

- a. Any portion of a grant, scholarship, or fellowship used to pay cost of tuition or fees at an educational institution or costs of vocational technical training designed to prepare the individual for gainful employment.
 - b. Amounts received for foster care of a child.
 - c. Value of food stamps.
 - d. Home produce grown for personal consumption.
 - e. Income used to comply with terms of court-ordered support or support payments enforced under Title IV-D of the Act.
 - f. Value of in-kind support and maintenance furnished to the ineligible spouse, ineligible parent or ineligible spouse of a parent, and/or ineligible children in the household.
 - g. Infrequent and irregular income as defined in [12205-C](#).
3. Refund of taxes paid on income, real property, or food purchased by the family.
 4. Earned income of an ineligible student child (subject to \$1620/calendar year maximum and no more than \$400 in any one month) unless the child actually makes the income available to the family.
 5. Income necessary for a plan to achieve self-support, but only if the spouse's or parent's income is actually being used according to the plan to achieve self-support.

B. Deeming From Spouse to Spouse

1. Compute a trial budget on Form 640, Section I, for the eligible individual to determine if he would be eligible for a supplement, considering only his income. If he would not be eligible, deny the case. If he would be eligible, compute the amount of deemed income in Section II according to the steps below.
2. Determine the unearned income of the spouse and subtract living allowance for ineligible children.
3. Determine earned income of ineligible spouse. If earnings are \$65 or less, do not include in trial budget or deemed income. If earnings are more than \$65:
 - a. Subtract any living allowance for ineligible children remaining after Step "2", and

b. Subtract \$65 and ½ of the remainder.

4. If the total of any unearned income remaining after Step “2” and earned income remaining after Step “3” is equal to or less than ½ federal benefit rate (FBR) for an individual, there is no deemed income. If the total is greater than ½ FBR for an individual, subtract ½ FBR from the total and go to step 5.
5. Subtract the SUP payment level which is applicable to the eligible spouse from the income of the ineligible spouse remaining after step 4. The difference is the amount of income deemed from the ineligible spouse to be shown as a cash contribution on the ZC30.

C. Deeming From Ineligible Parent(s)/Stepparent to Eligible Child

Contact the FAD for instructions D.

D. Deeming From Eligible Parent/Stepparent to Eligible Child

If one or both of the parents/stepparent of an eligible child receive Family Assistance (FA), SSI or a supplement, there is no income available to be deemed. Verify receipt of SSI, FA, or a supplement.

E. Effective Month for Changes in the Deeming Situation

Deeming changes the month after the month when one of the events below occurs:

1. Separation or divorce from ineligible spouse.
2. Eligible child attains age 18.

NOTE: “Attainment” occurs the day before an individual’s birthdate. Example: If birthdate is November 1, then attainment is October 31, and deeming stops November 1. Another example: A birthdate is November 18, attainment is November 17, deeming stops December

3. Death of spouse, parent or child.
4. Divorce or separation of parents.
5. Marriage of parent or child.
6. Change in living arrangements.
7. Ineligible child born to or leaves household.

Changes in income of the ineligible spouse, parent, stepparent or child are effective with the month of change.

If an ineligible spouse, parent or stepparent becomes eligible, the change is effective in the same month.

12200 Income

In determining eligibility for and the amount of the assistance payment, an applicant's/recipient's currently available gross income must be taken into consideration. Income consists of, but is not limited to, earned income, government benefits, contributions, fees, loans, grants, etc. Income may be received in cash or in-kind. While it may be received regularly or infrequently/irregularly, it must be budgeted on a monthly basis. The monthly amount considered in prospective budgeting is the amount actually received in the budget month except as stipulated in [12205-B](#) and [C](#) as it relates to infrequent/irregular child support.

In determining eligibility for a supplement, a separate income/resource determination is not necessary for persons receiving SSI. SSI recipients are considered needy and entitled to the full supplement, if otherwise eligible. "SSI recipient" includes a person who was determined eligible for SSI, but whose SSI payment is "in suspense", or withheld, for a reason other than ineligibility.

NOTE: A person not receiving SSI may receive optional supplementation only if his gross income is within certain limits. Refer to the Federal Benefit Rate Chart in Appendix I which contains the gross income limits allowed to determine whether an individual's gross income exceeds the maximum level. If so, deny or terminate supplementation payments.

12205 Guide for Determining the Amount of Income to be considered

Income means the receipt by an individual of assets in cash or in-kind which s/he can apply, either directly or by sale or conversion, to meeting basic needs for food, clothing, and shelter. Income is to be considered on a monthly basis according to the guides below.

A. Regular Monthly Income

Regular income consists of fixed entitlement amounts based on law, regulations or policy of the issuing government entity, agency or other organization received once a month or earned income, i.e., wages received once a month. Regular monthly income is to be budgeted as received.

B. Income Received More Than Once Per Month

Weekly, bi-weekly, or semi-monthly income is to be converted to a monthly amount by multiplying the income by the number of times it is expected to be, or was, received in the month for which the computation is being made.

C. Infrequent or irregular income (received less often than twice per calendar quarter).

Infrequent income is received rarely or once in a while. Income is termed infrequent if it is received only once during a calendar quarter from a single source. Irregularly received income is not subject to scheduling and is unpredictable so that it cannot be counted upon or budgeted for.

1. Earned Income

Exclude infrequent or irregular earned income when the total amount does not exceed \$10 per month.

The following rules apply in determining whether amounts of earned income are excluded under this provision:

- a. When the individual's total monthly earned income is \$10 or less, all of the income may be excluded on the presumption that it was received infrequently or irregularly, unless there is information which establishes that any part of the income is received regularly or frequently.
- b. When an individual works on one or more days each week for the same employer or employers, s/he is found to have a regular and frequent income which is not excluded under this provision even when such income does not exceed \$10 in a month, although the sources may differ each month.
- c. When an individual's pay for work performed exceeds \$10 in a month, none of that amount is excluded under this provision.

The dollar amounts of the exclusion are not increased because an eligible individual and his spouse both have infrequent or irregular earned income. The amounts apply whether one or both members of a couple have infrequent or irregular earned income.

2. Unearned Income

Exclude infrequent or irregular unearned income when the total amount does not exceed \$20 per month. Any unearned income of one type received once per quarter from one source is considered infrequent; therefore, a person may receive the same type of unearned income from two different sources or two different types of unearned income from the same source if

each is received only once during the quarter and still have the amount excluded if no more than \$20 is received in any given month.

Example 1: Mrs. Jones has two bank accounts which pay interest quarterly. The interest received in May from both accounts totals \$15 and is considered infrequent since it is received from two sources (each account is considered a single source) and each is received only once per quarter. The amount is excluded since it does not exceed the \$20 per month limit.

Example 2: In June, Mr. Austin received a \$10 bingo prize. He also receives interest of \$7.50 on a bank account payable quarterly. The bingo prize is excluded as irregular. The interest is considered infrequent since received only once per quarter. The total amount of infrequent and irregular income is excluded as it does not exceed the \$20 per month limit.

Example 3: Circumstances are the same as in example 2 but the bingo prize is \$15. Although these types of unearned income meet the irregular and infrequent definitions they cannot be excluded as the total amount exceeds the \$20 per month limit; therefore, \$22.50 would be budgeted in the month received.

If the infrequent/irregular unearned income is child support received by a child recipient, anticipate receipt based on past history. The expected value or best average is obtained by using the total of as many payments made as possible divided by the number of months over which they were received. If the payments used to obtain the average were received more frequently than once per calendar quarter or if it is more than \$20 per month, budget the entire amount in the month received.

D. Earned Income Credit (EIC)

EIC payments will be made as a credit, by employers, against income taxes withheld from wages. They may be paid as advance payments monthly or as a lump-sum payment in addition to the Federal income tax refund. Consider the EIC payments as earned income in the month received. If the EIC payments are to be received in advance, the employee must file form W-5 with the employer. The employer will be able to verify the amount of the advance EIC payment through his records and/or form W-5. Determine the amount of the lump-sum EIC payment by the Federal income tax return.

At the end of each calendar year, these cases must be reconciled to determine whether EIC payments made throughout the year exceed the amount to which the wage earner was entitled. If so, an excess amount of EIC payments have been budgeted. Set up an interim action, where necessary, to ensure that these reconciliations are completed.

12210 Definitions of Terms Used in Dealing with Income

A. Earned Income

Income in cash or in-kind which a person receives by his own efforts, including managerial responsibilities. It may be received in the form of wages, salaries, commissions, etc., or through self-employment. This definition includes wages under JTPA, earnings under Title I of the Elementary and Secondary Education Act, Earned Income Credit (EIC) payments, and all payments, regardless of whether they are subsidized, for services performed in a sheltered workshop or work activities center.

B. Unearned Income

All other income, i.e., all income that is not earned income. Income may be in the form of cash (including checks or money orders) or in-kind items such as [personal property](#), real property, food, etc. Income received without activities involving the individual's own efforts.

C. Gross Earned Income

1. In the case of wages, commissions, or fees, the total amount of income received before any deductions.
2. In the case of income from farming or other self-employment, the total gross profit from the enterprise after the deduction of the cost of goods from gross receipts (sales).

D. Net Income

The difference between gross receipts and cost of goods sold. (Net income is used only in computing income from self-employment.)

E. Exclusion

Exemption of income in determining current need and the amount of the assistance payment.

F. In-kind Income (provided by a third party)

Food, clothing, or shelter (goods or services) provided to someone, rather than cash, as a contribution (unearned) or in return for services or work performed (earned). Establish the value of in-kind items whether earned or unearned according to the following guidelines:

1. Support and Maintenance – these items provide a basic need of food, clothing or shelter. Support and maintenance is applicable when an individual (couple) receives an item of food, clothing or shelter outright or when someone else pays for (or makes a payment on) food, clothing or shelter for the individual (couple). Examples: rent free shelter, reduced rent, food, utility bills or rent, paid in full or in part, mortgage or tax payments paid in full or in part, etc.

The value of this unearned income in-kind is the presumed maximum value (PMV) which is 1/3 FBR plus \$20. If the applicant/recipient indicates the PMV is in excess of the current market value (CMV), use the verified CMV or verified actual value (AV), whichever is less.

NOTE: When the reduced FBR is assigned, no additional in-kind support and maintenance is chargeable.

There is no limit on earned income in-kind; however, in-kind payments to the following are unearned:

- a. Agricultural employees;
 - b. Domestic employees;
 - c. Providers of a service which is not in the course of the employer's trade or business; and
 - d. Certain homemakers such as people who make quilts, clothing, needlecraft products, etc., away from the employer's place of business; and
 - e. Employees for the convenience of the employer and in the form of food or shelter which is provided on the business premises.
2. In-kind items (not basic need items of food, clothing, and shelter) which can be applied by sale or conversion to meet basic needs – these items constitute gifts. However, a gift which would be a non-liquid excluded resource if retained into the next month is not income in the month received but is considered a resource.

Example: A church gives a SUP client a tractor which will be a countable non-liquid resource if retained into the next month. The value of this income in-kind is the current market value (CMV) of the item (gift).

Example: A son gives his mother a stereo, which is retained into the next month becomes a non-liquid excluded resource as personal property. There is no "income" in-kind value on this item (gift).

NOTE: When a third party makes a payment for (or makes a payment on) a resource the eligible individual is buying the payment increases the **equity** value of the resource and is not considered in-kind income. The equity value is then considered in the determination of the individual's resources.

3. In-kind items (not basic need items) which cannot be applied by sale or conversion to meet basic needs.

Examples: payment of telephone bills, repairs to home, payment of medical expenses or personal services such as mowing the lawn for an applicant/recipient or running errands, etc.

These items are not considered income and, therefore, no value is placed on them.

G. Assistance Based on Need

Assistance that is provided through state or local government funding, such as supplementation payments from the Department of Human Resources, is excluded in the determination of countable income. Distinguish between assistance based on need and income based on need. (See definition below.)

H. Income Based on Need

Income which is funded by non-government funds or involves federal funds such as VA pension (not compensation). Income based on need is considered as unearned income; however, the \$20 general exclusion is not applied to it.

Examples of income based on need are:

1. VA pension.
2. FA payments.
3. Payments from the Bureau of Indian Affairs.
4. Catholic Charities payments.
5. Salvation Army payments.
6. Income from Cuban Refugee Program.

12215 Income Exclusions

Assistance payments are based on need in light of income that is currently available to each recipient. Under state and federal laws, all income of a person must be considered in determining his need unless specifically excluded as set out below in the order listed. These exclusions are applied in computer calculations.

- A. Exclude \$20 per month per individual or couple of gross income, earned or unearned, which would otherwise be included in the budget, except do not exclude \$20 from income based on need.
- B. Exclude \$65 per month per individual or couple of gross earned income plus one-half of the remainder.
- C. Work expenses of Blind – For a blind individual, exclude any amount used to meet any ordinary and necessary expenses reasonably attributable to the earnings of any income. The amount of expenses deductible may not exceed the amount of earnings of the blind recipient, otherwise, there is no ceiling on the amount which can be deducted. Examples of ordinary and necessary expenses reasonably attributable to the earnings of income are:
 - 1. Transportation to and from work, including: bus or cab fare; cane travel instruction; guide dog and upkeep; private car (use the state travel reimbursement rate).
 - 2. Job performance expenses, including: Braille instruction; child care costs; equipment needed on the job (for example, for home bound work); instruction in grammar (if work related); licenses; lunches; professional association dues that are work related; prostheses needed for work even though not related to blindness; optical aids; reader; safety shoes; federal, state, local, FICA, and/or self-employment taxes; tools used on a job; translation of materials into Braille; uniforms and care of them; union dues; wheelchair if necessary due to disability.
 - 3. Job improvement expenses, including: stenotype instruction for the blind typist; key punch training; computer program training course.
- D. Blind or Disabled Plan for Self-Support (applies only to persons under 65) – To permit certain income/resources to be excluded from eligibility computation, a plan for self-support for the blind or disabled must be in writing and be a specific plan devised for or by the individual to achieve an appropriate designated occupational objective. It also must have specific disbursements or savings goals necessary to achieve the goal within a maximum of three years. The amounts specified in the plan to meet the goal(s) are to be disregarded. These amounts cannot exceed the remainder of countable income after exclusions in “A” and “B” above are applied, if applicable.

In most cases, the essential elements of a plan for achieving self-support can be obtained from VRS. If the individual has no plan and is interested in formulating one, refer the individual to VRS for assistance in developing a plan.

12220 Income from Self-Employment

Contact the Family Assistance Division as needed regarding development and treatment of this type of income.

12225 Unearned Income to be Budgeted

All unearned income received by the applicant/recipient or received by someone in the home and designated for the applicant/recipient must be included in the budget unless specifically excluded or disregarded under provisions in [12230](#). For example, when social security benefits are paid to a representative payee on behalf of the applicant/recipient and the payee lives in the same household, the income must be counted in whole. When the representative payee does not live in the same household, the social security is included only to the extent the payee makes it available for the support of the beneficiary. Listed below are types of unearned income which must be considered in the budget.

- A. Pensions or other program benefits at the entitlement amount even though a lesser amount is received due to recovery of an overpayment and specified types of insurance and estates, such as: railroad and other retirement benefits; unemployment benefits; Railroad Survivors and Disability Insurance (RSDI) plus the amount of the [Medicare](#) premium when it is being withheld; Black Lung Benefits; veteran's pension or compensation or soldier's allotments and allowances; recurring compensations for injuries or other disabilities.

Veteran's (VA) and Black Lung benefits may be augmented due to the presence of dependents of the designated beneficiary in the home; count the entire amount of income to the designated beneficiary if it is Black Lung Benefits and only that portion designated for the applicant/recipient if it is Veteran's (VA) benefits.

- B. Payments not specified as disregarded that are received from OEO or under provisions of Title I of the Elementary and Secondary Education Act.
- C. Basic weekly allowance under JTPA.

- D. Lump-sum retroactive payments from RSDI or any other source unless specified for disregard or defined as a resource.
 - E. Returns from investments in [personal property](#).
 - F. The value of gifts or inheritances or in-kind contributions as determined according to Section [12210-F](#).
 - G. Interest on the principal of a mortgage held on another person's property and interest on savings accounts or money loaned out, unless it is "infrequent" and amounts to \$20 or less per month. (See [12205-C](#).) Interest is considered available to the account holder when it is actually recorded on the account, regardless of whether it has been recorded in a passbook or bank statement. Interest on a promissory note is usually available monthly.
 - H. Rent from real estate, and royalties from lease of timber, oil or mineral rights unless a person is self-employed in a royalty-related trade or business. Even though rental income is generally considered unearned income, certain allowable expenses may be deducted from such income before considering it in the budget. Examples of allowable expenses include but are not limited to: real estate taxes, utility costs, maintenance costs, cost of repairs, and cost of advertising. Interest on mortgage payments is also an allowable expense; however, that portion of the mortgage payment which is attributed to the principal cannot be included as an allowable expense.
- NOTE: Rentals from real estate which are ordinarily income of a trade or business being carried on by a self-employed individual, such as a real estate broker are earnings from self-employment and are, therefore, earned income.
- I. Allotments paid to parents of participants in Job Corps.
 - J. Proceeds from educational loans and grants, other than those to undergraduate students which are made or insured under any program administered by the Commissioner of Education, which exceeds education-related costs. (See Section [12230-A](#)) Proceeds from non-educational loans may be counted as unearned income only if the loan is determined to be invalid. (See Section [12310-E](#))
 - K. Proceeds of a life insurance policy of which the applicant/recipient is the beneficiary less amounts spent on the insured's last illness and burial expenses.
 - L. Alimony and support payments except for one-third child support payment from an absent parent for an eligible child recipient which are not to be budgeted.

- M. All other income including income based on need, not considered as earned income, unless specifically excluded.

12230 Earned and Unearned Income not to be Budgeted

- A. Any grant or loan to any undergraduate student for educational purpose made or insured under any programs administered by the Commissioner of Education including monies received by students under any College Work Study Program, and funds from PELL (formerly BEOG), SEOG, NSDL and guaranteed student loans. Also, that part of other educational loans and grants such as scholarships, VA educational assistance, loans and grants to graduate students under programs administered by the Commissioner of Education which is obtained and used for education-related expenses such as books, tuition, fees, equipment and supplies, transportation for school purposes, child care necessary for school attendance, etc., and thus is precluded from use for food, shelter and clothing.
- B. Payment received under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (PL 91-646) and the Alabama Relocation Assistance Act.
- C. Assistance based on need such as public aid payments funded solely by state or local governments.
- D. Monies considered not currently available to meet the needs of food, shelter and clothing:
 - 1. Individual and Family Grants (IFG), in recognition of the different purpose for which the grants are made and the fact that the grants are made for unmet or met needs which are not considered in agency standards.
 - 2. Cash gifts of \$20 per month or less if received less than twice per quarter. (See Section [12205-C](#))
 - 3. Earnings of a student child under age 22 up to \$400 in any one month not to exceed \$1620 per calendar year.
 - 4. Training incentive allowances under the JTPA programs up to \$30 per week.
 - 5. Cash paid by a third party to the vendor for life insurance; burial insurance; hospital insurance; other health insurance; medical care; hospitalization; and, for persons living in their own homes (which includes a person living in the home with someone else), a telephone.

6. Contributed home produce or produce grown at home (vegetables, milk, eggs, meat, etc.) – For budgeting purposes, treat home produce as follows:
 - a. Show no income in the budget from home produce grown by the recipient and/or his family exclusively for their use and that of other dependent persons in the household.
 - b. Count as income surplus home produce sold or exchanged, provided net income from it plus other budgeted income is more than amounts excluded as irregular income.
 7. One-third child support payments from an absent parent for an eligible child recipient
 8. Individual income which is less than a dollar a month from any single source.
- E. Payments for supporting services or reimbursements made to volunteers under the following programs:
1. Income received through the VISTA Program, including reimbursements for expenses.
 2. Compensation received for expenses of volunteers in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs pursuant to Titles II and III of the Domestic Volunteer Service Act of 1973, including Foster Grandparents Program and Retired Senior Volunteer Program (RSVP), any payments distributed or held in trust pursuant to any judgement of the Indian Claims Commission or the Court of Claims in favor of any Indian Tribe, and the tax-exempt portion of payments made under the Alaskan Native Claims Settlement Act.
 3. Amounts received for providing foster care.
- F. Nutrition Assistance under the following federal programs:
1. SNAP
 2. Benefits under Title VII, Nutrition Programs to the Elderly, Older Americans Act, 1965.
 3. USDA donated foods.
 4. Child Nutrition Act of 1966 and National School Lunch Act.
- G. The amount of the VA benefit for the housebound or aid and attendance allowances. (When an ineligible spouse provides the care, the payment s/he receives is considered as earned income to her/him in the deeming computation.)
- H. Housing or utility assistance as follows:

1. Utility assistance in the form of LIHEAP benefits provided under Section 2605(f) of the Omnibus Budget Reconciliation Act of 1981.
 2. Support and maintenance assistance, including home energy assistance, which has been certified by the Department as both provided on the basis of need and ⁽¹⁾ furnished in-kind by a private, non-profit organization, or ⁽²⁾ furnished in cash or in-kind by an entity providing home energy whose revenues are derived on a rate-of-return basis regulated by a state or federal governing body, or any supplier of home heating gas or oil, or a municipal utility providing home energy. In this context, support and maintenance assistance means any assistance designed to meet the expenses of day-to-day living. Home energy assistance means any assistance related to heating and cooling the home. This includes payments for utility service or bulk fuel and assistance in-kind such as portable heaters, fans, blankets, storm doors, or other items which reduce the costs of heating and cooling such as conservation and weatherization materials and services.
 3. HUD Community Development Block Grant funds paid under Title I of the Housing and Community Development Act of 1974 (PL 93-383) as expanded by PL 95-128 in 1977. Payments are made by check to the contractor or jointly to the contractor and property owner.
 4. Assistance provided under the Emergency Energy Conservation Service Program.
 5. Fuel or water from the land when the client avails himself of such fuel and water from land owned or rented by or otherwise provided to him.
 6. Rent and interest supplement payments paid directly to the landlord or mortgages under provisions in the Federal Housing Act.
- I. Assistance for Medical Care and Services or Social Services
1. Assistance for medical care and services are not considered income if they are any of the following:
 - given to an individual free of charge or paid for directly to provider by someone else;
 - room and board received during a medical confinement;
 - assistance provided in cash or in-kind (including food, shelter and clothing) under a federal, state or local government program, whose purpose is to provide medical care or services (including vocational rehabilitation); in-kind assistance for medical care provided under a non-governmental program whose purpose is to provide medical care or medical services;
 - cash provided by any nongovernmental medical care or medical service program or under a health insurance policy (except cash to cover food, clothing or shelter) if the cash is

either repayment for services already paid for or payment restricted to future purchase of a program approved service.

(Example: reimbursement from health insurance for prescription drugs paid.)

2. Social Services are not income if they are any of the following:

- assistance provided in cash or in-kind (but not received for services performed) under any federal, state or local government program whose purpose is to provide social services, including vocational rehabilitation;
(Example: VA Aid and Attendance cash payments.)
- in-kind assistance (except for food, shelter or clothing) provided under a nongovernmental program whose purpose is to provide social services;
- cash provided by nongovernmental social services program (except cash to cover food, shelter or clothing) if the cash is either repayment for services already paid for or a payment restricted to the future purchase of a program approved service.
(Example: client unable to do her own household chores and a private social service agency provides her with cash to pay a homemaker.)

12300 Resources

Under state and federal laws, all resources of a person above a [reserve](#) amount must be considered in determining his need unless specifically exempt. Resources of either spouse are considered available, or deemed, to the other and the couple's total resources are measured against the reserve limit for couples. Resources of the parent(s) above an amount allocated to him (the reserve amount for an individual, if one parent, or for a couple, if two) are deemed to a child applicant/recipient under 18.

Resources are those assets including both real and [personal property](#) which an individual or couple possesses, including all liquid (spendable) assets (not income), as well as those assets which are not presently in a liquid form. Some examples of resources are cash on hand, bank accounts, automobiles, land, stocks, bonds, and other negotiable items.

In order to be considered as resources, property or an interest in real or personal property must have a cash value that is available to the individual upon disposition. Generally, an individual with legal title to property has the right to control and dispose of it. A parent can usually make available property that is in the name of a child.

12305 Reserve Policy

A reserve policy has been established to enable a person or couple to retain some readily available resources for such purposes as meeting emergencies and producing income.

Under the reserve policy for the Supplementation Program, a person or married couple living together may retain resources with a countable value of up through \$2000 per individual or \$3000 per couple whether one or both are eligible. If the value of resources which must be considered exceeds the applicable amount, deny or terminate aid.

12306 Establishing the Reserve

The policies that follow apply to a person or married couple living together:

A. Non-SSI Recipient – At the time of review, establish the countable value of available resources. If resources are in excess of the **reserve** limit and cannot be utilized as income-producing property, terminate aid. Resource determinations are made as of the first day of the month. An individual's/couple's resources on the first day of the month will be counted for the entire month; therefore, persons with excess resources on the first day of the month, cannot establish eligibility based on resources until the first day of the next month, and then, only if resources are at or below the limit on the first day of that month. Changes in the amount of countable resources during a month have no effect on eligibility or ineligibility for that month.

B. Reasonable Efforts to Sell Excess Resources

Exclude the value of non-home real property which causes an individual to have excess resources for as long as s/he is making a reasonable effort to sell such excess resources.

To demonstrate that a reasonable effort is being made, the owner must:

1. list the property with a real estate agent; or
2. begin to advertise in at least one of the appropriate local media, place a : "FOR SALE" sign on the property (if permitted), begin to conduct open houses or otherwise show the property to interested parties on a continuing basis and attempt any other appropriate method of sale; and
3. except for gaps of no more than 1 week, maintain efforts of the type listed in 1 and 2 above; and
4. not reject any reasonable offer to buy the property (Assume that an offer to buy the property at a particular price is reasonable if it is at least 2/3 of the estimated current market value (CMV) unless the owner proves CMV is different than originally established.)

The exclusion ends if the property is sold, reasonable efforts to sell are not being made, or countable resources fall within the applicable limit even without the exclusion.

C. Conversion of Resources

Proceeds from the sale or conversion of the resource are not counted as income, but are also a resource to the extent retained. An increase in the value of a resource is an additional resource, rather than income. Any gain or receipt which is directly attributable to continuously owned property or to an increase in the value of a resource, or which is a conversion of a resource (for example, cash received from the sale of a car), or which is to replace/repair an excluded resource, which was lost, damaged or stolen, is a resource to the individual, rather than income. NOTE: Amounts received to replace/repair an excluded resource are also excluded as a resource for a period of nine months beginning with the month of receipt of amounts to replace/repair. After that time, amounts remaining are counted as a resource beginning the month following the month in which the time period expires.

1. Transfer of Resources by Gift for Persons Applying for or Receiving Prior to March 1, 1981

Contact the Family Assistance Division for guidance related to such transfer.

2. Transfer of Resources as a Gift or for Less than Fair Market Value for Persons Applying on or After March 1, 1981 and for Recipients of Such Applications.

Contact the Family Assistance Division for guidance related to such transfer.

3. Transfer of Resources for Persons Applying on or After July 1, 1988 and for Recipients of Such Applications

Public Law 100-360 amends Section 1917(c) of the Social Security Act to provide for elimination of any penalty for transfer of resources while the individual/couple remain in the community, i.e., not in an institution such as a nursing home.

12310 Liquid Resources to be considered Under the Reserve Policy

Liquid resources are those resources which are in cash or payable in cash on demand. Liquid resources also include financial instruments convertible to cash within twenty workdays. The most common types of liquid resources are savings accounts, checking accounts, stocks, bonds and mutual funds.

A. Trusts – A trust is a right of property held by one party for the benefit of another. The person who holds the legal title to property for the benefit or use of another is the “trustee”. Whether the

principal of a trust is a resource to the applicant/recipient depends on its availability to the applicant/recipient.

NOTE: When the trust is to be considered a resource, determine the CMV to be counted toward the [reserve](#) limit.

- B. Cash – Cash is money on hand or available in the form of currency or coins. Cash on hand is always counted as a [liquid resource](#) except when it is a business asset necessary to the operation of a trade or business that is excluded as necessary for self-support or under an approved plan for achieving self-support in the case of the blind or disabled.

An individual's allegation of actual cash on hand is accepted without verification. Cash on hand is not considered a resource in the month it was received if it was counted as income for that month.

C. Individual Checking and Savings Accounts

NOTE: Funds in a checking or savings account are not considered a resource in the month the funds were received if counted as income for that month.

D. Joint Checking and Savings Accounts

1. When a checking or savings account is held by an eligible individual and one more ineligible person, all funds in the account are resources of the eligible individual if he has unrestricted access to the funds regardless of their original source.
2. If more than one of the account holders is an eligible individual, divide the funds equally among the eligible individuals when determining their resources so long as they have unrestricted access.

NOTE: Unrestricted Access to Funds – Where an applicant/recipient is a legal party to a joint account and is legally able to withdraw funds from the account, the other account holder(s) is the deemor.

3. When the applicant/recipient has unrestricted access to the funds, but does not consider himself an owner of the funds (either fully or partially) and objects to the presumption of ownership as outlined in “1” and “2” above, it is client's [responsibility](#) to submit evidence to prove such a claim. Contact the PA Help Desk for additional information as needed.

E. Promissory Notes, Non-Educational Loans, and Property Agreements (Mortgages)

Promissory notes, non-educational loans and property agreements are counted as resources belonging to both the lender and the borrower beginning with the month after the month in which the transaction is completed. Contact the PA Help Desk for additional information as needed.

F. Time Deposits

A time deposit is a contract between an individual and a financial institution whereby the individual deposits funds for a specified period of time and in return the financial institution agrees to pay an interest rate higher than the maximum permissible passbook rate. Certificates of deposit and saving certificates are a common form of time deposits.

G. Life Insurance

In determining the resources of an individual or couple, a life insurance policy is considered only to the extent of its [cash surrender value](#). However, if the face value of all life insurance policies on any one individual totals \$1,500 or less no part of the cash value of any such policy or policies shall be taken into account. Life insurance which has no cash surrender value (e.g., term insurance) is not considered in determining the face value of insurance and is excluded from all computations.

H. Income Tax Refund

Income tax refunds are considered a [liquid resource](#) when received, because amounts withheld or paid as income tax during the course of the taxable year were already considered income for the wage earner. This is so even if the income from which the tax was withheld or paid was received prior to receipt of [SUP](#).

12311 Non-Liquid Resources to be considered Under the Reserve Policy

[Non-liquid resource](#) are assets which are neither cash nor financial instruments which can be converted to cash within 20 workdays. The most common types of non-liquid resources are: business property, non-business real property, and [personal property](#) which is not readily convertible to cash, such as furniture or household goods.

A. Real property is land, including houses or immovable objects attached permanently to the land in which an individual has ownership rights and interests. The terms real estate, realty, and real property may be used interchangeably.

1. [Equity Value \(EV\)](#) – the EV of all non-home real property is the amount for which the property can be sold on the open market in the particular geographical area, the current market value, minus any encumbrances.

2. Evidence of Real Property Ownership – The following official records may be utilized in establishing real property ownership: assessment notice; recent tax bill; current mortgage, deed or report of title search.
3. Availability – Resources which are determined not to be available are not considered in determining eligibility on the basis of resources.

4. Determining Types of Ownership Interest

In determining the value of real property, the type of ownership, the number of additional owners and the individual's actual ownership interest must be taken into consideration.

- a. Fee Simple Ownership

Ownership in fee simple means the individual is the sole owner of property and has the right to dispose of the property; thus the entire equity value of the property is a countable resource.

- b. Joint Ownership

Joint ownership means that ownership is vested in more than one person. The value of such property is charged to the individual in proportion to his ownership interest unless evidence is established to the contrary. Consider the value of property jointly owned with a spouse living in the same home in relation to the couple resource standard.

5. Evaluation of Interest in Heir Property

An heir is a person who is legally entitled to a share of property by intestate (no will) succession or by a probated will. In the absence of a will or a probated will, Alabama state law specifies the order in which parents, spouses, children, siblings, and other related family members may become heirs; however, the state law has changed several times and whether a person is an heir is determined by the law in effect at the time of the death of the owner of the property.

The chart, Alabama Descent and Distribution of Real Estate of Intestate Property, in Appendix III is applicable if the date of death of the owner is January 1, 1983 or later. If it is necessary to establish interest in heir property involving the death of the owner of the property prior to January 1, 1983, submit a brief report outlining the facts with attached documentation to the PA Help Desk.

6. Life Estate – **Life Interest** – A life estate conveys upon an individual, or individuals, for his life-time, certain rights in property. The owner of a life estate has the right to sell his life estate interest. He does not have title to the property and he does not have the right to sell the property.

The **equity** value of the life estate is determined by multiplying the CMV by the appropriate factor from the life estate column of the Life Estate and Remainder Interest Tables, and subtracting the individual's encumbrances. (Tables included in Appendix III.)

7. Life Estate – Remainder Interest – When an individual owner conveys property to another person for Life (Life estate holder) and to a second person (the remainder man) upon the death of the life estate holder, both a life estate interest and a remainder interest have been created in the property. Upon the death of the life estate holder, the remainder man will hold the full title in fee simple (sole ownership).
8. Where an individual holds a remainder interest in real property its resource value is determined by multiplying the CMV by the appropriate factor from the remainder column. If there is no contractual restriction that prevents the remainder man from disposing of his remainder interest during the life estate holder's tenancy, the value of the remainder interest is a countable resource unless it meets the criteria for exclusion.

B. Personal Property – The term “personal property” generally applies to all items which are subject to ownership and which are not considered real property. It applies to property of a moveable nature which may be easily transported or stored. Consider other **equity** value of all personal property (except for certain automobiles) in establishing the **reserve**, above the amounts specifically excluded unless the personal property is considered as income in a month. Personal property includes, but is not limited to:

1. Household goods such as furniture, appliances, furnishings.
2. Personal affects such as clothing, jewelry, hobby items.
3. Boats, trailers, automobiles (unless used as the principal place of residence and, therefore, considered “home property”).

12315 Resources not to be Included in Reserve

Certain resources will not be included in computing whether an individual's or couple's resources are above the maximum allowed. However, the value in excess of the amounts listed below will be counted as a resource.

- A. **Personal property** – This includes such items as clothing, jewelry, appliances, and furniture, unless bought as investment or valued at an unusually large amount. This exclusion applies to these items owned at the time of application or subsequently acquired by purchase. Personal property items acquired as gifts are considered as provided under Section [12210-F](#). **Equity** value cannot exceed \$2000.
- B. **Cash surrender value** of life insurance with face value(s) of \$1500 or less. If the face value or combined face values exceed \$1500, count the actual cash surrender value of the policy(ies).
- C. Payments received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646) and the Alabama Relocation Assistance Act.
- D. Motor Vehicles – In determining the resources of an individual or couple, automobiles, defined as any vehicle which can be used for transportation, are to be excluded or counted as follows:
1. A motor vehicle regardless of its value may be totally excluded if, for the individual or a member of the individual's household, it is necessary for employment, medical treatment of a specific or regular medical problem, or is modified for operation by or transportation of a handicapped person, or necessary because of climate, terrain, distance or similar factors to provide necessary transportation to perform essential daily activities.
 2. If no automobile is excluded according to the above criteria, the current market value up to \$4500 of one automobile is excluded. If the current market value exceeds \$4500, the excess current market value is counted against the resource limit.
 3. The **equity** value of any automobile in addition to the above is to be counted as a resource unless the vehicle is part of other exclusion provisions not related to the motor vehicle exclusion, such as part of resources essential to self-support or necessary in achieving a plan for self-support or an asset considered to be funds set aside for burial. Appropriate value limits of these individual exclusions are applicable.
- E. Wedding and engagement rings of any value.
- F. Value of subsistence livestock.
- G. Up to \$6000 of an individual's **equity** in income producing property (other than home property) essential to self-support if it produces a net annual income of at least 6% of the excluded equity. (Equity value is current market value less encumbrances.) However, if the individual's equity is over \$6,000, count as a resource only the amount in excess of \$6,000, of the property is producing 6% of the excluded equity. If not, count the entire amount in the **reserve**.

Example: Equity value \$7500 producing \$450 per year – resource value is \$1500 as \$450 is in excess of a net annual return of 6% of \$6,000 (the equity).

Example: Equity value of property \$7500 producing \$300 per year – resource value is \$7500 as \$300 is less than 6% of \$6000 (the excluded equity).

Example: Equity value \$5000 producing \$200 per year – resource value is \$5000 as \$200 is less than 6% of \$5000 (the excluded equity).

- H. HUD Community Development Block Grant funds paid under Title I of the Housing and Community Development Act of 1974 (PL 93-383) as expanded by PL 95-128 in 1977. Payments are made by check to the contractor or jointly to the contractor and property owner.
- I. Burial spaces which are intended for the use of the individual, his/her spouse or any other member of his/her immediate family. Immediate family for purposes of this policy includes the individual's minor and adult children, stepchildren, and adopted children, brothers, sisters, parents, adoptive parents and the spouses of those persons. This definition does not include the members of the ineligible spouse's family unless they meet the specific relationship to the applicant/recipient. Burial spaces are conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.
- J. Funds in an Irrevocable Arrangement which are available for burial. This applies to funds which are held in an irrevocable burial trust or an amount in an irrevocable trust which is specifically identified for burial expenses.
- K. Funds set aside for burial not to exceed \$1500 each with respect to the individual and his/her spouse, if any. The exclusion applies whether or not counting any portion of the funds would cause the individual/couple to exceed the resource limit. The \$1500 limit for each individual is reduced by an amount equal to the amount of funds held in an irrevocable burial trust, an irrevocable burial contract, or other irrevocable arrangement which is available to meet that individual's burial expenses as well as the face value amount of burial insurance if the policy has a [cash surrender value](#). Each individual's limit is further reduced by the face value of any insurance policy on that individual's life owned by him/her or his/her spouse if the cash surrender value of the policy was excluded in determining the resources of the individual. Sections [12310-G](#) and [12315-B](#) discuss provisions related to life insurance policies.

Funds set aside for burial include revocable burial contracts, burial trusts, and any separately identifiable assets which are clearly designed as set aside for the expenses connected with the individual's burial, cremation or other funeral arrangements. Funds can be designed and

separately identified for burial by a signed statement from the applicant/recipient, personal record, bank records, etc. Funds not separately identifiable for burial cannot be excluded.

- L. Increases in the value of excluded burial funds due to interest on such funds which was left to accumulate or appreciation of such funds which occurred after they were initially set aside. When there is interest on excluded and non-excluded burial funds held together, only the interest accrued on the excluded portion of the fund can be excluded from the [reserve](#). Interest sent directly to the client is considered income.

NOTE: Funds described in paragraphs “K” and “L” above will remain excluded provided they are not spent for some other purpose. If it is determined that a part or all of the excluded funds (of the individual or ineligible spouse) were spent for another purpose while the individual was receiving a supplementation payment, an overpayment by virtue of a penalty in an amount equal to the expended funds will be created and will be subject to recovery. This applies only in cases in which the counting of any part of the funds would have caused ineligibility due to excess resources. No overpayment exists if the funds (plus other resources) were within resource limits.

M. Housing or Utility assistance as follows:

1. Utility assistance in the form of LIHEAP benefits provided under Section 2605(f) of the Omnibus Budget Reconciliation Act of 1981.
2. Support and maintenance assistance, including home energy assistance, as in Section [12230-H.2](#).

N. Retroactive (Title II) RSDI benefits are to be excluded for six months after the month in which received.

O. Non-business property used to produce goods or services essential to self-support if the [equity](#) value does not exceed \$6000. This type property includes real property such as land which is used to produce vegetables or livestock only for personal consumption in the individual's household.

P. Cash payments received for medical or social services for one calendar month after the receipt of such monies. However, cash retained until the first moment of the second calendar month following its receipt is a resource beginning that month. Monies which represent reimbursement of previously paid medical or social services from the individual's own funds represent a countable resource if still on hand in the month following receipt.

12320 Home Property

Exclude the value of the home property regardless of size in determining eligibility for and the amount of assistance.

- A. Definition – The home property shall be considered as the home and surrounding property which appertains to the home and any other buildings located on such property, upon some portion of which the applicant/recipient lives and to which he has legal claim.

To appertain to the home, the real property must adjoin the lot on which the home is located and not be separate from it by intervening real property owned by others. Where real property adjoins the plot on which the home is located and has contact with that plot, it does not matter if there is more than one document of ownership (e.g., separate deeds). It also does not matter that the home was obtained at a different time from the rest of the real property or that the holdings may be assessed and taxed separately. In considering whether real property appertains to the home plot, do not consider easements or public rights of way (e.g., streets, roads, utility lines, etc.) which run through or by the land and separate the land from the home plot or from the rest of the land. This definition includes a trailer, boat, etc., when used as the principal residence (home).

- B. Purpose

Since the purpose of the home property is to provide shelter, the following will apply:

1. An individual's or couple's home, including continuous land, is completely excluded from consideration as a resource. This exclusion applies where an individual or spouse with whom the individual lives has ownership interest in the home and the home is the individual's principal place of residence.
2. Temporary absences from home for trips, visits, and hospitalization do not affect the home exclusions as long as the individual intends to return home. The individual's oral or written statement of intent to return is sufficient to meet this provision. Statements of intent to return are also acceptable from individuals with authority to act on behalf of the applicant/recipient in situations where the applicant/recipient is incapable of providing such information.
3. Only one living place may be established as the principal place of residence. Only the principal place of residence may be an excludable home. If the applicant/recipient indicates that he lives in more than one place, is now absent from home, or owns more than one residence, it is necessary to determine the principal place of residence. Obtain a signed statement from the applicant/recipient indicating where he spends most of his time.

4. When home property can no longer be excluded as the principal place of residence, it must be considered as a resource under usual policies.

C. Disposal – When an applicant/recipient disposes of an excludable homestead, proceeds from the disposal which were not spent during the month of receipt are generally considered a resource, to the extent retained from month to month beginning with the month following the month of disposal, unless the individual intends to use the proceeds according to specific conditions. Proceeds of a home sale are the net payment received by the seller after satisfaction of all actual encumbrances and sale expenses. Encumbrances include mortgages, liens, and any other enforced claims against the home by individuals, corporations, or instrumentalities of government. Brokerage and legal fees, and transfer and other taxes are examples of sales expense.

1. Intent to Replace

When an applicant/recipient disposes of an excludable homestead and states he plans to reinvest in another excludable resource and/or another home (which is excludable), disregard proceeds from the disposal for up to three months from the date of receipt of the proceeds, if he is a recipient, or three months from the date of application, if he is an applicant. A signed statement from the applicant/recipient must be obtained which provides the date of sale, amount of proceeds, intent to replace within three months, and an understanding that, if proceeds are not used for replacement within the time frame, they may be counted as a resource.

If, before the end of the three month replacement period, the proceeds have not been spent as planned or “allowed for exclusion” or there is not a written contract to spend as planned or “allowed for exemption”, the amount of proceeds is to be counted as a resource beginning the month following the month of receipt of the proceeds. Additionally, any proceeds remaining after replacement of the home or written contract to replace must be counted as resources as of the month following the month of receipt of the proceeds. It is necessary to verify proceeds and replacement expenses.

NOTE: Interest received on the excluded proceeds is considered as unearned income and is budgeted accordingly.

2. No Intent to Replace

If the individual states no intent to replace, the amount of the proceeds which is still on hand on the first of the month following the month of receipt is considered a resource beginning the month following the month the proceeds are received, unless received on the first date of a

month in which case they count in the month received. In each month thereafter, the amount on hand on the first day of the month is considered a resource (Section [12306](#)).

^[1] [Rev 766](#) Nov 2010

Chapter 20.....	2
The Case Record.....	2
20000 General.....	2
20005 Purpose of the Case Record.....	2
20015 Case Numbers.....	3
20020 Arrangement of the Case Material.....	4
20025 Recording.....	5
20030 Mailing of Case Records.....	8
20031 Transfer of SUP and FA Cases.....	8
20032 Transfer to Alabama Medicaid Agency of Terminated Mandatory Nursing Home Cases.....	10
20033 Transfer of Public Assistance Claims Collection Responsibility.....	11
20100 Confidentiality of the Case Record.....	11
20150 Retention of Case Records.....	17
20200 Electronic Data Security.....	17

Chapter 20

The Case Record

20000 General

A. Case Record

The County Department of Human Resources must maintain a separate eligibility **case record** on each **SUP** or FA **assistance unit** applying for, or approved for, assistance. Separate case records are to be maintained when spouses^[28] live together in a common household and are both **eligible** to receive aid in their own names. The case record must include all necessary forms, permanent **verification documentation** and all related correspondence. Financial and statistical records related to the individual case are a part of the case record but are not included in the case folder.^[1] NOTE: In the circumstance of an alternate grantee relative (AGR) pursuant to Section **1400E** or **2595**, the case record should only contain the DHR-FAD 2215, and any other documents, narrative, etc., directly associated with those responsibilities.^[26]

B. Case Record Assignment^[29]

Responsibility for case handling and processing is assigned to staff pursuant to FACETS Certification User Manual Section 13500. Modification to that caseload assignment can be made by the supervisor as stated in the referenced section or by email request to the Family Assistance Division for an entire automated redistribution. In the automated caseload redistribution, case record assignment methods may vary from county to county. Such reassignment following the initial assignment at application can be by zip code, alphabetical or numerical.

EXCEPTION: Staff related to an applicant/recipient cannot be assigned to such case. In this circumstance, a supervisor is to be assigned and is to maintain the case file in his/her office. Contact the PA Help Desk as needed for additional guidance/information.

20005 Purpose of the Case Record

- A. To substantiate agency action at all times by containing proof of initial and continuing eligibility or valid reasons for disapproval, discontinuance, or change in the amount of aid.

- B. To provide a clear picture of the [client](#) and his actual situation as the basis for financial aid and other services to the client within agency functions.
- C. To prevent needless repetition of the client's story when workers change and to afford continuity of service.

Because the [case record](#) serves these purposes, it is useful in the evaluation of agency practice, in supervision, and research.^[2]

20015 Case Numbers

A separate case ID number is assigned to each person or FA family making application. A separate [client](#) ID number is assigned to each individual included in the [assistance unit](#).^[3]

In a temporary (Section [2415](#)) or permanent change of [payee](#) situation or to appoint an alternate grantee relative (Section [1400E](#) or [2595](#)) terminate the case and [award](#) under the new payee's name and social security number or T number. (Make a cross reference to the old case number and in the situation of the alternate grantee relative (AGR) file the disqualified grantee relative's case record attached to the new AGR file.) ^[27]

A. FA

In FA the case number is the [grantee relative's](#) social security number unless the grantee relative is excluded pursuant to Section [3105-C.1](#) or [5](#) and does not provide his/her own SSN or is serving as an alternate grantee relative (AGR) pursuant to Section [1400E](#) or [2595](#). In such a case, assign a T number. The social security number can be provided orally, in writing or by presenting the social security card or NUMIDENT, or the IEVS inquiry indicating that the client has a previously assigned social security number with verification code S, Q, V, 2, 3, or 4 and the worker is reasonably sure of the identity of the person by whom the number is claimed.^[4]

B. Supplementation

In [SUP](#) the [case number](#) is the [applicant's](#) social security number. The social security number used as the case ID number can be provided orally or in writing by the [client](#), or can be reflected on one of the following documents, a copy of which is contained in the [case record](#): ^[5]

1. Social security card or NUMIDENT.
2. [SSA](#) notice to the client with his name and account number on it (or claim number with suffix A, J [1, 2, 3, or 4] M, M1 or T).
3. [SSI](#) check.
4. [RSDI](#) check (only if the person is drawing on his own account, i.e., the wage earner, as indicated by suffix A on the social security number printed on the check).

5. Medicare claim (only if Medicare number suffix is a, J [1, 2, 3 or 4] M, M1 or T).
6. Copy of BENEDEX or SDX inquiry screen or BENEDEX (“SSA changes”), SDX (“Monthly SDX changes”) printout for the person who is the wage earner.
7. IEVS Inquiry Screen showing verification code S, Q, V, 1, 2, 3, 4, or 5.

When an incorrect case or client ID number is identified, it must be promptly corrected. When an incorrect case number or client ID number has been entered on FACETS, correct the case number according to procedures in Section 5005 of the FACETS Certification User Manual.^[6]

20020 Arrangement of the Case Material

To facilitate use and provide statewide uniformity, arrange the case material in case folders in the following manner:

A. FA

NOTE: Other arrangement is acceptable as long as all records are uniform within the county office and materials as described are contained in the case file.^[7]

1. Attach to the left inside of the case folder with a metal fastener current verifications/documents which are unchanging and used to establish eligibility such as: child support forms/documents, birth verifications, court orders/other legal documents, proof of grantee relationships, copies of social security cards, and so forth.
2. Gem clip together the current eligibility packet which may be composed of the current application form, the most recent, completed regular review document (C501) or child-only interim review document (C540) if returned, the affirmation of household circumstances generated at the most recent application or face-to-face redetermination interview along with copies of FACETS screens ZC08 and/or ZC52 for the most recent application, related comments from FACETS screen ZE56 and any supporting documentation, copies of any eligibility-related notices given to the client and any correspondence with the client related to the current eligibility determination including FACETS Notice of Missing Verification, copies of all verification related to the current determination of eligibility and level of benefits (with the exception of permanent verification), budget calculations including the 1267, ZC45 and ZC27, ZE02, copies of all disposition printouts, any reports of change and related verifications and comment screens and change disposition printouts. Arrange these documents in chronological order with the most recent disposition sheet on top and fasten them together. This packet will be carried loose in the file folder, but should be the first packet seen when the file is opened.^[8]
3. Maintain the current plus most recent two eligibility packets in the file folder Volume I, moving older packets to Volume II, etc. There is no limit on the time between the three most recent packets.

4. When separate **case records** are being prepared on persons previously included in other case records, make a cross-reference to related **case numbers** in the comment section of ZC09 on FACETS.

B. Supplementation

1. Current Forms

Arrange these forms in the following order:

- a. The summary of household circumstances generated at the most recent application or redetermination, related comments, and disposition prints
- b. Face sheet (if used)
- c. Medical and **social information** (if appropriate)
- d. Agreement to Provide Personal Care, 797 or C600 (when necessary)
- e. Medical Statement, 1801
- f. **Verification** of age (if appropriate)
- g. Any other current forms to show receipt of SSI, **Medicaid** waiver services, **income/resources**, documentation of social security number, etc.

File this chronologically with the most recent correspondence on top.

2. Obsolete Forms

Hold each group of forms together with a gem clip or some other satisfactory method. Obsolete material should be filed together in chronological order behind current material.

If it becomes necessary to have a second volume to a **case record**, file the obsolete forms other than most recent application, and old correspondence in Volume II. File the current forms, most recent application, and the entire **narrative**, unless too bulky, in Volume I.

When separate case records are being prepared on persons previously included in other case records, make a cross reference to the related **case number** in the place provided for this on the face sheet, if used. Also, at the beginning of the new case record, make the following entry: "For previous case information, see Case No. _____ (John Doe)". Give a cross reference on the master index card and in the comments section of ZC09 on **FACETS**.^[9]

20025 Recording

A. Method of Narrative Recording

The purpose of the **narrative** is to record only that information which is not on comments sections of **FACETS** screens nor found on any form, document or other material in the **case record**. Do not burden the case record with lengthy or repetitious narrative entries. Complete

sentences are not necessary. All recording is done in longhand on the 746. (See form and instructions in Appendix II.)

Use the chronological method of recording on the 746; that is, record entries as they occur by dates. Show the date in the margin. If more than one interview or contact takes place on the same day, the date need not be repeated but enter "Later" in the margin.

Set out clearly in the record specific data regarding points of eligibility when the data is not on any form in the case record or FACETS comments screen. Include in each entry the name of the person interviewed, date of interview (place in margin) and the place of the interview. To avoid confusion, distinguish clearly the identity of individuals. Use of the given names of the children or the given and surnames of adults tends to individualize persons. Also, for an adult, always use the appropriate courtesy title, such as Mr., Mrs., Miss, Dr., Ms., etc. If the source of information is stated at the beginning of an entry, it is not necessary to repeat the informant's name, unless several persons have participated in the interview.

B. Recording in Specified Situations:

1. Personal Contact

Include in the case record the name and address of every [reference](#) used, the date of interview or correspondence, the length of time reference has known the [client](#), his relationship to the client and the purpose of the contact, and the conditions governing disclosure of information contained in the case record. Include the definite information given by the reference regarding specific points of eligibility, and the basis for his statements, along with any other pertinent information. Where space is provided for recording this information on FACETS screens, it need not be recorded again in the Record of Contact.

2. Documentary Evidence

If a document is in the case record, no narrative entry concerning it is necessary. If a document is not in the case record then record the nature, location, and date of the document, together with the information considered as authentic proof of eligibility. Secure clippings on full-size sheets, with the date and identification given.

3. Letters

Record the date in the margin and write "Letter Sent" or "Letter Received" with a brief statement concerning the subject of the letter.

4. Protected Health Information (PHI), i.e., Medical Information

Document in the case record the specific circumstances regarding the sharing of PHI (the date, purpose and who was given the information) if medical information is shared with any other program area, such as [child support](#) or

family services. Also a client may request an accounting of our disclosure/release of this protected health information which is to be provided and can be obtained from the narrative recording. Refer to 20100 for rules governing release/disclosure of such confidential information.^[10]

5. **Regular review**

Include a statement in the narrative recording that all assistance unit members were screened on IEVS, SCI-II and ALECS when processing a regular review. Identify additional information or include a screen copy (if allowable) of the information in the record. If no additional information was found, document that fact also.^[11]

C. Basic Data Which Must be Recorded in FA and Supplementation Categories^[12]

1. Any information and/or **verification** relating to eligibility that is supplementary to the forms used in the process of establishing initial or continuing eligibility.
2. A list of the forms that were completed with the **client** and are not listed on the affirmation print. List only those forms for which copies are not found in the **case record**.
3. A list of pending information and/or verification needed to establish each point of eligibility if not on a **FACETS** generated verification request. As such information and/or verification is secured, note receipt of and date received in the **narrative**, if not on the FACETS verification request.
4. Type of and date when correspondence was sent or received.
NOTE: Worker's signature on the PSWCO075, FACETS affirmation print, attests to the fact that all explanations checked have been explained to the client.
5. Client email address, if provided as needed to authenticate receipt of information and/or verification.^[30]

D. Basic Data Which Must be Recorded in Supplementation Categories Only

1. The fact that the service pamphlet was explained and given.
2. The fact that the proper endorsement of checks was explained at application.
3. The fact that the agency's standard of promptness in acting on applications including the circumstances that may result in the standard being exceeded was explained at application.

4. At application and **review** when there is a **face-to-face interview**, an evaluation of the **client's** ability to understand the agency policies and his/her willingness and ability to report changes.
5. Client was advised that social security numbers will be used in computer matches and that **income** and eligibility information will routinely be requested from state and federal agencies including, but not limited to, the Social Security Administration, Internal Revenue Service and the Alabama Department of Industrial Relations.^[13]

20030 Mailing of Case Records

When it is necessary to mail a case record, always send it certified mail, return receipt requested, unless there is a large quantity and express would be cheaper. If express is used to send **case material** to the State Department of Human Resources, send the material “collect”.

20031 Transfer of SUP and FA Cases

When a **recipient** of **SUP** or **FA** moves from one county to another within the State of Alabama; the county department first learning of the move has responsibility for notifying the other County Department. Such cases will be transferred except when ineligibility for benefits is established prior to the actual transfer of **case material**. In the following procedures governing transfers, the county from which the **client** moves is designated as county department No. 1. The county to which the client moves is designated as county department No. 2. A crucial point about transfers of cases is that inter-county transfer of SUP and FA cases is an administrative procedure. However, because the client's eligibility may be affected by the circumstances of the move, care must be taken by both counties involved to ensure that the client's rights to **adequate notice** as well as timely receipt of benefits are protected. Transfer of a case thus requires the cooperation of both counties involved.

A. Timetable for Taking Action

1. County No.1 initiates the transfer by completion of ZE60, Section A and mailing ZE80 to County No.2 (case control in County No.1).
2. County No.2 acknowledges receipt of case material and transfer agreement by returning completed ZE80 to County No. 1 (case control in County No. 1).
3. County No. 1 completes transfer by completion of ZE60, Section B (case control transferred to County No. 2).

The above actions may all take place in one calendar month or may spread over two consecutive calendar months. However, completion of the transfer (case management control in County No. 2) must be no later than the end of the month following the month in which County No. 1 initiates the transfer.

B. Action by County Department No. 1

1. Immediately upon learning of the move, secure from the [client](#) and enter on [FACETS](#) information regarding the change including new address, any change in [assistance unit](#) composition, anticipated changes in the source or amount of [income](#) or resources. Inform the client that [transfer](#) will involve administrative change of case management control. Verify all points of eligibility that have changed. (See Sections [1125-C](#) and [1125-G](#) for [verification](#) requirements. Residence in the new county is subject to verification.) Evaluate these changes to determine if the family will remain [eligible](#).

If the household also receives food stamp benefits, inform the client that an application for food stamps must be made in County No. 2 if continuation of those benefits is desired.

- a. If eligibility will continue, use FACETS screen ZE60 to begin the transfer process and send County No. 2 by certified mail, return receipt requested, the following materials:

- (1) The original and one copy of FACETS county to county transfer agreement, ZE80, with the top portion completed;
- (2) The current eligibility packet;
- (3) All supporting [documentation](#) such as verification of births and [SSN's](#);
- (4) Information and verification of any changes that occurred concurrently with the change of residence and which did not result in ineligibility as discussed in “b” below so that County No. 2 may take action appropriately within the time for promptly processing changes;
- (5) Information related to JOBS participation; originals of test documents; information and supporting documents regarding noncompliance and [sanction](#) activity; and
- (6) Documentation related to any outstanding claims.^[14]

- b. If the case is found to be ineligible for any reason, do not transfer the case; take action to terminate using the appropriate reason codes and notification procedures.^[15]

NOTE: In the event the client notifies County No. 2 of the move after the fact, County No. 2 must secure the information on form 703 and promptly forward it to County No. 1. It is the responsibility of County No. 1 to verify all points of eligibility that have changed prior to the transfer to County No. 2; if, however, the process of securing this verification will pose a [hardship](#) to the client, County No. 1 must request assistance in writing from County No. 2 that County No. 2 complete the verification process upon acceptance of the transfer. Verification of the move must always be accomplished prior to the transmittal of [case material](#) and transfer agreement forms to County No. 2.

2. Notify the JOBS unit of the move of a JOBS participant and assure that all participants are closed on FACETS in the WATS subsystem before completing the transfer.
3. Retain copies of correspondence about the transfer, including a copy of the ZE80 (to be destroyed when a completed copy is returned from County No.2); out-of-date correspondence, all but the current eligibility packet with supporting data; and financial documents initiated by County No. 1.
4. Upon receipt of the transfer agreement from County No. 2, take immediate steps to access ZE60 on FACETS and complete section B. Completion of section B and successful update by County No. 1 changes management control of the case so that only County No. 2 can take further action on the case.

C. Action by County Department No.2

1. Immediately upon receipt of **case material**, complete the lower part of the **transfer** agreement, send the original to County No. 1 and retain one copy. (See Section “A” above regarding the timetable for the transfer.) If the **case record** is not complete as provided above, County No. 2 must request the necessary documents to be provided prior to acceptance of the transfer, a copy of the letter is to be provided prior to acceptance of the transfer, a copy of the letter is to be provided to the PA Field Supervisor of County No. 1 and of County No. 2. If County No. 1 has requested assistance in writing in regard to determining the **client’s** continuing eligibility, accept the transfer according to the original timetable. Do not delay acceptance of the case pending the eligibility **redetermination process**.

Action in regard to the client’s continued eligibility will then be taken within appropriate time frames. The only reasons for refusal to accept a transfer are ⁽¹⁾ **verification** by either county that the client did not move to County No. 2 or ⁽²⁾ the client is demonstrably ineligible at the time that case material is received by County No.2. In either event, all materials and a written explanation are to be returned to County No. 1 for appropriate action.^[16]

2. If a JOBS participant is transferring, inform the JOBS unit of this fact.
3. Take immediate steps to process any pending change that occurred concurrently with the change of address within usual time frames.

NOTE: In an **appeal** situation, accept the case on the basis of the appeal with the payment unaltered.

4. After receipt of transfer agreements and case material, any additional information reported by the client will be processed as per Section **1125-G**. The acceptance of the transfer is not to be delayed pending the verification of this additional information, unless it specifically indicates that the client does not now reside in County No. 2.

20032 Transfer to Alabama Medicaid Agency of Terminated Mandatory Nursing Home Cases

When a mandatory nursing home case is terminated from the county department payroll due to excess [income](#) and/or resources, steps should be taken to immediately [transfer](#) that case to the Medicaid Eligibility Division District Office (MED) serving the county. (See listing in Appendix III.)

Notate file records to show “Case transferred to _____ MED Office” and mail the eligibility [case record](#) by certified mail, return receipt requested. Upon receipt of the record, the MED Office will evaluate the record and take an application, if necessary. If the record is needed, as in case of a county audit, the record will be returned at the request of the county director.^[17]

In case records that contain material on an [eligible spouse](#), the county should forward to the MED the name, social security account and claim number, sponsor’s name, address, and telephone number. Information with copies of [verifications](#) of income, property or other resources should also be sent, if available.

20033 Transfer of Public Assistance Claims Collection Responsibility

Whenever administrative responsibility for an active [SUP](#) or FA case is transferred to a second county, responsibility for collection of any outstanding claim balance(s) is also to be transferred. (The original county retains the responsibility of completing the disposition process of any outstanding possible claims, these will be transferred upon establishment of any claim on the automated claims system.) At minimum, County No. 1 shall transmit the following claims material: A copy of the 818 which documents the [overpayment](#) and a copy of any current repayment agreement. As appropriate, include copies of any correspondence with the Office of Claims Recovery (OCR) or legal officials.^[18]

Claims materials as described above will also be transmitted using form 670 when transferring collection responsibility to a second county as provided in Section [22900](#) for a [client](#) who is not currently receiving assistance.

20100 Confidentiality of the Case Record

Confidentiality of the case record is assured by both federal and state law and serves the purpose of protecting the [applicant/recipient](#) from economic and/or political exploitations. Regulations, state and federal laws do allow for the release of information to courts under specific circumstances upon request and to those persons or agencies having a legitimate interest in the welfare of the applicant/recipient and in the integrity of the program. Also, the applicant/recipient is provided access to his record in cases of requests for a hearing. (See Sections [21010-B.4](#) and [21020-A](#) and [B](#))

As a general statement governing the release and disclosure of records, the Code of Alabama 1975, 38, Section 2-6(8) provides for the confidentiality of the case record as follows:

"...it shall be the duty and responsibility of the State Department to:... (8) Establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state and county departments. The use of such records, papers, files and communications by any other agency or Department of government shall be limited to the purpose for which they are furnished and by the provisions of the law under which they may be furnished. All case records of recipients of, and applicants for, assistance including, but not limited to, payments and services, shall be considered confidential and not public writings and shall not be subject to public use or inspection..."

The Commissioner of the State Department of Human Resources is the official custodian of all department case records and confidential information. Authority is delegated therefrom to all county department directors to release or approve release of [Public Assistance](#) case records in accordance with the guidelines laid out in this chapter. County directors may designate other persons under their supervision and give them authority to make decisions on the release of department public assistance case records. Security of records is to be maintained by placing all case records and other records of a confidential nature in secure files at night. Records are to be removed from the office only under exceptional circumstances on specified order of the county director. In such cases, a signed memorandum or other written record shall be maintained which indicates where the records are and for what purpose they have been removed from the office.

Staff are required to complete a general Confidentiality Agreement that provides a statement of understanding and agreement to protect any information regarding the Department, its facilities, employees and/or [clients](#) as well as a Confidentiality Agreement related to system security. This chapter discusses confidentiality from the program perspective. ^[19]

Subpoenas issued in cases not referred to the attorney general, district attorney or to an approved department attorney by the Department and not involving program-related fraud investigations shall be resisted by seeking protective orders from the court of law issuing the subpoena. Likewise, subpoenas issued by law courts outside Alabama, by ecclesiastical courts, or by agencies or other administrative bodies shall also be resisted by refusal to disclose or release the requested information without a competent Alabama or Federal court order. The county director shall contact the Legal Office as soon as possible in such instances described above in which subpoenas are to be resisted.

The following sections describe the situations and conditions under which public assistance records can be released and/or information disclosed. These provisions are unchanged by privacy rules as received under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) transmitted in Admin. Letter 7020 dated March 14, 2003 as regards protected health information (PHI) i.e., medical information. In this context, disclosure refers to oral or written acknowledgement or revelation of certain information contained in Departmental records, but not actual release of documents contained in those records. Release refers

to freeing, publishing, delivering, or allowing access to or inspection of Departmental records, including photostatic reproduction of such records.^[20]

A. Disclosure and Release Within the Department

As a general rule, access to and release of [public assistance case records](#) and other related confidential information is permitted among bureaus, divisions and other organizational units of the Alabama Department of Human Resources.

Specifically, FA, [SUP](#), [Medicaid](#) and AR case records and related confidential information may be disclosed or released in connection with Departmental programs operated under Title I – Aid to the Aged; Title IV-A – AFDC or block grants to states for Temporary Assistance to needy families inclusive of the [JOBS program](#); Title IV-B – Child Welfare Services; Title IV-D – [Child Support](#) and [Establishment of Paternity](#); Title IV-E – Foster Care (FCMP) and Adoption Assistance; Title X – Aid to the Blind; Title XIV – Aid to the Permanently and Totally Disabled; Title XVI – Aid to the Aged, Blind and Disabled; Title XVI – Supplemental Security Income (SSI); Title XIX – Medicaid; or Title XX – Block Grants.

Such records may also be released in connection with the administration of other Federal or federally assisted programs providing assistance, in cash, in-kind, or services, directly to individuals on the basis of [need](#). The [client's](#) permission is not required under this subsection.

B. Disclosure to Other Government Entities

The Department shall disclose and/or release Department records, or copies, to state and federal agencies and other governmental entities entitled to receive them under federal or state law or regulations as follows:

1. The state or county department may furnish the current address of a current FA [recipient](#) to any Federal, State or local law enforcement officer if the individual is fleeing to avoid prosecution, custody, or confinement for a felony, the individual is violating a condition of parole or probation, or the individual has information necessary for the officer to conduct an official duty related to a felony or parole/probation violation. The officer must furnish the recipient's name and notify the agency that locating or apprehending the individual is an official duty and the request is being made in the proper exercise of an official duty. The information may be disclosed or released only upon an oral or written request that contains (1) the name of the requestor, (2) the requestor's position and authority, (3) the crime being investigated, (4) the name and the social security number (if available) of the person on whom information is being requested, and (5) the information being requested.^[31]

2. **Public Assistance case records** and other confidential information may be released to a governmental agency which is authorized by law to conduct a public audit. Auditing activities include a **review** of case records, expenditure reports and other financial reviews conducted in connection with the administration of public assistance programs. The **client's** consent is not necessary when disclosing information for the purpose of a public audit.
3. Information may be released to law-enforcement officials, such as Public Safety Department officials, Postal Service Investigators, and the Attorney General's Welfare Fraud Unit and Task Force, who are investigating problems related to the misuse of checks, or **EBT** cards issued by the Department of Human Resources or **Medicaid** cards issued by the Alabama Medicaid Agency. This includes situations where there have been forgeries or when duplicate checks have been issued and there is a dispute about whether the recipient did or did not receive the initial check. These situations are considered matters directly connected with the administration of public assistance and the Department of Human Resources is interested in having them resolved.
4. FA/Medicaid case records and other confidential information may be disclosed or released in connection with programs operated under Title I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI (AABD), XVI (SSI), XIX or XX of the Social Security Act. (See A above for Program Titles)
Such records or information may also be disclosed or released to other Federal or federally assisted programs providing assistance in cash, or in-kind, or services, directly to individuals on the basis of **need**. This includes release of Department records, or copies, and other confidential information to agencies and other governmental entities within or outside Alabama to which the Department has transferred cases. In the case of protected health information (PHI) i.e., medical information, the requested PHI must be relevant to the determination of eligibility for assistance/need. For example, PHI is not relevant to a determination of eligibility for low **income** housing. However, PHI would be relevant to a **SSI** eligibility determination on the basis of medical disability. The client's permission is not required for release of information under this subsection.

C. Client's Access to Records, Including Access by Non-Governmental Agencies

As a general rule, **applicant**, **clients**, and **recipients**, or their representatives, are not entitled access to their **case records** or other confidential information. The following exceptions apply:

1. Information regarding a non-SSI or a Medicaid only SUP recipient's eligibility or ineligibility for Medicaid may be given to providers of medical services upon the request of the client and/or the provider of the services.

NOTE: The Medicaid number of a non-SSI or Medicaid only SUP recipient may be released only to that individual.^[21]

2. Where the Department has taken adverse action and a hearing has been requested and accepted, the affected client, or his authorized representative, shall upon request have access to that portion of the case record relating to the adverse action expected to be placed in evidence at the hearing. Confidential information, such as Child Abuse and Neglect reports and records, shall remain confidential and not subject to release or disclosure unless it will be placed in evidence at the hearing.
3. The Department may disclose information on the amount of assistance or the period of eligibility of a client at the request of the client or with the client's consent.
4. At the county director's discretion, summaries based on pertinent factual information known to the agency may be released to accredited social agencies (for example, Catholic Social Services) who have a legitimate interest in the welfare of the client. In addition, case records may be reviewed in the office of the county department by representatives of other recognized social agencies if the county director thinks such review serves the client's best interest.
5. Before initiating a referral to agencies other than Departments of Human Resources or before releasing information to such agencies, secure the client's consent, preferably in writing.
6. Where a court of competent jurisdiction has ordered (not subpoenaed) access to and release of the case records.
7. Upon request (preferably in writing) of school food officials, information regarding the current FA recipient status of dependent children may be provided. The information will be used to determine eligibility for free and reduced price meals and free milk as provided under the Food Stamp Program.
8. Medical information obtained about a client can be shared with non-governmental agencies only with the client's authorization.

If a client requests access to or a copy of medical information obtained by the agency, the denial of the client's request must be in writing and must specify a reason for the denial.^[22]

D. Access to and Release of Records for Investigation of Suspected Fraud

1. When a case has been referred by the Department to the Attorney General or a District Attorney, or an approved Department attorney, disclosure and release of records and other confidential information relating to the particular incident(s) referred shall be allowed without a subpoena to those parties to whom referred.
2. When a case has not been referred by the Department to the Attorney General or a District Attorney, or an approved Department attorney, disclosure and release of records and other confidential information or copies thereof shall be allowed only upon receipt of an Alabama subpoena or a subpoena duces tecum (a subpoena to produce documents) issued by either the Attorney General, District Attorney, a grand jury, or a court of law. The subpoena or subpoena duces tecum shall name the person whose records are sought and only those records named shall be released. If the subpoenaed records cover a long span of time, an attempt should be made to restrict access to and release of the records to a specific period of time.

Subpoenas are sufficient authority to release cases involving other confidential information in suspected fraud cases involving programs administered by the Department which are being investigated by the Attorney General, a District Attorney, a grand jury or other law enforcement officials.

A subpoena duces tecum (a subpoena to produce records) shall be received before any case record can be removed from the office to be produced and released elsewhere. A subpoena duces tecum shall also be received in situations requiring removal of the case record or part of the case record from the office, regardless of whether the documents will leave the physical custody of the Department. In cases referred by the Department, the Attorney General, District Attorney, or approved Department attorney shall issue, or have issued, a written request or a subpoena in situations requiring the removal of the original case record from the office for trial, handwriting analysis or any other reason.

However, in cases referred by the Department, copies of material contained in the case record may be made and released to the Attorney General, District Attorney, or approved attorney without a subpoena or subpoena duces tecum.

E. Information Requested by Grand Juries

The code of Alabama 1975, 38, Section 2-6 (8), further provides the following in regard to investigations by grand juries.

1. That the county director, upon request, shall submit to the grand jury a list of persons receiving **public assistance** in the county or division of the county covered by the circuit court.
2. That the grand jury may examine the lists of public assistance **recipients** within the county and make such investigations in regard thereto as may be necessary to verify the accuracy of the same.
3. That the duty is imposed upon the presiding judge of the court to charge the grand jury at each session that it may make such investigation.
4. That grand juries are responsible for the maintenance of the same safeguards with respect to the confidential nature of records as the state and county Departments of Human Resources.
5. The confidential information concerning children and their families and **applicants** for and recipients of public assistance, including, but not limited to, payments or services, shall not be used or disclosed for any purposes not directly connected with the administration of public assistance, or the investigation thereof by grand juries.

While the nature and extent of the investigation will determine the amount of information needed by grand juries, a list of recipients or a copy of the payroll usually will provide sufficient information for an investigation. Since the material submitted to grand juries will be official records of the county department, it must be returned when the investigation of the grand jury has been completed. When material is released to the grand jury, secure a receipt. When the material is returned, give a receipt to the grand jury.

Always advise the Legal Office of any request for information by grand juries.

20150 Retention of Case Records

Public Assistance case records on closed cases including those with outstanding claims must be retained five years from the date of last contact with the **client**. Information in case records (all volumes) on open cases must be retained as long as the case remains open.

20200 Electronic Data Security

A. Personnel Security Provisions

In addition to the laws governing [confidentiality](#) of case data there is a state law (85-383) which makes it a criminal offense to use a computer or computer program to access, examine, modify, or destroy computer data, computer programs or computer equipment. See CISREF056 attached to the Confidentiality Agreement (CISREF053). Also refer to the Federal Computer Fraud and Abuse Statute – CISREF057.

1. County Directors Responsibilities

- a. To insure that all employees are aware of their responsibilities to maintain security and confidentiality of data, complete the Confidentiality Agreement with each employee.
- b. Assign security levels to staff on [FACETS](#), SCI-II, ALECS and/or IEVS as appropriate on a need to know basis.
- c. To insure that all employees who handle IEVS (IRS) and Social Security tax data view the IRS tape (Safeguarding Federal Tax Information) and read the paragraphs attached to the sign-in log and then sign the log. This must be done annually. Make sure staff understand the penalties for disclosure of tax return information that are transmitted by memo each year from the Fiscal Integrity Division.
- d. To notify the appropriate personnel of a possible or suspected breach in security pursuant to guidelines in the Department Systems Security Handbook, Chapter 1, Section 1.3.^[23]

2. County Staff Responsibilities

- a. Keep your password(s) confidential.
- b. Log off security when you leave your computer.^[24]
- c. Insure that printouts and reports are maintained in secure locations and that obsolete reports are destroyed following usual agency procedures for destruction of confidential records.
- d. Adhere to departmental confidentiality/security rules.
- e. Notify your supervisor/director of any known or suspected security breach. ^[25]

3. State Staff Responsibilities

- a. Maintain master computer security controls.
- b. Monitor security violations.
- c. Work with county directors to insure that confidentiality and security of records are maintained.

B. Security of Client Data

Information available via computer on-line screens and/or reports produced from computer programs are considered as part of the [case record](#) and are subject to the same rules of [confidentiality](#) and security as are those portions of the client data traditionally considered part of the case record.

1. On-line Screens

If necessary, you can local print copies of all on-line screens with the exception of the [Unearned Income](#) Screen (EVM021A) and the Earnings Inquiry Screen (EVM016A). Information from these screens can be viewed but not copied.

2. Printed Reports

All printouts identifying [income](#) and/or eligibility data on clients whether printed down-line or mailed are to be maintained as part of the case record or destroyed following departmental procedures for the destruction of confidential materials.

^[1]Rev 735 Oct 2003

^[2]Rev 735 Oct 2003

^[3]Rev 735 Oct 2003

^[4]Rev 770 Apr 2012

^[5]Rev 735 Oct 2003

^[6]Rev 735 Oct 2003

^[7]Rev 735 Oct 2003

^[8]Rev 767 Feb 2011

^[9]Rev 735 Oct 2003

^[10]Rev 735 Oct 2003

^[11]Rev 767 Feb 2011

^[12]Rev 735 Oct 2003

^[13]Rev 735 Oct 2003

^[14]Rev 735 Oct 2003

^[15]Rev 735 Oct 2003

^[16]Rev 735 Oct 2003

^[17]Rev 765 Jul 2010

^[18]Rev 765 Jul 2010

^[19]Rev 760 Apr 2008

^[20]Rev 760 Apr 2008

^[21]Rev 764 Oct 2009

^[22]Rev 735 Oct 2003

^[23]Rev 760 Apr 2008

^[24]Rev 760 Apr 2008

^[25]Rev 760 Apr 2008

^[26]Rev 777 Jul 2014

^[27]Rev 777 Jul 2014

^[28]Rev 783 Nov 2016

^[29]Rev 783 Nov 2016

^[30]Rev 788 May 2018

^[31]Rev 796 Feb 2021

Contents

Chapter 21	2
Hearings	2
21000 General	2
21005 Hearing Request	2
21010 Procedures to be Followed by the State and County Departments after Receipt of a Request for a Hearing	3
21016 Procedures to be Followed in Issuing Subpoenas and Subpoenas Duces Tecum for Witnesses in Appeal Cases	9
21020 Hearing Exhibits	11
21025 Procedures when Claimant or Other Party Fails to Attend	11
21030 Organization of Hearings	12
21035 Conduct of Hearings	14
21040 The Group Hearing	16
21041 The Combined Hearing	16
21045 Decision on Appeals	17
21050 Judicial Review	19

Chapter 21

Hearings

21000 General

Rules provide for hearings for [applicants](#) and [recipients](#) of aid. Agency action notices as well as FA summarized eligibility rules provide information about the [clients'](#) rights to [appeal](#) and procedures for requesting a hearing.^[1]

21005 Hearing Request

A. General

Each person requesting [review](#) of his case has free choice of whether such review shall be handled through informal complaint and adjustment procedures (an informal review by the state department), or through a hearing. If he chooses a hearing, it cannot be delayed or canceled without his consent because of a review by the county or state department.

B. Basis for Request

Any person dissatisfied with the county department's action or failure to act on his claim to aid has a right to request a hearing. He may do so when:

1. His [application](#) is denied or is not acted upon within the agency's standard of promptness.
2. His payment is discontinued.^[2]
3. He is dissatisfied with the amount of or any other matter pertaining to his payment or claim for aid.
4. His request is postmarked within 60 days following the action (or inaction) with which he is dissatisfied. In the absence of a legible postmark, assume the request was mailed three days prior to its receipt in the state or county department.

C. Format of Request

1. Any clear, written statement (including email)⁽¹⁰⁾ to the state department or the county department that the applicant/recipient wants an opportunity to present his case to a higher authority to appeal the action of the county department includes the county department's not taking action on an application, questions regarding agency policy, dissatisfaction with payment amount, dissatisfaction with the resource limitation, etc., will be accepted provided it is determined by the state department that this is within 60 days time limitation for accepting appeals and that he has a valid basis for appeal. Any necessary clarifications regarding the request will be made.
2. A request for a hearing may be made by the applicant/recipient or by someone in his behalf. If the appeal is filed by someone other than the applicant/recipient, his legal guardian, or legal representative, the grantee relative in FA, or a lawyer of his choice, there must be a definite statement by the person making the appeal that it is being made upon authorization of the applicant/recipient.

21010 Procedures to be Followed by the State and County Departments after Receipt of a Request for a Hearing

A. County Department

1. Any appeal made to the county department must be reported to the state department, Family Assistance Division, within 10 days following receipt of the request for a hearing.⁽¹¹⁾ Transmit the original written statement of the applicant/recipient or his representative regarding the appeal either by email⁽¹¹⁾ or in a letter of confirmation and include the name and address of the applicant/recipient; the name and address of the person making the appeal, if different from the applicant/recipient, the basis and point(s) at issue for the appeal, action and effective dates and the date of receipt of the appeal including postmark if applicable. If the request is emailed, address it to the appropriate help desk⁽¹¹⁾.

2. The county director or the designated supervisor in the county department will review the case with the eligibility worker to assure that the action taken was correct and make any further investigation necessary. The claimant will be asked to furnish necessary information which he can readily secure. If the total findings in the case show that the county department should take further action, such action must be taken at once.

B. State Department

After the state department receives the written request for a hearing from the claimant, his designated representative or the county department, the state department will acknowledge the request and write the claimant letting him know whether or not the request is accepted and if not, why. If accepted, the following information will be mailed to the claimant.

1. The hearing procedures;
2. The claimant's option to present his case or be represented by legal counsel of his choice or any other designated person;
3. The claimant's right to present written evidence and testimony and to bring to the hearing members of his family and other persons to serve as witnesses or otherwise contribute to the hearing;
4. The claimant's right to request issuance of subpoenas to witness and the fact that the request must be submitted upon receipt of the acknowledgement;
5. The claimant's and/or his representative's right to review in the county department the hearing exhibits which will be placed on exhibit by the agency at the time of the hearing;
6. The fact that the hearing will be held at a place convenient to him, either in the State Office or elsewhere and that he will be notified in advance of the time, date and place;
7. The fact that possible further investigation may be made by the county department;

8. The fact that when appropriate, the hearing may be held by teleconferencing equipment. There must be consent or agreement of all parties, their representatives and the hearing officer.

A copy of the letter giving this information to the claimant will also be sent to his representative, if he has one, and to the county department. After receiving notification of the hearing request, the hearing officer will notify the County Department of Human Resources.

C. Rejection of Hearing Request

A request for a hearing in which the sole issue is one of state or federal law requiring automatic payment adjustments, such as adjustments stemming from [RSDI](#) increases, will be denied by letter from the state department. In such situations, however, an individual [appeal](#) will be accepted by the state department if the reason for the individual request is incorrect grant computation.

A request for a hearing where a decision has been rendered by the JOBS hearing officer that a participant has, without good cause, refused to accept employment or participate in the [JOBS Program](#) or has failed to request such a hearing after notice of intended action for such refusal, will be denied by letter from the state department.

D. Hearing Request During [Advance Notice](#) Period

If the [appeal](#) is made within the period of advance notification specified in Sections [1135-C](#) for FA and [10135-C](#) for State Supplementation, a case to be terminated will remain open and payment continued; or a payment to be reduced will remain unchanged, unless the sole reason for the action is expiration of the time limit for FA or loss of the extension criteria per Section [2950](#) or expiration of the 12 month [earned income disregard](#) per Section [3215-C.2](#). In such cases, the hearing request does not delay the action, i.e., the termination is processed.⁽⁹⁾

Unreduced payments will continue in effect as long as the appeal is active and through the end of the month in which the final decision is reached, unless a delay in conducting the hearing is caused by the claimant or his representative and is due to justifiable causes such as verified illness. Such delay will result in taking the action previously indicated on the case unless available facts establish that different action is necessary.

If benefits are continued and the proposed action is sustained in the hearing or the hearing is canceled, the claimant is responsible for repayment of benefits continued solely because the hearing was requested during the period of advance notification of adverse action. Refer to [Chapter 22](#).

E. Conference Request

If the individual or his representative requests it (orally or in writing), an opportunity must be provided for a conference to discuss his situation with agency staff, obtain an explanation of reasons for the action proposed or taken, and present information to show that the action is incorrect. Such requests must be within 60 days following the specific action (or inaction) with which the [client](#) is dissatisfied. During this conference the [recipient](#) may speak for himself or be represented by legal counsel or by another spokesman of his choice. This conference does not alter the person's right to a [fair hearing](#). If the conference is held in conjunction with a hearing request, and the issue of the hearing is resolved by the conference, the resolution must be in writing and should state clearly what the issue is, how and why resolved, dated and signed by the claimant or his representative. A statement of withdrawal of the hearing request should also be included with the resolution. ^[4]

F. State Office Review

If the individual or his representative requests it (in writing), an opportunity is provided for an informal [review](#) by the state department as long as such request is within 60 days following the action (or inaction) with which the client is dissatisfied. Under this procedure, the [Family Assistance](#) Division requests the eligibility [case record](#) from the county department. After review by the Family Assistance Division, the [client](#) is notified of the results by letter from the state department. This informal review does not alter the person's right to a [fair hearing](#) provided request for a hearing is filed within the specified period of time from the date of action. ^[5]

G. Withdrawal or Settlement of Hearing Request

1. Withdrawal

When the original reason for the hearing has been removed by action taken by the county department, the [Family Assistance](#) Division is to be notified. The state department will

write the claimant a letter, stating this to be the case and asking if he wishes to withdraw his request for a hearing. This shall not prohibit his continuing with the hearing, if he so desires. Any decision to withdraw must be his own. A hearing request may be withdrawn at any time. The withdrawal may be in writing and should state the reason for withdrawal. A verbal statement withdrawing a hearing request will be accepted if the claimant refuses or declines to write a letter of withdrawal. Oral withdrawals of hearing requests received by the county department must be confirmed to the SDHR in writing.^[6] An email is sufficient for this purpose.^[12]

A letter of withdrawal by the claimant, a duly appointed [legal representative](#) or [legal guardian](#), legal counsel of his choice, the [grantee relative](#) in FA, or other authorized person will be accepted. No other person can withdraw an [appeal](#). It may be mailed or emailed^[12] or given to either the state or county department. The office receiving the withdrawal will notify the other (Family Assistance Division either PA or JOBS help desk^[12] in the state department) as soon as possible by email. Attach a copy of the letter/envelope if applicable.^[12] An appeal will be considered to have been withdrawn as of the postmark date on the letter, the date the claimant or his representative presents the withdrawal statement to the county or state department or the date the claimant states he wishes to withdraw his/her request for a hearing.^[7]

2. Settlement

A hearing request may be resolved by stipulation, settlement, consent, default or other agreement in writing. The settlement agreement must be filed with the hearing officer and made a part of the hearing record.

H. Notice of Hearing

At least 10 days before the hearing, the Hearing Officer will serve notice to the claimant, the county department, and/or their representatives.

1. Content of Notice

The notice of the hearing must include:

- a. The date, time, place and nature of the hearing;
- b. A statement of the legal authority and jurisdiction;
- c. A reference to the particular statutes and rules and a short statement of the issue(s) involved;
- d. The agency address and telephone number for the claimant to contact the county director or the hearing officer in the event he cannot attend the hearing on the scheduled date, and;
- e. The fact that if the claimant and/or his representative does not appear at the scheduled time, the hearing may be adjourned or postponed if good cause for failure to attend is determined or that the Hearing Officer may proceed with the hearing and make a decision in the absence of the claimant.

2. Service of Notice

The hearing notice may be served:

- a. By certified mail, return receipt requested;
- b. By any sheriff, constable, or other office authorized to make service of process in civil court proceedings in this state;
- c. By any employee, agent or representative of the Department who must sign a statement giving the name of the person served and the date service was completed;
- d. By mailing by first class mail;
- e. By mailing by first class mail, to the person to be served, an acknowledgement of service form. The acknowledgment of service may be on a

postcard or in letter form with a return envelope,
postage prepaid and addressed to the sender.

NOTE: It is preferable to use a method which verifies
service of the subpoena.

21016 Procedures to be Followed in Issuing Subpoenas and Subpoenas Duces Tecum for Witnesses in Appeal Cases

A. General

Title 38-4-6, Public Welfare Laws of the State of Alabama, 1978 authorizes the state and county Departments of Human Resources to issue subpoenas for witnesses to compel their attendance and the production of papers and writings at [appeal](#) hearings. This section of the Law also authorizes the Hearing Officer to administer oaths and examine witnesses under oath.

Definitions:

1. Subpoena – A legal document used to require the attendance of a person to give oral testimony at an appeal hearing.
2. Subpoena Duces Tecum – A legal document used to require a person to bring written documents or other material with him to be used in evidence at an appeal hearing.

B. Basis for Initiating Subpoenas

1. Subpoenas should be held to a minimum. It is not necessary to subpoena county workers who are involved in the agency's action unless it is specifically requested by the claimant and/or his [authorized representative](#).
2. When the county department or the claimant and/or his authorized representative decides that a witness and/or evidence needs to be subpoenaed, the county department should notify the Hearing Officer, [Family Assistance Partnership](#) at the time the original request and cover letter are submitted, but not later than 10 days prior to the date of the hearing so that a subpoena can be prepared and returned to the county Department of Human Resources for service as

soon as possible prior to the date of the hearing. The request must include the name and address of the person to be subpoenaed. The Hearing Officer will then send the prepared subpoena to the county department.

C. Serving Subpoenas

There are several methods by which a subpoena may be served. Regardless of the method by which the subpoena is served, it must be completed (except for the "Return of Service" section) prior to service on the witness. It may be served:

1. By certified mail, return receipt requested.
2. By the sheriff, constable, or other officer authorized to make service of process in civil court proceedings in this state.
 - a. Payments for expenses incidental to the serving of subpoenas by the Sheriff's Department are allowable as an administrative expense.
 - b. To assure prompt payment of the sheriff's fee, the county department must promptly submit the [client's](#) name, category, and [case number](#) along with the address of the Sheriff's Office to the Legal Office for approval. The Legal Office will then forward the necessary information to the Fiscal Administration Partnership for payment.
3. By any employee, agent or representative of the county or state department. They must sign a statement giving the name of the person served and the date service was completed.
4. By mailing by first class mail to the person to be served, an acknowledgment of service form on a postcard or in letter form with a return envelope, postage prepaid and addressed to the sender.
5. By mailing by first class mail.

NOTE: It is preferable to use a method which verifies service of the subpoena.

21020 Hearing Exhibits

Agency forms for use in recording medical findings in APTD, AB and FA cases already carry authorization for use in the event of a hearing. Any medical information (or other information) that states it is not to be released to the [client](#) or others under any circumstances cannot be used in an [appeal](#) and must not be used in determining eligibility. Return such information to the provider and ask that it be returned in a form that can be used in the event of a hearing. Any information that is designated only as confidential can be used in an appeal hearing and will be treated as any other confidential material.

A. Types of Hearing Exhibits

Hearing exhibits are confined to: ⁽¹⁾ relevant portions of the eligibility [case record](#); ⁽²⁾ the current manual used by [eligibility workers](#) in the county; and ⁽³⁾ the appropriate statement of eligibility requirements, i.e., Form 595.

B. Review of Exhibits

The claimant and/or his designated representative may, upon request, review in the county office the exhibits which will be introduced by the agency at the time of the hearing. Upon request, provide the claimant and/or his representative a duplicate copy of any document, agency form, or other material (including the [narrative](#)) which is a part of the hearing exhibit. The duplication of hearing exhibit material is confined to specific pages, documents, etc., which directly relate to the issue.

21025 Procedures when Claimant or Other Party Fails to Attend

A. Adjournment or Postponement

If the claimant or other party contacts the agency and is determined to have good cause for failure to attend, the hearing may be adjourned or postponed to another date. In determining good cause for failure to attend a hearing, the hearing officer may require verification of the reason given by a claimant, his representative, or the county department. The following qualifying factors to be considered by the hearing officer in determining

good cause include, but are not limited to: ^(a) death in the family, ^(b) personal injury or illness which reasonably prohibits the claimant from attending the hearing; and ^(c) sudden and unexpected emergencies.

B. Decision in Absence of a Party

If no adjournment or postponement is granted, the hearing officer may proceed with the hearing and make a decision in the absence of the party or parties involved. If there is any adverse final decision, the party failing to appear may apply for a rehearing based upon good cause within 15 days of the decision. (See Section [21045-E](#))

C. Denial or Dismissal

A hearing request may be denied or dismissed if the claimant or his designated representative, after proper proof of service and without good cause, fails to appear at the hearing.

21030 Organization of Hearings

A. The Hearing Officer

The hearing officer is the sole authority for the conduct of a hearing. Questions directed to the hearing officer must be limited to those concerned with the explanation of the hearing procedures. In examining witnesses and in the general conduct of the hearing, the hearing officer must maintain an attitude of impartiality. The only objective in examining witnesses shall be to attempt to arrive at the truth concerning the issues involved. The hearing officer may call and examine witnesses on his own. Both parties to the hearing may cross-examine witnesses.

The duties of the hearing officer are as follows:

1. To direct the hearing.
2. To explain the conduct of the hearing, the type record which will be made of it, the claimant's right to review it in the county office at any reasonable time, and the manner in which the decision will be made and given to the claimant.
3. To administer the oaths and hear testimony.

4. To examine witnesses and otherwise receive evidence having a direct bearing on the points at issue. If he considers it necessary, the hearing officer shall authorize obtaining at agency expense a medical assessment other than that of the person or persons involved in making the original decision in disability determinations. The cost to the agency for this examination will not exceed the current [maximum payment](#) for other medical examinations paid for by the agency as an administrative expense.
5. To exclude material that is unrelated to the point(s) at issue in the hearing and otherwise decide on the admissibility of evidence.
6. To assure that there is a permanent record made of the hearing. There may be a summary or a verbatim transcript prepared from shorthand notes or a machine recording and, if so, it shall become a part of the complete record. Upon request, a copy of the hearing record will be made available to the claimant, the county department and/or their representative. The hearing records will be stored in the state department and retained for at least five years.
7. In [APTD](#) and FA cases, when the degree of disability is the basis for the [appeal](#), a State Review Team which has not participated in the decision being appealed may assist the hearing officer in making decisions on the eligibility factor of disability. In AB cases, when the degree of blindness is the basis for the appeal, a specialist who did not participate in the decision being appealed may assist the hearing officer in making decisions on this eligibility factor.

B. The Claimant

The claimant may present his case himself at the hearing or may be represented by one of the following persons:

1. His duly appointed [legal guardian](#) or [legal representative](#);
2. A lawyer of his choice; or

3. A relative or other person designated by him. (A relative or other person who is not also one of the persons listed above may be designated by the claimant when there is no legal guardian, legal representative, or [grantee relative](#).)

C. Witnesses

The claimant may have members of his family and other persons present at the hearing to serve as witnesses. Staff or board members of either the state or county department may attend and may also serve as witnesses. The hearing officer, however, will consider a person qualified to be a witness only when the person has factual knowledge about the point(s) at issue.

21035 Conduct of Hearings

A. Statement of Issue

The hearing officer will state the issue(s) as set forth in the claimant's [appeal](#). When the request for a hearing is based on a decision as to eligibility, the hearing officer will make a statement for the record of the hearing with respect to points of eligibility which have previously been satisfactorily established. The hearing officer will then define the issue(s) under consideration in the hearing. The claimant or the person who represents him will be asked whether he accepts the statement of the issue(s). If not, the claimant or the person who represents him may correct or modify the statement. The issue(s), however, must have a bearing upon the claimant's eligibility, amount of payment, or other action or failure to act with reasonable promptness by the agency and by which he is aggrieved.

B. County Department's Preparation for and Presentation of Information at a Hearing

Prior to a hearing, the county department is to prepare a written outline or summary of all information (evidence) the county department will present and wishes to be considered by the hearing officer. **Only testimony taken and evidence presented during the hearing will be considered by the hearing officer.** Although the information presented must be complete in order to adequately describe the situation, it must be in as concise a manner as possible and the sequence of events related to the action must be in chronological order. The information must include:

1. Minimal "background" information such as when assistance began, the related eligibility factor(s), etc.
2. The action taken/proposed, and the reason for it.
3. All relevant dates.
4. The form number, date and explanation of any forms used.
5. Any [client](#) contact(s) or lack of contact(s) related to the action.
6. If a [budget](#) was computed, explanation of the computation and the [payment standard](#).
7. For actions based on changes in [income](#) or resources, the specific figures involved, how and when obtained, and any other factors, such as wage deductions, that were established.
8. All Manual policies used as a basis for the action.

C. Period of Testimony

The hearing officer will hear testimony about the defined issue(s) from the claimant, the person representing him, and qualified witnesses. All persons giving testimony must confine their remarks to factual information about factors relating to the defined issue in the particular case. The hearing officer, the claimant, his representative, county department staff or representative for the county department may direct questions to witnesses, as indicated, provided the questions relate to the defined issues. Oral and written statements of evidence from all sources and other exhibits may also be presented and examined as allowed by law. Parties may object to the admission of evidence and the hearing officer shall rule on objections to the admissibility of evidence. The rules of evidence as applied to the circuit courts of Alabama shall be followed and the rules of privilege shall be observed.

D. Failure of a Subpoenaed Witness to Appear

If the issue of the non-appearance of a subpoenaed witness and/or documents is raised by a party to the hearing, the hearing officer will make a determination whether the witness or documents are necessary to the

presentation of the case. If determined necessary, the hearing officer may decide to continue the hearing generally or to continue the hearing until a later date.

If enforcement of the subpoena power is necessary, the hearing officer shall inform the Legal Office of the facts involved. The Legal Office will then initiate legal proceedings to enforce the subpoena power.

E. Presentation of Factual Data and Evidence

The hearing officer will allow a reasonable time for the claimant, his representative, the Department and its representative to present factual data and any arguments and complaints about the point(s) under consideration in the particular case. This may include refuting oral or written testimony, and or registering complaints about federal and state law or policies.

F. Conclusion of Hearing

The hearing may be adjourned from day to day or to a designated date, at the discretion of the hearing officer, when reasonably necessary to give full opportunity to obtain and present all evidence concerning the point(s) at issue in the particular case. The hearing may be concluded when the hearing officer is satisfied that all pertinent information bearing upon the issue(s) has been introduced and examined.

21040 The Group Hearing

A group hearing on two or more appeals may be held provided the issue involved is confined solely to state or federal law or policy or changes in state or federal law, and each claimant is permitted to present his own case or have his case presented by his designated representative. In group hearings, each claimant will be given an individual decision on his [appeal](#) in writing. All other policies governing [fair hearings](#) will apply. The state department will limit the number of claimants to be heard in a single group hearing to insure an orderly process and provide adequate opportunity for each claimant to be heard.

21041 The Combined Hearing

The hearing officer may combine two or more hearings into a single hearing if the factual issues arise out of the same or related circumstances and the aggrieved persons receive prior notice that the hearings will be combined.

21045 **Decision on Appeals**

The state department will make periodic summary reports to county departments on **appeal** decisions.

A. Notice of Decision

The final administrative action on an appeal will be made within 90 days of the effective date of the appeal, and within 30 days of the hearing date unless waived by the claimant and the county department or their representative(s). The final decision shall be in writing, signed by the hearing officer and shall set forth the issue(s), the principal and relevant facts brought out at the hearing, the pertinent provisions in agency policy, and findings of fact and conclusions of law separately stated. If the decision is favorable, the decision letter will advise the claimant that he is to receive **retroactive** payments if such payments are due. Copies of the decision shall be sent to the claimant, his designated representative, and to the county department immediately following the action of the hearing officer. The decision shall be served by certified mail, return receipt requested, unless waived by the parties.

B. Binding Nature of Decision

The decision shall be final and shall be binding upon the claimant and the county department and is not invalidated by county action so long as the conditions under which the decision was made remain the same. However, this does not preclude the county department from modifying the **award** or making other changes to meet changed conditions in the claimant's situation, in law, or in policy.

Upon receiving a copy of the decision, the county department shall take immediate steps to see that any necessary action is taken. If the decision requires action by the county department, the county director shall send a written report to the Hearing Officer stating what has been done. A copy of the report is to be sent to the **Public Assistance** Field Supervisor by the

county department. Continuing supervisory responsibility is designated to the Field Supervisor.

C. **Retroactive Public Assistance Payments**

The county will be instructed to make retroactive payments when:

1. The retroactive amounts paid are shown to have been improperly withheld or denied by incorrect agency action. **APTD** and AB cases approved following an **appeal** of a decision by the review team fall within this policy unless medical evidence established that the onset of disability was in fact after the initial decision of ineligibility was made.
2. The retroactive payments extend from the date of incorrect action to the date of the corrective action or decision on the appeal.

D. **Erroneous Benefits Received**

When the hearing decision upholds the county department's action or the hearing request is otherwise dismissed, and benefits were continued due to the request being filed timely, the claimant will be responsible for repayment of any benefits received to which he was not entitled.

E. **Rehearing**

The hearing officer has the authority to grant a rehearing, either through his own motion or upon request of the claimant, his representative, the county department or their representative, if **application** for a rehearing is made within 15 days of an adverse final decision. The application must specify the grounds for the relief sought and give the supporting authority. The filing of such an application shall not extend, modify, suspend or delay the effective date of the decision unless or until said decision shall be superseded, modified, or set aside. Copies are to be served to all parties who may file replies thereto within 10 days.

1. The application for rehearing may be granted only if the final decision is:
 - a. In violation of constitutional or statutory provisions;

- b. In excess of the statutory authority of the Department;
 - c. In violation of a rule of the Department;
 - d. Made upon unlawful procedure;
 - e. Affected by other error of law;
 - f. Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
 - g. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.
2. Within 30 days after the filing of the application, the hearing officer may in his discretion enter a decision:
- a. Setting a hearing on the application;
 - b. On the application without a hearing; or
 - c. Granting or denying the application.
3. If no decision is entered within 30 days after the filing of the application, the application shall be deemed denied.

21050 Judicial Review

An aggrieved party that is dissatisfied after the final decision has been made shall be entitled to file a notice of [appeal](#) or review of the decision with the circuit court of competent jurisdiction. The notice must be filed within 30 days after service of the final decision or within 30 days after the decision on a request for rehearing and must comply with all legal requirements. The filing of such notice will not delay enforcement of the final decision unless otherwise ordered by a court of competent jurisdiction.

^[2]Rev 770 Apr 2012

^[3]Rev 763 Apr 2009

^[4]Rev 762 Nov 2008

^[5]Rev 762 Nov 2008

^[6]Rev 762 Nov 2008

^[7]Rev 762 Nov 2008

^[8]Rev 768 Nov 2011

^[9]Rev 775 May 2014

^[10]Rev 792Sep 2019

^[11]Rev 792Sep 2019

^[12]Rev 792Sep 2019

Chapter 22.....	3
Erroneous Payments.....	3
22000 General.....	3
22010 Definitions of Types of Erroneous Payments	3
22020 Identification of a Possible Erroneous Payment	5
22100 Determination and Establishment of Erroneous Payment	5
22110 Determining the Period of Erroneous Payment for SUP	5
22120 Determining the Period of the Erroneous Payment for FA.....	6
22130 Determining the Amount of the Erroneous Payment.....	11
22132 Computation of Erroneous Payment Involving Failure to Turn Over Court Ordered Child Support to the State.....	13
22133 Computation of Erroneous Payment in Cases Involving Child Support Turned Over to the State...	14
22140 Definition of Non-Fraud Overpayments	16
22150 Definition of Suspected Fraud Overpayments.....	19
22153 Prevention of Possible Fraudulent Activity	21
22155 Investigating the Suspected Fraud Case	21
22160 Establishment of the Confirmed Overpayment Claim and Notice to the Client.....	22
22170 Collection of the Overpayment from the Individual Responsible for the Overpayment or from the Overpaid Assistance Unit	23
22200 Recovery Procedures for Non-Fraud Overpayments.....	24
22400 FA Fraud Control Program	25
22500 Recovery of Suspected Fraud Overpayments(FA/SUP).....	27
22505 Restriction on Discussion with Client (or his representative)	28
22510 Collection of Suspected Fraud/Confirmed Fraud Claims Subsequent to Legal Action	28
22600 Types of Collection and Recovery Activities	30
22610 Recoupment from Current Assistance	30
22620 Cash Repayment Based on Negotiated Repayment Agreement	32
22630 Special Procedures Involving Bankruptcy Proceedings	32
22640 Referral to the Claims Unit, Food Assistance Division for Legal Action	33
22642 Responsibilities of Local Law-Enforcement Officials	34
22644 Crime Victims Impact Report.....	34
22650 Collection against the Estate of a Deceased Person.....	34
22660 Income Tax Intercept	35
22670 Other Types of Civil Collection Action.....	36
22700 Suspension of Collection	36
22710 Criteria for Suspension of Collection	36

22800	Replacement, Return and Release of Previously Authorized Assistance Checks and Expunged EBT Benefits	37
22810	Returned Checks	38
22815	Expunged EBT Benefits	38
22820	Destroyed, Lost or Stolen Checks (State SUP).....	38
22830	Fraudulent Activities Involving Replacement Checks	39
22840	After-Death Payments (Applicable to Optional Supplementation Only)	39
22900	County Collection Responsibility and Reconciliation of Collections	40
22910	The Collection Process for FA and SUP.....	41

Chapter 22

Erroneous Payments

22000 General

This chapter addresses the processes of identification and correction of delayed and **erroneous payments**. In general, an erroneous payment means an **overpayment**, **underpayment**, **delayed payment** or payment for a period of ineligibility. Depending on the type of erroneous payment, corrective action may include, for example, restoration of lost benefits to the **client**, recovery of an overpayment through recoupment from current assistance, or referral to proper authorities for legal action.

The County Department's responsibilities in these areas have been increasingly supported by automated systems. For this reason, the material contained in this chapter will address questions of **public assistance** policy relevant to the establishment and collection of a public assistance claim. Although specific procedural steps will be addressed in other material related to the operation of the Department's comprehensive claims system, the general layout of this chapter follows the procedural steps necessary for identification of a possible erroneous payment, for determination of the erroneous payment, for establishment of the actual claim on the automated system, and for collection activities on the automated system.

22010 Definitions of Types of Erroneous Payments

- A. A **delayed payment** is defined as a payment that has been properly authorized but the issue of a benefit has been improperly delayed. Special payments must be processed as soon as possible to cover the period the person or family has **accrual rights** to a money payment, even if the individual or family is not **eligible** at the point the failure to timely issue a check(s) is discovered. Delayed payments are not entered on the automated claims system as claims. After the erroneous payment is properly defined as a delayed payment, a disposition should be made of any possible claims record, if necessary.
- B. An **underpayment** is defined as either ⁽¹⁾ a payment received by or for an **assistance unit** for the payment month which is less than the amount for which the assistance unit was eligible, or ⁽²⁾ failure to authorize a payment for the payment month to an eligible assistance unit, including **termination** based on a prospective determination of ineligibility due to anticipated change(s) which did not occur. (See Section **1135-B**)

The Department will not correct underpayments resulting from a client's failure to report information or the incorrect/incomplete reporting of information.

The Department will not correct other underpayments occurring more than 12 months prior to:

1. The date the county department receives a request for correction from a member of the underpaid unit: or
2. The date the county department discovers that a loss to an [assistance unit](#) has occurred.^[1]

As underpayments will not be established on the automated claims system as claims, a manual 818 must be used to document the determination of underpayments. Once an erroneous payment has been properly defined as an underpayment, a disposition to that effect is made on the possible claims record, if necessary.^[2]

Underpayments should be promptly corrected through one of the following methods:

1. In FA or Optional Supplementation, a special payment to the [client](#) should be made using [FACETS](#) special payment procedures. The period of the special payment is from the first month of error or the 12th month prior to 1 or 2 above whichever is later, to the month in which the payment is correct.^[3]

Prior to authorization of any special payment to correct an underpayment, confirm whether there is an outstanding non-fraud [overpayment](#). If so, the amount of the underpayment is to be credited to the overpayment. The difference, if any, is the amount then issued to the client. Notify the client of the underpayment and/or of the offset against a prior non-fraud overpayment as appropriate. (Initial [awards](#) including adding new members to an existing unit are not subject to offset.)

2. In [mandatory supplementation](#), the special payment must cover the month the error is discovered and prior months through the first month of error, as determined by the [Family Assistance](#) Division on cases submitted in accordance with Section [10000-B](#).
3. [Underpayments](#) due to an erroneous prospective determination which resulted in termination are corrected by reinstating eligibility to the first of the month following the effective date of termination. (These benefits are not subject to offset against an outstanding non-fraud overpayment.)

- C. An overpayment is defined as a financial [assistance payment](#) received by or for an individual for the payment month(s) which exceeds the amount for which that individual or budget group was [eligible](#). Most of the rest of this chapter is devoted to the correction of this type of erroneous payment which may be further defined as non-fraud or suspected fraud. Each overpayment claim will generally be associated with a defined period of time in which a single causal incidence prompted the overpayment.

22020 Identification of a Possible Erroneous Payment

The County Department may learn of a possible [erroneous payment](#) through various methods, such as anonymous calls to the County Department, late reporting of information by a household member, information from automated matches, and numerous other sources. Information may also be referred from the State Department or the Attorney General's Office. Calls received by the State Department and the Attorney General's Office will be referred to the County Department.^[4]

Upon identification of a possible erroneous payment ([overpayment](#)), a possible claim record is to be created on the automated claims system. This will provide the county a means of tracking all possible erroneous payments until a determination is made regarding the validity of the possible erroneous payment. Possible claims are considered cleared when either a disposition of "no claim" is made or an overpayment is established on the system.

22100 Determination and Establishment of Erroneous Payment

Proper completion of the 818 is an integral part of the determination of an [erroneous payment](#), particularly in regard to overpayments. It is important that it be completed timely and fully. The Summary of Circumstances section documents the facts of the case, the investigation, and decisions made in determination of the claim, (for example, the nature of the evidence supporting an allegation of suspected fraud). Complete a separate 818 for the suspected fraud portion of the overpayment when dual or multiple reasons for the overpayment exists and the suspected fraud portion of the overpayment is \$1,000 or more.

NOTE: Once an overpayment has been identified, corrective claims action, including initiation of collection action as appropriate, must be taken by the end of the quarter following the quarter in which the erroneous payment is identified.

22110 Determining the Period of Erroneous Payment for SUP

The period of the erroneous payment refers to those months inclusive in which the [recipient\(s\)](#) received an [erroneous payment](#). In general, each incidence of erroneous payment should consist of that month or series of months in which the [client](#) received an erroneous payment based on the same causal factor(s).

- A. If an [overpayment](#) resulted from the [applicant's](#) withholding or misstating information about existing circumstances affecting eligibility or amount of payment, consider that an erroneous payment was made for each month the information was not correctly reflected. If an underpayment exists, corrective action is as provided in [22010-B](#).

- B. For recipients, a change in circumstances resulting in an overpayment must be reflected in the payment for any month in which the change existed on the first day (change occurred in the preceding month or on the first day of the current month). Otherwise, the payment is an erroneous payment. If an underpayment exists, corrective action is as provided in [22010-B](#).

22120 Determining the Period of the Erroneous Payment for FA (Applicable to AFDC as Well)

The period of the erroneous payment refers to those months inclusive in which the recipient(s) received an erroneous payment. In general, each incidence of erroneous payment should consist of that month or series of continuous months in which the client received an erroneous payment based on the same causal factor.

- A. If an overpayment resulted from the applicant's withholding or misstating information about existing circumstances, the worker's failure to correctly reflect known information, or an unexpected change occurring during the month of award consider that an erroneous payment was made for each month the information was not correctly reflected. If an underpayment exists, corrective action is as provided in [22010-B](#).^[5]
- B. For recipients, when the overpayment resulted from a change in **earned or unearned income** following an award that was not reported timely and accurately, consider that an erroneous payment was made beginning with the month of change regardless of whether income causes ineligibility or not for that month.

For recipients, when the overpayment resulted from failure to terminate a case following the client's failure/refusal to make application for a required member after specific notification to do so or failure/refusal to provide information/verification following a valid request, consider that an erroneous payment was made beginning with the month following the month of change.

For recipients, when the overpayment resulted from a change in **circumstances** (including receipt of earned income that is timely and accurately reported) following an award, consider that an erroneous payment was made beginning with the 2nd month following the month of change if not reflected in that month with certain exceptions noted below. If an underpayment exists, corrective action is as provided in [22010-B](#).

The month of change is defined as follows:

1. For income, the month of change is the month in which income is first received, increased or decreased.

2. For resources, the month of change is the month in which resources exceed the reserve limit. The date of the month when resources were received which alone or together with other resources exceed the reserve limit is irrelevant.

NOTE: This policy applies only to months prior to October 1, 2009 that are determined to be ineligible months due to excess resources.^[6]

3. For [strike](#) participation, the month in which the individual was on strike on the last day. (See Section [2050-B](#))

NOTE: In this instance the erroneous payment is for each month the recipient is on strike on the last day of the month.

4. For imposition of [child support](#)/JOBS penalties, the month the individual is determined non-cooperative. For other than a permanent JOBS disqualification,^[75] the total length of the established [penalty](#) period would be accordingly reduced by the number of months for which an erroneous payment is established.

5. For failure to remove a person who is no longer required or [eligible](#) to be a member of the [assistance unit](#), the month of change is the month the individual moved out or became ineligible. The erroneous payment period continues for as long as that individual's needs are inappropriately included. (In working the corrected budgets for the overpayment period, remove the needs of the individual who had been erroneously included as well as their income, if appropriate. (See Section [3200](#))^[7]

NOTE: If the erroneous payment is due to the receipt of unreduced SSI and FA at the same time, the erroneous payment begins with the first month of such receipt. (See Section [22140-D](#))

6. For failure to add a required member with income to the assistance unit that was not timely reported, the month of change is the month he moves into the household or is born or is adopted.

To determine if an erroneous payment has been made for any time period when a required person and/or his income and resources were not considered in determining eligibility and level of benefit, re-determine eligibility for the assistance unit for each month beginning with the first month of erroneous payment as given above and up to the month in which current assistance takes the person into account (that is, up to the month in which the person's needs and/or income and resources were used to determine current eligibility and benefit level): ⁽¹⁾ Use the [payment standard](#) for the [new](#) household size; ⁽²⁾ Add all countable income determined for the person being added to the countable income of all other persons; ⁽³⁾ Subtract total countable income as determined above from the "new" payment standard. This is the amount of assistance that should have been received by the "new" household; ⁽⁴⁾ If the [erroneous payment](#) must be computed for any month(s) during which the assistance unit fails to establish eligibility

for the additional person who is a required member, the needs of the additional person will be excluded from the determination in accordance with provisions of Section 3105-C. If the calculation for any month(s) results in an **overpayment**, follow established procedure to recover. If the calculation results in an **underpayment** for any month(s), no payment will be made for periods of time resulting in **client** failure to report and apply for the required member.

Example 1: A son, age 12, having Social Security benefits of \$24 a month moves into the household consisting of his mother and 2 younger half-siblings on January 14.^[8] His presence is not reported until April 13; at that time the mother signs the application and is given an 1132 listing information/verifications needed to establish the child's eligibility. All eligibility requirements are met as of May 3. The benefit level for March, April and May are recalculated as follows:

For March, the child's income is considered, but his needs are excluded from consideration since his presence was not timely reported.

\$215.00	FA payment received for March
<u>-24.00</u>	Amount of child's SSA
\$191.00	FA payment amount that should have been received resulting in a \$24 overpayment for March

For April, the child's income is considered and the child's needs are added beginning April 13, the date of application.

\$234.00	Adjusted standard amount for April - \$215.00 plus needs for one child prorated from April 13 (\$245.00 - \$215.00 = \$30.00 x .6666 = \$19.00)
<u>-24.00</u>	Amount of child's SSA
\$210.00	New monthly entitlement for April
<u>-215.00</u>	Payment received for April
- \$5.00	Amount overpaid for April

For May, the child's income and needs are considered beginning May 1st.

\$245.00	payment standard for new household size
<u>-24.00</u>	Amount of child's SSA
\$221.00	Amount of assistance that should have been received
<u>-215.00</u>	Amount of assistance actually received
\$6.00	Amount of underpayment for May

Total amount of overpayment is \$29.00. Total amount of underpayment is \$6.00. Amount of overpayment is offset by the amount of underpayment for May in this case because presence of child was reported by May 1st.

Example 2: A parent returns to the household of his wife and children on February 7; he has \$100 social security benefits. The wife reports his presence in the home on March 9 and signs the application. Information/verifications necessary to determine eligibility are provided on March 25. The April payment is adjusted. No overpayment exists.

7. For failure to consolidate two or more [assistance units](#) which are required to be consolidated under assistance unit provisions, the month of change is the month the units move in together or otherwise join. To determine the amount of the overpayment, compare the sum of the amounts actually received to the amount to which the consolidated unit was entitled. Any overpayment will be assessed against the consolidated unit to facilitate collection. However, if the consolidated unit no longer exists, the 818 shall be prepared for the subordinated unit as it would be considered the ineligible unit. (See [Section 22610-E](#) regarding recovery procedures when household composition changes.)
8. For failure to meet the [minor parent](#) living arrangement requirement at [Section 2250](#), the month the case becomes subject to the living arrangement requirement or ceases to meet the requirement if still applicable and continues until the month following the month the client meets the requirement, becomes exempt or the case is closed.

Example 1: A minor parent receives FA for herself and her child and lives alone but reported to her worker that she met the minor parent living arrangement requirement and supplied fraudulent documentation of such. She became subject to this requirement (does not meet an exemption) as of October. The erroneous payment begins with December and continues until the month following the month she meets the requirement, becomes exempt or the case is closed.

Example 2: A minor parent receives FA for herself and her child and lives alone. She is exempt from the minor parent living arrangement requirement as her only known, living parent lives in Georgia. Her mother moves back to Alabama in June. The minor parent becomes subject to this requirement (does not meet an exemption) as of July. The agency became aware that the senior parent was in Alabama in November. The minor parent moves in with her mother in December and verifies this fact.

The erroneous payment begins with September and continues through December.

Example 3: A minor parent was living with her parent and receiving FA. The minor parent moved out July 2nd, was not exempt, did not meet an appropriate minor parent living arrangement and did not report the move to her worker. The minor parent ceased to meet the requirement as of

August. The erroneous payment begins with October and continues until the month following the month the minor parent meets the requirement, becomes exempt or the case is closed.

9. For failure of the [grantee relative](#) to notify the agency of the non-temporary absence of a child, the month the child left the home.

Example: A child moved out of the home in January and the mother (grantee relative) reported this child's move on April 10 at the time of her review. To determine the overpayment for March and April remove the mother's needs (but not her income per [3125-C](#)) as well as the child's needs. May and June are not overpayments unless the child's and the mother's needs could not be removed.

10. For adding a required member with income to the [assistance unit](#) that was timely reported, the month of [application](#) for that member.

11. For failure to terminate a case that is ineligible due to [minimum payment](#), the month of the change is the month prior to the month the case is eligible for less than \$10.

Example: A member of the assistance unit leaves the home in June. Member is removed effective July 1st. Loss of the member plus unearned income of another member being budgeted causes the monthly payment to be below the minimum payment. Worker fails to terminate the case and discovers the error at the next review in October. Case is terminated effective October 31st. Payments for August, September and October are overpayments due to ineligibility.^[9]

12. For failure to terminate a case when the grantee fails to make application for a required member after specific notification (verbal or written request, 1132, 686, etc.) to do so, or fails or refuses at any time to provide information following a valid request, the month of change is the month in which the request for action/information expires.^[10]

Example 1: Alert for birth of a child is set for November. After receipt of the alert notice, the client called and left the worker a message reporting the birth of the child on November 5th. Worker sends the client an 1132 requesting that she make application for the child. Request expires November 15th. Case should be terminated effective November 30th. Worker fails to terminate case and supervisor discovers the error in a case record review the following February. The case is terminated effective February 28th. The payments for December, January and February are overpayments due to ineligibility.^[11]

Example 2: Grantee receives for herself and one child. On March 5th she applies for a new baby born on March 1st. Worker requests verification of living in the home. Grantee fails to provide requested verification. Request expired March 15th. Case should be terminated. Worker adds child in error in March back to the date of application. Supervisor discovers error at case record review in July. April, May, June and July are overpayments due to ineligibility (ineligible case

not terminated). March is an overpayment for the amount of payment for the additional member (incorrect award of ineligible applicant).

Example 3: A parent returns to the household of his wife and children on February 27th; he receives \$100 per month in social security benefits. The wife reports his presence in the home on March 29th and signs the application. Worker gives the client an 1132 with an expiration date of April 8th to provide information/verification needed to determine eligibility. The client fails to provide information/verification. The case should be terminated effective April 30th, however, worker fails to terminate the case. Supervisor discovers error during case record review in September. Case is terminated September 30th. There is an overpayment of \$100 for February and \$100 for March due to receipt of unearned income that was not reported timely and accurately. The payment for April must be recalculated taking into account the parent's income but not his needs since the assistance unit has failed to establish his eligibility.^[12]

The payments for May, June, July, August and September are overpayments due to ineligibility.

- C. For **applicants** and **recipients**, when the overpayment resulted from receipt of benefits beyond 60 months, consider that an **erroneous payment** was made for each month in excess of 60 months that benefits were received. This includes individuals who met **time limit** exception criteria but were later determined non-compliant with JOBS or non-cooperative with Child Support per Section **2960-B**.^[13]

22130 Determining the Amount of the Erroneous Payment

By definition, the amount of the erroneous payment is the difference between the amount of payment the client received (**net entitlement**) and the amount s/he should have received for each month of the erroneous payment period. In general, usual budgeting procedures are followed in computation of the erroneous payment; Form 818 is used to determine the computation of the erroneous payment.

A. Offsetting the Amount

In situations where both an (agency caused) **underpayment** and an (agency or **client** caused) overpayment occur within the same period, a single erroneous payment computation correcting both errors will be done, this in effect offsets one error against the other in correcting the payment for that month(s).

B. Erroneous Payment Involving **Recoupment**

In situations where an erroneous payment occurs for a period during which recoupment has been deducted, the amount of recoupment must be disregarded in determining the amount of overpayment.

Example: Client receives FA for herself and one **child**. Her benefit amount is \$162 due to recoupment for an overpayment. Client begins receiving **RSDI** of \$100 per month and does not report timely and accurately.

Corrected Budget		Overpayment Budget	
\$190	Payment Standard	\$190	Payment Standard
<u>-100</u>	Amount of Income	<u>-90</u>	Correct net entitlement amount
\$90	Correct net entitlement amount	\$100	Amount of overpayment

C. Erroneous Payments Involving a JOBS or Child Support Sanction:

In situations where an erroneous payment occurs for a period during which a JOBS or Child Support **sanction** (payment reduction) has been imposed, determine eligibility/ineligibility without regard to the sanction in considering imposition of the **penalty**. Compare the corrected entitlement amount to the amount received in determining the amount of overpayment.

1. If determined **ineligible** disregarding the sanction, the penalty cannot be considered as having been imposed and must be imposed at the earliest possible time.

Example: Client receives \$95 per month due to a JOBS sanction. Client began working and earns \$500 per month and did not report timely and accurately.

Corrected Budget		Overpayment Budget	
\$190	Payment Standard	\$95	Amount received
<u>-500</u>	Income	<u>-0</u>	Correct net entitlement amount
\$0	Correct net entitlement amount (ineligible)	\$95	Overpayment amount

Since the correct amount was zero disregarding the sanction, the penalty cannot be considered to have been imposed (cannot impose a sanction on an ineligible case). Sanction tracking must be adjusted to delete the month(s) of sanction affected. The **time limit** count must also be adjusted as overpayment is due to ineligibility.

2. If determined **eligible** disregarding the sanction, the penalty is considered as having been imposed.

Example: Same as above except client earns \$75 per month.

Corrected Budget		Overpayment Budget	
\$190	Payment Standard	\$95	Amount received
<u>-75</u>	Income	<u>-20</u>	Correct net entitlement amount

115	Correct entitlement (eligible)	\$75	Overpayment amount
<u>-95</u>	50% sanction		
\$20	Correct net entitlement amount		

Since the client is eligible disregarding the sanction, the penalty is considered as having been imposed. No adjustments to tracking are needed.

22132 Computation of Erroneous Payment Involving Failure to Turn Over Court Ordered Child Support to the State

As **child support** payments assigned to the State are not usually treated in the same manner as other **income**, special procedures must be followed for computing the amount of FA a family should have received when the grantee received and kept court ordered child support payments for a child in the budget.^[14]

A. Client Determined Non-Cooperative by Child Support

1. Assistance Unit for Corrected Budget(s)

The **assistance unit** for corrected budgets is all persons in the budget, including the grantee, if previously included.

2. Applying Penalties Retroactively in Erroneous Payment Budget(s)

Beginning with the second month following the month in which child support was received and kept, apply the 50% **sanction** if applicable, or a **disqualification** if applicable. Repeat penalties as needed to cover the entire period of failure to turn over child support. Penalties for months of non-cooperation that cannot be imposed retroactively as part of the **overpayment** computation must be imposed on future benefits at the earliest possible time. Sanctions and disqualifications applied as part of the overpayment count as any other sanctions/disqualifications and must be manually added to the tracking.

3. Child Support to be Considered as Income in Corrected Budget.

As child support payments retained are considered as **unearned income**, policy in Section **22120-B** is to be followed to determine the overpayment months.

B. Client Determined Not to be Non-Cooperative by Child Support^[15]

Proceed as in 1 and 3. Item A2 is not applicable.

Example 1: Client began receiving child support directly in January and failed to turn it over to the State. The eligibility worker learns about the child support in March. The client agrees in March to turn over future child support. This is the client's first instance of non-cooperation. She has been non-cooperative for three months. To compute the overpayment for March, include the needs of all persons in the budget, including the grantee if previously included, budget the child support and reduce the grant by 50%. This month will count as any other month in a sanction sequence. Sanction is manually added to the tracking. There will be an overpayment for April only if the second month of sanction cannot be applied due to advance notice. Penalties that cannot be applied via the overpayment computation must be imposed as soon as possible.^[16]

Example 2: Same as example 1 above but the eligibility worker learns of the child support in May. Again the client agrees to turn over future support. The client has been non-cooperative for five months. To compute the overpayment for March, April and May budget the child support and reduce the grant by 50%. Terminate the case due to disqualification effective May 31st. A one-month disqualification for the fourth month of non-cooperation will be served for June. Sanction months and disqualification are manually added to the tracking. Impose the remaining six-month disqualification for the fifth month of non-cooperation upon reapplication.^[17]

Example 3: Same as example 1 above but the EW learns of the child support in October. The client has been non-cooperative for 10 months. To compute the overpayment for the period March, April May and June, budget the child support and reduce the grant by 50% for March, April and May. The month of June is an overpayment due to the one-month disqualification. The entire grant amount is an overpayment for the months of July through December due to a six-month disqualification. Penalty months are manually added to the tracking.

NOTE: Months that require a penalty after a six-month disqualification (2nd instance of non-cooperation) results in a 12 month disqualification (3rd instance of non-cooperation).^[18]

22133 Computation of Erroneous Payment in Cases Involving Child Support Turned Over to the State

In computing an **erroneous payment** in a FA case, the **eligibility worker** is responsible for determining whether a **child support** obligation has been established in the case and to what extent such obligation is being met. This is necessary because child support turned over to the State for FA children is reimbursement for FA payments made to them. Similarly, recovery by the State of an erroneous payment is reimbursement for FA payments made. Care must be taken to prevent reimbursement of the same FA payment from both sources.

A. Information About Child Support

Before calculating the amount of erroneous payment, obtain information from the [Child Support Unit](#) regarding whether there is a child support obligation for the [overpayment](#) month(s) and, if so, whether child support payment was made. If there is a child support obligation and it has been met, the collection must be considered as described below.

B. Child Support Turned over Prior to Erroneous Payment Computation

When the [assistance unit](#) was ineligible or eligible for an FA payment equal to or smaller than child support submitted to the State during the overpayment period, child support payments made on the current child support obligation for the month(s) must be considered as recovery of part or all of the overpayment. (This procedure does not apply when the [client](#) is found to have been eligible during the overpayment period and child support collected during the overpayment period was less than the amount of FA the client was correctly eligible to receive.) The child support which was turned over and which represents payment on the current obligation for the overpayment month is to be subtracted from the FA payment which was made to determine the amount of overpayment subject to recovery from the client. The following examples illustrate this.

Example 1: (Case found to be ineligible)

A client received \$200 FA in October. Due to unreported wages, this client is found to have been ineligible for that month. \$70 child support was collected by the State in October. To determine the amount to be recovered from this client due to this overpayment \$70 must be subtracted from the \$200 overpayment:^[19]

\$200	overpayment for October
<u> 70</u>	current month's child support collected by the state
\$130	DHR actually expended for October
<u> 0</u>	DHR should have expended because client totally ineligible
\$130	to be recovered from client

Example 2: (Case found to be ineligible)

A client received \$200 FA in October. Due to unreported wages, this client is found to have been ineligible for that month. \$170 child support was collected by the State in October. Current month obligation was \$70 and \$100 was applied to the URA. To determine the amount to be recovered from the client for the overpayment, \$70 must be subtracted from the \$200 payment:^[20]

\$200	overpayment for October
<u> - 70</u>	child support collected by the state for October's obligation
\$130	DHR actually expended for October 2004
<u> 0</u>	DHR should have expended because client totally ineligible
\$130	to be recovered from client

Example 3: (Case found to be eligible for a FA payment equal to or smaller than child support submitted to the State)

A client received \$200 FA in January. Due to unreported wages, this client is found to have received an overpayment for that month, and was correctly eligible for \$100. \$160 current child support was collected by the State in January. To determine the amount to be recovered from this client due to this overpayment, it is necessary to look at the actual situation (how the payment was actually computed in January) and how the payment should have correctly been computed.^[21]

\$200	actual FA payment for January
<u>- 160</u>	current month's child support collected by the State
\$ 40	DHR actually expended for January
<u>- 0</u>	DHR should have expended because child support was greater than \$100 (the payment for which client was eligible if no child support had been collected)
\$40	to be recovered for January

Example 4: (Case found to be eligible for an FA payment equal to or smaller than current month's child support collected by the State)

A client received \$200 FA in January. Due to unreported wages, this client is found to have received an overpayment for that month and was correctly eligible for \$100. \$180 child support was collected by the State in January. Current month obligation was \$160 and \$20 was applied to the URA. To determine the amount to be recovered from the client for the overpayment compute as follows:

\$200	actual FA payment for January
<u>- 160</u>	current month's child support collected by the State
\$ 40	DHR actually expended for January
<u>- 0</u>	DHR should have expended because child support was greater than \$100 (the payment for which client was eligible if no child support had been collected)
\$40	to be recovered from client

C. Child Support Turned Over After Erroneous Payment Computation

In some cases arrearages on court-ordered child support may be collected by the State after the overpayment has been determined and/or repayment or recoupment has been initiated. A [redetermination](#) of the overpayment will not be necessary. In these cases, the arrearage amount will be applied to the amount of [assistance payments](#) which constitute unreimbursed FA paid to the client as of that time.

22140 Definition of Non-Fraud Overpayments

A non-fraud [overpayment](#) occurs when a financial assistance payment received by or for an individual or an [assistance unit](#) for the payment month exceeds the amount for which that individual or assistance unit was [eligible](#) due to [administrative error](#), [client error](#) or retroactive [SSI](#) benefits.

The following circumstances support an overpayment defined as non-fraud.

A. When [assistance payments](#) have continued at an unreduced rate because a [recipient](#) requested a hearing within the [advance notice](#) period and the hearing decision indicates that the proposed action is in order, or the hearing request is withdrawn and there is no additional information indicating the proposed action was not in order, any payment made pending the hearing activities is an overpayment subject to recovery.

B. [Administrative Error](#)

An administrative (or agency) error may be of two types:

1. Active or passive error on the part of a Departmental agent. If the recipient made full disclosure of facts to any staff member of the Department, but the responsible Departmental agent failed to act or acted incorrectly on these facts in accordance with the applicable policies and procedures related to the authorization of eligibility, the overpayment is considered an administrative error.

2. Payment during the [advance notice](#) period

When a [recipient](#) is not eligible for a payment or is eligible for a reduced payment and the advance notice period runs into a month when [termination](#) or reduction should have been made (refer to Section [22120](#)), all or a part of the money payment for that month is an overpayment. The advance notice period is not an extension of eligibility; instead, it is an administratively designed time period which ensures due process.

C. [Client Error](#)

A client error overpayment occurs when the client fails to properly disclose facts regarding his situation, but where there is no demonstrable intent to defraud. This type of overpayment may occur due to a lack of understanding on the part of the client and may be considered to exist if the record documents that a particular requirement was not explained to the client or that the client cannot be held responsible for giving complete and accurate information due to physical or mental disability; or this type of overpayment may exist when a client fails to report a change in circumstances in a timely manner, but reports that change at a later date or when prompted assuming that no contrary evidence supports an allegation that he deliberately intended to defraud the agency. In this latter situation, however, the client may be subject to administrative penalties for failure to report timely (for example, loss of the [earned income disregard](#), [work expenses](#) and child care), but legal action would not generally be pursued as a corrective action.

D. [SSI](#) Related

1. FA – Current SSI

SSI is a type of **public assistance**. Therefore, consider that a FA recipient received an overpayment for any month in which s/he received FA and current SSI provided the SSI benefit was not reduced by the amount of FA. Determine the existence of an overpayment in FA for each month SSI was also received as follows:[22]

- a. Determine the amount of the FA grant with the SSI recipient's needs and income removed.
- b. Subtract the amount in "a" above from the current grant amount. A positive difference results in an overpayment. A negative difference results in no overpayment.
- c. Add the monthly overpayments to determine the total FA overpayment made.

Example 1: Client receives \$245 FA for herself and 3 children. In July the worker learns the client began receiving SSI in April. Contact with SSA verifies the SSI payments for April, May, June and July were not reduced by the amount of FA received in those months.

\$215	FA grant amount minus the SSI recipient and her income
\$245	current grant amount
<u>- 215</u>	FA grant amount minus the SSI recipient and her income
\$ 30	amount of FA overpayment for April, May, June and July
\$120	total overpayment

Example 2: Same as above except client receives \$170.00 FA due to unearned income of \$75.00.

\$215	FA grant amount minus the SSI recipient and her income
\$170	current FA grant amount
<u>-</u>	FA grant amount minus the SSI recipient and her income
<u>215</u>	
\$ -	negative difference = no overpayment
45	

2. SUP-Ineligibility for SSI

When a SUP recipient receives SSI and is later found by SSA to be ineligible for SSI in a month, the full SUP payment for that month is an overpayment.

E. Expenditure of Funds Set Aside for Burial (SUP)

When a grandfathered supplementation recipient or his ineligible **spouse** has spent funds which were excluded under provisions in Sections **12315-K** and **L** for other purposes while he was a recipient, he is considered to have received an overpayment. The amount spent for other purposes

is the total amount of overpayment to be recovered according to Section 22200. This penalty for use of excluded burial funds for a purpose other than burial arrangements of the individual or spouse will apply only if, as of the first day of the month of use, the individual would have had resources in excess of the limit without the application of the exclusion.

22150 Definition of Suspected Fraud Overpayments

A suspected fraud overpayment occurs when an applicant/recipient of public assistance has received an overpayment occasioned or caused by his willful withholding of information concerning his income, resources or other circumstances which may affect the amount of payment, such as household composition, etc. Withholding of information by an applicant/recipient includes understatement of amounts of income/resources; omission of an entire category of income/resources; and failure to report changes in income/resources or other circumstances which may affect the amount of payment, after having been clearly advised of his obligation to report such changes. For agency purposes, suspected fraud will not be considered to exist when no overpayment was made to the client, even though information was withheld.

There are three essential elements to the worker's decision that an overpayment is properly classified as suspected fraud. Each of these elements must be clearly documented in the Summary of Circumstances section of the 818 before a claim can be properly classified as suspected fraud as this decision is the basis for corrective action in the form of referral for legal action. Inability to properly support the basis of a decision to attribute an overpayment to suspected fraud on the part of an applicant or recipient will mean that the claim will be considered as non-fraud. These 3 elements are as follows:

- Documented evidence to substantiate the facts upon which the overpayment has been determined; and
- An actual overpayment; and
- Evidence that the individual intentionally committed the action or inaction which has prompted the overpayment.

The legal basis for a suspected fraud determination is found in State Law. The Code of Alabama 1975, Sections 13A-8-2, 13A-2-23 and 13A-9-18 are the primary provisions under which someone suspected of fraud may be prosecuted.

A. Section 13A-8-2 – Theft of property. A person commits the crime of theft of property if he:

1. Knowingly obtains or exerts unauthorized control over the property of another, with intent to deprive the owner of his property; or
2. Knowingly obtains, by deception, control over the property of another; with intent to deprive the owner of his property.

See Section 13A-8-3 through 5 for degree of offense.

- B. Section 13A-2-23 - Complicity. A person is legally accountable for the behavior of another constituting a criminal offense if, with the intent to promote or assist the commission of the offense:
1. He procures, induces or carries such other person to commit the offense; or
 2. He aids or abets such other person in committing the offense; or
 3. Having a legal duty to prevent the commission of the offense, he fails to make an effort he is legally required to make.
- C. Section 13A-9-18 – Criminal Impersonation. A person commits the crime of criminal impersonation if he:
1. Assumes a false identity and performs an act in his assumed character with intent to gain an economic benefit for himself or another or to injure or defraud another; or
 2. Pretends to be a representative of some person or organization and performs an act in his pretended capacity with intent to gain an economic benefit for himself or another or to injure or defraud another.

Note that these State law provisions particularly emphasize the intention of the individual suspected of fraud. It is for this reason that some explicit action or inaction on the part of the individual which demonstrates his intent to defraud must be carefully documented in support of a determination of a suspected fraud claim.

Given below are some examples of circumstances that would constitute suspected fraud in [public assistance](#) cases. In all of these cases the agency relied upon the act, statement, or withholding of information; the [recipient](#) received a payment to which he was not entitled or he received a larger payment than that to which he was entitled; and the client's demonstrated intent to deceive.

Example 1: FA parent became employed. However, he did not report this to the County Department at the time of review, although the worker asked if he was working.

Example 2: FA recipient began receiving RSDI, but did not report this to the worker, who learned about the benefits through BENDEX. However, the case record documents that the client has reported other changes and is clearly aware of the effect that his failure to report will have on his receipt of benefits.^[23]

Example 3: A reference reported that a recipient was receiving VA benefits. A representative from the County Department asked the recipient if this was true. The recipient denied it. The worker contacted the Veteran's Administration and found that the recipient was actually receiving benefits.^[24]

22153 Prevention of Possible Fraudulent Activity

The State and County Departments are jointly responsible for preventing fraud whenever possible and minimizing opportunities for **applicants** and **recipients** to commit fraud. However, staff in the County Department can have the most significant impact on reducing the incidents of fraudulent activity through the following types of activities:

- A. Assisting applicants and recipients in providing complete and accurate information about all points of eligibility. Following the manual provisions for acceptable verifications and being alert for inconsistencies and possible omissions in information provided by clients.
- B. Reviewing the most recent two packets in an existing FA record prior to the **application** interview.
- C. Requiring primary sources of **verification** for cases with a pending or outstanding claim, or a prior overpayment caused by fraud, misrepresentation or failure to timely report changes
- D. Explaining to applicants and recipients carefully and in detail the program requirements and their responsibility for providing thorough, accurate information and for promptly reporting all changes in their circumstances within 10 days after the date of such changes.
- E. Creating a relationship in which the **client** will not be hesitant or fearful discussing his situation fully.
- F. Following up on changes which are anticipated in recipients' circumstances between scheduled redeterminations of eligibility.
- G. Increasing the frequency of contacts in situations in which it appears that the recipient has difficulty in reporting changes.
- H. Carefully explaining the Department's policies concerning fraud and the penalties provided by law for committing fraud.
- I. Being alert to limitations and conditions which may reduce the client's ability either to fully understand or to fulfill his obligation to provide thorough and accurate information about his situation and taking appropriate steps to assist him in providing this information.

22155 Investigating the Suspected Fraud Case

County Departments are responsible for promptly investigating situations in which it appears that assistance was received on the basis of incorrect information to determine whether fraudulent activity on the part of the client may be involved. When it is determined that there are reasonable grounds to believe that fraud exists, such factors as the manner in which the **recipient** has acted, the reasons he gives for his actions or failure to act, and his ability to understand his responsibility or to understand relevance of information must be evaluated. It is essential to have a personal contact with the client to

properly evaluate the reasons he gives for his actions or failure to act and his present ability to understand explanations, etc. (This contact must be made prior to confirming the claim on the claims system.) If the client fails to respond to your request, document your attempts to contact him in the record and in the Summary of Circumstances section of the 818. However, when the client has knowingly and willfully concealed **income**/resources and signed eligibility determination forms one or more times, denying presence of such income/resources, the circumstances support a determination of suspected fraud. [25]

The County Department is also responsible for securing adequate verification of the facts of the client's situation which form the basis of his ineligibility for the benefits he received. An example of information indicating possible fraudulent activity is that taken from wage match printouts. The Department is responsible for verifying the fact of the client's employment and the actual amount of wages received while also receiving assistance benefits. After reasonable effort, if the County Department cannot secure verification of income from the employer; (or secure verification of **unearned income**); assistance from the Claims Unit, Food Assistance Division may be requested. To request assistance, complete section one through twelve of the PSD-DFD-818. In the Summary of Circumstances section, write a short paragraph stating the reason for the request; the paragraph must include the following: efforts made to secure verification, the names of the persons in the household receiving the unreported income and their Social Security numbers if not listed under items 8 and 9, name and address of the employer or source of unreported income, and the period for which verification is needed. Forward the completed form to the Claims Unit. The Claims Unit will review the request and will be responsible for requesting a subpoena from the Attorney General's Office which will be used to obtain the needed information from the appropriate source. Until such time as exact information regarding wages can be secured, prorate wages evenly over the quarter as confirmed by DIR and submit as usual; upon receipt of more accurate information, prepare an 818 marked "**redetermination**" and update the claim on the claims system.

22160 Establishment of the Confirmed Overpayment Claim and Notice to the Client

Once the County Department has made a final determination that an **overpayment** exists and has completed documentation, the claim must be established on the Department's automated claims system. Each separate claims record will generally involve one overpayment incidence; that is, each claim record will involve a continuous period of months involving a single causal reason for the claim. Exceptions may involve situations where two causes (e.g., **client error** and **administrative error**) co-exist in a single month or situations where two incidences of overpayment are related (e.g., client fails to report two incidences of employment which are successive in time.)

The establishment of a confirmed claim on the system will automatically produce an initial notice to the client providing at minimum the following information:

A. The total amount of the overpayment

- B. The cause(s) of the overpayment
- C. The period of the overpayment; and
- D. The client's right to request a hearing in regard to the determination of this overpayment

If the overpayment is defined as non-fraud or suspected fraud less than \$1,000 (or when no companion claim exists so that the combined total is greater than \$1,000), the automated letter will instruct the client of the option to repay part or all of the claim as a lump-sum or to arrange a repayment agreement, or if currently active that **recoupment** from current assistance may be made in accordance with Sections [22200](#) and [22610](#).

If the overpayment is defined as suspected fraud of \$1,000 or more, the automated letter will state that referral of the claim is being made to the Claims Unit for possible prosecution. Further collection activity will be suspended until response is received from the Claims Unit in accordance with Section [22500](#).

22170 Collection of the Overpayment from the Individual Responsible for the Overpayment or from the Overpaid Assistance Unit

The agency is to seek recovery of an **overpayment** from the individual responsible for the overpayment. "Responsible" in this context does not mean that the overpayment was the fault or error of the individual.

- A. SUP. The **client** is the individual who is responsible for repaying the overpayment except for State supplementation overpayments resulting from **administrative error**. Refer to the "Note" in Section [22200](#) for instructions on the SUP overpayments due to agency error.^[26]
- B. FA. The **grantee relative** of or for the overpaid **assistance unit** is the individual the agency holds "first" responsible for repaying the overpayment since s/he administers the FA payment(s) of which the overpayment is a part. This is true regardless of whether the grantee relative was included or excluded from the assistance unit at the time of the overpayment.^[27]

Therefore, the agency is to first seek recovery from the grantee relative or from his/her current assistance unit. This includes a current assistance unit for which the grantee relative may be **payee** only, i.e., child only case. ^[28]

In the event that the grantee relative cannot be located or is deceased or is not grantee for a current **recipient** assistance unit, the agency must then seek recovery from the members of the overpaid assistance unit or from their current assistance unit. There is no priority regarding the order in which recovery from such members is to be pursued and failure to recover from one family member does not discharge the remaining family members. If the grantee relative is again located or is associated with an active case, it will be necessary to stop the recovery from any other members of the overpaid assistance unit and pursue recovery from the grantee relative. If at any time later the grantee relative cannot be

located or his/her active case closes, the agency should again attempt to collect the overpayment from any one of the members of the overpaid assistance unit.^[29]

22200 Recovery Procedures for Non-Fraud Overpayments

Recovery of all non-fraud overpayments, except for State Supplementation overpayments resulting from [administrative error](#), must be sought through repayment or by reducing the amount of aid payable to the [assistance unit](#) or both. Recovery may also take the form of offset of the overpayment by a subsequent [underpayment](#) to the client. In no situation is it appropriate to consider that return or subsequent “voiding” of the [assistance payment](#) warrant or expunction of an aged [EBT](#) FA benefit is equivalent to “canceling” an overpayment and, therefore, eliminating the need for preparation of Form 818.

NOTE: Even though no collection action is to be taken on State Supplementation overpayments caused by agency error, the worker must establish the claim on the automated system. However, all notices are to be suppressed and the claim is to be placed in [suspense](#) status immediately. In addition, a copy of the automated or manual 818 must be forwarded to the Alabama Medicaid Agency when a non-[SSI](#) SUP recipient is involved.

A. FA and SUP

1. When the [client\(s\)](#) remains [eligible](#), collection action is initiated at the time of the establishment of the claim on the automated claims system. The notice of claim sent to the client will advise that repayment is necessary or [recoupment](#) will be initiated. If the client chooses to pay part of the [overpayment](#) in a lump-sum, follow recoupment procedures for the balance.^[30]
2. In cases where the client is no longer eligible for assistance, collection action is likewise initiated at the time of establishment of the claim on the automated claims system. If no repayment agreement has been negotiated within 30 days of the date of the initial notice, a second automated letter will be sent.^[31]

If the letters are returned unclaimed, contact at least two [references](#)/relatives in an attempt to locate the client. Available data sources such as the Department’s automated information systems, including [BENDEX](#) should be checked for current information regarding the household. Document all location efforts in the [case record](#). Refer to Section [22700](#) for procedures for discontinuing collection efforts when the client cannot be located.

3. Although discontinuation of collection action may have been appropriate, future recoupment action is not precluded if the client or [assistance unit](#) applies for assistance at a later date. Therefore, at any time subsequent to a period of ineligibility, recoupment may be reinstated against the client for any outstanding balance(s).

4. Reinstate collection effort following any period of FA eligibility as in 2 above by either enforcement of an existing repayment agreement, by negotiation of a repayment agreement if one has not been previously established, or by renegotiation of an agreement based on the client's current situation.
5. If collection through recoupment or cash repayment are unsuccessful, the county department may consider other alternative collection methods as described in Section 22600; contact the Claims Unit in regard to the applicability of alternative collection methods in regard to a specific situation as necessary.
6. When the amount of a FA benefit for a month was not accessed by the client and the month was written up as an overpayment month, expunction of the aged EBT benefit after the twelfth month of availability is an acceptable overpayment recovery procedure. After the benefit has been expunged, update the 818 with an explanation in the Summary of Circumstances section concerning the month(s) involved and the amount of the expunged benefit(s) and the resulting amount of claim balance due. The amount of an expunged benefit is to be rounded to the nearest dollar when it is used to adjust the claim balance. Adjustments must also be made to the Comprehensive Claims system in these instances.^[32]

B. **Medicaid Only (Non-SSI SUP)**

After documentation of an incorrect certification by completion of a manual 818, maintain the original in your file and mail the copy to the Alabama Medicaid Agency.

22400 FA Fraud Control Program

Any individual found guilty of committing an intentional program violation by a court of appropriate jurisdiction in Alabama will be disqualified from participation in the FA Program according to the provisions defined below.

For purposes of this **sanction**, the **disqualification** penalties will be invoked against any individual who is a member of an **assistance unit** applying for or receiving FA and who is found on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally ⁽¹⁾ made a false or misleading statement or misrepresented, concealed, or withheld facts, or ⁽²⁾ committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity, for the purpose of establishing or maintaining the assistance unit's eligibility for FA or of increasing (or preventing a reduction in) the amount of the grant.

Upon notice from the court or the Claims Unit that an individual has been found guilty of an intentional program violation, the worker will remove the needs of that individual from the FA assistance unit for the appropriate period as follows:^[33]

1. for a period of 6 months upon the first occasion of any such offense;
2. or a period of 12 months upon the second occasion of any such offense; and
3. permanently upon the third or subsequent occasion of any such offense

If the individual to be penalized is the [parent](#) or [spouse](#) of a child(ren) in the assistance unit, his/her [income](#) and resources will be considered per Section [3125-C.1](#). Change reason code NFD (or closure code KFD) will be used to effect this change.^[34]

[Advance notice](#) of adverse action is required to invoke the penalty period. The automated notice is to be held, and a manually prepared advance notice is to be provided to the household. Form 657 is to be used for this purpose and the following information is to be provided to the assistance unit:

1. that the grant is to be reduced or terminated and the effective date;
2. the exact period of the sanction;
3. that the individual specifically named is being sanctioned because s/he was found guilty of committing an intentional program violation; and
4. the authority for the action, Section [3105](#), this section, and Department Rule No. 660-2-2-13.

The above policy also applies if the individual is no longer participating in FA at the time a penalty is to be invoked. Provide the individual written notice that contains the same elements as provided above for the advance notice of adverse action. Once a disqualification period is invoked it will run continuously.

Example: FA benefits were terminated effective January 30 due to income from Social Security benefits exceeding the allowable amount for FA eligibility. On April 12, the client was found guilty of committing an intentional program violation. This was a first offense and the penalty period was for 6 months. Form 657 was mailed to the client on April 15. The penalty period will begin on May 1 and will run continuously for 6 months, ending on October 30.

If the removal of the needs of the disqualified individual results in ineligibility for the [assistance unit](#) because countable income now exceeds the [payment standard](#) for the reduced household size, the penalty period will be considered to be invoked with the effective date of [termination](#). If this same assistance unit reapplies during the running of the sanction period, the needs of the disqualified person will continue to be excluded until the full penalty period has expired.

Example 1: A six month disqualification is invoked beginning March 1 and the remaining assistance unit members are terminated effective May 30 due to their income. The penalty period expires August 31.

Example 2: The removal of the needs of the disqualified individual results in ineligibility of the assistance unit effective April 30. The penalty period begins with May. If a reapplication is made in July, the needs

of the disqualified person must continue to be excluded as a six-month penalty would run through October.

22500 Recovery of Suspected Fraud Overpayments(FA/SUP)

Recovery of all suspected fraud overpayments must be sought promptly from the individuals responsible for the overpayment. See Section 22170 for instructions to follow if this person was not a member of the overpaid [assistance unit](#) cannot be located or is deceased. Recovery action will generally take one of four forms (collection of the overpayment, action to locate the former [recipient](#), a monthly repayment agreement, or referral to the Claims Unit, Food Assistance Division) depending on the case, category, and the status, active or inactive. In no situation is it appropriate to consider that return or subsequent “voiding” of the [assistance payment](#) warrant or expunction of an aged [EBT](#) benefit is equivalent to “canceling” an overpayment and, therefore, eliminating the need for entering the claim on the claims system and preparation of the 818.^[35]

Refer any suspected fraud overpayment cases of \$5,000 or more and any cases in which a companion claim exists and the total combined overpayment is \$5,000 or more to the Claims Unit, Food Assistance Division for disposition. Referral to the Claims Unit for prosecution will meet the requirements for prompt recovery described in Section 22200 if the referral is made no later than the end of the quarter following the quarter in which the overpayment is identified. Inform the Claims Unit of all subsequent activities or developments in the case.^[36]

Establishment of the claim on the automated system will result in an initial notice of the claim being sent to the client. The content of the notice and subsequent action will depend on the amount of the claim and the current program status of the assistance unit.

1. If the amount of the overpayment is less than \$5,000 and if no companion claim exists so that the combined overpayment is \$5,000 or greater, active collection efforts should be initiated immediately. NOTE: As used in this section and those that follow, a companion claim generally refers to an [erroneous payment](#) in food assistance and/or JOBS which addresses the same time frame and circumstances where the client has submitted a single application for FA and Food Assistance (i.e., a FA and a PA/Food Assistance case). Cases which involve separate [application](#) for FA and Food Assistance should be considered separately for purposes of meeting the \$5,000 threshold. Collection may be initiated without the concurrence of the Claims Unit. Collection can be by cash collection in a lump-sum, recovery based on a repayment agreement if the client is currently ineligible for program benefits or [recoupment](#) from current assistance if the client is currently eligible.^[37]

Allow the client at least 10 days to respond to the notice of claim prior to instituting recoupment. Alternately, automated support in the form of periodic notices to the currently ineligible client in the event of failure to negotiate a repayment agreement is provided as for non-fraud cases. Specify in

the Summary of Circumstances section of the 818 that collection or recovery has been initiated and the resulting actions.

2. If the amount of the suspected fraud public assistance [overpayment](#) is \$5,000 or greater, or if a companion claim for food assistance and/or JOBS exists and the combined total is \$5,000 or greater, suspend collection efforts and do not initiate recovery beyond initial notice to the client. Referral to the Claims Unit for possible prosecution action is considered to meet the requirements for prompt recovery. **Do not accept any repayment on these cases without prior approval from the Claims Unit; if necessary, approval of the Claims Unit may be secured by telephone, however, it must be confirmed by written request and notice of the action taken.** The Claims Unit will advise when further collection activity is appropriate.

When notified by the Claims Unit that the case has not been accepted for prosecution or that the case has been nol-prossed or dismissed or that disposition has been made by the court, the classification and amount must be reviewed. The court's decision does not negate this Department's responsibility to collect any overpayment and collection may proceed by means of other civil remedies available to the Department if collection is not ordered as a result of the criminal prosecution action.

3. If recovery of the claim is unsuccessful through either recoupment, repayment agreement, or legal action as outlined above, alternative collection procedures as described in Section [22600](#) should be considered. Contact the Claims Unit in regard to the applicability of any alternative collective methods to a specific situation as necessary. (See also Section [22510](#))

22505 Restriction on Discussion with Client (or his representative)

The county worker must not discuss prosecution with the [client](#) at all unless the client asks questions regarding the possibility of prosecution. If the client asks questions about the possibility of prosecution, explain to him that the circumstances surrounding his [erroneous payments](#) are being reported to the State Office and the determination as to the feasibility of legal action will be made by the Claims Unit. Never state or imply that [recoupment](#) or voluntary reimbursement by the client may take the place of possible legal action against the client.

Clearly document in the [case record narrative](#) what was said between the client and the worker with respect to recoupment or repayment of benefits as well as any statements regarding prosecution. Documenting this in the case record will provide substantiating information should this be needed at some time in the future.

22510 Collection of Suspected Fraud/Confirmed Fraud Claims Subsequent to Legal Action

The Department has a responsibility to collect regardless of the actions of legal authorities in pursuing prosecution. Action or inaction on the part of legal officials or the court may, however, impact on the classification of the claim (e.g., non-fraud versus fraud), the amount in some instances, and follow-up actions. Some of the possible situations are described below:

- A. If the client is found not guilty by the court, reclassify the claim using the appropriate non-fraud designation and initiate collection activities. If additional information was submitted in the trial that impacts upon the amount of claim, a [redetermination](#) and subsequent adjustment to the claim may be required. Upon the advice of the Claims Unit, civil court action, may be appropriate.^[38]
- B. When a client is indicted by a Grand Jury and a final court hearing is held and restitution is specifically ordered, collection efforts will be made in accordance with the court order. The claim is to be reclassified as confirmed fraud. Send a copy of the court order to the Claims Unit. (If the client currently receives assistance and the amount specified in the court order exceeds the permissible [recoupment](#) standard, contact the [Family Assistance](#) Division.) In any case involving court-ordered payments, the appropriate probation officer must be notified when court-ordered payments become delinquent by as much as three months. The Claims Unit is responsible for notifying the probation officer. Send a letter to the Claims Unit containing at minimum all of the information listed below:^[39]
 - Name of individual
 - All pertinent Family Assistance and Food Assistance Case Numbers
 - Court case number
 - Original amount ordered to be repaid
 - Current balance and amount paid to date, identifying any court costs paid
 - Date and amount of last payment

The Office of Claims Recovery will take any other necessary actions in such cases.^[40]

- C. If a voluntary restitution agreement was negotiated by legal authorities in lieu of criminal court action, collect according to the agreement. The classification of the [overpayment](#) is not affected, it remains suspected fraud.
- D. If criminal court action was involved but the claim was dismissed, dropped or thrown out by the court, reclassify the claim as non-fraud and initiate collection activity. Due to a change in the State law effective January 1, 1980 regarding prosecution of welfare fraud, at times only part of a claim covering a period of time prior to and after January 1, 1980 will be presented to the court. In other situations, the court may “throw out” part of the claim; for example the court may also decide the evidence submitted is too weak for part of the claim, but not the rest of the claim. The County Department must be careful in determining why only part of the claim was addressed.

The portion of the claim which was never presented to the court may be pursued by the County Department as a separate overpayment claim; any portion of the claim that was presented to the court and was subsequently “thrown out” or not addressed may also be pursued but may not be pursued as a suspected fraud claim.

- E. If part or all of a claim is not processed, reclassify the claim or that portion of the claim as non-fraud and initiate collection activity. (In these situations legal action, such as arrest warrants or grand jury action, was initiated but legal action was terminated without a definitive declaration that the client was guilty of fraud.)
- F. If the case was returned by the Claims Unit and no legal action was initiated for reasons such as the statute of limitations, insufficient evidence, or the client's age or health, initiate collection. The classification of the claim remains suspected fraud.^[41]

22600 Types of Collection and Recovery Activities

Although Sections 22200 and 22500 describe the most frequent recovery procedures to be followed by the County Departments, it is the responsibility of the Department to attempt to recover all overpayments. The following sections describe the most common collection techniques available. The question of which technique is appropriate will depend to a great extent on the type of claim (non-fraud or suspected fraud or fraud confirmed by court action), on the amount of the claim, on whether the client currently receives public assistance, on what steps may have already been taken to collect the claim, on whether legal action is appropriate, or on the age of the claim.

22610 Recoupment from Current Assistance

The recoupment of FA/SUP benefits is an automated batch process that is performed through an interface with the Comprehensive Claims System (CCS). The worker does not enter any recoupment information on FACETS. Recoupment information is to be entered on the CCS according to regular procedures. The automated recoupment process is performed for all regular monthly benefits (coded N on the payment history). FACETS sends payroll information to the CCS to check against its file for possible recoupment.

If, based on information on the CCS, recoupment is appropriate, the recoupment amount is deducted and posted to the CCS and the payroll information is returned to FACETS for posting to the EBT account, issuance of SUP checks, and tracking on the FACETS payment history. The amount of the benefit sent to the EBT account or issued as a check is the amount after recoupment. The total benefit amount, the actual amount of benefits issued and the amount recouped are listed on ZE08, Payment History Inquiry, but do not appear anywhere else on FACETS.

Once recoupment has been initiated on a case, the automated budget ZC45, displays the message: "MAY BE SUBJECT TO RECOUPMENT" in the MESSAGE line at the top of the screen when accessed. This message is displayed until FACETS is notified by CCS that recoupment has stopped. However, the amount of recoupment will not be shown on the automated budget, as the recoupment calculation is independent of the FACETS calculation.

For all cases subject to recoupment, a “variable” paragraph is added to the automated notice sent from ZC58 that tells the [client](#) that recoupment was performed.

A. Recoupment Amount in FA/SUP

In cases where recoupment is appropriate, a standard amount equal to 15% of the [payment standard](#) will be deducted. (See table of Recoupment Standards for FA Cases and table of Recoupment Standards for SUP Cases in Appendix I). The standard amount must be used unless:

1. The recoupment balance due is less than the standard monthly recoupment amount. Then, the balance due is recouped.
2. The actual benefit amount is less than the standard monthly [recoupment](#). Then the actual benefit amount is recouped. This could result in a zero money payment to an FA/SUP [assistance unit](#) for one or more months.

B. Length of Recoupment Period

The recoupment period will begin with the first normal monthly payment issued the month following the month the initial claims notice is mailed to the client. The recoupment period continues until the balance due is reduced to zero or the CCS is recoded to end the recoupment.^[42]

C. Transfer of Recoupment Case

When a [recipient](#) from whose money payment a prior [overpayment](#) is being recouped moves within the State, recoupment procedures must continue if s/he remains [eligible](#) in the county to which s/he has moved. The monthly recoupment amount and length of recoupment period will remain unchanged, unless the payment standard has changed. If s/he does not remain eligible, procedures in “D” below apply.

D. Unpaid Balance of Overpayment Subject to Recoupment From Current Assistance

When the entire overpayment cannot be recouped from current assistance because the recipient becomes ineligible in the State, try to secure reimbursement of the unpaid balance through negotiation of a repayment agreement. If the recipient later reapplies for assistance and is determined eligible, the length of the period of ineligibility between past overpayments and current eligibility has no effect on recoupment of past overpayments from current assistance.

E. Change in Composition of Assistance Unit

Recoupment of prior overpayments from current assistance can be implemented from the [assistance unit](#) which was overpaid or from any assistance unit of which the responsible [grantee relative](#) of the overpaid assistance unit has subsequently become a member or grantee only. Refer to Section [22170](#) for additional information regarding the proper unit from which to seek recovery.

Institute recoupment from the assistance unit even though the original assistance unit may not be intact. If this assistance is terminated with an overpayment remaining, should a member of the overpaid unit be or become a recipient in another case, implement recoupment to obtain the remaining overpayment from that unit as long as the responsible grantee relative cannot be located, is deceased or is not grantee for a current recipient assistance unit. Do not recoup from more than one assistance unit at the same time even though several cases may contain members of an overpaid group. There is no priority regarding the order in which recovery from each member is to be pursued.^[43]

At the time a decision to recoup from a different assistance unit is made, a claim record in the new grantee's name and case number must be established on the claims system. **Once the claim has been established, a transfer adjustment must be made to transfer the original claim's remaining balance to the new assistance unit.** Document in the original [case record](#) the transfer of the claim and make a cross reference in the new assistance unit's record to the original case and document the reasons for the transfer of the claim. ^[44]

22620 Cash Repayment Based on Negotiated Repayment Agreement

Monthly cash repayment based on a negotiated repayment agreement may be used for an outstanding claim balance (or for the total outstanding balance in multiple claim situations) in closed cases. Form DHR-PAD-1562 is used for this purpose. In case situations involving a disabled parent in the home, it is recommended that the signatures of both adults in the [assistance unit](#) be secured as part of the negotiation process. The monthly amount of the repayment shall be based on the client's current ability to repay with a \$10 per month minimum recommendation regardless of the length of time it will take the claim to be paid out. In multiple claim situations, the repayment must be renegotiated at the establishment of the second and each subsequent claim within a program. A single monthly repayment amount will represent the client's obligation on the total outstanding balance. The repayment agreement may also be renegotiated at any time the client's situation changes. The case record should document why renegotiation is necessary in each instance.

22630 Special Procedures Involving Bankruptcy Proceedings

When [public assistance](#) clients petition for bankruptcy, the [client](#) may list the County Department as a creditor if s/he has an outstanding claim for an [overpayment](#) of public assistance. This section describes the responsibilities of the County Department regarding bankruptcy actions involving public assistance cases (FA and SUP). Regardless of the unit of the Department first notified of pending bankruptcy proceedings, each unit is responsible for promptly notifying other units which may have a stake in the proceeding of the of the pending action.

Take action as follows:

- A. Send (fax or mail) all bankruptcy notices to the Office of Claims Recovery (OCR) upon receipt ensuring that the complete SSN is included on the notice.
- B. Assure that no collection activity is performed on the case, once the bankruptcy notice has been forwarded to the OCR. NOTE: Upon receipt of the notice, the OCR will update the Comprehensive Claims System (CCS) by entering a "B" in the field entitled "Collection Status" on the Claim Detail Update Data Entry screen. This entry causes all collection activity to cease and should **only** be removed by the OCR.
- C. Send all subsequent notices from the bankruptcy court to the OCR. These include notification of hearing, request for dismissal, conversion request, etc.
- D. File notification sent to the county from the Legal Office, unless it is a request for information. If the Legal Office requests information, send within the specified time frame but no later than ten days from the date of the receipt of the request.

22640 Referral to the Claims Unit, Food Assistance Division for Legal Action

The State Department, through the Claims Unit of the Food Assistance Division, has responsibility for legal action(s) to be taken in cases of suspected fraud. The Claims Unit has responsibility for coordinating all related activities as well as receiving and reviewing reports of suspected fraud to decide on appropriate action. Referral to the Claims Unit meets the criteria for corrective action on a claim as required in Section 22200.^[45]

The County Department will be notified in writing of the decision of the Claims Unit upon its review of information submitted on cases of suspected fraud as follows: ^[46]

- A. If the case appears not to involve fraud, the Claims Unit will explain why this decision was reached.^[47]
- B. If fraud appears to be present, the Claims Unit and the Departmental prosecutor may institute criminal prosecution or a civil suit.^[48]

The Claims Unit is responsible for criminal investigation for all suspected fraud claims. The Attorney General's Welfare Unit will be responsible for prosecuting suspected cases of fraud related to all benefits and services provided by the Department of Human Resources.^[49]

Upon written request from the Claims Unit, the County Department is to furnish copies of any parts of the case record. Should a case result in court action, it may also be necessary for the Claims Unit to obtain original documents in the case record directly from the County Department. The County Department should require identification of investigators seeking original records and obtain a signed

receipt listing the documents taken by name and date of origin of document. The County Department should also maintain a copy of all original documents so released.

When suspected fraud cases are referred for prosecution, the County Department will receive a memorandum from the Claims Unit when a final decision is made in the case. The memo from the Claims Unit must be filed in the case record. No further action is required unless the [client](#) does not maintain the terms of repayment.

22642 Responsibilities of Local Law-Enforcement Officials

Local prosecuting officials are responsible for accepting or rejecting cases referred to them by the Claims Unit and for determining whether or not they are prosecuted. Nothing in this Chapter precludes appropriate law-enforcement officials from initiating prosecution for fraud against [applicants](#) or [recipients](#) when the necessity for such action comes to their attention from sources other than [referral](#) from this Department. The County Department should be notified of such action and must notify the Claims Unit as well. Maintain contact with the prosecuting attorney as these cases progress and keep the Claims Unit informed of all developments, including final disposition of each case.

22644 Crime Victims Impact Report

Under Alabama law, the State Parole and Probation Office is required to conduct an investigation for the court prior to sentencing that includes a report of the impact of the crime upon the victim. Since this Department is considered the victim in cases involving misappropriation of benefits administered by the Department, you may be contacted in this regard. Questions regarding release/disclosure of case information should be addressed to the PA Help Desk.^[50]

22650 Collection against the Estate of a Deceased Person

Creditors, including the Department of Human Resources, have six months in which to file claims for overpayments and court judgments against the estates of deceased persons. This six-month period dates from the date letters of testamentary were issued to executors or letters of administration were issued to administrators of estates. Such claims for unpaid debts owed to this Department must be filed with the probate court. Such claims will be paid automatically unless the executor or administrator objects to the claim.

Upon learning of the death of a [client](#) against whom an outstanding claim exists, a review of the [case record](#) should be made. If the record indicates that the client possessed any resources at his death against which a claim might be made, this type of recovery action might be considered. Prepare notarized notices of claim according to the formats given in Appendix II to be filed with the Probate Court for consideration. These claims will be paid automatically unless the administrator or executor objects to the claim for payment. If an objection is made, a lawyer will be needed. In that event, contact the Office

of Claims Recovery; provide copies of the original documents filed with the Probate Court and any additional correspondence or documents related to the action.^[51]

22660 Income Tax Intercept

Under the Code of Alabama, this Department is permitted to collect debts and money owed under all programs administered by the Department by means of state income tax refund interception. This method of collection is applicable to FA claims effective with the 1987 tax year.

The criteria for interception of the state tax refund for FA claims are that the claim is two months in arrears of repayment within the last 12 months and that there is a minimum current balance of \$25.00.

Situations where tax intercept is not appropriate may include:

- A. Court-ordered repayment cases where the responsible individual (the debtor) is still on probation;
- B. Cases in which the responsible individual(s) currently receive assistance and repayment is being made through recoupment;
- C. Situations where claim(s) collection is in [suspense](#) as the responsible individual (the debtor) has filed a bankruptcy petition; or
- D. Claims for which the statute of limitations for civil collection has expired and the debtor has affirmatively challenged collection based on the statute. (Contact the Office of Claims Recovery if collection is challenged on this basis.)^[52]

The client will be notified by letter from the Office of Claims Recovery that they have 15 days to pay out the claim (debt owed to the Department) in order to prevent their state income tax refund from being intercepted. The letter also instructs the client to contact the Office of Claims Recovery if they have questions regarding the intercept or the amount of claim balance. Clients who contact the [eligibility worker](#) instead should be referred to the Office of Claims Recovery. The Office of Claims Recovery has the ability to suppress the interception of tax refunds should information from the [client](#) or EW indicate that the tax refund is not subject to recovery.^[53]

Once a refund is intercepted, the client is notified by the State Department of Revenue that the refund has been sent to the Department. The client has 30 days in which to request a hearing in regard to any [income](#) not adjudicated, to the current balance of the claim, or to the applicability of this form of collection action. Such hearing requests are to be submitted to the [Family Assistance](#) Division under usual procedures. Notification of state tax offsets is sent to the counties by downline print, Tax Intercept Posting Report, PSCRR078.^[54]

When the intercepted refunds are received by the Department, the Office of Claims Recovery matches the intercepted income tax refund against the actual current claim balance in order to determine any

possible refund to the client from the intercepted refund. Any amount of refund which exceeds the debt currently owed to the Department is returned to the client.^[55]

22670 Other Types of Civil Collection Action

Additional forms of civil collection action include use of a locally approved attorney in [overpayment](#) recovery efforts, such as the preparation of a letter by the attorney demanding repayment; civil court action initiated by the Office of Claims Recovery attorney; or small claims court action. These types of action will usually be pursued only after routine collection efforts by the county have failed. ^[56]

These actions will be indicated by the Office of Claims Recovery after [review](#) of the individual claim. OCR staff may consult with county staff when reviewing the case to determine the most effective action, whether letter only, civil suit, garnishment, referral to a collection agency, etc.^[57]

Cases selected for further civil action will be subject to a two step process.

Step 1 All cases referred to an attorney will receive a letter prepared by the attorney demanding repayment and specifying a defined time frame for [client](#) response. All clients will be referred to the local County Department. No further action will be taken by the attorney.

Step 2 If the client fails to respond to the attorney's letter within the specified time frame, the Claims Unit will review the case for further action.^[58]

Cases identified as suitable for civil court action will be referred to the local attorney or to the Claims Unit staff for small claims court action. This process includes securing a judgement and execution of that judgement by garnishment, by seizure and sale of property, or by liens filed against [personal property](#).^[59]

If a client wishes to pay off the claim after initiation of civil action by the local attorney or by the Claims Unit, the client must also pay court costs, filing fees, and any other applicable costs. Claims are not to be settled for a lesser amount than the full claim amount.^[60]

Any claims not considered suitable of civil court action will be referred to a private collection agency under contract to this Department.

22700 Suspension of Collection

Suspension of collection refers to a suspension of active collection of the claim by the County Department. Suspension of collection action is a conscious decision (that is, a deliberate judgement, not simply a failure of the household to respond). A claim may be moved from active collection to suspended collection and back to active collection several times during its lifetime.

22710 Criteria for Suspension of Collection

When the County Department has made every possible attempt to collect an erroneous payment from an individual who is no longer [eligible](#) but has been unsuccessful in collecting payments, the County Department may discontinue collection efforts when:

- A. The client is not financially able to reimburse the State.
- B. The client cannot be located.
- C. There is little likelihood that the client will pay the overpayments.
- D. The County Department becomes aware that the individual or the [assistance unit](#) is deceased.
- E. The cost of further collection efforts is likely to exceed the amount that can be recovered.
 - 1. When the non-fraud [overpayment](#) is less than \$35.00, the County Department must at minimum attempt once to notify the individual no longer receiving aid about the amount of and reason for the overpayment and request that repayment be made; the initial automated notice produced at the establishment of the claim will suffice for this purpose.
 - 2. For suspected fraud overpayments less than \$35, a minimum of two notices is required prior to suspension of collection action. The initial and subsequent automated notice will suffice for this purpose.

The County Department must document each suspension action in the [case record](#). In no case, however, will collection action be suspended for a household which is currently eligible for assistance. Any action to discontinue collection efforts in a case where payments have been ordered by a court of appropriate jurisdiction must be approved by the Claims Unit prior to discontinuance of collection efforts. Although prior approval from the Claims Unit is not necessary in suspected fraud cases, the Claims Unit and the Office of Claims Recovery must be notified that collection action has been suspended with a brief statement of the basis for this action.^[61]

If, at any time during the [suspense](#) period, the individual or assistance unit again begins receiving aid, the overpayment balance can be recouped. Likewise, any restored benefits may be offset against the claim. If the individual or assistance unit becomes a [recipient](#) in another program, the County Department should likewise resume active collection activity. Suspension of collection by the County Department does not preclude additional collection effort by the Office of Claims Recovery.^[62]

22800 Replacement, Return and Release of Previously Authorized Assistance Checks and Expunged EBT Benefits ^[63]

Although the majority of assistance checks authorized and mailed by the Department will be received by the appropriate [client](#) in a timely manner, there are instances when the check is never received or is lost, stolen or destroyed before it is endorsed and cashed. [EBT](#) Benefits are not always used and if the EBT

account has not been accessed for 365 days, the benefits will be expunged from the client's EBT account.^[64]

It is the responsibility of the County Department to assist the client in the resolution of these problems.

22810 Returned Checks

Checks returned to the State Office due to non-delivery will be processed through the Returned Warrants File according to the procedures in Section 10000 of the FACETS Certification User Manual. If a client insists upon returning a check to either the County Department or to the State Office after receipt for any reason, the warrant shall be entered on the returned warrant file. In the event the warrant was returned due to foreknowledge that a month's payment would be defined as an **overpayment**, Form 818 must be documented that the warrant was returned and voided. This procedure should not be used routinely as a collection device.

22815 Expunged EBT Benefits ^[65]

FA benefits that have not been accessed by the client for twelve (12) months will be automatically expunged (made permanently unavailable). In the event access to EBT benefits was refused due to foreknowledge that a month's benefits would be defined as an overpayment, preparation of the Form 818 is still required. Form 818 must be documented by reducing the amount of the overpayment for the month involved and the amount of the total overpayment balance by the amount of expunged benefit. Adjustments must also be made to the Comprehensive Claims System in these instances.^[66]

22820 Destroyed, Lost or Stolen Checks (State SUP)

When the check is received by the client but it is destroyed, lost or stolen before it can be endorsed and cashed, a replacement check must be provided to the client. However, once a check has been endorsed and cashed by the client, the agency cannot reimburse the client should the money be lost, stolen or destroyed.

After completion of Form 677, complete Part 1 of Form 829, Check Inquiry.

Submit the 677 and 829 to the Finance Division of the State Department of Human Resources to the attention of the Office of Child Support Accounting for child support checks or Office of Assistance Payments for SUP checks.

If the check has not been cashed, the Finance Division will stop payment on the original check and arrange for issuance of a duplicate check. The duplicate check has the word "duplicate" written on it.

If the check has been cashed, a replacement check will be issued. The replacement check will be mailed directly to the client.