



**COMBINED MANUAL
DESCRIPTION OF CHANGES ATTACHMENT
REVISED SECTIONS – ISSUED 12/03/2012**

The following sections update Food Support and FS to Supplemental Nutrition Assistance Program (SNAP) and FSET to SNAP E&T throughout. No policy was changed:

- 0025.06 (Maintaining Records of Incorrect Payments).**
- 0025.09 (Correcting Underpayments).**
- 0025.09.03 (Where to Send Corrective Payments).**
- 0025.12.03 (Overpayments Exempt From Recovery).**
- 0025.12.03.03 (Suspending or Terminating Recovery).**
- 0025.12.12 (Action on Overpayments - Time Limits).**
- 0025.21 (Recovery Methods).**
- 0025.21.12 (Estate Claims).**
- 0025.21.15 (Recoupment).**
- 0025.21.15.03 (Amount to Recoup).**
- 0025.21.18 (Treasury Offset Program).**
- 0025.21.21 (Minnesota Collection Enterprise).**
- 0025.24 (Fraudulently Obtaining Public Assistance).**
- 0025.24.06.03 (Administrative Disqualification Hearing).**
- 0025.24.07 (Disqualification for Illegal Use of FS).**
- 0025.24.08 (FS Electronic Disqualified Recipient System).**
- 0025.27 (Protection From Garnishment).**
- 0025.30 (Financial Responsibility, People Not in Home).**
- 0025.30.03 (Contributions From Parents Not in Home).**

Counties must keep a record of underpayments, corrective payments, overpayments, and recovery. The information must be sufficient to keep track of people who:

- Currently receive assistance (including people who move from 1 unit to another).
OR
- No longer receive assistance.

Keep information on each overpayment. Overpayment information includes:

- Identifying information on the claimant (at a minimum, name and SSN).
- The day, month, and year the overpayment was discovered.
- The time period covered by the claim. Enter the beginning and ending month on MAXIS.
- The reason the overpayment occurred and documentation.
- The overpayment amount.
- Computation worksheets for income overpayments.
- The county agency, unit, or person pursuing recovery.
- The method of recovery.
- Overpayment notices and billing records.
- The amount of the overpayment recovered to date.

Keep claims records separate from other case information. Maintain both fraud and non-fraud claims record for at least 4 years after the claim has been paid in full or adjusted to \$0. Close the claim ONLY when it has been adjusted or reduced to \$0.

For information on fraud claims, see [0025.24.03 \(Recovering Fraudulently Obtained Assistance\)](#).

MFIP, WB, DWP, MSA, GA, GRH:

Follow general provisions.

SNAP:

Complete form [Food Support Claim Determination Report \(DHS-2136\)](#) for all overpayments and file it in the case record and in the central claims file, if appropriate.

Clients are underpaid if they do not receive the benefits for which they are eligible.

MFIP, DWP:

The date you discover an underpayment affects how you correct it. The discovery date is whichever of the following occurs 1st:

- The date someone notifies the county agency (orally or in writing) of the underpayment.
- The date the county agency discovers the underpayment.
- The date the appeals referee issues a decision on a client's appeal. See [0027.12 \(Appeal Hearing Process\)](#).

Correct underpayments caused by client error, county agency error, or court reversal of a fraud disqualification.

- Issue benefits for the current month without deducting any overpayments.
- Restore benefits for up to 12 months before the discovery date after deducting any outstanding MFIP overpayments.
- If the underpayment of a current participant's benefits is for the current month, issue a benefit supplement, regardless of the amount, within 7 calendar days after the discovery date.
- Correct an underpayment within 7 calendar days after the underpayment has been identified, by adding the corrective payment amount to the monthly assistance payment of the participant or by issuing a separate payment to a participant or former participant, or by reducing an existing overpayment balance.
- Do NOT apply a food portion supplement to a cash portion overpayment. However, you may apply a cash portion supplement to a food portion overpayment.

WB:

Follow MFIP EXCEPT do NOT apply a cash supplement to a food portion overpayment.

SNAP:

The date you discover an underpayment affects how you correct it. The discovery date is whichever of the following occurs 1st:

- The date someone notifies the county agency (orally or in writing) of the underpayment.
- The date the county agency discovers the underpayment.
- The date the appeals referee issues a decision on a client's appeal. See [0027.12 \(Appeal Hearing Process\)](#).

Correct underpayments caused by county agency error or court reversal of a fraud disqualification. Do NOT correct

underpayments caused by client errors.

- Issue benefits for the current month without deducting any overpayments.
- If the underpayment of a current participant's benefits is for the current month, issue a benefit supplement, regardless of the amount, within 7 calendar days after the discovery date.
- Restore benefits for up to 12 months before the discovery date after deducting any outstanding overpayments.
- Restore benefits whether or not the unit is currently receiving SNAP.

MSA:

For any underpayment of a current participant's benefits, issue a supplement regardless of the amount.

- If the underpayment is for the current month, issue a benefit supplement within 7 calendar days after the discovery date.
- If the underpayment is for a past month and the client has an outstanding overpayment, reduce the overpayment by the underpayment. Issue a corrective payment for any remaining underpayment within 7 calendar days after the discovery date.

Do not issue corrective payments to people who are not current participants. If the client reapplies and is eligible for benefits, offset any overpayments with underpayments. Issue a corrective payment (for any remaining underpayment) within 7 calendar days after opening the case.

GA:

The date you discover an underpayment affects how you correct it. The discovery date is whichever of the following occurs first:

- The date someone notifies the county agency (orally or in writing) of the underpayment.
- The date the county agency discovers the underpayment.
- The date the appeals referee issues a decision on a client's appeal. See [0027.12 \(Appeal Hearing Process\)](#).

Correct underpayments that occurred after 9-30-81. Issue corrective payments as described below. Do not issue corrective payments for underpayments that occurred before 9-30-81.

For current participants:

- If the underpayment is for the current month, issue a corrective payment within 7 calendar days after the discovery date.
- If the underpayment is for a past month and the unit has an outstanding overpayment, reduce the overpayment by the underpayment. Issue a corrective payment for any remaining underpayment within 7 calendar days after the discovery date.

Issue corrective payments only to people who are either current participants, or who would be current participants if the error

causing the underpayment had not occurred. Offset any overpayments with underpayments. If the unit reapplies and is eligible for benefits issue a corrective payment (for any remaining underpayment) within 7 calendar days after the case open date.

GRH:

Issue corrective payments to the vendor within 7 calendar days after determining the amount of the underpayment for a client.

WHERE TO SEND CORRECTIVE PAYMENTS0025.09.03

MFIP, WB, DWP:

Send corrective payments to current units or their authorized representative, or to units who are no longer eligible.

If unit composition has changed, send corrective payments to person 01 in the unit with the majority of members who were part of the underpaid unit at the time of the underpayment.

If you cannot determine which unit has the majority of members, send the payment to the person who was person 01 at the time of the underpayment.

SNAP:

Send corrective payments to currently eligible units or their authorized representative, or to units who are no longer eligible.

If unit composition has changed, send corrective payments to the unit with the majority of members who were part of the unit at the time the underpayment occurred.

If it is not possible to determine which unit contains the majority of members, send the payment to the person who was the primary contact person at the time the underpayment occurred.

MSA:

Send corrective payments to current participants or their protective payees.

GA:

Issue corrective payments only to people who are either current participants or who would be current participants if the error causing the underpayment had not occurred. Make the benefit payable to the primary contact person.

GRH:

Issue corrective payments to GRH vendors.

The court may order that all or part of an overpayment is exempt from recovery. The county must follow the court order. See [0025.12.03.06 \(Bankruptcy\)](#), [0025.24.03 \(Recovering Fraudulently Obtained Assistance\)](#).

MFIP, WB, DWP:

Establish a claim but do not pursue recovery on non-fraud overpayments on closed cases which total \$35 or less. Note overpayments of \$35 or less in the case record. If the client begins to receive assistance again, start recoupment.

SNAP:

The following overpayments are exempt from recovery; do not establish a claim for overpayments due to:

- The county agency's failure to certify a unit in a correct project area.
- The county agency's failure to verify a unit signed the application.
- The county agency's failure to verify a unit completed a current work registration form.
- The unit's failure to report a change because it was not required to report the change. See [0007 \(Reporting\)](#).
- A categorically eligible unit later being found ineligible for cash assistance or SSI due to excess assets.

Establish a claim, even though the following overpayments are exempt from recovery when:

- The total overpayment is less than \$35 and the unit no longer receives SNAP.
- The county agency has documentation which shows that the unit cannot be located. See [0025.12.03.03 \(Suspending or Terminating Recovery\)](#).

Do not pursue recovery on compromised portions of an overpayment. See [0025.12.03.09 \(Compromising a Portion of the Overpayment\)](#).

MSA, GRH:

Do not pursue recovery from a personal needs allowance.

- If an overpayment occurs while a client is in a facility, establish the claim but do not pursue recovery action until the client leaves the facility. When the client leaves the facility, begin to recover the overpayment the 1st month you can give a 10-day notice.
- If you are recovering an overpayment and the client enters a facility, stop recovery action until the client leaves the facility:
 - If the client enters a facility on the 1st of the month, stop recovery action the month the client enters the facility.
 - If the client enters a facility after the 1st of the month, stop recovery action the month after the month the client entered the facility.

When the client leaves the facility, resume recovery action the 1st month you can give a 10-day notice.

GA:

Do not pursue recovery from non-participants on an overpayment balance that totals less than \$35, unless it is the result of a fraud conviction. Note overpayments of \$35 or less in the case record. If the client begins to receive assistance again, start recoupment.

Do not pursue recovery from a personal needs allowance.

- If an overpayment occurs while a client is in a facility, establish the claim but do not pursue recovery action until the client leaves the facility. When the client leaves the facility, begin to recover the overpayment the 1st month you can give a 10-day notice.

- If you are recovering an overpayment and the client later enters a facility, stop recovery action until the client leaves the facility:
 - If the client enters the facility on the 1st of the month, stop recovery action the month the client enters the facility.

 - If the client enters the facility after the 1st of the month, stop recovery action the month following the month the client entered the facility.

When the client leaves the facility, resume recovery action the 1st month you can give a 10-day notice.

MFIP, WB, DWP, MSA, GA, GRH:

See [0025.12.03 \(Overpayments Exempt From Recovery\)](#).

SNAP:

You cannot suspend a claim. But you may stop sending demand letters after a period of inactivity, if:

- Recoupment is not currently available.
AND
- The client is not making direct repayment.
AND
- The county agency determines the demand letters are no longer cost effective.

The county agency sets its own policy on cost effectiveness. Counties may also reinstate system-generated demand letters if the client's circumstances change.

Terminate non-fraud claims only when the client dies.

ACTION ON OVERPAYMENTS - TIME LIMITS

0025.12.12

There is no time limit for pursuing administrative recovery of established overpayments. There is a 6-year statute of limitations for initiating civil recovery, and a 3-year statute of limitations for initiating criminal prosecution.

Within the calendar quarter after the calendar quarter you identify the overpayment, do at least 1 of the following:

- Recover the overpayment.
- Start recoupment from a participant's benefit.
- For former clients, send a letter requesting repayment and try to arrange a repayment agreement. See [0025.12.09 \(Repaying Overpayments - Non-Participants\)](#), [0026.39 \(Notice of Overpayment and Recoupment\)](#).

Failure to take 1 of these actions within the time frame does not affect the unit's responsibility to repay. It also does not affect the county agency's responsibility to recover the overpayment.

MFIP, WB, DWP, MSA, GA, GRH:

Follow general provisions.

SNAP:

There is no time limit for referring qualifying overpayments to the Treasury Offset Program (TOP) for collection.

Methods of recovery vary depending on whether the overpaid person is a participant or non-participant.

Recovery methods for recovering overpayments from participants are:

- Recoupment.
- Voluntary repayment. See [0025.21.03 \(Overpayment Repayment Agreement\)](#).
- Civil recovery. See [0025.21.06 \(Civil Recovery\)](#).
- Criminal restitution. See [0025.24 \(Fraudulently Obtaining Public Assistance\)](#).
- Offsetting overpayments with underpayments. See [0025.09 \(Correcting Underpayments\)](#).

For additional methods of recovering overpayments from participants, see the individual programs listed below.

Common methods for recovering overpayments from non-participants are:

- Voluntary repayment, repayment agreements, and Confessions of Judgment. See [0025.21.03 \(Overpayment Repayment Agreement\)](#), [0015.12.06 \(Repayment Agreements on Real Property\)](#).
- Referral to Revenue Recapture. See [0025.21.09 \(Revenue Recapture Act\)](#).
- Civil recovery. See [0025.21.06 \(Civil Recovery\)](#).
- Criminal restitution. See [0025.24 \(Fraudulently Obtaining Public Assistance\)](#).
- Contracting with a professional or private collection agency.

For programs other than SNAP and the food portion of MFIP, all direct recoveries by the county (EXCEPT recoupments) qualify for retention of 50% of the non-federal share.

For SNAP and the food portion of MFIP, there is a 35% federal incentive provided for fraud recoveries, 20% for household errors, and 0% for agency errors. Counties receive half of this incentive when Treasury Offset Program (TOP) recovers the money and they receive full incentive when recovery is a result of recoupment or direct payment.

Do not use wage garnishment for participants. Do not use wage garnishment for non-participants until 6 months after all public assistance eligibility ends.

MFIP:

Also use the Treasury Offset Program (TOP) as an additional method of recovery for non-participants for the MFIP Food Portion only.

WB, DWP:

Follow general provisions. However, there is no cross-program recoupment.

SNAP:

Also use the Treasury Offset Program (TOP) as an additional method of recovery for non-participants.

MSA, GA:

Use the Minnesota Collection Enterprise (MCE) professional collection agency as an additional method of recovery for non-participants. See [0025.21.21 \(Minnesota Collection Enterprise\)](#).

NOTE: In March 2004 MCE changed its name to Collection Division of the Department of Revenue. The codes and process for debt referral will continue to be referred to as MCE on MAXIS.

GRH:

Follow general provisions.

MFIP, WB, DWP, SNAP, MSA, GRH:

No provisions.

GA:

The county agency may file a claim with a court of appropriate jurisdiction for the full amount of GA paid, without interest, against the estate on the death of any person who received GA, or on the death of the survivor of a married couple, either or both of whom received GA.

For information on the amount of recoupment, see [0025.21.15.03 \(Amount to Recoup\)](#).

Consider the unit to be participants even if recoupment reduces the benefit to \$0.

Do not recoup more than the actual overpayment of assistance.

Do not recoup an amount greater than the mandated amount. If a client requests recoupment for a greater amount, send a monthly bill to the client for the amount that is greater than the mandated recoupment amount. See [0025.21.15.03 \(Amount to Recoup\)](#).

The county agency must recoup from participants if the unit fails to pay the claim in full within 30 days of being notified of the claim.

MFIP:

The following provisions apply to all overpayments:

- For applicants with prior overpayments, begin recoupment with the 1st full month of eligibility.

- Apply recouped amounts to overpayments starting with the oldest fraud AFDC, FGA, MFIP field trials, MFIP, or SNAP overpayment, followed by the oldest non-fraud AFDC, FGA, MFIP field trials, MFIP, or SNAP overpayment.

- Recoup AFDC, FGA, SNAP, MFIP, and MFIP field trial overpayments from MFIP benefits. DO NOT recoup AFDC overpayments from an MFIP case if the adult on MFIP was a child when the AFDC overpayment occurred. MAXIS will recoup from MFIP to repay AFDC, FGA, SNAP, MFIP and MFIP field trial claims. For the order of recovery, see [0025.15 \(Order of Recovery - Participants\)](#).

- Do not recoup from BOTH the cash and food portions of an MFIP grant at the same time.
 - If the cash portion of the MFIP grant is \$50 or more, recoupment will be taken from ONLY the cash portion of the grant and applied to both the cash and food portions of an MFIP claim, or to an AFDC and/or a SNAP claim.
 - If the cash portion of the MFIP grant is less than \$50 and there is an active food claim, recoupment will be taken from ONLY the food portion of the MFIP grant and applied to the food portion of an MFIP claim or to a SNAP claim.
 - If there are no active food claims, and the MFIP cash portion is less than \$50, recoupment will be taken from the available cash and applied to active MFIP or AFDC claim(s).

- Clients may have a restitution plan through court services. The diversion restitution order may accept recoupment as partial or full satisfaction. This restitution plan is in addition to and separate from the mandatory recoupment amount for participants and does not affect the monthly recoupment calculation. The total restitution (repayment plan and recoupment) may be more than the actual overpayment. The court will collect the amount greater than the overpayment.

- If an Uncle Harry case and MFIP case are both responsible for a SNAP claim, recoup from both cases at the same time, if the Uncle Harry members would have been considered mandatory unit members. If MFIP and Uncle Harry Food Support are issued via different case numbers, make sure both cases are made responsible for the claim. See TEMP Manual TE13.030 (Food Support Uncle Harry Tip Sheet).

- Recoup from stand-alone SNAP to repay the federal food portion of MFIP claims.

- Do NOT recoup MFIP cash benefits from a household's Uncle Harry Food Support case.

WB:

The following provisions apply to all overpayments:

- For applicants with prior overpayments, begin recoupment with the 1st full month of eligibility.
- Apply recouped amounts to overpayments starting with the oldest fraud.
- Clients may have a restitution plan through court services. The diversion restitution order may accept recoupment as partial or full satisfaction. This restitution plan is in addition to and separate from the mandatory recoupment amount for participants and does not affect the monthly recoupment calculation. The total restitution (repayment plan and recoupment) may be more than the actual overpayment. The court will collect the amount greater than the overpayment.

There is no cross-program recoupment.

DWP:

Follow only the MFIP provisions that apply to recouping CASH overpayments. There is no cross-program recoupment.

SNAP:

When the county agency determines there is an overpayment of benefits, it must begin recovering the overpayment through recoupment. Begin recoupment the 1st month notice requirements will allow.

When there is a SNAP claim being recouped from an active MFIP case, follow the procedures in MFIP above.

MSA:

When the county agency determines there is an overpayment of benefits, it must begin recovering the overpayment through recoupment. Begin recoupment the 1st month notice requirements will allow.

Do not recoup from a personal needs allowance. See [0025.12.03 \(Overpayments Exempt From Recovery\)](#).

GA:

The following provisions apply to all overpayments:

- Do not recoup on benefit amounts of less than \$10.
- For applicants with prior overpayments, begin recoupment with the 1st month of eligibility.
- Do not recoup an overpayment for another state.

Do not recoup from a personal needs allowance. See [0025.12.03 \(Overpayments Exempt From Recovery\)](#).

GRH:

Recoupment from the GRH benefit cannot be withheld. See [0025.12.03 \(Overpayments Exempt From Recovery\)](#).

MFIP:

For all non-fraud overpayments that are not exempt from recovery, recoup the LESSER of these amounts:

- 3% of the Transitional Standard or Shared Household Standard, whichever applies, for the unit's size and composition.
OR
- The amount of the unit's monthly MFIP grant, subject to the requirements in [0025.21.15 \(Recoupment\)](#).

For fraud overpayments, recoup the lesser of these amounts:

- 10% of the Transitional Standard or Shared Household Standard, whichever applies, for the unit's size and composition.
OR
- The amount of the unit's monthly MFIP grant, subject to the requirements in [0025.21.15 \(Recoupment\)](#).

See [0025.24 \(Fraudulently Obtaining Public Assistance\)](#) for information on fraud overpayments.

WB:

For all non-fraud overpayments that are not exempt from recovery, recoup 3% of the WB grant.

For fraud overpayments, recoup 10% of the WB grant. See [0025.24 \(Fraudulently Obtaining Public Assistance\)](#).

DWP:

For all non-fraud overpayments that are not exempt from recovery, recoup the LESSER of these amounts:

- 3% of the DWP grant for the unit's size and composition.
OR
- The amount of the unit's monthly DWP grant, subject to the requirements in [0025.21.15 \(Recoupment\)](#).

For fraud overpayments, recoup the lesser of these amounts:

- 10% of the DWP grant for the unit's size and composition.
OR
- The amount of the unit's monthly DWP grant, subject to the requirements in [0025.21.15 \(Recoupment\)](#).

See [0025.24 \(Fraudulently Obtaining Public Assistance\)](#) for information on fraud overpayments.

SNAP:

The amount to recoup depends on the type of overpayment:

- For non-fraud error overpayments, recoup 10% of the monthly allotment or \$10 a month, whichever is greater.
- For fraud overpayments, recoup 20% of the monthly allotment or \$10 a month, whichever is greater.

Recoup multiple fraud or client error overpayments in sequence.

If a client has both a fraud overpayment and a client error overpayment, recoup the fraud overpayment first up to the 20% limit. If any benefit remains, recoup the client error simultaneously up to the 10% limit. However, the total recoupment cannot exceed

AMOUNT TO RECOUP

0025.21.15.03

20% of the unit's monthly allotment.

MSA:

Each month withhold 3% of the assistance standard or the entire benefit amount, whichever is less.

See [0025.12.03 \(Overpayments Exempt From Recovery\)](#) for people who are exempt from recoupment.

GA:

For non-fraud overpayments (both client and county errors), recoup 3% of the unit's assistance standard or the amount of the unit's monthly assistance payment, whichever is less.

For fraud overpayments, recoup 10% of the unit's assistance standard or the amount of the unit's monthly assistance payment, whichever is less.

You may substitute a 3% recoupment rate for pre-existing fraud overpayments if your county attorney proffered that rate as part of a plea agreement in a fraud proceeding or the court specified that rate of recoupment in the sentencing order. If a court order only specifies a monthly restitution amount, do not substitute that amount for the 10% statutory recoupment rate.

For recoupment purposes, fraud is:

- A conviction by the court.
OR
- An admission of fraud through a court approved pre-trial diversion plan or disqualification consent agreement.

See [0025.12.03 \(Overpayments Exempt From Recovery\)](#) for people exempt from recoupment.

GRH:

No provisions.

The Treasury Offset Program (TOP) is a recovery system for intercepting federal income tax refunds, federal salaries, federal retirement, military salaries, federal contract payments, Black Lung Disease, RSDI, and Railroad Retirement to repay delinquent debts owed to federal government agencies.

MFIP:

No provisions for the cash portion. See SNAP provisions for the MFIP food portion.

WB, DWP, MSA, GA, GRH:

No provisions.

SNAP:

To qualify for using TOP recovery, the claim must meet certain criteria. MAXIS will send a file of claims to the appropriate county contact people for review to make sure it meets the selection criteria.

After county contact people have reviewed the file of claims accounts, MAXIS will submit the file to the Food and Nutrition Service (FNS). FNS combines the files from all other participating states and submits them to the United States Treasury Department.

For MAXIS instructions on TOP, see TEMP Manual TE02.08.121 (Treasury Offset Program), TE02.08.123 (TOP 60-Day Notice).

All state debt that becomes 121 days past due is to be referred to the Minnesota Collection Enterprise (MCE).

NOTE: In March, 2004 MCE changed its name to Collection Division of the Department of Revenue. The codes and process for debt referral will continue to be referred to as MCE on MAXIS.

The requirement to refer claims DOES NOT apply if the claim meets 1 of the following conditions:

- There is a dispute over the amount or validity of the debt.
- The debt is subject to legal action or administrative proceedings.
- The agency determines that the debtor is adhering to an acceptable payment arrangement.

Claims that meet ALL of the following criteria are system selected to be referred to MCE for collection:

- The claims are for MSA or GA.
- The client's program participation status has been inactive for at least 275 days for all programs.
- The claim balance is greater than \$100.
- The claim is between 275 and 1,827 days old.
- There was no collection activity on the claim within the past 275 days.

Once selected, county staff will have 60 days to review the claim. If the claim is not excluded within 60 days of selection, the system will send a notice to the client to give the client 30 days to resolve the claim, and inform the client of additional MCE fees that will be applied to the debt. At the end of 30 days, if the claims worker has not updated referral status, the system will refer the claim to MCE to begin the collection process.

Clients who are referred to MCE are assessed additional collection fees by MCE and are responsible to pay the collection fees assessed to the claim, regardless of where they send any further payments. The additional fees are not recorded on MAXIS. Refer all client questions regarding fees or collection process to MCE.

For MAXIS instructions on MCE, see TEMP Manual TE02.09.41 (Minnesota Collection Enterprise (MCE)), TE02.09.41.03 (MCE Payment and Contact Information).

MFIP, WB, DWP, SNAP, GRH:

No provisions.

MSA, GA:

Follow general provisions.

Fraud exists when:

- People willfully or intentionally withhold, conceal, or misrepresent information to receive or attempt to receive more assistance than they are eligible for. For some programs, this includes people giving or receiving property without receiving or providing reasonable compensation. See [0015.69.06 \(Improper Asset Transfers\)](#).
- For purposes of establishing fraud in an Administrative Disqualification Hearing (ADH), an Intentional Program Violation (IPV) shall consist of a willful or intentional false statement, a concealment of a fact, or a misrepresentation. See [0025.24.06.03 \(Administrative Disqualification Hearing\)](#).
- People plan with or knowingly help another person to fraudulently seek or obtain assistance.
- Ineligible or unauthorized people knowingly redeem or transfer assistance checks, or EBT cards.

Refer anyone you suspect of fraud for investigation. If you think fraud has occurred, immediately refer the case to the county's investigator or investigative unit. Continue benefits if current eligibility exists. Do not close a case or deny benefits to people under investigation for fraud if they are otherwise eligible.

You may delay notifying a client of an overpayment if the county attorney believes that it would hinder the fraud investigation. In this instance, you may wait up to the end of the quarter following the quarter of discovery to notify the client of the overpayment and begin recoupment.

Disqualify people found guilty of fraud through an Administrative Disqualification Hearing (ADH), a court approved pre-trial diversion plan, a disqualification consent agreement, or a conviction by a court action. See [0025.24.06 \(Disqualification for Fraud\)](#) for information on disqualification procedures.

MFIP, WB, DWP, MSA, GA:

EBT cardholders are prohibited from using their EBT debit card to purchase tobacco products or alcoholic beverages. Purchasing or attempting to purchase tobacco products or alcoholic beverages with an EBT debit card is considered fraud and subject to disqualification. See [0025.24.06 \(Disqualification for Fraud\)](#) for information on disqualification procedures.

Disqualify MFIP families from Transition Year Child Care when all caregivers are found guilty of fraud.

SNAP:

Selling, or attempting to sell SNAP benefits or EBT cards is an Intentional Program Violation (IPV) and subject to fraud disqualification. See [0025.24.06 \(Disqualification for Fraud\)](#) for information on disqualification procedures.

GRH:

Follow general provisions.

ADMINISTRATIVE DISQUALIFICATION HEARING0025.24.06.03

An Administrative Disqualification Hearing (ADH) is a formal, impartial review by a Hearing Judge for the purpose of rendering a decision as to whether or not an individual committed an intentional program violation (IPV).

An IPV is any action by an individual which is a willful or intentional false statement, a concealment of a fact or a misrepresentation, whether or not it resulted or could have resulted in receipt of additional benefits.

Failure to report on a timely basis does not necessarily constitute an IPV. The criteria for establishing the IPV requires an intentional act of deception, or one taken with an appreciation or understanding of its consequences or wrongfulness and must be proven by a clear and convincing legal standard of proof. Clear and convincing proof requires more than a preponderance of the evidence but less than proof beyond a reasonable doubt. Legally, clear and convincing is where the truth of the facts asserted is highly probable.

In addition, there are also specific acts defined as IPV that are related to program enforcement such as misuse of EBT cards and SNAP trafficking offenses. These generally constitute an IPV by the demonstrated performance of the particular act.

Administrative Disqualification Hearing (ADH) must be initiated for individuals accused of committing an IPV when criminal charges are not being pursued. ADH procedures and requirements, EXCEPT for the notice of hearing as explained below, are the same as for appeal hearings. See [0027 \(Appeals\)](#).

REFERRAL OF IPVS

Resolve cases of suspected IPV through either the criminal or ADH process, not both. Do not make concurrent referrals for prosecution and ADH. The practice of resolving an IPV first through the ADH process and then referring the same IPV for prosecution is prohibited.

If a case is dismissed in court, an ADH may be pursued because the burden of proof in establishing an IPV in an ADH action is the lower "clear and convincing" test as opposed to the "any reasonable doubt" standard required in a criminal prosecution.

ADH WAIVERS AND REQUESTS FOR ADH

Upon identifying an IPV and determining that the ADH process will be pursued, the accused individual must be offered the opportunity to waive the appearance before a Hearing Judge and simply agree to the prescribed disqualification penalties.

Initiate the ADH process by completing the [Notice of Intentional Program Violation – Waiver of Administrative Disqualification Hearing \(DHS-3131\)](#). Prepare a narrative summary of the allegations, investigative findings, and the evidence to support the findings. Someone other than the assigned case worker must also review and sign the form and find that the case facts, if proven, would justify a finding of fraud. The waiver allows the client to admit to the facts or not, with the understanding that the disqualification penalty will be imposed in either case. Present or mail the ADH Waiver to the client. In either case, allow the client up to 10 days to return the form.

Waivers should not be offered when there is only a suspicion of guilt but the evidence is not convincing. If a county agency determines that it has sufficient evidence to hold a hearing and has offered the individual an opportunity to waive the hearing, the agency must then schedule a hearing if the individual requests a hearing or does not sign the waiver. Do not offer an ADH waiver if the case is being referred for prosecution nor should prosecution be suggested as a threat if the waiver is not signed. If an ADH waiver is offered it should be because the county has already determined that an ADH is appropriate and is merely offering the individual the opportunity to opt out of the actual hearing.

If the client waives his/her right to a hearing, disqualify the person. See [0025.24.06 \(Disqualification for Fraud\)](#).

Clients have the right to revoke a signed waiver and request an ADH be held. This revocation must be in writing and be received by the county agency prior to the effective date of the proposed disqualification or within 30 days of the date the waiver was signed, whichever is earlier.

If the client refuses to sign the waiver, requests to have a hearing, or fails to return the waiver, refer the case for an ADH. Complete the [Request for Administrative Disqualification Hearing \(DHS-3132\)](#) and send to:

Minnesota Department of Human Services
Appeals Office
P.O. Box 64941
St. Paul, MN 55164-0941

Upon receipt of the [Request for Administrative Disqualification Hearing \(DHS-3132\)](#), the Office of Appeals will either accept or deny the request. If denied, the county agency will receive a notice indicating the reason for the denial. Denied requests may be resubmitted to the Office of Appeals for reevaluation.

ADH requests may be withdrawn anytime before the scheduled hearing date with written notice to both the client and the Office of Appeals.

If the Office of Appeals accepts a request it will schedule a hearing date and send the client and county agency a notice of hearing. The notice will include a copy of the summary prepared by the county agency. Federal regulations require the Office of Appeals to give notice of an ADH hearing at least 30 days in advance (unless the client waives the hearing), rather than the 5-day notice for a regular fair hearing.

A judge may combine a fair hearing and ADH into a single hearing if the factual issues arise out of the same or related circumstances. The client must receive 30 days advance notice (unless waived) that the hearings will be combined.

Within 90 days of client notification of an ADH or a combined hearing, the Office of Appeals must conduct the hearing, reach a decision, and notify the client and county agency of the decision.

Unlike fair hearings, asking the appeals office to reconsider their decision is not an option. If either party disagrees with the Judge's decision, they may start an appeal in district court. This is a separate legal proceeding that must start within 30 days of the date of the decision.

People found guilty of fraud by an ADH determination are subject to the disqualification procedures in [0025.24.06 \(Disqualification for Fraud\)](#).

ADH INVESTIGATIVE SUBPOENA

Subpoena authority is available to county agencies for gathering information in the investigative stage necessary to develop a basis for establishing and proving an IPV that will be pursued through the ADH process.

Consider using an investigative subpoena when a third party refuses to provide information. Complete the [Request for Investigative Subpoena \(DHS-3436\)](#) form and send to the DHS Appeals and Regulations Division. Include a description of the information being requested and the relevance of the information to establishing the IPV.

These subpoenas are not self-enforcing in that a first refusal to obey will not result in a contempt citation. However, these subpoenas are enforceable by appealing to district court for their enforcement by issue of a district court subpoena.

MFIP, WB, DWP, MSA, GA, GRH:

No provisions.

SNAP:

Disqualify a person for 2 years the 1st time a court finds the participant has purchased illegal drugs with SNAP. Disqualify the client permanently for a 2nd such finding.

Permanently disqualify a person if a court finds the participant purchased firearms, ammunition, or explosives with SNAP.

Permanently disqualify a person if a court finds that person bought or sold SNAP benefits for cash or other consideration having a value of \$500 or more.

Also see [0005.06.03 \(Who Can/Cannot Be Authorized Representatives\)](#).

MFIP, SNAP:

The National Food Stamp Fraud Electronic Disqualified Recipient System (eDRS) is a system run by the Food and Nutrition Service (FNS). It tracks clients who have been disqualified from SNAP across the nation for violating SNAP program rules.

DHS will process a monthly match for clients who are receiving SNAP in Minnesota but who may be disqualified from receiving SNAP due to a fraud disqualification in another state. Case workers will receive notification of this disqualification through an email from DHS Program Integrity Staff.

For both open and closed cases, follow the steps outlined in TEMP Manual TE02.08.127 (FS Electronic Disqualified Recipient System). These steps need to be completed so the client will not receive any food benefits they are not eligible for in the future.

WB, DWP, MSA, GA, GRH:

No provisions.

Participants of cash assistance and SNAP are protected from having their assistance benefits or wages garnished.

This protection extends for 6 months after eligibility for assistance ends

The data practices law prevents public agencies from releasing information about eligibility, including the date assistance was lost, to private creditors without client authorization. If a client solicits an affirmation of protection after being threatened with an attachment action, give the client a letter upon request.

County agencies may advance the date for action to obtain enforcement on judgments for public assistance overpayments when repayment agreements are not established or a debtor becomes delinquent on a payment plan.

County agencies may initiate attachment actions against clients with overpayments who lost public assistance eligibility at least 6 months previously.

MFIP, WB, DWP, SNAP, MSA, GA, GRH:

Follow general provisions.

As a condition of receiving assistance, clients must cooperate in trying to get support from financially responsible people not in the home. Do not withhold any part of a client's benefits because financially responsible people refuse to contribute.

MFIP, DWP:

Non-custodial parents, some parents of unemancipated minor caregivers, and some sponsors of immigrants are financially responsible to contribute to the unit.

- Refer non-custodial parents of minor children to the county agency IV-D unit. The IV-D unit will determine, together with existing court orders, the amount of support the non-custodial parents must contribute.

NOTE: Married parents who are currently serving in the military away from home are considered to be custodial parents. Do not refer to IV-D when there is no breakdown in the marital relationship. See TEMP Manual TE02.10.90 (Military Families Receiving FS, MFIP or DWP) for MAXIS workarounds.

- The county agency IV-A section computes the contribution amount for an unemancipated minor caregiver's parents who do not live with the child, according to the instructions in [0025.30.03 \(Contributions From Parents Not in Home\)](#). (This provision does not apply to minor caregivers' parents who receive MFIP, SSI, MA, MSA, or GA, unless there is an existing court order for support.). Notify the parent to send the payment to the minor caregiver or to the county agency. See [0026.24 \(Notice of Relative Contribution\)](#). Contributions the minor caregiver receives are unearned income.

If IV-D action had already been brought against a non-custodial parent of a minor caregiver, IV-D must continue action to enforce support and obtain recovery.

- To determine if a sponsor must contribute to the unit, see [0011.03 \(Citizenship and Immigration Status\)](#), [0015.48 \(Whose Assets to Consider\)](#), [0015.48.03 \(Whose Assets to Consider - Sponsors W/I-864\)](#), [0015.48.06 \(Whose Assets to Consider - Sponsors W/I-134\)](#), [0016.21 \(Income of Sponsors of Immigrants With I-134\)](#), [0016.21.03 \(Income of Sponsors of Immigrants with I-864\)](#).

WB:

Follow MFIP/DWP, EXCEPT references to IV-D referrals do not apply.

SNAP:

Sponsors of some immigrants must contribute to the sponsored person. To determine if and how much sponsors must contribute, see [0011.03 \(Citizenship and Immigration Status\)](#), [0015.48 \(Whose Assets to Consider\)](#), [0015.48.03 \(Whose Assets to Consider - Sponsors W/I-864\)](#), [0016.21 \(Income of Sponsors of Immigrants With I-134\)](#), [0016.21.03 \(Income of Sponsors of Immigrants with I-864\)](#).

MSA:

Follow SNAP.

GA:

Follow MFIP with the following EXCEPTION: Although sponsors of immigrants who do not live with the immigrant are financially responsible for the person, count only income and assets they actually contribute to the immigrant's household for sponsors who executed the I-134 (Affidavit of Support). See [0015.48 \(Whose Assets to Consider\)](#), [0016.21 \(Income of Sponsors of Immigrants With I-134\)](#), [0025.30.03 \(Contributions From Parents Not in Home\)](#).

GRH:

Follow MSA for aged, blind, and disabled clients. Follow GA for all other adults.

CONTRIBUTIONS FROM PARENTS NOT IN HOME

0025.30.03

MFIP, GA:

Do not require a contribution from legal guardians.

Do not determine parental contributions for parents who have an existing court order for support in place. The non-custodial parent's financial contribution for the child(ren) is being met by the child support obligation so no parental contribution is necessary.

Determine parental contribution amounts for a minor caregiver's parents who are not living with the minor caregiver. This provision does not apply to emancipated minors. For parents who live with the minor caregiver, see [0016.18 \(Income of Incl. Parent/Guard. of Minor Crgvr\)](#).

The minor caregiver must cooperate in trying to get support from his/her parent(s). Do not withhold benefits because a minor caregiver's parents refuse to cooperate.

Refer a minor caregiver's parent who does not cooperate to the county attorney.

To determine the amount a minor caregiver's parents must pay when the minor is not living with the parent:

1. Request the following information from the parent(s):
 - The amount of earned and unearned income for the previous tax year.
 - The current month's income amount.
 - The names of each dependent the minor's parent could claim on federal income taxes.
 - The amount of annual medical bills the person pays.
 - The amount of annual housing costs the person pays.
 - The amount of utility and home repair costs the person pays.
 - The amount of annual educational costs the person pays for family members.
2. Determine income:
 - a. Determine the gross income of the parent. Follow the same method as for units with income. See [0017 \(Determining Gross Income\)](#).
 - b. Determine family size. Count each person who the minor's parent claims or could claim as a dependent on federal income tax forms. Do not count the minor caregiver and his/her children.
 - c. Combine the family's medical, educational, and housing costs. If the combined costs exceed 30% of the gross income, deduct the amount in excess of 30% from the gross income. This is the net income.
3. Compare the minor caregiver's parent's net income to the following scale:

Family Size	Net Income
1	\$ 9,288

2	\$12,432
3	\$15,576
4	\$18,720
5	\$21,864

Add \$3,144 for each additional family member.

The parent's required annual contribution is 1/3 of the income that exceeds the amounts above. See [0026.24 \(Notice of Relative Contribution\)](#).

4. Review the minor caregiver's parent's income annually or when the person reports a change.

WB:

Follow MFIP EXCEPT the minor caregiver is NOT required to cooperate in trying to get support from his/her parent(s).

DWP, SNAP, MSA, GRH:

No provisions.

GA:

Follow MFIP. This includes minors on GA.