

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-20
OVERPAYMENTS AND CLAIMS**

TABLE OF CONTENTS

1240-1-20-.01	Claims Against Households	1240-1-20-.07	Collecting Claims Against Households
1240-1-20-.02	Intentional Program Violations	1240-1-20-.08	Reserved for Future Use
1240-1-20-.03	Administrative Disqualification Hearing	1240-1-20-.09	Restoration of Lost Benefits
1240-1-20-.04	Waived Administrative Disqualification Hearing	1200-1-20-.10	Repealed
1240-1-20-.05	Court Referrals	1200-1-20-.11	Repealed
1240-1-20-.06	Pre-Trial Diversion		

1240-1-20-.01 CLAIMS AGAINST HOUSEHOLDS

- (1) Establishing Claims Against Households. The Department shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, except as provided in (2) of this section. Claims shall be classified as follows:
 - (a) Inadvertent Household Error Claims. A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household. Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:
 1. The household unintentionally failed to provide the state agency with correct or complete information; or
 2. The household unintentionally failed to report to the state agency changes in its household circumstances and the recipient or responsible person states that he/she did not understand his/her responsibility to provide full information or to report changes in circumstances or he/she did not understand the eligibility requirements and the record does not show that all of these considerations were explained; or
 3. The household received benefits or more benefits than it was entitled to receive pending a fair hearing decision, because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.
 - (b) Administrative Error Claims. A claim shall be handled as an administrative error claim if the overissuance was caused by the Department. Instances of administrative error which may result in a claim include, but are not limited to the following:
 1. A county office failed to take prompt action on a change reported by the household.
 2. A county office incorrectly computed the household's income or deductions or otherwise assigned an incorrect allotment.
 3. A county office incorrectly issued duplicate ATPs to a household which were subsequently transacted.
 4. The county office continued to provide a household food stamp allotments after its certification period had expired without benefit of a recertification.

(Rule 1240-1-20-.01, continued)

5. The county office failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.
- (c) Intentional Program Violation. A claim shall be handled as an intentional program violation claim only if:
 1. An administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed intentional program violation as defined in Section 1240-1-20-.02; or
 2. The household member is disqualified as a result of signing a waiver of his/her administrative disqualification hearing; or
 3. The household member signed a disqualification consent agreement in cases of pre-trial diversion,
- (2) Instances When Claims Shall Not Be Established. A claim shall not be established against any household if an overissuance occurred as a result of the following:
 - (a) Procedural Errors. The county office failed to ensure that a household fulfilled the following procedural requirements:
 1. Signed the application form; or
 2. Completed a current work registration form; or
 3. Was certified in the correct project area.
 - (b) Expired ATP. A household transacted an expired ATP card, unless the household altered its ATP card.
- (3) Calculate The Amount Of Claims. The amount of an overissuance claim shall be equal to the difference between the allotment the household received and the allotment the household should have received for each month of overissuance. Once the amount of a claim is established, the county shall offset the claim against any amount of lost benefits that have not yet been restored to the household.
 - (a) Inadvertent household and administrative error claims shall be calculated based on the amount of overissuance which occurred during the 12 months preceding the date the overissuance was discovered.
 - (b) Intentional program violation claims shall be calculated back to the month the act of intentional program violation occurred, but no more than six years prior to discovery, providing case record and issuance information are available. No claim shall be calculated for any month prior to March 1, 1979.
 - (c) In cases involving reported (or non-reported) changes, the county shall determine the month the overissuance initially occurred as follows:
 1. If the household inadvertently or intentionally failed to report a change in its circumstances within the required time frame, the first month of overissuance shall be the first month in which the change would have been effective had it been timely reported.

(Rule 1240-1-20-.01, continued)

2. If the household timely reported a change, but the county did not act on the change within the required time frame, the first month affected by the county's failure to act shall be the first month the county would have made the change effective had it timely acted.
 3. In no event shall the county determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.
- (d) When a household has failed to report earned income in a timely manner, no earned income deduction, as described in 1240-1-4-.17(8)(a)6.(i), shall be allowed in determining the amount of overissuance that has occurred.

Authority: TCA §§14-27-106, 14-27-113; 7 CFR 273.18. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1985; effective July 28, 1985. Amendment filed April 4, 1997; effective June 18, 1997.

1240-1-20-.02 INTENTIONAL PROGRAM VIOLATIONS. For the purpose of determining through administrative disqualification hearings whether or not a person has committed an intentional program violation, intentional program violations shall consist of having intentionally made a false or misleading statement; misrepresented, concealed, or withheld facts; traded food stamp coupons for guns, ammunition, explosives, or controlled substances; or committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of Food Stamp coupons.

- (1) **Administrative Responsibility.** The Department shall be responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction. Individuals accused of intentional program violation may waive their rights to administrative disqualification hearings (as outlined in rule 1240-1-20-.06) or sign disqualification consent agreements for cases of pre-trial diversion. The requirements and procedures relating to administrative disqualification hearings, waiver of the hearing, and referrals for prosecution are outlined in Chapter 1240-5-.14 "Intentional Program Violations".
- (2) **Disqualification Penalties.**
 - (a) **Individuals Who Commit Intentional Program Violations.** If an administrative disqualification hearing official or a court of appropriate jurisdiction determines that a household member has committed an intentional program violation as defined in the introduction to this section, or if the household member signs a waiver of right to an administrative disqualification hearing or an administrative consent agreement, that individual shall be disqualified from participation in the Food Stamp Program as follows:
 1. One year for the first violation.
 2. Two years for the second violation, or for the first occasion of a finding by a federal, state, or local court of the trading of coupons for a controlled substance as defined in 8 USC 802.
 3. Permanently for the third violation.
 4. Permanently if convicted of trafficking in food stamp benefits of \$500 or more, or for the second occasion of a finding by a federal, state or local court of the trading of coupons for a controlled substance as defined in 8 USC 802, or for the first occasion, based on a

(Rule 1240-1-20-.02, continued)

- finding by a federal, state or Local court of the trading of firearms, ammunition or explosives for coupons.
5. Ten (10) years if found to have made a fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously.
 6. The length of time specified by a court of appropriate jurisdiction. If the court fails to impose a disqualification period, the state agency shall impose the disqualification penalties in parts 1. through 5. above, unless the penalties are contrary to the court order.
- (b) One or more intentional program violations which occurred prior to April 1983 shall be considered as only one previous violation when determining the appropriate penalty to impose.
 - (c) The disqualification shall apply only to the individual who is found to have committed the intentional program violation, or who signed a waiver to the administrative disqualification hearing, or who signed a disqualification consent agreement. It does not apply to the entire household.
 - (d) Remaining Household Members. Once a household member is disqualified for an intentional program violation, the Department shall impose allotment reduction as the means of restitution.
 - (e) Notification to Applicant Households. The Department shall inform the household in writing of the disqualification penalties for intentional program violation each time it applies for program benefits.
 - (f) Imposition of Disqualification Penalties.
 1. The disqualification penalties outlined in paragraph (2)(a) of this section shall apply only to individuals disqualified for acts of intentional program violation which occurred either during a certification period based on an application form containing these penalties or after receipt of written notification from the Department of these penalties. If the act of intentional program violation which led to the disqualification occurred prior to written notification of these disqualification penalties, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the rendering of such determination. However, no disqualification penalty may be imposed which is contrary to court order.
 2. Appropriate disqualification penalties [as outlined in paragraph (2)(a) of this section] shall be imposed (unless contrary to court order) on household members in the following instances:
 - (i) An administrative disqualification hearing official rules that the household member has committed an intentional program violation. The disqualification period shall begin with the first month which follows the date the household member receives written notification of the hearing decision as cited in Section 1240-5-14-.04.
 - (ii) The household member suspected of intentional program violation signs the waiver of right to an administrative disqualification hearing, and the signed waiver is received within the time frame specified by the Department. The disqualification period shall begin with the first month which follows the date the household receives written notification of the disqualification as cited in Section 1240-5-14-.05.

(Rule 1240-1-20-.02, continued)

- (iii) A court of appropriate jurisdiction finds the household member guilty of intentional program violation. In such cases, the Department shall disqualify the individual for the length of time specified by the court. If the court fails to impose a disqualification period, the Department shall impose a disqualification period in accordance with paragraph (2)(a) of this section. If the court does not specify a date for initiating the disqualification period, the Department shall initiate the disqualification period as soon as is administratively feasible.
 - (iv) The household member suspected of intentional program violation signs a consent agreement in cases of pre-trial diversion. The period of disqualification shall begin as soon as it is administratively feasible after the date the household member signed the disqualification consent agreement.
3. Once a disqualification penalty has been imposed against an individual, the period of disqualification shall continue uninterrupted until completed regardless of eligibility of the disqualified member's household. The disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional program violation, regardless of its eligibility for benefits.

Authority: TCA §§4-5-202; 71-1-105(12); 71-5-313 and 71-5-314; 7 CFR 273.16; and PL 104-193. **Administrative History:** Original rule filed August 15, 1980; effective September 24, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Amendment filed April 4, 1997; effective June 18, 1997. Amendment filed July 28, 2000; effective October 11, 2000.

1240-1-20-.03 ADMINISTRATIVE DISQUALIFICATION HEARING. The Department shall conduct administrative disqualification hearings for individuals accused of intentional program violation in accordance with the requirements and procedures outlined in Section 1240-5-14-.04.

Authority: TCA §§14-27-113, 14-27-114; 7 CFR 273.16(e). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983.

1240-1-20-.04 WAIVED ADMINISTRATIVE DISQUALIFICATION HEARING. An individual is allowed to waive his/her right to an administrative disqualification hearing in accordance with the requirements and procedures outlined in Section 1240-5-14-.05.

Authority: TCA §§14-27-113, 14-27-114; 7 CFR 273.16(f). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983.

1240-1-20-.05 COURT REFERRALS. The Department shall refer appropriate cases of alleged intentional program violation for prosecution by a court of appropriate jurisdiction in accordance with the procedures and requirements outlined in Section 1240-5-14-.06.

Authority: TCA §§14-27-114; 7 CFR 273.16(g). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1985; effective July 28, 1983.

1240-1-20-.06 PRE-TRIAL DIVERSION. Individuals referred for prosecution for intentional program violation may be allowed to sign disqualification consent agreements in cases of pre-trial diversion. The procedures are outlined in this section.

- (1) Advance Notification. The accused household member shall be provided with advance written notification of the consequences of consenting to disqualification in cases of pre-trial diversion. The written notification shall include at a minimum:

(Rule 1240-1-20-.06, continued)

- (a) A statement for the accused individual to sign that he/she understands the consequences of consenting to disqualification, along with a statement that the head of household must also sign the consent agreement if the accused individual is not the head of household.
 - (b) A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud.
 - (c) A warning that the disqualification penalties for intentional program violation under the Food Stamp Program which could be imposed are: a six month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation; and a statement of which penalty will be imposed as a result of the accused individual having consented to disqualification.
 - (d) A statement of the fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.
- (2) Imposition Of Disqualification Penalties. If the household member suspected of intentional program violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with Section 1240-1-20-.02.
- (3) Notification Of Disqualification. If the household member suspected of intentional program violation signs the disqualification consent agreement, the Department shall provide written notice to the household as follows:
- (a) The household member who is being disqualified shall be informed of the disqualification and the date the disqualification will take effect.
 - (b) The remaining household members, if any, shall be notified of the allotment they will receive during the period of disqualification or that they must reapply because the certification has expired. In addition, the Department shall provide a written demand letter for restitution as described in Section 1240-1-20-.07.

Authority: TCA §§14-27-115, 14-27-114; 7 CFR 273.16(h). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 18, 1983.

1240-1-20-.07 COLLECTING CLAIMS AGAINST HOUSEHOLDS.

- (1) Criteria For Initiating Collection Action.
- (a) Inadvertent Household and Administrative Error Claims. The Department shall initiate collection action against the household on all inadvertent household or administrative error claims unless the claim is collected through offset or one of the following conditions applies:
 - 1. The total amount of the claim is less than \$35, and the claim cannot be recovered through allotment reduction. (Collection action will be initiated at such time that multiple claims of under \$35 total \$35 or more.)
 - 2. The Department has documentation which shows that the household cannot be located.

(Rule 1240-1-20-.07, continued)

3. An inadvertent household error claim is being referred for possible prosecution or for administrative disqualification, and the Department determines that collection action will prejudice the case. In these instances, collection action may be postponed.
- (b) Intentional Program Violation Claims. If a household member is found to have committed intentional program violation (by an administrative disqualification hearing official or a court of appropriate jurisdiction) or has signed a waiver of right to an administrative disqualification hearing, or an administrative consent agreement, the Department shall initiate collection action against the individual/household, unless one of the following conditions applies:
 1. The household has repaid the overissuance already.
 2. The Department has documentation which shows the household cannot be located.
 3. The Department determines that collection action will prejudice the case against a household member who has been referred for prosecution.
- (2) Initiating Collection On Claims. The Department shall initiate collection action by providing the household a written demand letter containing following information:
 - (a) The amount owed by the household.
 - (b) The reason for the claim.
 - (c) The period of time the claim covers.
 - (d) Any offsetting that was done to reduce the claim.
 - (e) How the household may pay the claim.
 - (f) The household's right to a fair hearing if the household disagrees with the amount of the claim, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.
 - (g) Information regarding free legal representation, if there is an individual or organization available that provides free legal representation.
 - (h) For inadvertent household error and intentional program violation claims, the household shall be informed of:
 1. The length of time the household has to decide which method of repayment it will choose and inform the Department of its decision.
 2. The fact that the household's allotment will be reduced if the household fails to agree to make restitution.
 - (i) For administrative error claims, the household shall be informed of the availability of allotment reduction as a repayment method if the household prefers to use this method.
- (3) Action Against Households Which Fail To Respond To Collection Action.

(Rule 1240-1-20-.07, continued)

- (a) If the household against which collection action has been initiated for repayment of an administrative error, an inadvertent household error, or intentional program violation claim is currently participating in the program and does not respond to the written demand letter within twenty (20) days of the date the notice is mailed for an administrative error or an inadvertent household error or within five (5) days of the date the notice is mailed for an intentional program violation, the Department will reduce the household's Food Stamp allotment as soon as is administratively feasible.
 - (b) If any nonparticipating household against which collection action has been initiated for repayment of a claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days until the household has responded by paying or agreeing to pay the claim, until the criteria for suspending collection action, as specified in paragraph (4) of this section, have been met, or until the Department initiates other collection actions.
 - (c) The Department may also pursue other collection action, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of any inadvertent household error, administrative error, or intentional program violation claim.
- (4) Suspending Collection Of Claims.
 - (a) Inadvertent Household and Administrative Error Claims. An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in paragraph (1)(a) of this section. If collection action of an inadvertent household error claim against a nonparticipating household or of any administrative error claim may be suspended when:
 - 1. The household cannot be located; or
 - 2. The cost of further collection action is likely to exceed the amount that can be recovered.
 - (b) Intentional Program Violation Claims. The Department may suspend collection action on intentional program violation claims when:
 - 1. The Department has documentation that the household cannot be located; or
 - 2. For nonparticipating households the Department has sent at least one demand letter for claims under \$100, at least two demand letters for claims between \$100 and \$400, and the cost of further collection action is likely to exceed the amount that can be recovered.
- (5) Terminating Collection Of Claims. A claim may be determined uncollectible after it is held in suspense for 3 years. The Department may use a suspended or terminated claim to offset benefits in accordance with rule 1240-1-20-.09.
- (6) Collection Action When The Household Composition Changes. When the membership of a household with an overissuance claim changes, collection action will be initiated as follows:
 - (a) Inadvertent Household and Administrative Error Claims. The Department shall initiate collection from the household containing the head of the household at the time the overissuance occurred. If repayment cannot be obtained from such a household, the Department shall initiate collection from any household containing an adult who was a member of the household in which the overissuance occurred.

(Rule 1240-1-20-.07, continued)

- (b) Intentional Program Violation Claims. The Department shall initiate collection action against the household which contained intentional program violation and which received the overissuance for which the claim was established. If repayment cannot be obtained from the person who committed the intentional program violation the Department shall initiate collection action against the household containing the individual who was head of the household at the time the act(s) of intentional program violation occurred. If repayment can not be obtained from such household, the Department shall initiate collection against any household containing an adult who was a member of the household in which the overissuance occurred.
- (7) Methods Of Collecting Payments. The Department shall collect payments for claims against households as follows:
 - (a) Lump Sum. The household may repay a claim by lump sum:
 - 1. If the household is financially able to pay the claim at one time, the Department shall collect a lump sum cash payment. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment;
 - 2. If the household is financially unable to pay the entire amount of claim at one time and prefers to make a lump sum cash payment as partial payment of the claim; or
 - 3. If the household chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claims.
 - (b) Installments.
 - 1. The Department shall negotiate a payment schedule of regular installments with the household for repayment of any amounts of the claim not repaid through a lump sum payment. The household may use food stamp coupons as full or partial payment of any installment. If the full claim or remaining amount of the claim cannot be liquidated in 3 years, the Department may compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. The Department may use the full amount of the claim (including any amount compromised) to offset benefits.
 - 2. If the household fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the Department shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the Department to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the Department is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional program violation claim has been established may be reduced without a notice of adverse action.
 - 3. If the household responds to the notice, the Department shall take one of the following actions as appropriate:
 - (i) If the household makes the overdue payment and wishes to continue payments based on the previous schedule, permit the household to do so;
 - (ii) If the household requests renegotiation, and if the Department concurs with the request, negotiate a new payment schedule;

(Rule 1240-1-20-.07, continued)

- (iii) If the household requests renegotiation of the amount of its repayment schedule but the Department believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the Department may continue renegotiation until a settlement can be reached. The Department shall have the option to invoke allotment reduction against a currently participating household for repayment of an inadvertent household error or intentional program violation claim if a settlement cannot be reached.
 - 4. If a currently participating household against which an administrative error or inadvertent household error or intentional program violation claim has been established fails to respond to the notice, the Department shall invoke allotment reduction. The Department may also invoke allotment reduction if such a household responds by requesting renegotiation believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is involved, no notice of adverse action is required.
 - 5. In cases where the household is currently participating in the program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional program violation claim, the Department shall ensure that the negotiable amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction.
 - 6. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, both the Department and the household shall have the option to initiate renegotiation of the payment schedule if they believe that the household's economic circumstances have changed enough to warrant such action.
- (c) Allotment Reduction.
- 1. The Department shall collect payments for administrative error claims, inadvertent household error claims, and intentional program violation claims from households currently participating in the program by reducing the household's Food Stamp allotments.
 - 2. Prior to reduction, the Department shall inform the household of the appropriate formula for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment, and of the availability of other methods of repayment. If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial payment of the claim, the Department shall accept this method of payment.
 - 3. The Department shall reduce the household's allotment to recover any amount of an administrative error, inadvertent household error, or intentional program violation claim not repaid through a lump sum cash and/or Food Stamp coupon payment unless a payment schedule has been negotiated with the household. The provision for a \$10 minimum benefit level for households with one and two members only shall apply to the allotment prior to reduction.
 - 4. If the full or remaining amount of the claim cannot be liquidated in 3 years, the Department may compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years.

(Rule 1240-1-20-.07, continued)

5. The Department may use the full amount of the claim (including any amount compromised) to offset benefits.
6. The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:
 - (i) Administrative Error and Inadvertent Household Error Claims. For these claims, the amount of food stamps shall be the greater of 10 percent of the household's monthly allotment or \$10 per month.
 - (ii) Intentional Program Violation Claims. For intentional program violations claims, the amount of food stamps shall be the greater of 20 percent of the household's monthly entitlement or \$10 per month.
- (8) Overpaid Claims. If a household has overpaid a claim, the Department shall pay the household any amounts overpaid as soon as possible after the overpayment becomes known.
- (9) Interstate Claims Collection. When a household moves to another state, the Department shall initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the Department's jurisdiction.

Authority: TCA §§4-5-202, 71-1-105, 71-3-157, 71-3-158; PL 104-193; 7 CFR 273.18. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 17, 1982; effective September 16, 1982. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Amendment filed September 29, 1986; effective December 29, 1986. Amendment filed April 4, 1997; effective June 18, 1997.

1240-1-20-.08 RESERVED FOR FUTURE USE.

Authority: TCA §14-27-113; 7 CFR 273.18. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Amendment filed August 17, 1982; effective September 16, 1982. Repeal and new rule filed June 28, 1983; effective July 28, 1983.

1240-1-20-.09 RESTORATION OF LOST BENEFITS.

- (1) Entitlements. The county office shall restore to the household benefits which were lost whenever the loss was caused by an administrative error, or whenever an administrative disqualification decision for intentional program violation is subsequently reversed, or whenever federal regulations specifically state that a household is entitled to restoration of lost benefits. Benefits shall be restored for not more than twelve months prior to whichever of the following occurred first:
 - (a) The date the state agency receives a request for restoration from a household; or
 - (b) The date the state agency is notified or otherwise discovers that a lost to a household has occurred.
- (2) The county office shall restore to households benefits which were found by any judicial action to have been wrongfully withheld.
- (3) If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for a period of not more than twelve months from the date the court action was initiated.

(Rule 1240-1-20-.09, continued)

- (4) When the judicial action is a review of a county office action, the benefits shall be restored for a period of not more than twelve months from the first of the following dates:
 - (a) The date the state agency receives a request for restoration; or
 - (b) If no request for restoration is received, the date the fair hearing action was initiated; but
 - (c) Never more than one year from when the state agency is notified of or discovers the loss.
- (5) Errors Discovered By The County Office. If the county office determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, the county office shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored:
 - (a) If the benefits were lost more than 12 months prior to the month the loss was discovered by the county office in the normal course of business; or
 - (b) If the benefits were lost more than 12 months prior to the month the county office was notified in writing or orally of a possible loss to a specific household.
- (6) Notification And Method Of Restoration.
 - (a) Notification to the Household.
 - 1. When it is determined by the county office that a loss of benefits has occurred, the household shall be notified, in writing, of the following:
 - (i) Entitlement to restored benefits;
 - (ii) The amount of benefits to be restored;
 - (iii) Any offsetting that was done;
 - (iv) The method of restoration; and
 - (v) The right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.
 - 2. Reserved for Future Use.
 - 3. Reserved for Future Use.
 - (b) Method of Restoration.
 - 1. Regardless of whether a household is currently eligible or ineligible, the county office shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive.
 - 2. Deviations. The county office shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears that excess coupons may be lost or stolen, or that the amount to be restored is more than it can use in a reasonable period of time.

(Rule 1240-1-20-.09, continued)

- (c) Household Composition Changes. Whenever lost benefits are due a household and the household's membership has changed, the county office shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the county office cannot locate or determine the household which contains a majority of the household members, the county office shall restore the lost benefits to the household containing the individual who was head of the household at the time the loss occurred.
 - (d) Reserved for Future Use.
 - (e) Reserved for Future Use.
- (7) Computing The Amount To Be Restored. After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the twelve (12) month time limits described in Section 1240-1-21-.01, the county shall calculate the amount to be restored as follows:
- (a) Incorrect Allotment. If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated.
 - (b) Delay, Denial, or Termination. If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss shall be calculated as follows:
 - 1. If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month of application or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.
 - 2. If an eligible household's application was delayed, the months for which benefits are lost shall be calculated in accordance with procedures in Section 1240-1-17 of the Family Assistance Manual for determining the delay was caused by the household or by the county office.
 - 3. If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.
 - 4. After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.
 - (c) Determination of Eligibility. For each month affected by the loss, the county office shall determine if the household was actually eligible. In cases where there is not information in the household's case file to document that the household was actually eligible, the county office shall advise the household of what information must be provided to demonstrate eligibility for these months. For each month the household can't provide the necessary information to demonstrate its eligibility, the household shall be ineligible.
 - (d) Calculation of Benefits. For the months the household was eligible, the county office shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotment equals the amount to be restored.

(Rule 1240-1-20-.09, continued)

- (e) Offsetting Claims. If a claim against a household is unpaid or held in suspense as provided in Section 1240-1-20 of the Family Assistance Manual, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household. At that point in time when the household is certified and received an initial allotment, the initial allotment shall not be reduced to offset claims, even if the initial allotment is paid retroactively.
- (8) Disputed Benefits.
 - (a) Household Disagrees With State Agency.
 - 1. If the county office determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the county office or any other action taken by the county to restore lost benefits, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost benefits.
 - 2. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the county office, pending the results of the fair hearing.
 - 3. If the fair hearing decision is favorable to the household, the county shall restore lost benefits in accordance with that decision.
 - (b) State Agency Disagrees With Household.
 - 1. If a household believes it is entitled to restoration of lost benefits but the county office, after reviewing the case file, does not agree, the household has 90 days from the date of the county office's determination to request a fair hearing. The county office shall restore lost benefits to the household only if the fair hearing decision is favorable to the household.
 - 2. Benefits lost more than 12 months prior to the date the county office was initially informed of the household's possible entitlement to lost benefits shall not be restored.
- (9) Entitlement To Lost Benefits For Individuals Who Were Disqualified For Intentional Program Violation.
 - (a) Individuals disqualified for intentional program violation are entitled to restoration of any benefits lost during the months they were disqualified only if the disqualification decision is subsequently reversed. The months covered in the restoration must not exceed 12 months prior to the date the county received notification.
 - (b) For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate.
 - (c) If the household received a smaller allotment than it should have received, the difference equals the amount that should have been restored.
 - (d) Participation in an administrative disqualification hearing in which the household contests the State Agency assertion of intentional program violation shall be considered notification that the household is requesting restored benefits.

(Rule 1240-1-20-.09, continued)

Authority: TCA §§14-27-104, 14-27-106, 14-27-109, 14-27-110; 7 CFR 273.17. **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Amendment filed October 14, 1983; effective November 14, 1983.

1240-1-20-.10 REPEALED.

Authority: TCA §§14-27-104, 14-27-106, 14-27-109, 14-27-110; 7 CFR 273.17. **Administrative History:** Original rule filed August 15, 1980; effective September 28, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983.

1240-1-20-.11 REPEALED.

Authority: TCA §§14-27-104 14-27-106 14-27-109 14-27-110; 7 CFR 273.17. **Administrative History:** Original rule filed August 15, 1980; effective September 28, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983.