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490.1 Purpose

This section describes the action a local department must take to establish, calculate and collect a claim, which is a federal debt, for an overpayment.

490.2 Establishing Claims Against a Household

A. A recipient claim is an amount owed because of Food Supplement Program (FSP) benefits that are:

1. Overpaid; or
2. Trafficked.

“Trafficking” means the buying or selling of FSP benefits for cash or consideration other than eligible food. It also includes the exchange of FSP benefits for firearms, ammunition, explosives or controlled substance.

B. The local department will establish a claim against any household that received more FSP benefits than it was entitled to receive. The following are responsible for repaying a claim:

1. Each person who was an adult member (age 18 or older) of a household when the overpayment or trafficking occurred, or
2. A person connected to the household, such as an authorized representative, who actually traffics or otherwise causes an overpayment or trafficking.

C. The establishment of a claim is accomplished by the completion of a Benefit Error Group (BEG) on the Client Automated Resource and Eligibility System (CARES).

490.3 Types of Overpayment Claims

There are three types of claims:

- A. Agency Error (AE) (also called administrative error) – An overpayment caused by a local department’s action or failure to take action. Instances that may result in an administrative error include the following:
1. The local department fails to take timely action on a change reported by the household;
 2. The local department computes the household’s income or deductions incorrectly, or issues an incorrect allotment; or

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490.3 Overpayment Claim Categories (continued)

3. The local department continues to issue benefits to a household whose certification period expires without completing a re-determination.
- B. Customer Error (CE) (also called Inadvertent Household Error) - An overpayment caused by a misunderstanding or unintended error on the part of the household. Instances that may result in a customer error include the following:
1. The household unintentionally fails to provide the local department with correct or complete information; or
 2. The household unintentionally fails to report a change in its circumstances.
- C. Intentional Program Violation (IPV) (Fraud) - Is any claim for an overpayment or trafficking resulting from an IPV. A claim is handled as an IPV claim if one of the following occurs:
1. A court determines that a household member committed an IPV;
 2. It is determined at an administrative disqualification hearing that a household member has committed an IPV;
 3. A household member signs a waiver of his or her right to an administrative disqualification hearing; or
 4. A household member signs a disqualification consent agreement for suspected IPV referred for prosecution.

NOTE: For the purposes of initiating collection action, the local department may treat potential IPV claims as a CE claim **only if this action does not jeopardize the determination of an IPV.**

If this action jeopardizes the IPV process, establish the claim by completing the Benefit Error Group on CARES, but do not proceed with any collection action until the suspected IPV is resolved.

490.4 Establishing a Claim

A. Definitions

1. The “date of discovery” is the date that the case manager has sufficient information to determine that an overpayment or trafficking offense occurred.

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490.4 Establishing a Claim (continued)

2. The “date of establishment” is the date that the initial demand letter is sent to the household.

B. The local department:

1. Will establish a claim against any household that received an overpayment:
 - (a) Back to at least twelve months prior to when you become aware of the CE or AE.
 - (b) Back to the month the act of the IPV first occurred. However, do not include any amounts that occurred more than six years before you became aware of the overpayment.
2. Will not establish a claim if the overpayment occurred because **the local department failed** to ensure that the household:
 - (a) Signed the application form;
 - (b) Registered for work; or
 - (c) Was certified in the correct project area.

Note: If the local department requests that the customer sign an application or register for work and the **customer refuses** to do so, the local department will establish a claim against the household.

3. Will not establish any **Customer Error (CE)** claim that is \$125 or less for any **non-participating** household unless:
 - (a) The claim was already established; or
 - (b) The overpayment was discovered in a quality control review.

NOTE: Local departments may opt out of applying the \$125 threshold. If a local department opts not to apply this limit on collecting claims, it must be agency-wide and not on a case-by-case basis.

4. Will not establish any **Agency Error (AE)** claim that is \$300 or less for any **non-participating** household unless:
 - (a) The claim was already established; or
 - (b) The overpayment was discovered in a quality control review.

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490.4 Establishing a Claim (continued)

NOTE: Local departments may opt out of applying the \$300 threshold. If a local department opts not to apply this limit on collecting claims, it must be agency-wide and not on a case-by-case basis.

5. Will establish all CE, AE and IPV claims for participating households.

490.5 Time Frame for Establishing a Claim

The local department must establish the claim before the last day of the quarter following the quarter in which the overpayment or trafficking was discovered.

Reminder: The date of discovery is the date that the case manager has sufficient information to determine that an overpayment or trafficking occurred.

Example: The agency identified the suspected overpayment in October. On December 13, all verification needed to calculate the overpayment was received (date of discovery). March 31 would be the last day for establishing the claim by sending a demand letter.

Reminder: You must establish a claim, even if you cannot establish it before the last day of the quarter following the quarter in which you discover the overpayment.

490.6 Calculating the Amount of a Claim – Claims not Related to Trafficking

Local departments will primarily use CARES to establish and calculate the amount of a claim against a household and will not establish and calculate the amount of a claim manually except to illustrate the calculation for an administrative hearing. It may be necessary to manually calculate a claim if it occurred more than 3 years prior to establishment. Refer to the Overpayment and Underpayment Desk Guide for a detailed description of how to establish a claim on CARES. The following is a description of the policy and procedure for calculating the amount of a claim against a household.

- A. Prior to calculating a claim attempt to obtain all of the pertinent verifications that document the household's circumstances for each month of the overpayment.
 1. When pay stubs or collateral verification are not available use the Maryland Automated Benefit System (MABS) to verify earnings. The first month that shows unreported earnings on MABS can not be an overpayment because of reporting and adverse action time.

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490.6 Calculating the Amount of a Claim – Claims not Related to Trafficking(continued)

2. The case manager may also contact “The Work Number” on line at www.theworknumber.com or by phone at 1-800-660-3399 to verify employment.
- B. Determine the correct amount of benefits for each month that a household received an overpayment.
 - C. Do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim. (See special procedure outlined in the Overpayment and Underpayment Desk Guide)

EXAMPLE: If a FSP household reports monthly earned income of \$500 when it actually received \$600, do not apply the earned income deduction to the \$100 in unreported earnings.
 - D. Subtract the correct amount of benefits from the benefits actually received.
 - E. The claim amount is the difference between the monthly allotment the household received and what it should have received for each month of the overpayment.
 - F. In CE and AE cases, do not include any amounts that occurred more than twelve months before you became aware of the overpayment.
 - G. For IPV claims calculate back to the month the IPV occurred but do not include any amounts that occurred more than six years from the month the claim was identified.
 - H. In cases involving reported changes, determine the first month the overpayment occurred as follows:
 1. If the household fails to report a change in its household circumstances within ten days of the date it becomes aware of the change, the first month affected will be the first month in which the change would have been effective had it been reported timely.
 2. If the household reports a change in a timely manner, but the local department did not act on the change within the required timeframes, the first month affected is the first month the change would have been effective had the agency acted timely. If a notice of adverse action is required but not provided, assume (for the purpose of calculating the

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490.6 Calculating the Amount of a Claim – Claims not Related to Trafficking (continued)

claim) that the maximum advance notice period would have expired without the household requesting an administrative hearing.

NOTE: In no event is the first month in which the change is effective any later than two months from the month the change in the household's circumstances actually occurred.

- I. CARES will ensure that the eligibility policy and tables used in the claim calculation are correct for the period of time the claim covers.

EXAMPLE: An error began in April and was discovered in December. However, a mass change of the Thrifty Food Plan (TFP) allowance became effective in October. CARES will use the pre-October TFP table for one part of the claim calculation and the post-October TFP table for the remainder of the calculation.

NOTE: CARES will calculate a claim back for three years. When it is before the 3-year period, the case manager must complete a manual calculation.

- J. In calculating overpayment amounts, follow the appropriate policies described in section 490.12 when different types of errors (CE and AE) occur at the same time.
- K. When it is necessary to manually calculate the separate claim types, address each error as follows:
 1. Complete a separate set of calculations for each error by using the figures that were in effect for each month the error existed. Include the error element under examination in each calculation.
 2. Subtract the monthly issuance produced by each of these calculations from the amount the household actually received to obtain the specific overpayment amount for each error.

490.7 Trafficking Related Claims

Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

- A. The person's admission,
- B. Adjudication, or
- C. The documentation that forms the basis for the trafficking determination.

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490.8 Initiating Collection Action

- A. Initiate collection action on all established CE and AE claims unless the claim is collected through offset of benefits not yet restored or from the household's EBT account.
- B. In cases of an IPV disqualification, initiate collection action against the disqualified individual's household unless the household already repaid the overpayment.

NOTE: The local department will request that the matter of restitution is brought before the court or Administrative Disqualification Hearing, or addressed in any agreement between the prosecutor and the accused individual.

- C. Collection action will begin when the system generated notice 18 is initiated.
- D. Initiate collection action for an unpaid or partially paid CE or AE claim by completing a Benefit Error Group (BEG) and creating a repayment plan on CARES.
- E. If the claim or amount of the claim was not established at a hearing, the local department must provide the household with a one-time notice of adverse action. This may be either sent separately or as part of the demand letter.
- F. Unless the amount of the claim was established at a hearing, the household will have 90 days to request a hearing on the decision related to the claim.

490.9 Failure to Respond to a Demand Letter

- A. For participating CE and AE households CARES will reduce the household's allotment by the amount prescribed in section 490.11A of this manual. Participating households can request to repay in a lump sum or installments as long as the amount agreed upon is greater than the recoupment amount.
- B. Non-participating households have thirty days to respond to the first demand letter. If there is no response, CARES will send two additional demand letters thirty days apart. If the household does not respond by paying or agreeing to repay the claim, it is referred to the Central Collection Unit.

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490.10 Acceptable Forms of Payment

The State may collect a claim by:

- A. Reducing benefits prior to issuance. This includes allotment reduction and offsets to restored benefits.
- B. Reducing benefits after issuance. These are benefits from the household's EBT account.
- C. Accepting cash or any of its generally acceptable equivalents. These equivalents include check, or money order. It also includes credit or debit cards if the agency has the capability to accept these payments.
- D. Conducting our own offsets and intercepts. When a delinquent overpayment is referred to the Central Collection Unit, they use various method to collect these claims such as the Treasury Offset Program.
- E. Requiring a household to perform community service. This form of payment must be ordered by a court and specifically be in lieu of paying any claim.

490.11 Methods of Collecting Payment

The local department may collect payments for claims against households in any of the following ways:

- A. Reduction in the FSP Allotment

The local department must:	Unless:
1. Automatically collect claims by reducing the amount of the monthly benefits the household receives.	The claim is being collected at regular intervals at a higher amount.
2. For an IPV claim, limit the amount reduced to the greater of \$20 per month or 20% of the household's monthly allotment.	The household agrees to a higher amount.
3. For a CE or AE claim, limit the amount reduced to the greater of \$10 per month or 10% of the household's monthly allotment.	The household agrees to a higher amount.
4. Not reduce the initial allotment when the household is first certified.	The household agrees to this reduction.
5. Not use additional involuntary collection methods against individuals in a household that is already having its benefits reduced.	The additional payment is voluntary, or the source of the payment is irregular and unexpected such as a State tax refund or lottery winnings offset.

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490.11 Methods of Collecting Payment (continued)

NOTE: When establishing a plan on CARES to collect payment, indicate “EC” (eligibility computation) on the PLAN screen, in the payment source field and the system will calculate the correct percentage of the allotment to be recouped each month.

B. Benefits from EBT accounts.

The local department must permit households to pay claims using benefits from its EBT account.

1. For collecting from active or reactivated EBT benefits....	
The local department... needs written permission, which may be obtained in advance and done according to #4 below.	Or... oral permission for one time reductions with the local department sending the household a receipt of the transaction within 10 days.
2. For collecting from stale EBT benefits...	
The local department... must mail or otherwise deliver to the household written notification that it intends to apply benefits to the outstanding claim.	And... Give the household at least 10 days to notify you that it does not want to use these benefits to repay the claim.
3. For making an adjustment with expunged EBT benefits	
The local department... must adjust the amount of a claim by subtracting any expunged amount from the EBT account if you are aware of it.	And... This can be done anytime.

4. At a minimum, any written agreement with the household to collect a claim using active EBT benefits must include:

- (a) The statement that this is voluntary;
- (b) The amount of the payment;
- (c) The frequency of the payments (i.e. monthly or one-time only);
- (d) The length, if any, of the agreement; and
- (e) A statement that the household may revoke the agreement at any time.

C. Lump Sum

1. The entire claim is paid.
2. A portion of the claim is paid.

NOTE: In neither case (1 or 2 above) is the household required to liquidate all of its resources in order to make payment.

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490.11 Methods of Collecting Payment (continued)

D. Installments

1. The household may choose a negotiated monthly payment schedule to repay any claim balance.
2. For active cases the negotiated payment amount may not be less than the amount that may be recovered through allotment reduction as described in section 490.11 A.
2. The household may use its Electronic Benefit Transfer (EBT) account to make full or partial payment of any monthly installment.
3. Inform households choosing either method of repayment (lump sum or installments) to submit all payments to the fiscal office.

- E. Public Service. If authorized by a court, the household may pay the value of a claim by performing public service.

490.12 Collection of Multiple Claims

- A. If a household has multiple claims against it, the type of claim determines the monthly re-payment amounts.
- B. CARES recovers claims of the same type sequentially applying the appropriate monthly rate. (The completion of a plan and proper BEG status on CARES determines the correct recoupment percentage.)
- C. CARES collects claims against households hierarchically according to which claim was established first.

Example: AE is opened first. Then a CE is established. CARES will finish collecting on the AE before collection begins on the CE.

D. Unspecified Joint Collection

1. When an unspecified joint collection is received for a combined public assistance/FSP claim, the payment must be divided so that each program receives its pro rata share.
2. This may occur when funds are received in response to correspondence or a referral that contained both the FSP and other program claims and the debtor does not specify to which claim to apply the payment.

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490.13 Failure to Comply with a Payment Schedule and Determining Delinquency

A. When a nonparticipating AE, CE or IPV household fails to make a payment in accordance with the repayment schedule CARES will initiate Notice 43 Repayment Agreement.

B. A claim is delinquent when:

1. The claim has not been paid by the due date and the household has not made a satisfactory payment agreement.

Note: The date of delinquency is 30 days from the date of the initial demand letter. Once established, the initial due date does not change, even if participation in FSP ends or payment plans are established after the date in the initial demand letter.

2. A payment arrangement has been established and a scheduled payment has not been made by the due date.

Note: The date of delinquency is the due date of the missed payment. The claim will remain delinquent until the payment is received in full, allotment reduction is invoked, or the local department decides to either resume or re-negotiate the repayment schedule.

3. A customer fails to make a payment on a monthly basis in the amount specified in the repayment agreement, the debt is delinquent.

For Example:

Ms. January agreed to pay \$50 on the 10th of every month; in April she sends in \$100, but no payment in May. The date of Delinquency is May 10th
Mr. Joseph agreed to pay \$100 on the 15th of every month. In June he sends in \$50. The date of Delinquency is June 15th

C. A claim is not delinquent if another claim for the same household is being paid through an installment plan or recoupment.

D. A claim is not subject to the requirements for delinquent debts if the local department is unable to determine the delinquency status because collection is coordinated through the courts.

E. A claim waiting an administrative hearing decision is not considered delinquent.

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490.14 Administrative Hearings and Claims

- A. A claim awaiting an administrative hearing is not considered delinquent.
- B. If the hearings official determines that a claim does, in fact, exist against the household, the local department must re-notify the household of the claim. Delinquency is based on this subsequent notice.
- C. If the hearing official determines that a claim does not exist, the claim is terminated and written off.

490.15 Criteria for Terminating Collection Action

Terminate any claim for a **non-participating household** if it meets **any** of the following criteria:

- A. Any claim found to be invalid in an administrative hearing, administrative disqualification hearing or court determination.
- B. Any claim in which all adult household members are deceased and the local department does not plan to pursue collection from the estate.
- C. Any delinquent claim that has \$25 or less remaining on the claim.
- D. Any claim that is delinquent for 3 years unless there are plans to pursue the claim through the Federal Offset Program. These cases would have been referred to the Central Collection Unit. CCU may refer these cases for collection through the Treasury Offset Program (TOP).
- E. The household cannot be located.

490.16 Household Repayment Responsibility

- A. The local department will initiate collection action against the household that received the overissuance.
- B. If a change in household membership occurs, initiate collection action against any household that contains a member who was an adult member of the household that received the overissuance.
- C. All adult members of a household that received an overissuance are jointly and severally liable for the repayment of the overissuance.

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490.17 Claim Compromise

If the full or remaining amount of any claim cannot be liquidated in three years, the local department may compromise the claim by reducing it to the amount that allows the household to make restitution within three years.

Example: Mr. B has a \$1,000 claim because the agency did not act on reported information in calculating his benefits. His only income is his Social Security retirement benefit. He can barely pay all of his living expenses with his income. He said he can afford \$10 a month to repay his FSP claim. The agency multiplies his \$10 by 36 months or \$360 and compromise the remainder of the claim.

490.18 Re-applicants and Unpaid Claims

A. Re-applicants in the Same Jurisdiction

1. When a household re-applies in the jurisdiction, clear the case at the time of application with the unit within the local department (finance, overpayment, etc.) that has record of all claims that are unpaid but not terminated. Use the same assistance unit number that CARES assigned to the household initially.
2. If the case had been referred to the State Central Collection Unit (CCU) at the point of the previous closure, inform CCU of the re-opening of the case, according to the Overpayment and Underpayment Desk Guide.

B. Application in a Different Jurisdiction

1. Question applicants who disclose that the household received Food Supplement Program (FSP) benefits in another jurisdiction about the existence of any unpaid claim.
2. Review CARES to determine if an unpaid claim exists.
3. If a pre-CARES claim exists, request the following from the local department through which the household received FSP benefits:
 - (a) Records of claim payments;
 - (b) CCU referral forms, if any, and
 - (c) Disqualification material and copies of any repayment demand letters.

C. Re-initiating Collection Action at Application

In the case of a re-application with an unpaid claim, resume collection action at the point the collection process reached prior to the previous closure.

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490.19 Central Collection Unit (CCU)

- A. Central Collection is a unit within the Department of Budget and Management. It is the organization responsible for pursuing the payment of debts owed the State of Maryland.
- B. Once a case is assigned to CCU, CCU controls it. Do not change the case status, debt balance, etc. without notifying CCU.
- C. Refer all delinquent claims to CCU according to the Overpayment and Underpayment Desk Guide.

490.20 Refunds of Overpaid Claims

If a household overpays a claim, the local department will repay the household any amount overpaid as soon as possible.

Exception: The local department will not refund the overpaid amount if it is attributed to an expunged benefit.

490.21 Claims Discharged Through Bankruptcy

The local department will act on behalf of the Food and Nutrition Service (FNS) in any bankruptcy proceeding against bankrupt households owing a FSP benefit claim.

490.22 Interstate Claims Collection

- A. When a household moves out of Maryland, we are still responsible for initiating or continuing collection action for any overpayment, unless the other state accepts responsibility for the claim and the claim is transferred to the other state
- B. The local department may accept a claim from another state if the household with the claim moves to Maryland. Once the local department accepts this responsibility, the claim is ours for future collection and reporting.
- C. If another State accepts responsibility for a claim, we must inactivate the claim in Maryland.

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490.23 Retention Rates

The State keeps a portion of the amount paid on a claim. This is called the retention rate and is determined at the Central Office.

Type of Claim	Retention Rate
IPV claim	35 percent
Customer error claim	20 percent
Agency error claim	nothing

No retention is allowed on expunged benefits when used to adjust the claim balance.