

(b) Calculating restoration due: 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. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Benefits shall not be restored for a period of more than 12 months prior to CWA notification. Participation in an administrative disqualification hearing in which the household contests the CWA assertion of intentional program violation shall be considered notification that the household is requesting that benefits be restored.

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

"Fraud" replaced by "intentional program violation"; restriction or restoration added as lead-in.

As amended, R.1984 d.68, effective March 19, 1984.

See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

Restrictions of not more than 12 months of restoration and disqualification.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.16.

10:87-11.19 Method of restoration

(a) Regardless of whether a household is currently eligible or ineligible, the CWA 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.

(b) Household requests monthly installments: The CWA shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the 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.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.17.

10:87-11.20 Change in household composition

Whenever lost benefits are due a household and the household's membership has changed, the CWA 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 CWA cannot locate or determine the household which contains a majority of the household members the CWA shall restore the lost benefits to the household containing the individual who was head of the household (see N.J.A.C. 10:87-2.6) at the time the error occurred.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.18.

10:87-11.21 Benefits lost prior to EPR

A loss of benefits may have occurred prior to elimination of the food stamp purchase requirement (EPR). Households assigned a purchase requirement that was too high or assigned an incorrect household size shall be entitled to restoration of lost benefits if the household received fewer bonus stamps as a result. The amount to be restored is equal to the difference between the bonus stamps the household received and the correct amount the household should have received. The CWA shall restore the lost benefits in accordance with the procedures outlined in this section.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.19.

10:87-11.22 Federally mandated reduction or cancellation of benefits

Households whose allotments are reduced or cancelled as a result of a federal mandate are not entitled to a restoration of lost benefits unless DPW, upon notification by USDA, specifically authorizes such restoration.

As amended, R.1981 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983.

The N.J.A.C. cite was recodified from 10:87-20A to 10:87-20, the text remained the same.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.20.

10:87-11.23 Claims against households

All adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. The CWA shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, or any household which contains an adult member who was an adult member of another household that received more food stamp benefits than it was entitled to receive. During the certification of each food stamp household, the CWA shall identify whether the household was previously overissued food stamp benefits. If an outstanding claim balance is identified, the CWA shall take appropriate action to recover the overissued benefits, pursuant to N.J.A.C. 10:87-11.26 and 11.29. CWAs shall not establish a claim that is \$125.00 or less for any household which is not receiving food stamp benefits at the time the overissuance is identified.

Amended by R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983.

Rule at 10:87-21, concerning claim determinations was deleted.

Amended by R.1988 d.173, effective April 18, 1988.

See: 20 N.J.R. 162(c), 20 N.J.R. 903(c).

Substantially amended.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.21.

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

Added text regarding certification of each food stamp household.

Amended by R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Added the last sentence.

10:87-11.24 Inadvertent household error and administrative error claims

Inadvertent household error claims and administrative error claims are those claims established against households for overissuances which were not caused by intentional program violation but are caused by an error on the part of the CWA or a misunderstanding or inadvertent error on the part of the household.

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Rules on nonfraud claims deleted and replaced.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.22.

10:87-11.25 Instances requiring a claim determination for inadvertent household errors or administrative errors

(a) Instances of inadvertent household errors which may result in a claim include, but are not limited to, the following:

1. The household unintentionally failed to provide the CWA with correct or complete information;
2. The household unintentionally failed to report to the CWA changes in its household circumstances; or
3. The household unintentionally 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) Instances of administrative error which may result in a claim include, but are not limited to, the following:

1. The CWA failed to take prompt action on a change reported by the household;
2. The CWA incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
3. The CWA incorrectly issued duplicate food stamp benefits to a household which were subsequently transacted;
4. The CWA continued to provide monthly food stamp benefits to a household after its certification period had expired without benefit of a reapplication determination; or

5. The CWA failed to provide a household a reduced level of food stamp benefits because its public assistance grant changed.

(c) Neither an administrative error claim nor an inadvertent household error claim shall be established if an overissuance occurred as a result of the following:

1. The CWA failed to insure that a household fulfilled the following procedural requirements:
 - i. Signed the application form;
 - ii. Completed a current work registration form; or
 - iii. Was certified in the correct county.

2. The household transacted an expired ATP, unless the household altered its ATP.

(d) Criteria for establishing an inadvertent household error or administrative claim: If less than six years have elapsed between the month an inadvertent household error or administrative error overissuance occurred and the month the CWA discovered a specific case involving an overissuance, the CWA shall take action to establish a claim against the household that received the overissuance.

(e) Calculating amount of the inadvertent household error or administrative error claim: After excluding those months that are more than six years prior to the date the overissuance was discovered, the CWA shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. If the household received a larger allotment than it was entitled to receive, the CWA shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

1. If the household failed to report a change in circumstances within the required time frames, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported timely. However, in no event shall the CWA 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.

2. If the household reported a change timely, but the CWA did not act on the change within the required time frames, the first month affected by the CWA's failure to act shall be the first month the CWA would have made the change effective had it acted timely. However, in no event shall the CWA 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. If a notice of adverse action was required but was not provided, the CWA shall assume for the purpose of calculating the claim that the maximum advance notice period would have expired without the household requesting a fair hearing.

3. When determining the amount of benefits the household should have received in an Inadvertent Household Error claim, the CWA shall not apply the 20 percent earned income deduction to that portion of earned income which the household inadvertently failed to report.

(f) Claim offset by benefits not yet restored: After calculating the amount of the inadvertent household error or administrative error claim, the CWA shall offset the amount of the claim by any amounts which have not yet been restored to the household in accordance with N.J.A.C. 10:87-11.13. The CWA shall then initiate collection action for the remaining balance, if any.

As amended, R.1983 d.224, effective May 31, 1983.
See: 15 N.J.R. 633(a) 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Complete new text, rule at this cite recodified to 10:87-11.24.

As amended, R.1984 d.68, effective March 19, 1984.

See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

(e)1. and 2., added.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.24 and (f) amended.

Amended by R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (b), substituted a reference to food stamp benefits for a reference to ATPs in 3, and substituted a reference to monthly food stamp benefits for a reference to food stamp allotments in 4; and in (e), added 3.

10:87-11.26 Collecting inadvertent household errors and administrative error claims

(a) The CWA shall initiate collection action unless one of the following conditions apply:

1. Claim offset by unrestored benefits: The claim is fully offset by any amounts not yet restored to the household.

2. Unable to locate household: The CWA has documentation which shows that the household cannot be located.

(b) Demand letters: The CWA shall initiate collection action by sending the household a written demand letter informing the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may repay the claim and the household's right to a fair hearing if they have not already had a fair hearing on the amount of the claim. If free legal representation is available, the letter shall also advise the household of the availability of the service. The household shall also be advised of its right to request a renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change. The demand letter shall provide space for the household to indicate the method of repayment and a signature block.

1. For inadvertent household error (IHE) claims:

i. The first IHE demand letter to a participating household shall inform the household:

(1) That unless it elects a method of repayment and informs the CWA of its election within 20 days of the date that the demand letter is mailed or otherwise delivered, or timely requests a fair hearing and continued benefits, its allotment will be reduced;

(2) How allotment reduction will affect household benefits, if the CWA has not otherwise informed the household about this matter;

(3) That if the household timely elects allotment reduction, such reduction will begin with the first allotment issued after such election, as provided in N.J.A.C. 10:87-9.5(c); and

(4) That if the household fails to make a timely election, or to timely request a fair hearing and continued benefits, the reduction will begin with the first allotment issued after timely notice of such election or request is due to the CWA, as provided in N.J.A.C. 10:87-9.5(c).

ii. A demand letter provided to a participating household subsequent to a fair hearing which sustains the IHE claim shall inform the household:

(1) That unless it elects a method of repayment and informs the CWA of its election within 20 days of the date that the demand letter is mailed or otherwise delivered, its allotment will be reduced;

(2) How allotment reduction will affect household benefits, if the CWA has not otherwise informed the household about this matter;

(3) That if the household timely elects allotment reduction, such reduction will begin with the first allotment issued after such election, as provided in N.J.A.C. 10:87-9.5(c); and

(4) That if the household fails to make a timely election, the reduction will begin with the first allotment issued after timely notice of such election is due to the CWA, as provided in N.J.A.C. 10:87-9.5(c).

2. For administrative error claims:

i. The first administrative error demand letter to a participating household shall inform the household:

(1) That unless it elects a method of repayment and informs the CWA of its election within 20 days of the date that the demand letter is mailed or otherwise delivered, or timely requests a fair hearing and continued benefits, its allotment will be reduced;

(2) How allotment reduction will affect household benefits, if the CWA has not otherwise informed the household about this matter;

(3) That if the household timely elects allotment reduction, such reduction will begin with the first

allotment issued after such election, as provided in N.J.A.C. 10:87-9.5(c); and

(4) That if the household fails to make a timely election, or to timely request a fair hearing and continued benefits, the reduction will begin with the first allotment issued after timely notice of such election or request is due to the CWA, as provided in N.J.A.C. 10:87-9.5(c).

ii. A demand letter provided to a participating household subsequent to a fair hearing which sustains the administrative error claim shall inform the household:

(1) That unless it elects a method of repayment and informs the CWA of its election within 20 days of the date that the demand letter is mailed or otherwise delivered, its allotment will be reduced;

(2) How allotment reduction will affect household benefits, if the CWA has not otherwise informed the household about this matter;

(3) That if the household timely elects allotment reduction, such reduction will begin with the first allotment issued after such election, as provided in N.J.A.C. 10:87-9.5(c); and

(4) That if the household fails to make a timely election, the reduction will begin with the first allotment issued after timely notice of such election is due to the CWA, as provided in N.J.A.C. 10:87-9.5(c).

(c) The following procedures are to be followed when a household fails to respond to a demand letter:

1. When a household fails to respond to a written demand letter for repayment of an inadvertent household error claim within 10 days, the CWA shall reduce the household's monthly coupon allotment (see N.J.A.C. 10:87-11.31(d)).

2. If a nonparticipating household or a participating household against which a claim for an administrative error has been made fails to respond to a written demand letter, the CWA shall send additional demand letters at 30 day intervals until the household pays or agrees to pay the claim or until criteria for suspending the claim have been met.

(d) Criteria for suspending collection of inadvertent household error or administrative error claim: A claim shall be suspended if no collection action was initiated because of conditions specified in (a) above. If collection action was initiated, and at least one demand letter has been sent, further collection actions shall be suspended when:

1. Unable to locate household: The household cannot be located; or

2. Cost of collection: The cost of further collection action is likely to exceed the amount that can be recovered.

(e) Terminating collecting of an inadvertent household error or administrative error claim: A claim shall be determined uncollectible after it is held in suspense for three years. A CWA may use an uncollectible claim to offset benefits in accordance with N.J.A.C. 10:87-11.17(d).

(f) Postponing collecting of an inadvertent household error claim: CWA may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible prosecution or for an administrative disqualification hearing and the CWA determines that collection action will prejudice the case.

As amended, R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

Added (f).

As amended, R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Text formerly at 10:87-11.23; amendments to text concerning inadvertent household and administrative errors.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified from 11.24 with amendments.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c)1: failure to respond reduced from 30 to 10 days.

Amended by R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (a), deleted a former 2, and recodified former 3 as 2; and in (b), rewrote 1 and 2.

10:87-11.27 Intentional program violation claims

A claim shall be handled as an intentional program violation claim only if an administrative disqualification hearing or a court of appropriate jurisdiction has found a household member guilty of intentional program violation as defined in N.J.A.C. 10:87-11.5 or if the individual signs a waiver of rights to an administrative disqualification hearing or a disqualification consent agreement. Prior to the determination of intentional program violation, the claim against the household shall be handled as an inadvertent household error or administrative error claim, in accordance with N.J.A.C. 10:87-11.25 and 11.26.

Amended by R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117, effective March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Text formerly codified at 10:87-11.24, "fraud" replaced by "intentional program violation".

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified with amendments from 11.25.