp Policy Section, P. O. Box 1437, Slot 1241, Little Rock, AR 72203-1437. All comments must be submitted within 30 days of the date of publication of this notice. If you need any material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 682-8920 (Voice) or 682-8933 (TDD). The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to political affiliation, religion, disability, age, veteran status, sex, race, color or national origin.



Ruth Whitney
Director
Division of County Operations

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF COUNTY OPERATIONS
AMENDING LEGISLATIVE REGULATION
ARKANSAS LEGISLATIVE COUNCIL**

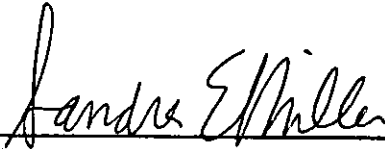
NUMBER AND TITLE: FSC 00-10, Update Section 15000 of Food Stamp Policy

PROPOSED EFFECTIVE DATE: July 1, 2000

STATUTORY AUTHORITY: The Personal Responsibility and Work
Opportunity Reconciliation Act of 1996

NECESSITY AND FUNCTION: This section of policy has been updated to change AFDC to TEA, change food stamp allotment to food stamp benefits, clarification of certain sections and replace instructions for using DCO-216, DCO-217 and DCO 199, forms used to report overpayment.

PAGES FILED: A total of 22 pages were filed.



**Sandra Miller
Assistant Director
Office of Program Planning and Development**

PROMULGATION DATE: July 1, 2000

CONTACT PERSON: Sandra Miller
Assistant Director
Office of Program Planning and Development
P.O. Box 1437, Slot 1220
Little Rock, AR 72203-1437

(501) 682-8251

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? YES NO

5. Is this a new rule? ☐ YES ☒ NO

Does this repeal an existing rule? ☐ YES ☒ NO

Is this an amendment to an existing rule? ☒ YES ☐ NO

Is this an amendment to an existing rule? If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes.

6. What state law grants the authority for this proposed rule? If codified, please give Arkansas Code citation. *NA*

7. What is the purpose of this proposed rule? Why is it necessary? *Periodically, the policy must be updated to reflect Program changes and to incorporate new clarifications.*

8. Will a public hearing be held on this proposed rule? ☐ YES ☒ NO

9. When does the public comment period end?

June 14, 2000

10. What is the proposed effective date of this proposed rule

July 1, 2000

11. Do you expect this rule to be controversial?
If yes, please explain.

☐ YES ☒ NO

12. Please give the names of persons, groups, or organizations which you expect to comment on these rules. Please provide their position (for or against) if known.

NAME	GROUP/ORGANIZATION	ADDRESS
<i>David Manley Attorney at Law</i>	<i>Legal Services of Arkansas</i>	<i>209 West Capitol Little Rock, AR 72203</i>

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT HUMAN SERVICES

DIVISION COUNTY OPERATIONS

PERSON COMPLETING THIS STATEMENT Betty Helmbeck

TELEPHONE NO. 682-8284

FAX NO. 682-1469

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AR. REGISTER DIV.

00 JUN 14 PM 4:08

DAVID M. FRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

BY _____

FINANCIAL IMPACT STATEMENT

To comply with Act 884 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE FSC 00-10

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? YES XX NO
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. *There are no substantial changes in this rule making.*
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

2000-2001 Fiscal Year

General Revenue \$	<u>-0-</u>
Federal Funds \$	<u>-0-</u>
Cash Funds \$	<u>-0-</u>
Special Revenue \$	<u>-0-</u>
Other \$	<u>-0-</u>
Total \$	<u>-0-</u>

2001-2002 Fiscal Year

General Revenue \$	<u>-0-</u>
Federal Funds \$	<u>-0-</u>
Cash Funds \$	<u>-0-</u>
Special Revenue \$	<u>-0-</u>
Other \$	<u>-0-</u>
Total \$	<u>-0-</u>

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

2000-2001 Fiscal Year \$ -0- 2001-2002 Fiscal Year \$ -0-

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

2000-2001 Fiscal Year \$ -0- 2001-2002 Fiscal Year \$ -0-

MANUAL TRANSMITTAL

Arkansas Department of Human Services

Division of County Operations



☐ Policy ☐ Form ☒ Policy
Directive

Issuance Number FSC 00-10

Food Stamp Certification Manual

Issuance Date 07/01/00

From: Ruth Whitney
Director

Expiration Date Until
Superseded

Subj: FSC 15000, Overpayments

<u>Pages to be deleted,</u>	<u>Dated</u>	<u>Pages to be added,</u>	<u>Dated</u>
FSC 15000 (Entire Section)	Various Dates	FSC 15000 (Entire Section)	07/01/00

Summary of Changes

On this transmittal changes are indicated with an arrow:



FSC 15000 has been generally updated to:

- ♦ Change AFDC to TEA, if needed;
- ♦ Change food stamp allotment to food stamp benefits;
- ♦ Clarify certain sections; and
- ♦ Replace instructions for using the DCO-216 and DCO-217 with instructions for using the DHS-199, *Benefit Overpayment Report*.

An explanation of specific changes appears below.

FSC 15410 – Information about sanctions and disqualification periods has been added to this section.

FSC 15420 – This section provided instructions for the completion of the DCO-217. It has been deleted.

FSC 15500 – This is a new section. It provides information about the automated recipient overpayment accounting system (ROAS).

FSC 15520 – This section has been updated to include information about processing an overpayment claim using ROAS.

FSC 15533 – This section has been rewritten to provide information about the referral of uncollected claims to the Collections Unit.

FSC 15800 – This section has been rewritten to provide instructions for taking benefits from an EBT account to repay an overpayment. Instructions have been provided for routing completed DCO-273s to the Office of Fiscal Management when cash is received in the county office. When benefits are to be withdrawn from the EBT account, the DCO-273 must first go to the Food Stamp Section for validation.

FSC 15810 – This section was rewritten to explain the conditions under which a county office may cancel EBT benefits prior to the date the benefits are made available to the household.

FSC 15820 – This section was deleted.

FSC 15830 – This section was deleted.

FSC 15900 – This section has been updated to provide current information about the State Income Tax Refund Interception.

FSC 15910 – This section has been deleted.

FSC 15920 – This section has been deleted.

FSC 15930 - This section has been updated to provide current information about the Treasury Offset Program (TOP).

FSC 15940 – This section has been rewritten to provide the criteria for debts to be referred for collection under the Treasury Offset Program.

Inquiries to: Betty Helmbeck, Food Stamp Section, (501) 682-8284
(*Betty.Helmbeck@mail.state.ar.us*)

FOOD STAMP CERTIFICATION MANUAL 15100 - 15300 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: SUMMARY/WHEN TO PREPARE OVERPAYMENT
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15100 Summary

County offices must initiate a claim against any household that has received food stamp benefits that the household was not entitled to receive. Such an occurrence is called an "Overissuance" or an "Overpayment". In this section of policy, the term "overpayment" will be used to refer to claims established against households.

This section of policy covers:

1. When and how to prepare an overpayment;
2. How to submit the overpayment to the Overpayment Unit;
3. The Overpayment Unit's responsibilities, including collection of the amount owed; and
4. The provisions under which an Overpayment will be collected through a state income tax interception or the federal Treasury Offset Program.

The State will initiate or pursue collections only of food stamp benefits paid as a result of improper issuance, or overissuance, and will not initiate or pursue collections of properly issued benefits, or collection of benefits in a manner contrary to federal law or regulation.

15200 When to Prepare an Overpayment

The county office will prepare an overpayment claim on any household that received an overpayment in food stamp benefits within the last 36 months. An overpayment must be prepared no matter how small the overissuance. If more than 36 months have elapsed between the month the overissuance occurred and the month of discovery, no overpayment claim will be prepared.

All adult household members will be jointly and severally liable for the value of any overissuance of food stamp benefits to the household.

County offices will establish an overpayment claim against:

- a. Any household that has received more food stamp benefits than the household was entitled to receive; or
- b. Any household containing an adult member who was an adult member of another household when that household received more food stamp benefits than the household was entitled to receive.

See FSC 15531 for additional instructions.

15300 Timely Submission of an Overpayment

An overpayment claim must be submitted to the Overpayment Unit within 60 days of the date of discovery.

FOOD STAMP CERTIFICATION MANUAL 15400 - 15400 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: PREPARING THE OVERPAYMENT
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15400 Preparing the Overpayment

NOTE: When a DHS County Office becomes aware of an overpayment as the result of a Quality Assurance (QA) review, the household must follow the procedures in this section of policy. A QA reviewer will determine only the amount of overpayment for the review month. Also, the verification provided to QA by an agency or an employer may not cover the entire overpayment period.

The following actions will be completed to determine the total amount of the overpayment:

Step 1 - Determine the Initial Month of Overpayment.

The initial month of overissuance is the first month in the overpayment period.

If the overissuance resulted from the household giving incorrect or incomplete information at the time of application (initial or recertification), the initial month of overissuance is the first month of the certification period assigned at application approval.

Example - A household submitted an application on September 12. The husband's earnings were reported on the application but the wife's earnings were not reported. The application was approved on October 21 based only on the husband's earnings. Retroactive prorated benefits were authorized for September. At the time of the wage match for the quarter ending September, it was discovered that the wife was employed at the time the application was submitted and had been working for several months. The initial month of overissuance will be September.

For Occasional Reporters, as defined in FSC 11350, if the household fails to timely report one of the changes specified in FSC 11200, the initial month of overissuance will be established by determining the effective date of the change and adding 20 days. For example, if the effective date of change is established as June 6th, the county office worker will begin with June 7th and count 20 days. The 20th day falls before the end of June (June 26th) so the initial month of overissuance is July. (No overpayment will be prepared if the overissuance resulted from a change other than those listed in FSC 11200.) If there is more than one unreported change during the overpayment period, the effective date of each change will be established in the same manner.

The effective date of the change is defined as the day upon which an identifiable change actually occurred. Some examples of the effective day of change are given below.

<u>SITUATION</u>	<u>EFFECTIVE DATE</u>
. Went to work	First day of employment.
. Change in household composition	Date member actually entered or left household.
. Received entitlement check	Date first check issued to household as verified by issuing agency.
. Received unemployment	Date first check issued to household as verified by WESD screen.

Example - A household failed to report that the wife went to work until the household's recertification interview in December. The worker established that the wife's first day of employment was September 11. The 20th day is October 1. The initial month of overissuance will be November.

Quarterly reporting households, as defined in FSC 11340, are only required to report changes on the quarterly report form. The initial month of the overissuance will be the first month following the submission of the quarterly report on which the change should have been reported.

Step 2 - Exclude Any Months More Than 36 Months Prior to the Month in Which the Overissuance was Discovered.

Step 3 - Determine the Household's Correct Food Stamp Benefit Amount for Each Month of the Overpayment Period.

The household's correct benefit amount will be calculated using the household's exact income, resources, expenses, household composition, etc. for each month in the overpayment period. It may be necessary to calculate a different budget for each month in the overpayment period in order to capture variation in circumstances. Weekly and bi-weekly income and/or expenses will not be converted when the budget is calculated. See FSC 7512-7740 for instructions on preparing a budget.

If verification of the monthly income is not available, the best source of available verification may be used to prepare the overpayment. For example, the quarterly wages appearing on the wage match may be used to prepare an overpayment if the individual's employment is verified, but verification of monthly wages cannot be obtained.

Documentation of all verification obtained must appear in the case record. If actual monthly income cannot be established, documentation of all attempts to obtain verification of the actual monthly income must appear.

The standards (e.g. - utility standard, standard deduction, earned income deduction) and issuance charts in effect during the overpayment period must be used to prepare the overpayment. If a change in a standard occurred during the overpayment period, the overpayment budgets must reflect this change. The tapes or forms used to prepare the overpayment budgets must be clearly labeled and must remain in the case record as documentation.

Step 4 - If Necessary, Complete a Second Series of Budgets in Which the Earned Income Deduction is Not Allowed.

The earned income deduction will not be allowed for any portion of earned income that a household failed to report timely.

An overpayment budget will be prepared in the same manner as any other budget except that the earned income deduction will not be allowed for any portion of the earned income that the household failed to report. For example, if a household had reported the husband's income but failed to report the wife's income, the earned income deduction will be allowed for the husband's earnings but not for the wife's.

The earned income disallowance will be effective for any months in the overpayment period when the county was not aware of the earnings. For example, a county becomes aware of a household's earned income in July but does not adjust the case to include the earnings until December. The earned income disallowance will cease in July. The earned income deduction will be allowed when the overpayment budgets for the months August through December are prepared.

Step 5 - Complete a DHS-199 Benefit Overpayment Report.

NOTE: If the household should become entitled to restored benefits while the overpayment is being prepared, the amount to be restored will be offset. See FSC 13320 for instructions.

Step 6 - Enter the Overpayment in the Overpayment Record in the County Office.

Any record must contain the following information.

- . Name
- . Case Number
- . Date overpayment was discovered

FOOD STAMP CERTIFICATION MANUAL 15400 - 15403 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: PREPARING THE OVERPAYMENT
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- . Month, day and year overpayment started
- . Date referred to the Overpayment Unit
- . Suspected claim type

Other information may be added if desired by the county office. Records may be manual or maintained on a personal computer (PC) based system.

15401 Preparing Overpayments for Households Participating In Workfare

When an overpayment occurs on a case where a household member participated in workfare during the overpayment period, the county office worker must determine if the household is entitled to an offset on the overpayment. See FSC 15402.

15402 Households Who Remain Workfare Eligible

If a household was overissued benefits while participating in workfare and remains eligible for participation in workfare, the county office worker must take the following steps:

- Step 1 Establish a claim for the entire amount of overissuance.
- Step 2 Give credit to the household for all extra hours of work performed during month of overissuance. Apply these hours to future work obligations.
- Step 3 Determine the number of hours a participant has actually worked by contacting the workfare sponsor.
- Step 4 Notify the workfare sponsor via DCO-209 of the household's entitlement.
- Step 5 Complete a DHS-199, *Benefit Overissuance Report*.

If the household did not remain workfare eligible, see FSC 15403.

15403 Households Who Do Not Remain Workfare Eligible

If a household was participating in Workfare at the time of the overissue but is no longer participating in workfare, a different procedure will be used. This procedure is outlined below.

- Step 1 Determine the household's correct food stamp benefit amount for each month of the overpayment period. Use FSC 15400. Enter the corrected benefit amount on the DHS-199.
- Step 2 Determine the household's correct obligation by dividing the household's correct monthly benefit amount by the current federal minimum wage. For workfare households, see FSC 3730 for the maximum obligation.

- Step 3 Determine the number of hours actually participated. The workfare sponsor must furnish this information.
- Step 4 If additional hours were worked due to the overissuance, subtract the household's correct obligation from the number of hours the household actually worked. The result will be the extra hours worked.
- Step 5 Determine the offset amount by multiplying the extra hours worked by the current federal minimum wage. Enter the offset amount.

When cases are referred in a non-fraud status, the offset will be allowed when the total overpayment amount is entered. When the case is referred pending a fraud determination, the offset must appear on the form but will not be reflected in the overpayment. The offset amount will be used by the Overpayments Unit to adjust the overpayment if there is no finding of an intentional program violation through a court of law or an administrative disqualification hearing.

15404 Preparing Overpayments For Categorically Eligible Households

Categorical eligibility cannot be rescinded retroactively.

As long as everyone in the household received AFDC (TEA) or SSI during a given time, the household would be considered to be properly eligible for food stamps even if AFDC (TEA) or SSI eligibility was subsequently determined improper.

No overpayment will be prepared when excess household resources caused a household to be subsequently found ineligible for AFDC (TEA) or SSI benefits. However, an overpayment will be prepared if the AFDC (TEA) or SSI eligibility was improper due to unreported income or changes in household size and an overissuance of food stamp benefits occurred.

FOOD STAMP CERTIFICATION MANUAL 15404 - 15404 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: PREPARING THE OVERPAYMENT
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For example, a food stamp household is made up of an TEA recipient and her children, all of whom are included in the TEA grant. She goes to work but does not report this income. To determine the food stamp overpayment, the worker will include both the TEA grant received by the household and the unreported earned income.

In some cases, the additional income will result in a zero benefit amount even though the household was categorically eligible. In these instances, the overpayment amount will equal the entire benefit issued to the household. (NOTE: In the case of one and two person households, the minimum benefit rules will apply. See FSC 8630.)

When a household's AFDC (TEA) or SSI ineligibility is related to the discovery of an unreported household member who was not either an AFDC (TEA) or SSI recipient, an overpayment may be prepared if an overissuance has occurred as a result. The overissuance amount will be the difference between the food stamp benefits the household received and the benefits the household would have received if the additional household member been properly reported and included in the food stamp budget.

Overpayments also occur when an otherwise ineligible household loses categorical eligibility due to changes in income or household size but continues to participate in the program.

Overpayments prepared for categorically eligible households will be classified as an administrative error, inadvertent household error or IPV according to the guidelines in FSC 15410.

15410 Type of Overpayment

The three types of overpayment claim referrals are:

1. Inadvertent household error,
2. Administrative error, or
3. Intentional program violation.

A definition of each type of claim follows:

Inadvertent Household Error - An overpayment caused by a misunderstanding or an error on the part of the household. An inadvertent household error that results in an overpayment includes, but is not limited to situations where:

1. The household unintentionally failed to provide the county office with correct information;
2. The household unintentionally failed to report to the county office changes in household circumstances; or
3. The household unintentionally received an overissuance of food stamp benefits due to a continuation of benefits pending an administrative hearing decision.

Administrative Error - An overpayment caused by the agency or by the agency's failure to take action. An administrative error results in an overpayment when:

1. The county office failed to take timely action on a change reported by the household;
2. The agency incorrectly computed household income or deductions or otherwise assigned an incorrect benefit amount;
3. A household was overpaid food stamp benefits due to a worker or system error;
4. The household continued to receive food stamp benefits after the certification period expired without a reapplication determination; or
5. The county office failed to reduce a household's food stamp benefits after the TEA (AFDC prior to 7-1-97) grant increased.

FOOD STAMP CERTIFICATION MANUAL 15410 - 15410 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: TYPE OF OVERPAYMENT
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An overpayment will not be prepared when the county office failed to insure that the household signed the application form.

Intentional Program Violation (IPV) - An overpayment caused by an individual household member when the member intentionally:

- . Made false or misleading statements (for example, the household falsified statements on the application);
- . Misrepresented, concealed or withheld facts (for example, the household did not report a change in a timely manner although the household was aware of the reporting requirements); or
- . Violated the Food Stamp Act, the Federal Regulations, or State Statutes relating to the Food Stamp Program. (See FSC 16600 for a full explanation of an Intentional Program Violation.)

An IPV and the individual guilty of the IPV must be determined through:

1. An Administrative Disqualification Hearing;
2. A Court of Law with appropriate jurisdiction;
3. The accused individual signing a *Waiver of the Disqualification Hearing* (DCO-257); or
4. The accused individual signing a consent agreement with the prosecuting attorney.

Until one of the above actions occurs, suspected IPV's will be handled as inadvertent household errors.

The individual found guilty of committing the disqualification will be disqualified from participating in the Food Stamp Program. The period of disqualification depends on the sanction in effect at the time the violation began.

If the violation began prior to March 1979, no disqualification will be imposed. If the violation began during the period from March 1979 to September 1983, the disqualification will be three months regardless of the number of offenses. If the violation began during the period from October 1983 to September 1996, the disqualification will be six months for the first offense, twelve months for the second offense, and permanent for the third offense. If the violation began during the period beginning October 1996 and continuing to the present, the disqualification will be one year for the first offense, two years for the second offense, and permanent for the third offense.

FOOD STAMP CERTIFICATION MANUAL 15430 - 15501 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: REVIEW & SUBMISSION OF OVERPAYMENT
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15430 Review and Submission of the Overpayment

The *Benefit Overpayment Report* (DHS-199) will be reviewed by the Economic Services Supervisor or designee for accuracy. If the overpayment is valid, the supervisor or designee will sign the DHS-199 and forward to the Overpayment Unit. A *Suspected Fraud Report* (DHS-1700) must also be completed and forwarded with the DHS-199 when the claim is submitted as a non-fraud pending fraud determination.

If a intentional program violation is suspected by the county office but no claim can be established, only the DHS-1700 will be submitted to the Overpayment Unit. If the Fraud Unit does not find sufficient evidence to prosecute but does find that an overpayment exists, the information will be sent to the county for use in completing the DHS-199.

The county will complete and submit a *Report of Restored Benefits* (DCO-201) if the overpayment is used to offset restored benefits owed to the household. (The DCO-201 is a low use form not available through the warehouse. This form may be accessed through DHS Gold.) Copies of the DHS-199 and (if applicable) the DHS-1700 and/or DCO-201 will be retained and filed in the Overpayment Section of the case record.

All claim documents must be retained for three years from the date of fiscal or administrative closure. See FSC 410 for definitions of a fiscal closure and an administrative closure.

15500 Overpayment Unit Responsibilities

The Overpayment Unit will maintain a record showing the circumstances that resulted in each overpayment, the procedures and methods used to calculate the overpayment, and any circumstances that resulted in suspension or termination of collection action. The Overpayment Unit will also monitor claim payments and identify situations where an amount not yet restored to a household can be used to offset an overpayment owed by the household. The Overpayment Unit will identify households that failed to make installment payments on an overpayment.

15501 Recipient Overpayment Accounting System (ROAS)

The ROAS is the automated Accounts Receivable system containing all information and data identifying each *Benefit Overpayment Report* (DHS-199) received in the Overpayment Unit and each valid claim processed for collection activity. The ROAS is indexed by debtor Social Security Number (SSN). Each SSN represents a specific account. Each account is sub-divided into a specific category by the agency program in which an overpayment has occurred. Each category is sub-divided by a specific claim number for each separate overpayment that has been established against the debtor represented by the SSN. All identifying information specific to the debtor account is entered into and contained in the ROAS.

An overpayment report becomes a valid overpayment claim only after verification has been completed and the claim has been entered into the ROAS as an active account. Overpayment claims processed by the Overpayment Unit without evidence of fraud are considered "civil" claims.

FOOD STAMP CERTIFICATION MANUAL 15510 - 15520 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: ACCOUNTING UNIT/ PROCESSING THE CLAIM
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15510 Accounting Section Responsibilities

The Accounting Section is responsible for receiving, processing and recording of all payments and the maintenance of the computer file. At the end of each month the Overpayment Unit receives a printout of all transactions occurring during that month. The Accounting Section documents and maintain records on the amount of money (and food stamp benefits) collected in payment of an overpayment and how much was submitted to Food and Nutrition Service.

15520 Processing the Overpayment Claim

The Overpayment Unit will review the DHS-199, *Benefit Overpayment Report* and/or the DHS-1700, *Summary of Circumstances and/or Fraud* to determine if all the information necessary to process an overpayment claim is contained in the documents. If the claim report is accurate and all information and calculations are correct, the Overpayment Unit will validate the claim by the following actions:

1. Activate the account in the ROAS.
2. Send a *Demand Letter and Repayment Notice* to the debtor with a copy to the initiating DHS County Office.

If additional information is required to complete the overpayment claim, the initiating county office will be requested to provide the additional necessary information within 30 days. If the requested information is not received within 30 days, a second request will be submitted to the initiating county office.

If the requested information is not received from the initiating county office, the claim will be reviewed to determine if there is sufficient information available to establish any portion of the overpayment.

- a. If sufficient information is available, a claim will be processed for the period and amount that can be substantiated with the available information. The initiating county office will be notified that a partial claim has been established and advised that the claim will be adjusted if the requested information is received in Overpayment Unit at a later date.
- b. If the information is insufficient to verify and establish an overpayment claim for any time period or amount, the claim report will be administratively closed. The initiating county office will be notified and advised that if the requested information is received in the Overpayment Unit, the claim will be re-opened and processed.

FOOD STAMP CERTIFICATION MANUAL 15530 - 15531 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: COLLECTIONS
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15530 Collections

The Overpayment Unit is responsible for the collection of the overpayment. Overpayments may be repaid through a:

1. Cash payment,
2. Payment through offset of EBT food stamp benefits,
3. Reduction of the household's food stamp benefits prior to issuance (recoupment), or
4. Offset of state income tax refunds, federal income tax refunds, federal salaries due federal employees owing delinquent food stamp debts, and other monies payable by the federal government to individuals owing a delinquent food stamp debt.

15531 Initiating Collection

Collection action will be initiated by sending a *Demand Letter and Repayment Notice* to the household (claim debtor). The *Demand Letter* will inform the household about the overpayment, the amount, time period, the reason it occurred, and the household's right to an administrative hearing and how to request one. The *Repayment Notice* will inform the household how the overpayment is to be repaid.

Households certified for food stamp benefits will be entered into recoupment for repayment of the debt. An individual not certified for food stamp benefits will be required to make monthly restitution through direct payment unless he or she can repay the debt in full.

The Overpayment Unit will initiate collection action against the individual identified as the casehead on the DHS-199. However, every adult who was a member of the household during the overpayment period has liability for the debt. Therefore, if a change in household membership occurs, the Overpayment Unit may pursue collection action against any household with a member who was an adult member of the household that received the overissuance. The county office may offset restored benefits by the amount of the overpayment when restored benefits are owed to any household containing a member who was an adult member of the household that received the overissuance. See FSC 13320 for instructions on offsetting claims. Under no circumstances may the Overpayment Unit collect more than the amount of the claim.

The county office must send a copy of the authorizing document to the Overpayment Unit when the casehead changes on a case with an overpayment.

15532 Renegotiation of the Payment Schedule


There are two different payment schedules for two different sets of circumstances. They are:

- a. A payment schedule for recoupment of food stamp benefits which is established by policy in section 15700; and
- b. A payment schedule for restitution (direct payment made by the household) in the form of cash, check, or money order. The restitution schedule is based upon the amount of the overpayment. The schedule is listed below:

<u>Overpayment Amount</u>		<u>Monthly Payment Amount</u>
\$ 1.00 to	100.00	\$ 10.00
101.00 to	300.00	15.00
301.00 to	500.00	20.00
501.00 to	800.00	25.00
801.00 to	1000.00	30.00
1001.00 to	1500.00	35.00
1501.00 to	2000.00	40.00
2001.00 to	2500.00	45.00
2501.00 and above		50.00

The payment schedule will remain in effect until changed by the Overpayment Unit. The household may contact the Overpayment Unit and request a change in the repayment schedule at any time. If the Overpayment Unit staff determines there is sufficient reason or that there is a legitimate financial hardship for the household, the repayment schedule may be changed.

15533 Households That Fail to Cooperate with the Overpayment Unit



If a debtor fails to repay the overpayment debt or fails to make monthly payments as required in the repayment schedule, the Overpayment Unit will mail a Delinquency Notice to the debtor requesting payment. If the debtor fails to respond by making monthly payments and the debt becomes 120 days delinquent, the debt will be referred to the Collections Unit. The Collections Unit will contact the debtor regarding the delinquent account and review the debt for legal action. Collection of debts will be pursued through lawsuits, judgements, and/or garnishment of wages when necessary.

Delinquent food stamp debts will also be referred to the Department of Finance and Administration, Revenue Division for the purpose of intercepting the state income tax refund due the debtor and applying the amount intercepted to the balance of the debt.

15534 Terminating Collection Action

If an overpayment claim is determined to be uncollectible, collection activity will be suspended and the claim will be processed for abatement in accordance with Arkansas Law. Abated claims will be held for three years before they are scheduled for destruction. During this period a claim may be offset by food stamp benefits in accordance with food stamp policy.

FOOD STAMP CERTIFICATION MANUAL 15535-15600 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: IPV OVERPAYMENTS
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15535 Suspending Collection Action

Efforts to collect an overpayment may be suspended under any of the following circumstances:

1. The claim is less than \$35.00, or the combined amount of all the open claims is less than \$35.00, and the casehead/debtor is not currently certified for food stamp benefits.
2. The casehead/debtor has requested an administrative hearing regarding the matter of the overpayment in question. Collection will be suspended until a decision has been reached concerning the validity of the claim.
3. The current address of the casehead/debtor is unknown.
4. The casehead/debtor has filed for bankruptcy and the overpayment debt is listed in the proceedings; or the debt has been discharged by the bankruptcy court. Discharged claims will be processed for abatement. Claims dismissed by the bankruptcy court will be reentered into the collection process.
5. The cost of continued collection action is determined to be greater than the amount to be recovered.
6. The claim debt has been overturned by an administrative hearing decision or by court action.
7. The casehead/debtor is in prison, or is otherwise incapacitated and unable to attend to his/her personal needs.
8. The casehead/debtor is deceased. If no other adult is found to have liability for the debt, the claim will be processed for abatement.

Claims suspended for three years will be reviewed to determine if they can be collected. If the claim is determined to be uncollectible, it will be processed for abatement.

15600 Special Procedures for Handling Suspected Intentional Program Violation Overpayments

Until an IPV has been determined through one of the procedures specified in FSC 16700, the overpayment will be handled as an inadvertent household error. If an administrative disqualification hearing is declined by the Appeals and Hearings Section or if the individual is found innocent of the charge through the hearing, the overpayment is handled as an inadvertent household error. This is also true if a court of law finds the individual innocent of an IPV.

FOOD STAMP CERTIFICATION MANUAL 15610 - 15630 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: COLLECTION ACTION
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15610 Initial Actions - The Overpayment Unit

When the Overpayment Unit receives the DHS-199 and DHS-1700, the case will be logged, batched and forwarded to the Fraud Unit. The Overpayment Unit will track all cases referred to the Fraud Unit and take appropriate action based upon the Fraud Unit's decision to accept or to decline prosecution.

15620 Initial Actions - The Fraud Unit

The Fraud Unit will analyze the information received from the Overpayment Unit, make any necessary investigation, and determine whether the case is to be referred for prosecution. Cases that are not referred for prosecution will be returned to the Overpayments Unit. The Overpayment Unit will be provided with a list of the cases referred for prosecution.

The cases referred for prosecution are handled as specified below.

1. Recommended for Prosecution

When the Fraud Unit recommends a case for prosecution, the overpayment will remain with the Fraud Unit. A memorandum will be sent to the Overpayment Unit (copy to the county) indicating the action being taken on the case. No further action will be taken by the Overpayment Unit until final disposition of the case. Upon completion of prosecution, the overpayment will be returned to the Overpayment Unit with a memorandum (copy to the county) indicating the decision of the court.

2. Declined Prosecution

If the Fraud Unit recommends a case for prosecution but the Prosecuting Attorney declines prosecution, or if the Fraud Unit determines that the waiting time for a court hearing is prohibitive, the overpayment will be returned to the Overpayment Unit. Upon receipt of a case upon which prosecution was declined, the Overpayment Unit will review the overpayment to determine if there is sufficient evidence to request a disqualification hearing. If so, the case will be sent to the Appeals and Hearings Section for an administrative disqualification hearing within thirty days of the date the case is returned to the Overpayment Unit.

15630 Collection Action on Intentional Program Violation Cases

The Fraud Unit will be responsible for collection action on court adjudicated cases.

Overpayments to be established as intentional program violations (IPV) by an administrative disqualification hearing or by the signing of a *Waiver of the Administrative Disqualification Hearing* (DHS-257) will be returned to the Overpayment Unit. The Overpayment Unit will prepare a DHS-11 notifying the Accounting Section that the claim has been changed to IPV status.

The Overpayment Unit will monitor repayment of the claim until it is paid in full, suspended, or the payments cease. If the household fails to repay the amount due, the Overpayment Unit will identify the claim as a delinquent account and take action to recover the full amount due.

15640 Suspension of Intentional Program Violation Claims

The Overpayment Unit will determine if suspension of an intentional program violation claim is appropriate. A claim may be suspended if any one of the following conditions are met:

1. The household cannot be located.
2. The Overpayment Unit determined that civil action will not be pursued and has sent demand letters as provided below:
 - . One demand letter for claims under \$100,
 - . Two demand letters for claims between \$100 and \$400, and
 - . Three demand letters for claims of more than \$400.
3. The household is not participating in the Food Stamp Program and the cost of further collection is likely to exceed the amount that can be recovered.

15700 Recoupment

A household's food stamp benefit amount may be reduced prior to issuance to recover an overpayment. Such action is called "recoupment". A food stamp recoupment can only be applied to a food stamp overpayment.

Recoupment will be initiated against each new overpayment claim processed by the Overpayment Unit if an adult member of the household, against which the claim was established is currently certified for food stamp benefits. Recoupment will be initiated against the household in which the individual, in whose name the overpayment was reported and established, is included as a household member.

The amount to be recouped is established by federal regulations as follows::

- Inadvertent household and administrative (agency) error claims will be recouped at the rate of ten percent (10%) of the household's monthly benefit amount or ten dollars (\$10.00) whichever is greater.
- Intentional program violation (IPV) claims will be recouped at the rate of twenty percent (20%) of the household's monthly benefit amount or ten dollars (\$10.00) whichever is greater.

One and two person households may not receive the minimum benefit amount of \$10.00 specified in FSC 8630 after recoupment is initiated.

FOOD STAMP CERTIFICATION MANUAL
15800 - 15810
DATE: 07-01-00

SECTION: OVERPAYMENTS
SUBJECT: ACCEPTING PAYMENT
ON AN OVERPAYMENT

15800 Accepting Payment on an Overpayment

A valid overpayment does not exist until a claim has been entered into the Recipient Overpayment Accounting System (ROAS) with a status 1, 3 or 7.

Cash, money order or cashier's check may be accepted as partial or full payment of an overpayment and forwarded to the Overpayment Unit. All such payments must be documented on a *Receipt For Food Stamp Benefits or Money* (DCO-273). See the *DHS Administrative Procedures Manual*, chapter 201, for additional information.

With a household's permission, benefits may be withdrawn from the household's food stamps electronic benefit transfer (EBT) account as partial or full payment of an overpayment. Such withdrawals must be authorized by the household on a DCO-273.

The Food Stamp Section will coordinate requests made by households to recover benefits from the household's EBT account. On the day of completion of the DCO-273, the county office worker must transmit a facsimile copy of the DCO-273 to the Food Stamp Section at (501) 682-1469. Unless a valid overpayment exists, the DCO-273 must be accompanied by a *Benefit Overpayment Report* (DHS-199). The Office of Fiscal Management (OFM), Accounts Receivable section is responsible for applying such withdrawn benefits to the overpayment account. The original completed DCO-273 will be routed to the OFM, Accounts Receivable section, slot 3001.

15810 Preventing an Overpayment

When too many food stamp benefits are authorized due to a county office error or a computer error, the benefits may be canceled if the error is discovered prior to the date that benefits are made available to the household. The county office must contact the Food Stamp Section by telephone at (501) 682-8189 or (501) 682-8190 to request cancellation of benefits and reauthorization of the correct amount. The county office worker will be responsible for issuing a corrected approval notice to the household. Client caused overpayments will not be canceled. A advance notice of adverse action must be issued to the household when the case is corrected.

When an overpayment, either client caused or agency caused, is discovered after the availability date, an overpayment must be prepared. The household is permitted to return benefits from the electronic benefits transfer (EBT) account to repay such overpayments. See FSC 1800 for instructions.

FOOD STAMP CERTIFICATION MANUAL
15900 - 15930
DATE: 07-01-00

SECTION: OVERPAYMENTS
SUBJECT: STATE INCOME TAX REFUND
INTERCEPTION

15900 State Income Tax Refund Interception

Act 372 of 1983 as amended (Ark. Stats. Ann. S 84-4901 thru 84-4918), Act 987 of 1985, and Act 1154 of 1991 authorize the collection of debts owed to the State through the offset of the debtor's state income tax refund. The amount offset will be applied to the balance of the debt owed to the State.

Delinquent food stamp overpayment debts will be submitted to the Department of Finance and Administration, Revenue Division if the debt balance is \$20.00 or more. If the debtor has more than one overpayment debt, the total of all valid debts will be submitted for offset.

Individuals, whose debts are being submitted for tax offset, will be notified by mail of the intended action and given an opportunity to repay the debt or to request a hearing.

All offset activity will be governed by the provision established and required by Arkansas law in the above referenced acts and DHS state tax refund policy.

15930 Treasury Offset Program

The Debt Collection Act of 1982 and the Debt Collection Improvement Act (DCIA) of 1996 authorizes the Department of the Treasury to be the primary federal collection agent for the collection of delinquent food stamp debts. As such, the Department of the Treasury now has the responsibility for operating the Federal Tax Refund Offset Program (FTROP), the Federal Salary Offset Program (FSOP), and the Program for Administrative Offset. The certification of a delinquent debt for any of the three offset actions will be made through the Treasury Offset Program (TOP).

Federal Tax Refund Offset is the reduction (offset) of a delinquent food stamp debtor's federal income tax refund by the amount of the delinquent food stamp debt and applying such amount reduced (offset) against the delinquent food stamp debt.


Federal Salary Offset is the reduction in salary of a federal employee who owes, and is delinquent in repayment of, a food stamp overpayment debt and crediting such amount to the delinquent debt.

Administrative Offset is the withholding of funds payable by the federal government to an individual owing a delinquent food stamp debt and crediting such funds withheld to the delinquent debt.

The Arkansas Department of Human Services has signed a letter of agreement with USDA, Food and Nutrition Service (FNS), to participate in the Treasury Offset Program by certifying the name and social security number of individuals having a delinquent food stamp debt to FNS in accordance with applicable rules and regulations.

The Accounts Receivable Overpayment Unit of the Division of Fiscal Management has the responsibility for certifying delinquent debts to FNS for the purposes of offsetting monies owed by debtors through the Treasury Offset Program (TOP).

FSC 15910 and FSC 15920 were deleted.



FOOD STAMP CERTIFICATION MANUAL 15940 - 15940 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: TREASURY OFFSET PROGRAM
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15940 Debts Referred for TOP Offset

All food stamp overpayment debts which meet criteria established by Federal Law are subject to certification to USDA Food and Nutrition Service (FNS), where they will be forwarded to the Department of Treasury for the purpose of having monies, due to the debtor offset and applied to the respective overpayment account.

Food stamp overpayment debts will be referred to the Treasury Offset Program (TOP) if they met the following criteria:

1. The debt must be legally established and legally enforceable. To meet this requirement, the debtor must have been notified of the debt amount, the reason the debt occurred, the time period of the debt, and how to repay the debt. In addition, the debtor must be advised of his/her right to request an administrative hearing concerning the debt. Further, the DHS Overpayment Unit must have documentation to substantiate the establishment of the debt.
2. The debt must be at least 180 days delinquent. An overpayment debt will be considered 180 days delinquent when it is in arrears in an amount equal to or greater than the amount of six monthly payments as established in the initial repayment notice, or as a result of a subsequent repayment agreement negotiated between the debtor and the responsible agency representative.
3. The total balance for all delinquent debts to be certified for a given debtor must be at least \$25.00.
4. The debt must be less than 10 years old from the date of the initial notification to the debtor unless the debt has been reduced to a judgement by the court of law. If established by a judgement the 10 year limit is removed.
5. The debt must not be included under an automatic stay due to bankruptcy.
6. The debt must not be currently under litigation to establish it's validity.
7. The debt must not be currently being collected through food stamp benefit reduction (recoupment) and/or the debtor is currently certified for food stamps and thereby subject to a benefit reduction (which has not been initiated).

(NOTE: Once a claim has been correctly certified to the federal certification center, the debtor does not have the option of "making up" a missed monthly payment and thereby having the debt deleted from the certification file.)

FOOD STAMP CERTIFICATION MANUAL 15950 - 15950 DATE: 07-01-00	SECTION: OVERPAYMENTS SUBJECT: TREASURY OFFSET PROGRAM
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15950 60 Day Advance Notice

The Overpayment Unit will notify the debtor of its intent to refer a claim for intercept and give the debtor 60 days to appeal the intended intercept by presenting evidence that all or part of the claim is not past due or legally enforceable.

The 60 day notice must state:

- (1) The amount of the claim;
- (2) That the debtor has previously been notified of the claim and prior collection efforts have been made;
- (3) That the debt is past due and legally enforceable;
- (4) The debtor's social security number;
- (5) That the claim is to be referred for intercept unless the claim is paid within 60 days of the date of the letter or other repayment arrangements acceptable to the Overpayment Unit have been made;
- (6) Instructions about how to pay the claim;
- (7) The name, address, and telephone number of an individual in the Overpayment Unit who can discuss the claim and the intended intercept with the individual; and
- (8) The specifics of the appeal process as described in the following section.

15960 Review Rights

As one of the conditions for referring a claim for offset, any evidence presented by a debtor making a timely request for a review must be considered and a determination made as to whether the debt is past due and legally enforceable.

In order to request a review, the debtor must provide evidence or documentation to the Overpayment Unit that the claim is not past due or is not legally enforceable within 60 days of the date of the 60 day notice. The Overpayment Unit will provide this information to the Appeals and Hearings Office where the review will be conducted. A request for review is not considered received until the individual provides such evidence or documentation. The debtor's social security number must be included with the request. A claim will not be submitted for intercept if a timely request for review has been filed and is pending.

After the Appeals and Hearings Office has reviewed the submitted evidence and documentation and rendered a decision, the debtor must be notified of the decision in writing. The notice must specify whether or not the debt is past due and legally enforceable.

If the determination is made that the claim meets the requirements for certification, the debtor must be notified that the Overpayment Unit intends to refer the claim for offset. The debtor must be advised that he or she is entitled to appeal that decision to Food and Nutrition Service within 30 days of receipt of the decision by the Appeals and Hearings Office. The notice must contain the address of Food and Nutrition Service. The debtor must be advised to include his/her social security number on the appeal.

If the determination is made that the claim is not appropriate for offset, the debtor must be notified in writing and any appropriate corrective action taken under food stamp claim rules.

15970 Appeals of State Agency Reviews

When Food and Nutrition Service (FNS) receives a timely appeal, the FNS Regional Office in Dallas, Texas, will take one of two actions prior to the date the Overpayment Unit is required to certify files to FNS. 1) If time permits, FNS will complete the review and notify the debtor and the Overpayment Unit. 2) If not, FNS will notify the Overpayment Unit that it has not completed its review and the claim must be deleted from the final files certified to FNS for intercept.

When FNS receives an appeal from a state agency decision, it will request documentation from the Overpayment Unit. After review, if a determination is made that the debt is past due and legally enforceable, the debtor will be notified and advised that he or she has the right to pursue other appeals through the courts. If FNS determined that the claim is not past due or legally enforceable, FNS will request that the Overpayment Unit take any appropriate corrective action. The Overpayment Unit will be notified of FNS's decision in either event.