

Article 2
Food Stamp Program

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NOTE: Rule-making authority cited for formulation of regulations for the Food Stamp Program Section of the Department of Public Health and Social Services by the Director of Public Health and Social Services, 10 GCA §2701. Added by P.L. 15-35. These Rules and Regulations were filed with the Legislative Secretary on April 17, 1984.

§1201. Authority and Responsibility. (a) **Program Authority and Coverage.** The authority to formulate rules of procedures for investigations against individuals suspected of Food Stamp Program abuse and misuse is derived from Public Law 15-35, specifically, Sections 9131 and 9132; Sections 3500 and 3700 of the Guam Food Stamp Certification Manual; Section 273.16 (Disqualification for Intentional Program Violation) §3500 and 273.18 (Claims Against Households) §3900 of Federal Register/Vol. 48, No. 32 Rules and Regulations. The rules of procedure herein promulgated will cover the Food Stamp Program.

(b) Responsibility to Implement Policy Provisions.

(1) Departmental Memorandum No. 81-57, created the Investigative and Recovery Services Section and vested in it the functions to investigate complaints of abuse and misuse of program benefits; to report program violations to appropriate authorities, such as the Administrative Disqualification Hearing Official or the Office of the Attorney General; to collect claims established against households, and to develop and carry out needful rules to effectively accomplish the foregoing functions.

(2) **Scope of Operation.** The Investigative and Recovery Services Section shall initiate actions against alleged program violations. These actions generally begin with the receipt of complaints; determination whether complaints warrant conducting investigations; case investigations referral of case investigations to appropriate authorities, implementation of decision and collection of claims.

It is the intention of these regulations to be in accordance with the Administrative Adjudication Law and the procedures enumerated therein, but also to enact further policies and procedures concerning disqualification hearings.

The sequences of actions include but are not limited to the following:

(A) Entertaining all claims reports submitted by the programs and reviewing and determining which claims reports warrant investigation for possible intentional program violation;

(B) Entertaining complaint reports and programs' investigative referrals, reviewing and assessing them for possible intentional program violation and investigation;

(C) Conducting full investigations of cases selected for intentional program violation and preparing investigation reports;

(D) Preparing and submitting documents and papers for administrative disqualification hearing or for prosecution;

(E) Rendering support in connection with administrative disqualification hearing and referral for prosecution:

(F) Implementing decisions of the administrative disqualification hearing official, the court, waived hearings and consent agreement;

(G) Collection of claims;

(H) Enforcement of all provisions necessary and proper to achieve the program objectives of the Department.

(c) **IRSS Support for Administrative Disqualification Hearing Official.** To enable the hearing official to carry out his responsibility, the Investigative and Recovery Services Section Supervisor shall designate staff member(s) to render necessary administrative services in conjunction with hearings, implementation of decisions including liaison work with the Attorney General's Office pursuant to applicable laws and procedures and any agreement which may be established.

(d) **Hearing Authority.** The hearing authority shall be the Director of the Department, or some other Department official designated by the Director to render the final administrative decision in a hearing.

(e) **Hearing Official**

(1) **Designation.** The hearing official shall be designated by the Director of the Department, together with the Attorney General and in accordance with the Administrative Adjudication Law.

(2) Hearing shall be conducted by an impartial official who: does not have any personal stake or involvement in the case; was not directly involved in the initial determination of the action which is being contested; and was not the immediate supervisor of the eligibility worker who took the action.

(f) **Power and Duties of Hearing Official.** The hearing official shall:

(1) Administer required oaths or affirmations;

(2) Insure that all relevant issues are considered;

(3) Request, receive and make part of the record all facts determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with the due process of insure an orderly hearing;

(5) Provide a hearing record and recommendation for final decision by the hearing authority.

(g) **Definitions.**

(1) *Administrative (Agency or Procedural) Error*: An error committed by any eligibility worker or any staff which affects the participation or benefits of household.

(2) *Administrative Disqualification Hearing*: A hearing conducted to determine whether or not the charge(s) of intentional program violation is true.

(3) *Allotment*: The amount of food stamp entitlement.

(4) *Assistance Payment Worker (APW)*: Refers to any employee under the Social Services Division responsible for receiving, reviewing, recertifying benefit applications or establishing claims.

(5) *Benefits*: Any issuance of food stamp coupons or public assistance grant to which a household is entitled.

(6) *Case*: The matter being investigated and to be presented for certain determination.

(7) *Case Name*: The individual whose name, appearing in the application for food stamp benefits, identifies the responsible persons for a certain household.

(8) *Case Number*: The food stamp number assigned to a case name.

(9) *Case Worker*: Same as APW.

(10) *Claim*: A collectible dollar value of over issued benefits imposed on a household.

(11) *Claim Determination Report (CD)*: Report establishing claims against households who has been over issued or overpaid in a good stamp benefit or allotment.

(12) *Complaint*: An allegation of abuse and misuse of the Food Stamp Program. A CD referred to IRSS for collection shall also be treated as a complaint.

(m) *Complaint of Intentional Program Violation*: A bill containing charge(s) of intentional program violation filed with the Disqualification Hearing Officer or to the Attorney General's Office for administrative disqualification hearing or for prosecution.

(n) *Decision*: The determination of the Administrative Disqualification Hearing Officer or the court relative to the complaint filed.

(o) *Demand Letter*: IRSS Form #6 requesting the household to repay the over issuance.

(p) *Department*: The Department of Public Health and Social Services. [16]

(q) *Disqualification*: Action taken against an individual declaring him ineligible to receive food stamp benefits owing to an intentional program violation.

(r) *Disqualification Consent Agreement*: An understanding reached between the household and a prosecutor, or between the household and the court on a certain term and conditions on a referred case whereby the household accepted the consequences of disqualification and other attendant penalties, hence avoiding a court proceeding.

(s) *Evidence*: Proof, either written or unwritten of allegations at issue between parties.

(t) *Facts*: Truth; reality; to have existed or happened.

(u) *Fair Hearing*: As used in this manuals shall mean a hearing conducted on the question of the amount of the claim. It also means an administrative procedure to provide the household the opportunity to question the actions of program workers which affect the level of benefits participation.

(v) *FNS*: Food and Nutrition Service.

(w) *Hearing Authority*: The Director of the Department of Public Health and Social Services.

(x) *Hearing*: As used in the manual shall mean administrative disqualification hearing.

(y) *Hearing Official or Officer*: The official designated by the hearing authority to conduct the administrative disqualification hearing.

(z) *Inadvertent Household Error*: An error unintentionally committed by the household.

(aa) *Intentional Program Violation*: An action of the household which indicated an intent to commit a violation against the Food Stamp Program.

(bb) *Investigate*: To examine, inquire, search into the particular of a given issue, problems or allegations.

(cc) *IRSS*: The Investigative and Recovery Services Section. It shall also mean the IRSS acting in behalf of the Department.

(dd) *IRSS Case Number*: The IRSS Number assigned to every complaint for purpose of control, files and identification.

(ee) *Manual*: Shall refer to the Rules of Procedure for Conducting Investigations, Administrative Disqualification Hearing, Referral of Cases for Prosecution, Implementation of Decision and Claims Collection/ Control and Reporting.

(ff) *Over issuance*: Any issuance of benefits or allotment which exceed the established level of eligibility.

(gg) *Overpayment*: Same as Over issuance.

(hh) *Overpayment Report*: Report establishing a claim against household who has been overissued or overpaid a public assistance grant.

(ii) *Program*: The Food Stamp Program.

(jj) *Staff or Staff Member*: Shall mean any investigative staff or IRSS.

(kk) *Waiver*: As used in this manual shall mean the signing of an agreement by household accepting the consequences of disqualification from the program and other attendant penalties hence avoiding the administrative disqualification hearing.

§1202. Conducting the Investigation and Referral of Same. (a) Review and Designation.

(1) **IRSS Supervisor Reviews and Designates Investigations.** All complaints received by the Investigative and Recovery Services Section shall be routed to the Investigative and Recovery Services Section Supervisor for review and designation as to type of investigation to undertake.

(2) **The Investigations Report.** All investigations conducted by the Investigative and Recovery Services Section shall be reduced into writing, clearly supported with facts relevant to the allegations. The basic elements of investigations, namely information gathering; interviewing; use of witnesses; search of records and files on right sources; case file reviews; documents organization and presentation; data or evidence analysis; well thought out and effective reporting; knowledge of fundamental purposes of the program all welded together with the proper discharge of one's duties and exercise of authority will insure protection of the program while being firm and fair with the clients.

It is intended to facilitate the foregoing by the use of IRSS Form-1, "Case Investigation: Brief explanations of IRSS Form-1, follows:

(A) (I) IRSS Case Number: self-explanatory;

(B) (II) Case Data: self-explanatory;

(C) (III) Nature of Complaint: the action and activity of household that contradicts provisions of program.

(D) (IV) Investigations: activities carried on by a staff (i.e. record search, interviews, visits to premises and households, gathering evidence, writing notes and report, subject matter discussed with contacts and households, information obtained, office interview, trustworthiness of data and information, time and place in reference to all activities.

(1.) *Evidence and facts: a summary of evidence and facts established;

(2) *Witness(es) who may be available or arranged;

(3) *Testimonies: written testimonies which may be used;

(4) *Exhibits, legal papers, waiver of rights, notes and other associated with investigation.

(E) (V) Violations: list program provisions violated;

(F) (VI) Action that can be taken: actions necessary to satisfy the program.

(3) Criteria for Designation of Investigation to Probable Intentional Program Violation.

(A) Case Open by CD. If the cause(s) of the Over issuance as pointed out in the "Claim

Determination" established by the Food Stamp Program clearly indicated to be household error.

(B) Referral for Investigations. Any complaints of possible violation of the Food Stamp Program received by the Investigative and Recovery Services Section not prompted by CD.

(4) Investigative and Recovery Services Section Supervisor shall designate cases for administrative disqualification hearing and prosecution pursuant to Section 3501 and Section 3507.12 of the Certification Manual.

(5) **Review of Case Prior to Referral.** All case investigations shall be reviewed by a reviewer to be designated by the Administrator of the Division of Social Services before being referred for administrative disqualification hearing or for prosecution. (IRSS Form-2).

(6) **Completed Case Investigation Referral to Program.** Completed case investigation shall be submitted to the Investigative and Recovery Services Section Supervisor for clearance and referral to program for claim determination, if investigation was not prompted by a prior filing of CDs; or, unless, investigation would clearly alter the CD if originated by CD.

(7) **Reconfirm Case Returned by Program.** If a case investigation is referred to program for claims establishment pursuant to Section 3700 of the Certification Manual and then returned to the Investigative and Recovery Services Section, IRSS Supervisor shall review it and reaffirm whether to proceed with administrative disqualification hearing or prosecution.

(b) **Preparation and Filing of "Complaint of Intentional Program Violation".** If a case has been determined for referral to either administrative disqualification hearing or for prosecution, IRSS Supervisor shall review it to insure the accuracy of facts and evidence of violations and the proper organization of investigation report.

If investigation report is found to be in order, IRSS Supervisor shall file it to the appropriate authorities in accordance with established procedures. (IRSS Form-7 and Form-8).

§1203. Conducting Administrative Disqualification Hearing. If a case is filed for an administrative disqualification hearing the following steps shall be taken:

(a) **Coordination with Hearing Official and Scheduling of Hearing.** IRSS staff designated for administrative support to the Administrative Disqualification Hearing Officer shall deliver the accusation, hereinafter referred to as the "Complaint of Intentional Program Violation" to the office of the hearing official. IRSS staff and hearing officer shall develop hearing schedule. IRSS staff shall receive complete instructions pertaining to the hearing of specific case.

(b) **Advance Notice of Hearing and Option to Waiver of Right to an Administrative Disqualification Hearing.**

(1) IRSS shall provide written notice to the household member accused of intentional program violation at least 30 days in advance of the date of disqualification hearing is scheduled. The notice shall be mailed certified mail-return receipt requested or provided by any other method as long as proof or receipt is obtained.

The notice contains information that the household member accused or program violation need to know in order to exercise his or her rights; take the opportunity to exercise options offered or made available by the Department and to assist in complying with hearing requirements and procedures.

At a minimum, the following information are included in the notice:

(A) The date, time, and place of hearing;

(B) The charge(s) against the household member;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the household member or representative will have ten days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;

(E) A warning that a determination of intentional program violation will result in a 6-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the Department believes is applicable to the case scheduled for a hearing;

(F) A listing of the household member's rights;

(G) A statement that the hearing does not preclude the state or federal government, from prosecuting the household member for intentional program violation in a civil or criminal court action, or from collecting Over issuance;

(H) If there is an individual or organization available that provides free legal representative, the notice shall advise the household member of the availability of the service; and

(I) A provision advising of option to sign a waiver of rights to an administrative disqualification hearing. (IRSS Form-3)

(c) **Attendance at Hearing.** The hearing shall be attended by a staff member of the IRSS who conducted the case investigation and by the household member and/or its representative. The hearing may

also be attended by friends or relatives of the household member if the household member so chooses. The hearing official shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

(d) Household Member's Rights During Hearing. The household member may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household member feel most at ease. The household member or its representative must be given adequate opportunity to:

(1) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the eligibility worker to establish the household's eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the IRSS shall provide a free copy of the portions of the case files that are relevant to the hearing.

Confidential information that is protected from release and other documents or records which the household would not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

(2) Present the case or have it presented by a legal counsel or other person.

(3) Bring witnesses.

(4) Advance argument without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(7) At the hearing, the hearing official shall advise the household member or representative that they can refuse to answer questions during the hearing.

(e) Hearing Conducted Even Without Household Member or Representative. Even if the household member or its representative failed to appear at the scheduled hearing, the hearing official shall conduct the hearing and carefully consider the evidence and, based on clear and convincing evidence, determine if intentional program violation was committed.

(7) Rehearing After a Good Cause. If within ten days subsequent to the failure of the household to appear at the scheduled hearing the household member presented to the hearing official reasons indicating a good cause for failure to appear, and if the household member is already found to have committed an intentional program violation during the hearing at which the household member was absent, and further, if the hearing official shall have accepted a good cause for failure to appear, the decision shall no longer remain valid and a new hearing shall be conducted.

The same procedures shall govern a rehearing after a good cause as that of a regular administrative disqualification hearing.

(g) Decision Time frame and Format. If the hearing official made a determination on the case, he shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNS regulations and respond to reasoned arguments made by the household member or representative. Within 90 days of the date the household member is notified in writing that a hearing has been scheduled and conducted, the hearing official shall arrive at a

decision and notify the household member of such decision. (IRSS Form-4).

(h) Criteria for Determining Intentional Program Violation. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrate that the household member committed, and intended to commit intentional program violation as stipulated in Section 3503 of the Certification Manual.

(i) Other Consequences After an Adverse State Hearing.

(1) No further administrative appeal procedure exists after an adverse hearing.

(2) The determination of intentional program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision.

(3) The household member, however, is entitled to seek relief in a court having appropriate jurisdiction.

(4) The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

(j) Notification of Hearing Decision.

(1) **No Intentional Program Violation.** If the hearing authority finds that the household member did not commit intentional program violation, he shall provide a written notice which informs the household member of the decision. (IRSS Form-5).

(2) **Commission of Intentional Program Violation.** If the hearing authority finds that the household member committed intentional program violation, he shall notify the household member of the decision prior to disqualification. (IRSS Form-5)

(1) Waived Hearings.

(1) The hearing official shall cause to be delivered, the "Advance Notice to an Administrative Disqualification Hearing and Advise of Option to Sign a Waiver of Rights to an Administrative Disqualification Hearing" (IRSS Form-3) to the household member suspected of intentional program violation.

(2) Other Consequences After Waiver of Rights to an Administrative Disqualification Hearing.

(A) **Appeal.** No further administrative appeal procedure exists after an individual waives his/her right to an administrative disqualification hearing and a disqualification penalty has been imposed.

(B) The disqualification penalty cannot be changed by a subsequent fair hearing decision.

(C) The household member, however, is entitled to seek relief in a court having appropriate jurisdiction.

(D) The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

§1204. Referral of Cases for Prosecution. (a) IRSS Supervisor Determine Appropriate Cases. The IRSS Supervisor shall determine appropriate cases for referral for prosecution based on any one or a combination of any of the following criteria and other referral mutually agreed upon:

(1) If the household member suspected of committing intentional program violations is extremely uncooperative and every step to reach an understanding or to, at least, initiate discussion between the IRSS and the suspected household member have been employed but were proven futile;

(2) If the amount of claim in an alleged intentional program violation case meets the criteria contained in any agreement established between the Department and Office of the Attorney General;

(3) If the individual is suspected of committing more than one act or intentional program violations. (IRSS Form-8)

(b) **Coordination for Referred Cases.** Once a case has been referred for prosecution pursuant to an arrangement or agreement between the Attorney General's Office and the Department, the IRSS shall stand by to extend necessary support and coordination.

(c) **Disqualification Consent Agreement.**

(1) Individual suspected of committing intentional program violation could sign disqualification consent agreement for cases of deferred adjudication. These are cases in which a determination of guilt is not obtained from the court due to the accused individual having met the terms of a court order or which are not prosecuted due to the accused having met the terms of an agreement with the prosecutor. (Include in agreement with Attorney General's Office.).

(2) When cases are referred for prosecution and as a result of unusual lapse of time, a notification by the Attorney General's Office or the court that the suspected individual has met the terms of a court order, or which are not prosecuted due to the accused individual having met the terms of an agreement with the Attorney General's Office, the suspected individual shall be notified that he/she can, if desired, sign a disqualification consent agreement, consonant with Section 3508.10 to 13 of the Certification Manual.

(3) Investigative and Recovery Services Section shall notify the remaining household member pursuant to Section 3508.30 of the Certification Manual.

§1205. Implementation of Decisions. (a) Administrative Disqualification Hearing Decision. If

the hearing authority handed down a decision, whether in favor of the suspected individual or the Department and the notice of decision has been returned to the Investigative and Recovery Services Section for necessary follow up action, IRSS shall:

(1) Forward hearing decision to household member. (IRSS Form-5)

(2) Forward copy of decision to program together with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(3) Send household member a demand letter. (IRSS Form-6)

(4) Sign repayment agreement with household member if not already done so or if prior signed agreement would be altered by decision. (IRSS Forms 12 and 13)

(b) Waiver of Rights to an Administrative Disqualification Hearing. If disqualification is the result of a waiver of rights to and administrative disqualification hearing and the waiver meets all conditions and has been returned to the Investigative and Recovery Services Section for necessary follow up action, IRSS shall:

(1) Send to household member information on actions taken as a result of such waiver. (IRSS Form-5).

(2) Forward copy of waived rights (IRSS Form-3) to program with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(3) Send household member a demand letter. (IRSS Form-6)

(4) Sign repayment agreement with household member if not already done so, or if prior signed agreement would be altered by the effect of waiver.

(c) Court Decision.

(1) **Decision in Favor of the Department.** If the court shall rule that an intentional program violation was committed and which decision was conveyed to the Department, the Department shall:

(A) Forward court decision to household member through notice of decision. (IRSS Form-5)

(B) Forward copy of decision (IRSS Form-5) to program with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(C) Forward to the household member demand letter. (IRSS Form-6)

(D) Sign repayment agreement with household member if not already done so, or if prior signed agreement would be altered by the decision. (IRSS Forms-12 or 13)

(2) **Court Fails to Impose Period of Disqualification.**

(A) If the court fails to impose a disqualification period, the Department shall impose it according to Sections 3502 and 3507.21.

(B) Inform household member of court decision together with supplemental action the Department will take. (IRSS Form-5)

(C) Forward copy of decision with supplemental action of Department (IRSS Form-5) to program with request stating, if applicable, that Notice to Household of Disqualified Individual be sent.

(D) Forward to household member demand letter. (IRSS Form-6)

(E) Sign repayment agreement with household member if not already done so, or if prior signed agreement would be altered by the decision. (IRSS Forms-12 or 13).

(3) **Reversed Disqualification.** In a case where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, the Department shall:

(A) Forward copy of court decision. (IRSS Form-5)

(B) Forward court decision to program. (IRSS Form-5)

(C) IRSS follow up requirements specified in Section 3600 of the Certification Manual.

(d) **Disqualification Consent Agreement.** If the disqualification results from the signing of disqualification consent agreement, between the household member and the prosecuting authority the Investigative and recovery Services Section shall, upon receipt of such consent agreement coordinate with the household member and the program for the purpose of:

(1) Carrying out the requirements resulting from the disqualification consent agreement.

(2) Sending to household demand letter. (IRSS Form-6)

(3) Signing repayment agreement with house hold member if not already done so, or when prior signed agreement would be altered by the effect of a consent agreement. (IRSS Forms-12 or 13)

§1206. Fair Hearing. (a) Fair Hearing Procedures.

(1) **Rights to a Fair Hearing.** Unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing; the household member who has been found guilty of intentional program violation is entitled to a fair hearing. Such fair hearing, however, is limited to the question of the amount of the claim.

(2) **Notification of Fair Hearing.** IRSS, in conveying a decision to the household member of a disqualification through the "Action Taken on Your Administrative Disqualification Hearing", and demand requesting a fair hearing. A self-addressed envelope shall be furnished in order to return request on time. Additionally, a form for withdrawal shall be included. (IRSS Forms-9 and 10)

(3) **Coordination with Fair Hearing Official.** If a household submit a request for a fair hearing in response to IRSS correspondence, IRSS shall forward such request to the fair hearing official and wait for the decision.

(4) **Validating a Fair Hearing Request.** The fair hearing request must, in order to be valid, satisfy the following:

(A) Conform with Section VI, A, 1.

(B) Request form properly filled in and returned to the Department, c/o IRSS, no later than 30 days as of the date of notification.

(C) If not withdrawn ten days prior to its scheduled return.

(5) **Role of IRSS in a Fair Hearing.** The IRSS role in a fair hearing request shall extend to the forwarding of the notice, receiving the request, routing of request to the fair hearing officer, awaiting for the result of the fair hearing and implementing the decision.

§1207. Collection of Claims Against Households.

(a) **Inadvertent Household Error and Agency Error Claims.** The IRSS shall initiate collection actions on all inadvertent household or administrative error claims, unless the claim is collected through offset and other conditions as described herein:

(1) **Benefit Restoration.** If the program referred a case of a household member whose benefits have been under- issued, IRSS shall determine whether there is an existing claim filed against the household. If there is a claim the amount of under-issuance shall be

reduced from the total amount of the claim. Changes caused by the transaction must be properly recorded.

(2) **Claims Less Than \$35.00.** If a claim is less than \$35.00 and it cannot be recovered by reducing the household's allotment, IRSS shall suspend collection action until such time that multiple Over issuance for a household total \$35.00 or more. IRSS shall inform household of this policy. (IRSS Form-11)

(3) **Lost contact.** If there are sufficient documentation showing that the household member cannot be located, suspend collection action.

(4) **Postponing Collection of Inadvertent Household Error Claim.** If an inadvertent household error claim case is being referred for possible prosecution or for administrative disqualification, IRSS shall attempt to reach an accord with household for the purpose of determining whether the household desires to continue payment as per agreement or postpone it.

(b) **Intentional Program Violation Claim.** The IRSS shall collect intentional program violation claim unless:

(1) The household has repaid the Over issuance already as an inadvertent household error.

(2) There is ample documentation which show household cannot be located.

(c) Demand Letter.

(1) **Demand Letter Issued for All Claims.** For all types of claims, the IRSS shall collect them through the initial step of issuing demand letter to the household, and in accordance with Sections 3704.31, 3704.32, and 3704.33 of the Certification Manual. (IRSS Form-6)

(2) Referral of Non responding Household to Program. If the household member against which collection action has been initiated for payment of an inadvertent household error or intentional program violation claim is currently participating in the

program and does not respond to the written demand letter within 30 days of the date the notice is mailed, the IRSS shall immediately refer the matter to the Food Stamp Program for reduction of household food stamp allotment. See Section IX for procedures.

(3) **Effecting Suspension After Non-response.** If any nonparticipating household or if any currently participating household against which collection action has been initiated for repayment of an administrative error claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household has responded by payment or agreeing to pay the claim, until the criteria for suspending collection action, as specified in Section 3705 of the Certification Manual, have been met, or until other collection actions are initiated.

(4) **Other Collection Actions.** The IRSS May pursue other collection actions through the small claims court or other courts as the situation may warrant.

(d) Suspending And Terminating Collection of Claims.

(1) Suspending Collection of Inadvertent Household and Administrative Error Claims.

(A) An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in Section 3704.11 of the Certification Manual. If collection action was initiated and at least one demand letter has been sent, further collection action of an inadvertent household error claim against a non-participating household or of any administrative claim may be suspended when:

(i) the household cannot be located; or

(ii) the cost of further collection is likely to exceed the amount that can be recovered.

(2) **Suspending Collection of Intentional Program Violation Claims.** The IRSS may suspend collection action on intentional program violation claims at any time if it has documentation that the household cannot be located. If the IRSS has sent at least one demand letter for claims under \$100, at least two demand letters for claims for more than \$400, further collection action of any intentional program violation claim against a non-participating household may be suspended when the cost of further collection action is likely to exceed the amount that can be recovered.

(e) **Terminating Collection of Claims.** A claim may be determined uncollectible after it is held in suspense for three years. The IRSS may use a suspended or terminated claim to offset benefits in accordance with Section 3600 of the Certification Manual.

§1208. Method of Collecting Payments. (a) **Methods of Collection.** IRSS shall collect payments for any claims against household as follows:

(1) Lump sum.

(2) Partial payment and the rest in monthly installments.

(3) In installments.

(b) The household may make payments in cash, money order, checks or in food coupons.

(c) **Types of Repayment Agreements.** IRSS may negotiate repayment agreement with household as follows:

(1) **Routine Payment Agreement.** Repayment agreement which assure the liquidation of benefits Over issuance within a 36 months period. (IRSS Form-12)

(2) **Compromised Repayment Agreement.** Repayment agreement which, due to family circumstances, and as a result of a financial assessment

(IRSS Form-14), the original amount of Over issuance has been reduced to allow household to liquidate obligation within a period of three years. It is to be noted however that IRSS may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with Section 3600 of the Certification Manual. (IRSS Form-13).

(d) Delinquent Payment, Renegotiation, Reduction of Allotment.

(1) If the household failed to make a payment in accordance with the established repayment schedule (either a lesser amount of non-payment), the IRSS shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the IRSS. (IRSS Form-15).

(2) If the household responds to the notice, the IRSS shall take one of the following actions as appropriate:

(A) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(B) If the household requests renegotiate, and if the IRSS concurs with the request, negotiate a new payment schedule. (IRSS Form-16).

(C) If the household requests renegotiation of the amount of repayment schedule but the IRSS believes that the household member's economic circumstances have not changed enough to warrant the requested settlement, the IRSS may continue renegotiation until a settlement can be reached. The IRSS shall invoke allotment reduction against a currently participating household for repayment of an inadvertent household error or intentional program violation claim if a settlement cannot be reached.

(D) If a currently participating household against which an inadvertent household error or

intentional program violation claims has been established fails to respond to the notice, the IRSS shall invoke allotment reduction. The IRSS may also invoke allotment reduction if such household member responds by requesting renegotiation of the amount of its repayment schedule by the IRSS believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is invoked to notice of adverse action is required.

(E) In cases where the household is currently participating in the program and payment schedule is negotiated for repayment of an inadvertent household error or intentional program violation claim, the IRSS shall insure that the negotiated amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment.

§1209. Procedures For Reduction of Food Stamp Allotment. (a) The IRSS may collect payments for inadvertent household error claims and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotment.

(b) IRSS shall collect payments for administrative error claims from households currently participating in the program by reducing the household's food stamp allotment if the household prefers to use this method of repayment. (IRSS Form-17)

(c) Prior to reduction, the IRSS shall inform the household of the appropriate formula for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment (i.e., the amount of food stamps the IRSS expects will be recovered each month), and of the availability of other methods of repayment. (IRSS Form-18)

(d) The IRSS may reduce the household's allotment to recover any amounts of any inadvertent household error or intentional program violation claim not repaid through a lump sum payment, unless a payment schedule has been negotiated with the household.

(e) The provision for a \$10 minimum benefit level for households with one and two members only, as described in Section 2905.22(b), shall apply to the allotment prior to reduction in accordance with the section.

(f) The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

(1) **Inadvertent Household Error Claims.** For inadvertent household error claims, the amount of food stamps shall be the greater of ten percent of the household's monthly allotment or \$10 per month.

(2) **Administrative Error Claims.** For administrative error claims, the amount of food stamps to be recovered each month from a household choosing to sue this method shall be negotiated with the household. Choice of this option is entirely up to the household and no household shall have its allotment reduced by an amount with which it does not agree for payment of an administrative error claim.

(3) **Intentional Program Violation Claims** For intentional program violation claims, the amount of food stamps shall be the greater of twenty percent of the household's monthly entitlement or \$10 per month.

(g) **How to Effect Reduction.**

(1) When a decision has been reached, with or without the concurrence of the household, as the case may be, as to the amount of the claim to be applied against a benefit allotment, IRSS shall prepare a "Notice of Food Stamp Allotment Reduction" which notice shall contain the following information:

Name of Household;
Case Number;
IRSS Case Number;
Check one of the following:
____ inadvertent household error claim
____ administrative error claim
____ intentional program violation
Amount to be Reduced;
Effective Date of Reduction;
Period Reduction to Cover.

(2) IRSS shall prepare separate ledger to account for food coupons recovered by allotment reduction in as much detail as needed for administrative, statistical and other purposes.

(3) Each month, the IRSS shall pick up consolidated data (print out) of allotment reduction and compare against notice. Should errors occur, immediate recertification shall be made.

§1210. Claims Discharged Through Bankruptcy.

The Department shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owning food stamp claims. The Department shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, the Department shall have the power and authority to file objections to discharge, proof of claims, exception to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amount collected under this authority shall be transmitted to FNS as provided in Section 3708 of the Certification Manual.

§1211. Interstate Claims Collection In cases where a household moves out of Guam, the Department shall initiate or continue collection action against the household for any Over issuance to the household which occurred while it was under the Department's jurisdiction.

IRSS, upon knowing to which state or jurisdiction a household has moved should make contact and

ascertain whether the household has been enrolled in the Food Stamp Program under that jurisdiction.

IRSS should inform the jurisdiction of the facts of the Over issuance and its intention to pursue collection action.

Guam's share of any collected claims should be retained. Arrangement with the other jurisdiction should be made for purpose of informing Guam of collected claims from the household.

§1212. Submission of Payments FNS-209.(a) The Department shall retain the value of funds collected for inadvertent household error, intentional program violation, or administrative error claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of household member being disqualified.

The Department's letter of credit will be amended on a quarterly basis to reflect the Department's retention of 25 percent of the value of inadvertent household error claims collected and 50 percent of the value of intentional program violation claims collected, as well as full retention by FNS of all administrative error Over issuance recoveries.

(b) The Department shall submit quarterly, Form FNS-209, Status of Claims Against Households, to detail the Department activities relating to claims against households.

This report is due no later than 30 days after the end of each calendar year quarter and shall be submitted to FNS even if the Department has not collected any payments. In addition to reporting the amount of funds recovered from inadvertent household error and intentional program violation claims each quarter on Form FNS-209, the Department shall also report these amounts on other letter of credit documents as required.

In accounting for inadvertent household error and intentional program violation claims collections, the

Department shall include cash or coupon repayments and the value of allotments recovered or offset by restoration of lost benefits. However, the value of benefits not issued during periods of disqualification shall not be considered recovered allotments and shall not be used to offset an intentional program intentional program violation claim.

In addition, the Department shall establish controls to insure that officials responsible for intentional program violation determinations will not benefit from the Department's share of recoveries.

(c) The Department may retain any amounts recovered on a claim being handled as an inadvertent household error claim prior to obtaining a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that intentional program violation was committed, or receiving from an individual either a signed waiver or consent agreement, at the rate applicable to intentional program violation claims, once the determination or signed document is obtained. In such cases, the Department shall make a note in an attachment to the quarterly reporting form specified in Section 3708.10 which shows the additional amounts retained on amounts already recovered as a result of the change in status of the claim.

(d) **Refund.** If a household has overpaid a claim, the Department shall pay the household any amounts overpaid as soon as possible after the overpayment becomes known.

The household shall be paid by food stamps if still active in the program or cash if not participating in the program. (IRSS Form-20)

Overpaid amounts of a claim which have previously been reported as collected via the FNS-209 and which have been repaid to the household shall be reported in the appropriate column on the FNS-209 for the quarter in which the repayment occurred. The appropriate retention rate shall be applied to the reduced collection total.

(e) In cases where FNS has billed the Department for negligence, any amounts collected from households which were caused by the Department's negligence will be credited by FNS. When submitting these payments, the Department shall include a note as an attachment to the quarterly reporting from specified in Section 3708.20 which shows the amount that should be credited against the Department's bill.

§1213. Returned Coupons. (a) **Inter-Departmental Agreement.** The inter-departmental agreement between the Department of Public Health and Social Services and the Department of Administration established a system and procedures for receipts, accounting and control of all payments of claims against households for overissued benefits in the form of:

- (1) Cash (cash, money order or check).
- (2) Food stamp coupons.

Methods and procedures for security, accounting, destruction, and reporting of returned food stamp coupons as required under Section 3709 of the Certification Manual are clearly established in the Interdepartmental Agreement. The Inter-Departmental Agreement is attached as part of this manual.

§1214. Accounting of Claims. (a) IRSS shall establish and maintain a system to account for all claims against households. This system shall insure a complete documentation of each claim from the time it is submitted as a complaint to its final disposition.

(1) **Claim File.** Each claim established shall contain at a minimum a "Claim Determination Report, Repayment Agreement, and Payment Record." All other documents relative to the claim, such as demand letter delinquent notices, investigation reports, hearing or court decisions shall be made part of the file.

(2) **Classification.** A system of classification shall be established to allow identifying the status of the

claim at any given time, that is whether active, delinquent, suspended, terminated, closed, etc.

(3) **Locator Card.** Each claim established shall also have a locator card. The locator card system should complement the file.

(4) **Offset.** Insure that benefit restoration are offset against existing claims.

(5) **Delinquent Account.** Insure a complete identification of delinquent account.

(6) **Payments Documentation.** Report all payments received.

§1215. Reporting of Disqualified Individuals. (a) **Department to Report.** The Department shall report to FNS those individuals disqualified for intentional program violation, individuals who signed consent agreements and individuals disqualified based on court prosecution. This information shall be submitted to FNS so that it is received no later than 30 days after the date the disqualification took effect, or could have taken effect for a currently ineligible individual whose disqualification is pending future eligibility. (Form FNS-209)

(b) **Data Furnished to Other Public Assistance Program.** IRSS shall provide above data to the Welfare, Medicaid, Food Stamp Program and to other jurisdictions.

(c) In cases where the imposition of a disqualification penalty is being held pending the future eligibility of a household member found to have committed intentional program violation, the Department shall submit a report revising the original disqualification report once the individual begins the period of disqualification in accordance with instructions provided by FNS.

(d) In cases where the disqualification for intentional program violation is reversed by a court of appropriate jurisdiction, the Department shall submit a report to purge the file of the information relating to

the disqualification which was reversed in accordance with instructions provided by FNS.

§1216. Forms.

- IRSS Form 1 Case Investigation
- IRSS Form 2 Request for Case Review
- IRSS Form 3 Advance Notice of Your Administrative Disqualification Hearing
- IRSS Form 4 Advise of Option to Sign a Waiver of Rights to an Administrative Disqualification Hearing.
- IRSS Form 5 Action Taken on Your Administrative Disqualification Hearing.
- IRSS Form 6 Demand Letter for Over issuance
- IRSS Form 7 Complaint of Intentional Program Violation
- IRSS Form 8 Complaint of Intentional Program Violation
- IRSS Form 9 Request for a Fair Hearing
- IRSS Form 10 Withdrawal for Fair Hearing Request
- IRSS Form 11 Suspension and Activation of Claim
- IRSS Form 12 Repayment Agreement (Routine)
- IRSS Form 13 Repayment Agreement (Compromised)
- IRSS Form 14 Monthly Financial Assessment
- IRSS Form 15 Payment Delinquent Notice
- IRSS Form 16 Repayment Agreement (Renegotiated)
- IRSS Form 17 Request to Reduce Food Stamp Allotment
- IRSS Form 18 Notice of Food Stamp Allotment Reduction
- IRSS Form 19 Refund of Overpaid Claim
- IRSS Form 20 Food Coupon Payment Daily Log
- IRSS Form 21 Food Coupon Payment Monthly Report
- FORM FNS-524 (3-83) Disqualified Recipient Report
- FORM FNS-209 (2-83) Status of Claim Against Households
- FORM FNS-471 (9-81) Coupon Account and Destruction Report

26 GAR - PUBLIC HEALTH & SOCIAL SERVICES
DIV. 1 - DIRECTOR OF PUBLIC HEALTH & SOCIAL SERVICES

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
SOCIAL SERVICES DIVISION IRSS FORM 1
Investigative and Recovery Services Section
CASE INVESTIGATION I. IRSS CASE NO. _____
Date _____

II. CASE NAME DATA:

1. Case Name _____
2. DOB _____
3. Case No. _____
4. HH Size _____
5. Home Address _____
6. H/W Phone _____
7. SS/ID/DL #s _____
8. Program Affected _____

III. NATURE OF COMPLAINT(s) Brief and concise.

IV. INVESTIGATION-activities conducted in reference to time, place,
contacts, evidence, and all
pertinent information.

1. Evidence and Facts established:

2. Witness(es) arranged:

3. Testimonies obtained/submitted:

(Attach notes, exhibits, legal instruments pertinent to investigations)

V. VIOLATION(s)-cite specifically

VI. ACTION(s) THAT CAN BE TAKEN - as they relate to specific
violation(s)

DATE INVESTIGATIONS COMPLETED SIGNATURE OF IRSS STAFF

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GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
SOCIAL SERVICES DIVISION IRSS FORM-2
INVESTIGATIVE AND RECOVERY SERVICES SECTION
Request for Case Review

Date:

Memorandum

To:

From: Investigative and Recovery Services Section Supervisor

Subject: Review of Case

Case Number: _____ IRSS Case Number

_____ is being processed for submission/referral for:

Administrative Disqualification Hearing.

Prosecution.

Please review for appropriateness and sufficiency of evidence. IRSS Staff

_____, will be available for conference should you have any questions. Indicate your conclusion in the return memorandum below and return it as soon as possible.

=====
=====
Memorandum

To: Investigative and Recovery Services Section Supervisor

From:

Subject: Review of Case

I have reviewed the above case investigations and arrived at the conclusion that:

Evidence in investigations is adequate to warrant conducting an Administrative Disqualification Hearing.

Evidence is inadequate and does not warrant conducting Administrative Disqualification Hearing.

REVIEWER

DATE

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GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
SOCIAL SERVICES DIVISION IRSS FORM-3
INVESTIGATIVE AND RECOVERY SERVICES SECTION
ADVANCE NOTICE OF YOUR ADMINISTRATIVE DISQUALIFICATION
HEARING - PART 1

NAME _____ CASE NO. _____

ADDRESS _____ IRSS CASE NO. _____

_____ DATE _____

Dear _____

We have reason to believe you have intentionally violated a program rule because: (continue on reverse if necessary)

We have the following evidence to support our case against you:
(continue on reverse if necessary)

You or your representative may look at this evidence at

A hearing has been scheduled to examine the facts of your case. The hearing will be held at:

TIME: _____ DATE: _____

PLACE: _____

If you are found to have intentionally violated a program rule, you will be disqualified from the program and not get food stamps:

- // For 6 months because it is your first violation;
- // For 12 months because it is your second violation;
- // Permanently because it is your third violation.

It is important that you or your representative be at the hearing, otherwise a decision will be based solely on information provided by the Food Stamp Office and IRSS Investigators.

You must contact the IRSS at least 10 days after the hearing date, if you have a good reason why you or your representative failed to attend the hearing in order to receive a new hearing date.

Even though this hearing is scheduled, this does not prevent the Government of Guam or the federal government from prosecuting you for an intentional violation of a program rule in a court of law or from collecting the food stamp allotment that was overissued.

If you have any question or need the name and phone number of someone who can give you free legal advice, call the IRSS at _____.

Attached is a copy of rules and procedures pertinent to his hearing which you may use to insure that every opportunity is afforded you to present your case.

YOU HAVE THE RIGHT TO:

1. Look at the evidence that will be used at the hearing both before and during the meeting.
2. Present your own case or have someone present your case for you, such as a lawyer, friend, relative, or community worker.
3. Ask us to delay your hearing for up to 30 days, if you need more time to prepare your case.
4. Bring your own witness(es).

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5. Argue your case freely.
 6. Question any evidence or statements made against you.
 7. Bring any evidence you may have that would support your case.
- ADVISE OF OPTION TO SIGN A WAIVER OF RIGHTS TO AN ADMINISTRATIVE DISQUALIFICATION HEARING - PART 2

You have a choice of going through this Administrative Disqualification Hearing or signing a waiver. A waiver of the disqualification hearing will result in being disqualified and a reduction in benefits for the period of disqualification even if you don't admit to the facts as presented.

You have the right to remain silent concerning the charge(s) and that anything said or signed by you concerning the charge(s) can be used against you in a court of law.

If you select the waiver option you must indicate by filling out the Waiver Form below and return it promptly to our office.

If for any reason the head of the household or the household member being disqualified failed to live up to this understanding, the remaining household members, if any, will be held responsible for repayment of the result claim.

Date _____ ADMINISTRATIVE DISQUALIFICATION
HEARING OFFICER

----- W A I V E R -----

// I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver.

// I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that disqualification penalty will result.

DATE _____ SIGNATURE OF ACCUSED INDIVIDUAL

(If the accused individual is not the head of the household, then the head of the household must sign below)

DATE _____

-----DO NOT WRITE IN THE BLOCK BELOW-----

DATE SIGNED WAIVER RECEIVED BY ADMINISTRATIVE
DISQUALIFICATION HEARING OFFICER

26 GAR - PUBLIC HEALTH & SOCIAL SERVICES
DIV. 1 - DIRECTOR OF PUBLIC HEALTH & SOCIAL SERVICES

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
SOCIAL SERVICES DIVISION IRSS FORM-3 A
INVESTIGATIVE AND RECOVER SERVICES SECTION

ADVISE OF OPTION TO SIGN A WAIVER OF RIGHTS TO AN
ADMINISTRATIVE DISQUALIFICATION HEARING PART 2.

You have a choice of going through this Administrative Disqualification Hearing or signing a waiver. A waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification even if you don't admit to the facts as presented.

You have the right to remain silent concerning the charge(s) and that anything said or signed by you concerning the charge(s) can be used against you in a court of law.

If you select the waiver option you must indicate by filling out the Waiver Form below and return it promptly to our office.

If for any reason the head of the household or the household member being disqualified failed to live up to this understanding, the remaining household members, if any, will be held responsible for repayment of the resulting claim.

DATE ADMINISTRATIVE DISQUALIFICATION
HEARING OFFICER

----- W A I V E R -----

// I admit to the facts as presented, and understand that a disqualification penalty will be imposed if I sign this waiver.

// I do not admit that the facts as presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty will result.

SIGNATURE OF ACCUSED INDIVIDUAL DATE
(If the accused individual is not the head of the household, then the head of the household must sign below.)

DATE
-----DO NOT WRITE IN THE BLOCK BELOW-----

DATE SIGNED WAIVER RECEIVED BY OFFICE

26 GAR - PUBLIC HEALTH & SOCIAL SERVICES
DIV. 1 - DIRECTOR OF PUBLIC HEALTH & SOCIAL SERVICES

GOVERNMENT OF GUAM
DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES
SOCIAL SERVICES DIVISION IRSS FORM-4
INVESTIGATIVE AND RECOVERY SERVICES SECTION
Hearing Decision (Summary)

Name _____ Case No. _____

Address _____

Date of Hearing _____ Place _____

Present at Hearing
DEPARTMENT _____ HOUSEHOLD _____

ALLEGATIONS:

HOUSEHOLD'S STATEMENTS:

DEPARTMENT'S STATEMENTS:

STATEMENT OF FACTS:

BASIS FOR DECISIONS:

FINAL ORDER:

HEARING AUTHORITY DATE