

## Chapter 16

### Restoration of Lost Benefits

#### 1600 Entitlement

The county department shall restore to households benefits which were lost whenever the loss was caused by one of the following:

1. An error by the county department or state agency.
2. By an administrative disqualification for Intentional Program Violation which was subsequently reversed as specified in [Section 1604](#).
3. There is a statement elsewhere in the handbook, or if notified by the Food Assistance Division specifically stating that the household is entitled to restoration of lost benefits.

Benefits shall be restored for not more than 12 months prior to the date the county department receives a request for restoration from a household, the date the county department is notified, or otherwise discovers that a loss to a household has occurred whichever occurred first.

#### Judicial Action

The county department shall restore benefits to households which were found by any judicial action to have been wrongfully withheld. If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for a period of not more than 12 months from the date the court action was initiated.

When the judicial action is a review of a county department/state agency action, the benefits shall be restored for a period of not more than 12 months from the first of the following dates:

1. The date the county department/State agency received a request for restoration.
2. If no request for restoration was received, the date the fair hearing action was initiated.
3. Never more than one year from when the county department/State agency is notified of or discovers the loss.

#### Benefits to Ineligible Households

Benefits shall be restored even if the household is currently ineligible.

#### 1601 Errors Discovered by the County Department

If the county department determines that a loss of benefits has occurred and the household is entitled to restoration of those benefits. The county department shall automatically take action to restore any benefits that were lost. No action by the household is necessary.

However, benefits shall not be restored if the benefits were lost more than 12 months prior to the month the loss was discovered by the county department in the normal course of business; or the

benefits were lost more than 12 months prior to the month the county department was notified in writing or orally of a possible loss to a specific household.

The county department shall notify the household of the following:

1. Of its entitlement to lost benefits.
2. The amount of benefits to be restored.
3. Any offsetting that was done.
4. The method of restoration.
5. The right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

## **1602 Disputed Benefits**

If the county department determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the county department or any other action taken by the county department to restore lost benefits, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost benefits.

If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the county department pending the results of the fair hearing.

If a fair hearing decision is favorable to the household, the county department shall restore the lost benefits in accordance with that decision.

### **County Department Denial of Restoration**

If a household believes it is entitled to restoration of lost benefits, but the county department, after reviewing the case file does not agree, the household has 90 days from the date of the determination to request a fair hearing. The county department shall restore lost benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than 12 months prior to the date the county department was initially informed of the household's possible entitlement to lost benefits shall not be restored.

## **1603 Computing the Amount to be Restored**

After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 12-month time limits described in [Sections 1601](#) and [1602](#), the county department shall calculate the amount to be restored as follows:

1. If the household was eligible, but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated.
2. If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss shall be calculated as follows:

- a) If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.
- b) If an eligible household's application was delayed, the months for which benefits may be lost shall be calculated in accordance with procedures in [Section 207](#).
- c) If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.

After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

For each month affected by the loss, the county department shall determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible, the county department shall advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household shall be considered ineligible.

For the months the household was eligible, the county department shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

If a claim against a household is unpaid or held in suspense as provided in the [Claims Against Households Manual](#), the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household. At the point in time when the household is certified and receives an initial allotment, the initial allotment shall not be reduced to offset claims, even if the initial allotment is paid retroactively.

## **1604 Lost Benefits to Individuals Disqualified for Intentional Program Violation**

Individuals disqualified for Intentional Program Violation (IPV) are entitled to restoration of any benefits lost during the months that they were disqualified, not to exceed 12 months prior to the date of county department notification, only if the decision which resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the period of disqualification based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the disqualification period imposed by an administrative disqualification in a separate court action.

For each month the individual was disqualified, not to exceed 12 months prior to county department notification, 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.

Participation in an administrative disqualification hearing in which the household contests the State agency assertion of Intentional Program Violation shall be considered notification that the household is requesting restored benefits.

## **1605 Method of Restoration**

Regardless of whether a household is currently eligible or ineligible, the county department 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. The county department shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be stolen, or that the amount to be restored is more than it can use in a reasonable period of time.

## **1606 Changes in Household Composition**

Whenever lost benefits are due a household and the household's membership has changed, the county department shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the county department cannot locate or determine the household which contains a majority of household members, the county department shall restore the lost benefits to the household containing the head of the household at the time the loss occurred.

## **1607 Procedures**

Refer to the Automation for All Staff Manual for the procedures to restore lost benefits to eligible and ineligible households.