
FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Requirements for Establishing Recipient Claims

FNS 805 Requirements for Establishing Recipient Claims

Change #1-2017

April 1, 2017

805.01 GENERAL POLICY

All adult (age 18 and over) household members and any emancipated minor head of household are jointly and separately liable for the value of any overissued benefits. Household members include persons living in the household that were or should have been included in the Food and Nutrition Services (FNS) budget at the time of the overissuance. **Notes must be placed in Enterprise Program Integrity Control System (EPICS) for the following: Bankruptcy, address change, State override requests, Voluntary Repayment Agreements (VRA), and block requests.**

- A. Establish a recipient claim against a household that received more FNS benefits than it was entitled to receive.
- B. In most situations, all adult household members who were in the household at the time of the overissuance are considered debtors for the claim. A head of household under the age of 18 is also considered a debtor on a claim. See 805.03 for exceptions and information on changes in household composition, authorized representatives, etc.
- C. Do not establish a claim against households for non-reportable changes. Simplified Reporting, Transitional Food and Nutrition Services (TFNS), and SNAP cases have limited reporting requirements. Refer to sections 450, 550, or 600.

805.02 TYPES OF CLAIMS

There are three types of recipient claims.

- A. **Agency Error (AE)** - agency action or inaction. This includes state agency errors. **Do not use State Issuance Errors (SIE) as a claim type without State Office authorization.**
- B. **Inadvertent Household Error (IHE)** - the household's misunderstanding or unintentional error.
- C. **Intentional Program Violation (IPV)** - the household has:
 - 1. Intentionally failed to report or,
 - 2. Misrepresented the household's situation or,
 - 3. Intentionally misused benefits.

See Section 825.03 for methods to establish an IPV.

805.03 SITUATIONS WHEN A RECIPIENT CLAIM IS NOT ESTABLISHED

- A. Neither an Agency Error (AE) claim nor an Inadvertent Household Error (IHE) claim is established solely based on the fact that the **local agency** failed to insure that certain procedural requirements were met. These requirements include:

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

1. The household failed to sign the application. Do not establish a claim solely because the application is not signed, providing benefits are correct. However, the **local agency** is not prohibited from establishing a claim because the application is not signed. Criminal prosecution may be precluded but administrative action is not.
 2. The household did not live in the county where certified (provided there was no dual participation). **If it was determined that a debtor did not report that they were living in a county other than the one the debtor was certified in at the time of the overissuance the local agency that issued the benefits is required to establish the claim.**
 3. The claim amount is less than \$125.00 for a non-participating household, unless the referral is discovered by a QC review, the result of trafficking, or the **local agency** has a state approved claims management plan for less than \$125.00.
- B. eFunds system errors.
- C. The agency failed to send the Notice of Adverse Action for failure to comply with Employment and Training (E&T) **in a timely manner.**
- D. Benefits were continued because of a Fair Hearing to appeal an E&T, voluntary quit, or Workfare non-compliance. A claim is not appropriate because the proposed disqualification is for a future period.
- E. The FNS allotment is based on anticipated income and deductions. If the “anticipation” is incorrect, there is no overissuance if all eligibility factors were correctly considered and the allotment was computed correctly.
- F. For jointly processed applications (SSI and FNS) taken by the Social Security Office and approved for SSI, do not establish a claim for any information reported to SSA at application or at any time during the initial 12 months’ certification period.
- G. For jointly processed applications (SSI and FNS) taken by the SSA and denied for SSI, do not establish a claim for any information reported to SSA at application or at any time during the initial certification period.
- H. Changes in household circumstances which occurred during the certification period which the household is not required to report, such as changes in real property, medical expenses during the certification period, dropping out of school, etc. See Section 450 after August 1, 2009.
- I. Neither the agency nor the FNS unit are responsible for overissuances that occur during the period of TFNS benefits that result from errors in the Work First Family Assistance (WFFA) check or the FNS allotment determination prior to TFNS. However, a claim must be established for any overissuances received in the months prior to TFNS benefit period. A claim must be established against a household that received dual benefits during the TFNS period, or an IPV disqualification should have been imposed during the TFNS period.

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

EXAMPLE: A FNS Unit reports new earned income in June 2003. The change results in ineligibility for the Work First Family Assistance effective July 2003, and the FNS case is transferred to TFNS effective July 2003 for the months of July 2003 through November 2003. In August, 2003, the agency becomes aware that the FNS unit had failed to report receiving direct child support since March 2002. A claim cannot be established for the months of July 2003 and August 2003, and the allotment cannot be changed for the remaining months of the TFNS benefit period. Establish a claim for the overissued months prior to July 2003.

- J. Do not establish a claim against a Simplified Reporting or SNAP household for moving out of state. A FNS Household that receives dual benefits in NC and another state made a false statement at the second application regarding their receipt of benefits from the first state. The state in which the false statement was made establishes a claim. The other state involved establishes a claim if the state in which the false statement was made does not establish a claim.

805.04 RECIPIENT CLAIMS FOR HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES

- A. Sponsored Aliens
1. The sponsor of an alien and the alien are jointly liable for any overissuance of benefits as a result of incorrect information provided by the sponsor. However, if the alien's sponsor had good cause or was not at fault for supplying the incorrect information, the alien's household is solely liable for repayment of the overissuance.
 2. Determinations of good cause are made on a case-by-case basis by the State Office/Program Integrity. Request a determination of good cause by letter or fax to **919-334-1265**, giving a summary of the details provided by the alien or sponsor.
 3. If the sponsor did not have good cause, hold both the sponsor and the alien's household jointly responsible for claims established within three years after the alien's entry into the United States. If an overissuance occurs three years after the alien's entry into the United States, hold the alien solely responsible.
 4. Procedures for determining IPV, IHE, or AE and collection action are the same as for any other household.
- B. Changes in Household Composition
1. Establish and/or initiate collection against the household that received the overissuance.
 2. If the household composition has changed, establish and initiate collection against anyone who was an adult household member at the time the overissuance occurred.
 3. Do not list an individual as a debtor if:

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

- a. The overissuance occurred after an adult household member left the home; and
- b. Leaving the home was not a reportable change.

EXAMPLE: Client and spouse are living together and the spouse leaves the home on January 2nd. This is a non-reportable change for FNS cases and the spouse remains on the case. On January 10, the client starts a new job and the gross income places the household over the gross income limit. This is a reportable change and the client fails to report this change. Establish a claim, but do not consider the spouse a debtor since he was not living in the home at the time of the overissuance.

C. Categorically Eligible Households

- 1. Establish a claim if the household fails to provide correct or complete information at application or recertification. Also establish a claim if a household does not report a change that is reportable for its category.
- 2. Establish a claim if the household was receiving FNS solely because of categorical eligibility and the household was subsequently determined ineligible for Work First Family Assistance or SSI except TFNS.
- 3. Do not establish a claim due to resources exceeding the FNS limits, unless the household was subsequently found ineligible by Work First Family Assistance or Social Security Administration.
- 4. Prior to June 1, 2001, if a non-public assistance member moved into a categorically eligible household, the household lost its categorically eligible status for each month the member was in the household. Effective June 1, 2001, the definition of categorical eligibility was expanded to include FNS households in which at least one member is authorized to receive Work First cash assistance, Benefit Diversion, or Work First Employment services.

D. Authorized Representatives

The household and authorized representative are equally liable for any erroneous issuance as a result of incorrect or incomplete information provided by the authorized representative, except when benefits are trafficked or misused by the authorized representative without the FNS unit's knowledge. The authorized representative is responsible for an erroneous issuance occurring when he is the representative for an alcoholic/drug treatment center, or when he is found guilty of trafficking EBT benefits.

E. Transitional Food and Nutrition Services Households

- 1. The household is liable for any overissuance that occurred prior to the TFNS benefit period. Neither the agency nor the FNS unit are responsible for overissuances that occur during the period of TFNS benefits that are the result of errors in the Work First Family Assistance (WFFA) check or the FNS allotment received prior to TFNS.

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

2. Establish a claim for the TFNS household if the FNS unit fails to report a move to another State and apply for and receive benefits in another State and the other State does not establish a claim.
3. Establish a claim for the TFNS household if the agency fails to remove a member of a TFNS case when it is reported that the individual has been added to another FNS unit in North Carolina in the same **local agency** or another **local agency**.
4. Establish a claim for the TFNS household if the agency fails to remove a member of a TFNS case when it is reported that the individual is receiving FNS in another state.
5. Establish an Agency Error Claim for the TFNS household when a member disqualified for an Intentional Program Violation is not removed from the budget.

F. Voluntary Quit Penalties

An individual required to report and subject to the penalty for voluntary quit is disqualified:

1. For the first violation, until the household member complies or for one month, whichever is later.
2. For the second violation, until the household member complies or for three months, whichever is later.
3. For the third or subsequent violation, until the household member complies or six months, whichever is later. It may be necessary to establish a claim for an individual who fails to report a voluntary quit timely which would have made the individual disqualified for one of the above time periods, unless the penalty can still be imposed timely.

G. Transfer Of Reserve Penalties

If the household fails to report or the agency fails to act on information that would have resulted in disqualification, the household is ineligible for the appropriate number of months only if this was a reportable change.

H. Households With Ineligible Individuals

Establish a claim when a household containing an ineligible member fails to report a change in situation that makes the member eligible to be included and their income and resources counted only if a reportable change. Ineligible members include an ineligible student, ineligible Able-bodied Adult Without Dependent (ABAWD), fleeing felon, and a probation/parole violator.

I. Households With Disqualified Individuals

Establish a claim when a household containing a disqualified member fails to report a change in income or reserve only if a reportable change. Disqualified individuals include

FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Requirements for Establishing Recipient Claims

those disqualified for IPV, work penalties, enumeration, a drug felony, or for failure to meet citizenship requirements.

J. Households With Fleeing Felons

If an individual had an outstanding felony warrant and had knowledge of this warrant, establish a claim if the household did not report that the household member was a fleeing felon only if a reportable change. Before an individual is determined to be a “fleeing” felon, the following criteria must be met. Fleeing felons are individuals who are acting with the intent to avoid prosecution. In cases where a warrant has been issued, the individual must have knowledge that a warrant has been issued for his arrest in order to be considered fleeing. The individual has to have taken some action to avoid being arrested or jailed and a law enforcement agency must be actively seeking the individual. If the **local agency** determines during the application processing time period that an individual has a warrant out for arrest, verify with the individual whether they have knowledge of the warrant. Counties should give the individual an opportunity to submit documentation that the warrant has been satisfied.

Once the individual has knowledge of the felony warrant, either by receiving the warrant or being notified of its existence, the individual will be considered fleeing. Verification may be obtained through local law enforcement or Clerk of Court.

805.05 DETERMINING THE CLAIM TYPE

A. Administrative Error (AE) Claims – An Administrative Error claim may result from, but is not limited to any of the following:

1. Failure to take action on a reportable change reported by a household to Work First Family Assistance or Food and Nutrition Services.
2. Failure to take action on information known to the agency from any of the following sources:
 - a. Work First Family Assistance (WFFA).
 - b. Income and Eligibility Verification System (IEVS) Data (See Section 810.02B.4. Special Requirements for IEVS Data);
 - c. IV-D Payment Reports (ACTS) as verified at application or recertification.

NOTE: Information known to Medicaid, services or day care assistance is **not** considered known to FNS. If the FNS caseworker is also the Medicaid caseworker, information known to Medicaid would be considered known to FNS.

3. Incorrect computation of income or deductions.
4. Incorrect keying of client information into NC FAST.

FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Requirements for Establishing Recipient Claims

5. Issuing duplicate EBT benefits.
 6. Allowing dual participation by a FNS unit household or household member by:
 - a. Failing to check for participation in another household, another **local agency**, or another state for the same month.
 - b. Failing to remove a member of a TFNS case when it is reported that the individual has been added to another FNS unit in North Carolina.
 - c. Failing to remove a member of a TFNS case when it is reported that the individual has applied for FNS in another state.
 7. Failure to timely disqualify a household member found guilty of an IPV.
 8. Failure to act on a Disqualified Recipient System (DRS) match.
 9. Overissuances identified through the United States Department of Agriculture (USDA) audit findings.
 10. Overissuances identified through Quality Control (QC) referrals.
 11. State Agency errors.
 12. Failure to act on changes reported to the **local agency** during the initial certification period of jointly processed applications taken at the Social Security Office (for SSI and FNS.)
 13. Failure to exclude an ineligible member or failure to disqualify a disqualified member. Examples are a drug felon, E & T disqualification, etc. 14.
 14. Failure to include a disqualified member's income and/or resources.
 15. Do not establish a claim for a TFNS period unless dual benefits were received or an IPV disqualification was not enforced.
 16. The household was receiving FNS solely because of categorical eligibility and the household was subsequently determined to be ineligible for WFFA and/or Supplemental Security Income (SSI).
- B. Inadvertent Household Error (IHE) – A recipient claim may result from, but is not limited to any of the following situations. Do not code a suspected IPV claim as an IHE while waiting for an ADH or prosecution.
1. Failure to provide correct or complete information at the time of application or recertification.
 2. Failure to report a change in circumstances required by Sections 450 and 550.

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

3. Receipt of continued benefits during a hearing process when the hearing officer affirms the reduction or termination of benefits. See exceptions in Section 805.03, D.
 4. Overissuances identified through USDA audit findings.
 5. Overissuances identified through QC referrals.
 6. Failure to report that a member may be ineligible or disqualified.
 7. Failure to report income or resources of an excluded or disqualified member.
 8. The FNS unit failed to report moving to another state and applying for and receiving benefits from another state. This applies to Standard and Simplified cases.
 9. The household was receiving FNS solely because of categorical eligibility and the household was subsequently determined ineligible for SSI and/or WFFA due to unreported income.
 10. The Social Security Administration (SSA) took an action or failed to take the appropriate action which resulted in the household improperly receiving SSI due to unreported income.
- C. Intentional Program Violation (IPV) – Do not pursue an IPV when information is known to the agency in another eligibility program. An IPV exists when there is clear and convincing evidence that the individual is guilty of knowingly, willfully, and with deceitful intent of committing any of the actions listed below:
1. Make a verbal or written false statement in order to obtain benefits for which the FNS unit is not eligible.
 2. Hide information in order to obtain benefits for which the FNS unit is not eligible.
 3. Use an EBT card to receive:
 - a. Cash;
 - b. Alcoholic beverages;
 - c. Tobacco products;
 - d. Illegal drugs;
 - e. Firearms;
 - f. Ammunition;

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

- g. Explosives; or
 - h. the purchase of any non-food items.
4. Trade or sell **or the attempt to trade or sell** FNS EBT benefits **online or in person**.
5. Misuse of an EBT card, such as:
- a. Use of an EBT card to pay on a credit/charge account regardless of the items that were charged.
 - b. **Allow someone else to use their EBT card or FNS benefits. Intent determines whether a claim is an IPV or an IHE.**

NOTE: If a recipient sells or trades his EBT card or benefits to another, an IPV claim must be established against this person that bought or traded the benefits. If that person is receiving or received FNS benefits, then a disqualification must also be imposed against this person also.

EXAMPLE: An individual sells \$500 worth of his EBT benefits to another FNS recipient. Establish an IPV for \$500 against the recipient and impose a disqualification. Establish a separate IPV claim for \$500 against the other recipient and impose a disqualification. A total of \$1,000.00 will be collected for this IPV, even though only \$500.00 was actually used.

6. Trafficking FNS benefits. Trafficking is defined as buying or selling EBT cards or FNS benefits for cash or consideration other than eligible food; or the attempt to buy or sell FNS benefits online and in public; **or the exchange of benefits for firearms, ammunition, explosives or controlled substances; or the reselling of food purchased with FNS benefits; or the purchasing of a product with FNS benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount.** A claim can be established whether or not the retailer is involved. Establish the claim for the amount that was actually trafficked.
- A. Individuals who attempt to sell **or trade** their FNS benefits/cards for cash or items not allowed by USDA regulations are guilty of an Intentional Program Violation. Pursue IPV disqualification when there is evidence of **the attempt to traffick or trade their FNS benefits.** Following are some examples of the attempt to sell **or trade** FNS benefits/cards. This list is not inclusive:
- 1. FNS benefits/cards are offered for sale online through websites and social media such as craigslist, Facebook, Twitter, eBay, etc.

FOOD AND NUTRITION SERVICES CERTIFICATION

CLAIMS

Requirements for Establishing Recipient Claims

2. FNS benefits/cards are offered for sale in a public place **or by text**. The public place may be the grocery store.
 - B. IPV claim amounts for trafficking or attempted trafficking:
 1. Zero for IPV claims when no benefits were actually sold or transferred or;
 2. The amount of benefits that were actually trafficked.
 - C. Enter IPV claims in EPICS regardless of the amount of the overissuance. Enter \$1.00 as the claim amount when there is no overissuance. Fax request to the State Office/Attn: Program Integrity at 919-334-1265 to close the claim by adjusting the claim amount to zero once the process to establish the IPV disqualification is complete and entered in EPICS. Follow instructions in policy manual section 820.12. **Do not establish an IPV claim for \$1.00 with the casehead does not have a Social Security Number (SSN). Document the disqualification in the record. A disqualification cannot be established in EPICS without a SSN.**
7. IPV claims must be established using one of the following methods:
- a. Administrative Disqualification Hearing (ADH);
 - b. Claimant's Waiver of the ADH;
 - c. Court Action.
- Court action includes:
- (1) Deferred Prosecution when it includes a Disqualification Consent Agreement handled by the District Attorney's Office;
 - (2) Superior Court Conviction;
 - (3) District Court Conviction.
8. Enter in EPICS a claim type "U" (Undetermined Pending ADH) on the day the DSS-8556, Advanced Notice of ADH, is mailed or "P" (Undetermined Pending Criminal Court) the day the case is given to the District Attorney or law enforcement officer. **Enter the Date of Discovery when an overissuance is determined**. Reclassify the claim as an IPV once guilt is established using one of the methods listed in 805.05C,7. Reclassify the claim as AE or IHE if IPV is not established. The 180 day time limit to establish a claim must be met even if a "U" or "P" is entered in EPICS.

805.06 METHODS OF COLLECTING CLAIMS

There are seven methods of collecting claims.

FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Requirements for Establishing Recipient Claims

- A. Lump-sum Payments
- B. Cash Payments (Voluntary Repayment Agreement, Civil Court, Confession of Judgement, etc.)
- C. FNS/Electronic Benefits Transfer (EBT)
- D. Allotment Reductions
- E. Treasury Offset - See Section 845, Treasury Offset Program, and Section 850, N.C. Debt Set-Off Collection (Tax Intercept) Procedures.
- F. NC Education Lottery Interception. See Section 865.
- G. Wage Garnishment
 - 1. Private Employers (IPV Only)
 - 2. Article 60 (State Employees Only)
 - 3. Hatch Act (Military Personnel Only)
- H. Expungement
- I. Restorations and Supplements payment type O (See Section 905.01).

Negotiate a Voluntary Repayment Agreement with the household. Each claim must have a separate Voluntary Repayment Agreement. All FNS claims must be paid off within 36 months, unless a hardship was determined. If a debtor makes a Voluntary Repayment Agreement for 36 months and it is determined at a later date that there is a hardship, the Voluntary Repayment Agreement can be renegotiated for 60 month payments, however the monthly payment must meet the minimum requirements to pay the claim in full within 60 months from the Date of Establishment.