

**WISCONSIN DEPARTMENT OF HEALTH SERVICES**  
**Division of Medicaid Services**  
**1 W. Wilson St.**  
**Madison WI 53703**

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To: FoodShare Handbook Users

From: Jori Mundy, Bureau Director  
Bureau of Eligibility and Enrollment Policy

Re: **FoodShare Handbook Release 23-01**

Release Date: 04/17/2023

Effective Date: 04/17/2023

<b>EFFECTIVE DATE</b>	The following policy additions or changes are <b>effective 04/17/2023</b> unless otherwise noted. <b>Underlined text denotes new text. Text with a strike through it denotes deleted text.</b>
<b>POLICY UPDATES</b>	
<b>1.1.4 Eligibility Overview</b>	Updated verification requirements.
<b>1.2.1 Verification Introduction</b>	Updated duration for members to provide verification.
<b>1.2.1.2 Request for Verification</b>	Updated duration for members to provide verification.
<b>1.2.3.8 Student Eligibility Exemptions</b>	Updated verification requirements.
<b>1.2.3.9 SSA Death Match</b>	Updated verification requirements.
<b>1.2.4.2 Earned Income Verification</b>	Added information on ended employment.
<b>1.2.4.4 Asset Verification</b>	Updated asset limit.
<b>1.2.4.5 Expense Verification</b>	Updated grammar and terms.
<b>1.2.4.6 Dependent Care Expense Verification</b>	Clarified policy wording.
<b>1.2.4.7 Shelter and Utility Expense Verification</b>	Updated grammar and terms.
<b>1.2.4.8 Medical Expense Verification</b>	Clarified verification requirements.
<b>2.1.2.1 Application Processing 30 Day Time Frame</b>	Updated duration for members to provide verification.
<b>2.1.3.7 Post Interview Process</b>	Updated duration for members to provide verification.
<b>2.2.1 Certification Periods (Renewals)</b>	Clarified certification period duration.
<b>2.2.1.4 Renewal Processing Time Frame</b>	Updated duration for members to provide verification.
<b>3.6.1 Out of Home Placements</b>	Renamed section, updated Foster Care, and added information about Kinship Care.
<b>3.12.1.1 Qualified Immigrant or Immigration Status</b>	Clarified definition of 11-Cuban/Haitian entrants.
<b>3.12.1.8 Encouraging Application</b>	Updated to align with final federal public charge rule, December 2022.
<b>3.12.1.11 Iraqis and Afghans with Special Immigrant Status</b>	Updated dates.

<b>3.13.1</b>	<b>Social Security Number (SSN) Requirements</b>	Section rewritten.
<b>3.14.1</b>	<b>Intentional Program Violation (IPV) Disqualification</b>	Clarified misuse and fraud policy.
<b>3.15.1</b>	<b>Student Eligibility</b>	Clarified policy about student exemptions.
<b>3.16.1.6.1</b>	<b>At Application</b>	Clarified sanction policy.
<b>3.16.1.7</b>	<b>Good Cause</b>	Clarified how to determine good cause.
<b>4.7.2.2</b>	<b>Exemptions from Sponsor Deeming</b>	Added information about Ukrainians to sponsor deeming group exemption.
<b>6.1.2</b>	<b>Six Month Reporting Requirement</b>	Updated verification requirements.
<b>6.1.3</b>	<b>Timely Action on Reported Changes During the Certification Period</b>	Updated duration for members to provide verification.
<b>6.1.3.1</b>	<b>Processing Reported Changes</b>	Updated duration for members to provide verification.
<b>6.1.3.3</b>	<b>Changes That Cause an Increase in Benefits, Including Person Adds and Loss of Income</b>	Updated duration for members to provide verification.
<b>6.1.3.6</b>	<b>Changes That Cause a Decrease in Benefits</b>	Updated duration for members to provide verification.
<b>6.4.1</b>	<b>Fair Hearings</b>	Updated definition and purpose of Fair Hearings.
<b>6.4.2</b>	<b>Fair Hearing Request</b>	New section.
<b>6.4.3</b>	<b>Continuation of Benefits</b>	New section.
<b>6.4.4</b>	<b>Resolution Prior to Hearing</b>	New section.
<b>7.3.1.1</b>	<b>Overpayment Claims Against Food Units</b>	Section rewritten.
<b>7.3.1.2</b>	<b>Liability</b>	Section rewritten.
<b>7.3.1.3</b>	<b>Reasons to Not Establish An Overpayment Claim</b>	Section rewritten.
<b>7.3.1.4</b>	<b>Calculating the Overpayment Claim</b>	Section rewritten.
<b>7.3.1.5</b>	<b>Dates and Timeframes Associated with Overpayment Claims</b>	Section rewritten.
<b>7.3.1.6</b>	<b>IPV</b>	Section rewritten.
<b>7.3.1.7</b>	<b>Notice of Overissuance</b>	Section rewritten.
<b>7.3.2</b>	<b>Calculating Overpayment Claim Amounts</b>	Section rewritten.
<b>7.4.1.2</b>	<b>Calculating the Amount of the Underpayment</b>	Updated grammar and terms.
<b>7.5.1</b>	<b>Emergency Allotments</b>	New section.

# 1.1.4 Eligibility Overview

## Non-Financial Eligibility

The application process begins with a person contacting a local agency to request FoodShare benefits. The local agency must determine whether the applicant is a Wisconsin resident. The local agency must determine whether the applicant is a boarder, foster person, or resident of an institution. Some applicants are not eligible for FoodShare because their food needs are already met. Additional non-financial eligibility criteria may apply.

## Individual Eligibility

To be eligible for FoodShare, ~~an individual~~ a person must be a U.S. citizen or qualifying immigrant. A Social Security number (SSN) is required, or the ~~individual~~ person must apply for an SSN, for each person who is requesting FoodShare benefits. A food unit member cannot belong to more than one FoodShare assistance group with a few exceptions.

## Food Unit

The food unit can include anyone who purchases and prepares food with the primary person. There are some exceptions regarding who must be included in the food unit based on relationship rules.

## FoodShare Assistance Group

The FoodShare assistance group includes everyone who will receive FoodShare benefits.

## Work Programs

~~Almost everyone age~~ Some members aged 16- to 59 must register for work to be FoodShare eligible. Some exceptions ~~include~~ exist, including full-time students and parents caring for young children. Some members aged 18 to 49 must meet a separate FoodShare work requirement in order to maintain eligibility.

## Unearned Income

Unearned income, including any unearned income that is deemed from an ineligible member, may be counted. Some types of unearned income include child support, unemployment compensation, Social Security, and W-2 payments.

## Earned Income

The food unit's gross earned income may be counted. Some types of earned income include wages, tips, ~~in-kind, training,~~ and self-employment income.

## Room and Board Income

Income the food unit receives from a boarder may be counted.

## Gross Income Computation

The 200% federal poverty level (FPL) gross income test applies to all broad-based categorically eligible food units (except for food units with an ~~EBD~~elderly, blind, or disabled (EBD) member) as a condition of eligibility. Most food units are considered broad-based categorically eligible if their gross income is at or below 200% FPL and the language describing "Job Center" services is issued to the food unit on a CARES-generated notice of decision.

Note The FoodShare worksheet and the CWW budget page refer to "assistance group size" for the gross income test.

Food units that include an ~~elderly, blind, or disabled~~EBD member with gross income that exceeds 200% of the FPL must be tested for FoodShare using the regular SNAP rules. Under the regular SNAP rules, these food units have no gross income limit but must have a net income that does not exceed 100% of the FPL and countable assets that do not exceed ~~\$3,500~~4,250.

## Dependent Care

If a food unit member pays for child care or care for an adult food unit member, they may receive a deduction for each dependent. The care must be necessary for the food unit member to look for work, go to work, or attend school.

## Shelter and Utilities

Food units that have a shelter ~~and~~or utility obligation may receive a shelter and utility deduction. ~~The food group~~The actual receipt and application of this deduction will ~~receive a standard~~depend on other eligibility and budgeting factors.

The cost of rent, mortgage, taxes, or other shelter costs can be claimed as part of the shelter deduction. Homeless persons can also claim shelter costs. The cost of utilities such as gas, electric, water and telephone can be claimed for the utility allowance based on the deduction. The receipt of Wisconsin Heating Energy Assistance Program/Low Income Home Energy Assistance Program (WHEAP/LIHEAP) benefits in the current month or past 12 months. ~~Unless the food unit includes an elderly or disabled individual, a shelter deduction is allowed only if the total shelter expense exceeds half the income after all other deductions~~ can count towards a utility deduction.

## Income Test

Food units that are not categorically eligible must pass the 100% FPL net income test based on FoodShare assistance group size. ~~Categorically~~Broad-based categorically eligible food units do not have to pass this test; however, if net income exceeds the FoodShare net income limit, FoodShare assistance groups of three or more people ~~may~~

might not receive FoodShare benefits. If the group's net income equals or is less than the limit, the group may be eligible for benefits.

Note Assistance group size is listed on the CWW budget page for the net income test.

## Allotment

The allotment is the monthly amount of FoodShare benefits an eligible FoodShare assistance group receives. The allotment is calculated by looking at FoodShare assistance group size and total adjusted net income. Prorate the initial allotment if the FoodShare assistance group applies after the first of the month.

## Renewal Date

The local agency must review a food unit's eligibility within certain time frames. Most food units are certified for 12 months. Food units that include a migrant or seasonal farm worker, and food units who are homeless, are certified for six months. ~~These food units are subject to a reduced reporting policy.~~

Food units that include only EBD individualspersons with no reported earnings are certified for 12 months ~~and must report most changes within 10 days.~~

All food units are subject to reduced reporting policy.

## Benefit Amounts

FoodShare benefit amounts are based on the number of individualspersons who are eligible and monthly net income after deductions. The lower the net income, the more FoodShare benefits a FoodShare assistance group may receive. Only families with very little or no monthly net income will receive the maximum amount of FoodShare benefits.

# 1.2.1 Verification Introduction

7 CFR 273.2(f)

Verification is the use of documentary evidence or a collateral contact with a third party to confirm the accuracy of statements or information. ~~The~~ With limited exceptions, the local agency must allow FoodShare applicants and members at least ~~40~~20 days to provide required verification.

The verification receipt date is the day verification is delivered to the appropriate agency, ~~r~~ or the next business day if verification is delivered after the agency's regularly scheduled business hours. Agencies must stamp the receipt date on each piece of verification provided.

## 1.2.1.2 Request for Verification

7 CFR 273.2(c)(5); 7 CFR 273.2(h)(2)(i)(A)  
OM 14-48

Requests for verification **must** be made in writing. Verbal requests are not acceptable and will not stand up in a fair hearing. IM workers are required to give the applicant or member a notice that identifies the required verification, the date the verification is due to the agency, and the consequences of not verifying timely.

Do not deny the FoodShare application when the required verification is not provided until the latest of the following dates:

- ~~40th~~20th day after requesting the verification
- 30 days from the filing date
- ~~The last day of the renewal processing period~~

Example 1	Ed submits an application <del>on</del> <u>with a filing date of</u> January <del>4</del> <u>2</u> . However, the interview was not completed until January 26 and verification of income was requested <del>the same day</del> . Ed has until February <del>5</del> <u>15</u> to provide verification. Do not deny the application until February <del>5</del> <u>15</u> .
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If the ~~40th~~20th or 30th day falls on a weekend or postal holiday:

- For negative actions or denials, the action should be taken the next business day.
- For positive actions or approvals, the approval must be processed no later than the due date. Waiting until the next business day or later to process verification for an eligible food unit is untimely and, therefore, not allowable.

Note	<ul style="list-style-type: none"><li>• After the denial of an application for failing to provide verification within 30 days, if the food unit provides all requested verification to the local agency during the period on or after the 31st day but no later than the 60th day from the</li></ul>
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filing date, allow FoodShare to open without requiring a new application or interview (see SECTION 2.1.2.1 APPLICATION PROCESSING 30-DAY TIME FRAME ~~for more information on time frames for processing late verifications~~).

- After a renewal termination for failing to provide verification, the food unit may provide verification in the month following closure without needing to submit a new application (see SECTION 2.2.1.4 RENEWAL PROCESSING TIME FRAME).

Allow FoodShare to reopen at Six Month Report Form (SMRF) or renewal when closed for lack of verification (or other reasons) if the reason for case closure is fully resolved during the calendar month following case closure. The SMRF must be returned no later than the last day of the seventh month of the certification period and the renewal interview completed no later than the last day of the renewal month.

Allow FoodShare to reopen when closed for lack of verification after a change is reported or discovered, ~~as long as~~ if the requested verification is provided in the calendar month following case closure.

In the above situations, benefits are prorated for the FoodShare assistance group from the day the food unit completes all the required actions needed to determine eligibility.

## 1.2.3 Non-Financial Verification

### 1.2.3.8 Student Eligibility ~~in a Two-Year Program~~ Exemptions

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~~For a student to be considered for the technical and/or vocational studies exemption, the student must be enrolled in a program at an institution of higher education that meets the definition of a technical and/or vocational studies as detailed within the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302) (see Section 3.15.1 STUDENT ELIGIBILITY).~~

~~Additionally, the program must lead to a diploma, certificate, apprenticeship, journeyman, or associates degree. The program must be designed to be completed in two years or less, not including post certificate apprenticeship or training.~~

- ~~1. All Wisconsin Technical College System WTCS programs, except for programs designed exclusively for transfer to a four-year program, qualify as Career and Technical Education.~~
- ~~2. The WTCS classifies any person taking classes within their system as an enrolled student. To be considered for the technical and/or vocational studies exemption, they must be enrolled in a program leading to a diploma, certificate, apprenticeship, journeyman, or associates degree.~~
- ~~3. Classes taken for personal development outside of an established program curriculum do not qualify for the technical and/or vocational studies exemption.~~

~~Verify enrollment in a qualifying program.~~ Exemptions to the student eligibility policy are verified by using an enrollment letter, financial aid papers, letter from the school, or any other applicable document. ~~Do~~ IM workers should not require a specific type of verification.

### 1.2.3.9 SSA Death Match

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When an SSA data exchange indicates that an eligible ~~member or applicant~~ or member has died, and the IM agency has not received any other information to confirm the death, the applicant or member, or a person with knowledge of the applicant or member's circumstances, must be allowed 10 days to respond to a Date of Death (DOD) letter prior to benefits being impacted. This is to prevent benefits from being terminated or reduced solely based on a DOD data exchange.

- For ongoing cases, the once eligible member for whom a death match was received will still be considered to be alive. Benefits for the member or others on the case will not be changed or pended for the date of death during this time. Other verifications, such as earned income, should be requested as necessary. Benefit changes due to changes in eligibility will still need to be processed.



- For an application, person add, or renewal, the worker must wait at least 10 days for a response before confirming eligibility.

This 10-day period is known as the refutation period ~~and will follow the current Verification Checklist logic with regard to setting the due date.~~ The refutation period may only be shortened when either of the following events occur:

- A person with knowledge of the member's circumstance confirms the DOD.
- The DOD is disputed.

Once the DOD status is verified or successfully disputed, the discrepancy or match can be resolved.

# 1.2.4 Financial Verification

## 1.2.4.2 Earned Income Verification

~~You may use~~ Pay stubs showing income received during the last 30 days should be used as an indicator of the income that is and will be available to the food unit during the certification period, unless that income does not accurately reflect changes ~~in income~~ that have occurred or are anticipated to occur.

~~You~~ IM workers can may use statements from employers to verify prospective income.

~~You~~ IM workers may also use the Employment Verification of Earnings (EVF-E) form ([E-10146](#)) to verify prospective income. However, this form is not mandatory for FoodShare. An EVF-E is considered a valid source of earned income verification only if the form is returned as complete and contains the employer's signature.

If income widely fluctuates ~~to the extent that~~ over time and a 30-day period alone cannot provide an accurate indication of anticipated income, the agency and the applicant or member may use a longer period of past time ~~if it will provide a more accurate indication of anticipated fluctuations in future income.~~ To average widely fluctuating this type of income, use the food units' anticipated income and include the anticipated income including fluctuations anticipated over the certification period. In any case, make fluctuations. Make every attempt to accurately verify prospective income and clearly document the reasoning for the prospective income estimate.

Example 1	<p><del>If</del> Joan's IM worker receives an employment verification form completed by the employer that includes all necessary information to make a reasonable estimate of prospective income and the information is not questionable, <del>the</del> <u>The</u> IM worker must not <del>also</del> require Joan to submit check stubs <u>or any other additional verification.</u></p> <p><del>The opposite also holds true. If Joan submits all check stubs received in the most recent 30 days that include enough information to make a reasonable estimate of prospective income, and the information is not questionable, the IM worker must not also require Joan to submit a form completed by the employer</del></p>
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Example 2	<p><u>Joan submits all check stubs received in the most recent 30 days. The check stubs include enough information to make a reasonable estimate of prospective income, and the information is not questionable. The IM worker must not require Joan to submit an employment verification form completed by the employer or any other additional verification.</u></p>
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If all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the applicant or member and agency (for example, by charging a fee or refusing to complete a verification form),

and all other sources of verification are unavailable, workers should use best available information to determine an estimated income amount to be used for certification purposes ~~based on the best available information~~. Clearly document the attempts to obtain verification and the reasoning for the estimate that is used. Best available information may include but is not limited to:

1. ~~One or more check~~ A mix of paycheck stubs, from past pay ~~the same employer, from different time periods (that is, more than 30 days ago).~~
2. W2 or tax records can be used with income annualized.
- 2-3. An oral or written statement from the applicant or member.

~~As in all cases,~~ Workers should instruct the applicant or member to keep all wage statements and check stubs for future verification purposes.

Operations Memo 08-09

## Verifying Employment or Income Changes

If a member reports employment gained during their certification period, verify their income to determine eligibility and benefit amount (see SECTION 1.2.4.1 GROSS COUNTABLE INCOME VERIFICATION, SECTION 1.2.4.2 EARNED INCOME VERIFICATION, and SECTION 1.2.4.3 SELF-EMPLOYMENT INCOME VERIFICATION).

If a member reports ended employment at application, renewal, or during their certification period, only require verification when necessary to determine eligibility and benefits. If employment or income ended in a month before the month of eligibility determination, do not require verification unless the information provided is questionable (that is, other information indicates the applicant is currently employed).

Example 3	Natalie applies for FoodShare in February and reports that they are not currently working. Their previous case information shows that they were working at Kathy's Yarn Shop in July. During the FoodShare interview, Natalie reports that their last employment ended in October and their last check was in November. Unless there is a reason to deem their statement questionable, do not require verification that employment ended.
Example 4	Josh applied for FoodShare in December and reports that he is currently working. In March, Josh informs his IM worker that he ended his employment, and his last check will be received in March. The IM worker finds no reason to question the member's statement. Verification is not required. The employment is end dated and eligibility is redetermined for the next possible benefit month.
Example 5	Camden submits her application on February 12. She reports her employment ended on January 30, but she will not receive her last paycheck until February 15. Her last paycheck is needed to determine eligibility and benefits for the application month of February.

Verification is required for employment ending and the amount of income received in February.

## 1.2.4.4 Asset Verification

7 CFR 273.2(f)(2) and 7 CFR 273.2(f)(3)

Assets are not considered in the FoodShare eligibility determination for broad-based categorically eligible FoodShare applicants and members since they are authorized to receive a TANF-funded service. Although the amount of available liquid assets must be reported at the point of initial application to determine eligibility for priority service and expedited issuance, the reported assets are not required to be verified (see Section 2.1.4 Expedited Service at Application), ~~the reported assets are not required to be verified.~~

However, EBD food units that have gross income that exceeds 200% of the FPL are ~~therefore~~ not categorically eligible and are subject to the \$~~3,750~~4,250 asset limit. These food units must verify assets (see Section 4.4.1 Assets).

## 1.2.4.5 Expense Verification

7 CFR 273.2(f)(3)

Verify~~Workers must verify~~ expenses that are required to be verified, expenses that are deemed questionable at application, or when a change in expenses is reported. At application, reported change, or renewal, workers must ensure that there is up-to-date documentation in the case record to support current CWW entries.

## 1.2.4.6 Dependent Care Expense Verification

7 CFR 273.9(d)(4)

Dependent care expenses required for food unit members to keep or obtain employment, receive training or education preparatory for employment, or comply with employment and training requirements should be deducted from income. Convert expenses to monthly amounts.

Dependent care expenses ~~are not required to be verified in order for the expense to be used in the FoodShare benefit calculation, unless the applicant or member's statement is deemed questionable. Examples of applicant or member statements that may be considered questionable include:~~

- ~~• Claimed dependent care expenses exceed monthly income,~~
- ~~• Reported amount seems unreasonably high compared to market rates, or~~
- ~~• Applicant or member receives child care subsidy and reported the full amount rather than their share of the cost.~~

Example 2	Vinny is a 10-year-old child who attends Prestigious Prep Childcare four days a week during the summer while his parents are working. His parents indicate that this care costs \$1,000 per week. The cost of care seems unreasonably high compared to the cost of other care in the area. The IM worker should request verification of this dependent care expense.
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~~Reminder: Only the amount of dependent care expenses that the food unit is responsible to pay can be used as a deduction. When a member has been approved for and receives dependent care through the child care subsidy program, Wisconsin Shares, the amount paid for through the subsidy would not be considered an allowable dependent care expense.~~

## ~~1.2.4.7 Shelter and Utility Expense Verification~~

~~Shelter and utility expenses are not required to be verified in order for the expense to be used~~ do not require verification for use in the FoodShare benefit calculation, unless the applicant or member's statement is deemed questionable. Examples of applicant or member statements that may be considered questionable include:

- Claimed dependent care expenses that exceed monthly income.
- A reported amount that seems unreasonably high compared to market rates.
- An applicant or member, receiving a child care subsidy, reports the full amount rather than their share of the cost.

Example 6	<u>Vinny is a 10-year-old child who attends Prestigious Prep Childcare four days a week during the summer while his parents are working. His parents indicate that this care costs \$1,000 per week. The cost of care seems unreasonably high compared to the cost of other care in the area. The IM worker should request verification of this dependent care expense.</u>
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Reminder: Only deduct dependent care expenses that the food unit is responsible to pay for. When a member receives benefits through Wisconsin Shares, the child care subsidy program, the subsidy amount paid by the State is not an allowable dependent care expense.

## 1.2.4.7 Shelter and Utility Expense Verification

Shelter and utility expenses do not require verification for FoodShare benefit calculation unless the applicant or member's statement is deemed questionable. Examples of applicant or member statements that may be considered questionable include:

- Claimed shelter or utility expenses that exceed monthly income.
- ~~Applicant~~ An applicant or member who receives a housing subsidy but reported the market rent amount, ~~or~~.
- ~~Reported~~ A reported amount that seems unreasonably high compared to market rates.

## 1.2.4.8 Medical Expense Verification

7 CFR 273.2(f)(1)(iv)

### Verification at Application

~~The amount of medical~~ Medical expenses totaling over \$35 claimed by an EBD ~~individual person~~ must be verified at application ~~in order~~ for the expense to be used in the FoodShare benefit calculation.

7 CFR 273.2(f)(8)(ii) and 273.12(c)

### Verification during the Certification Period

Verify changes in medical expenses reported by the food unit during the certification period if they are from a new source, ~~if~~ the total amount of previously verified medical expenses has changed by more than \$25, or ~~when~~ the information is questionable.

Do not act on changes reported by a source other than the food unit, which require ~~you to contact~~ contacting the food unit for verification. Only act on changes in medical expenses that are reported by a source other than the food unit if those changes are verified upon receipt and do not require contact with the food unit.

Example <del>37</del> <u>38</u>	Edith, a disabled FoodShare member, provided proof of her \$200 monthly prescription costs from her pharmacy at application. In the third month of her FoodShare certification period, she reports that she was hospitalized last month and now has a \$1,300 obligation for a hospital bill. Edith and her IM worker agree that this bill will be averaged over the remaining months in Edith's FoodShare certification. Edith's IM worker explains that in order to receive the deduction for this new medical expense, verification is required. If verification is not provided, only the \$200 deduction is allowed.
Example <del>48</del> <u>49</u>	Mario, an elderly FoodShare member, reported and provided proof of his \$90 monthly prescription costs at his most recent FoodShare renewal in December. In March, he reports that his prescription costs have increased to \$114 per month. The IM worker updates his case and does not require verification of the increased medical expense because the total medical expenses did not change by more than \$25.
Example <del>59</del> <u>60</u>	Violet, a disabled FoodShare member, is eligible for home and community-based waivers as a Group B participant. At application, Violet reports and provides proof of a recurring monthly medical expense for FoodShare. In the fifth month of her certification period, Violet's IM worker receives notice from the Aging and Disability

	<p>Resource Center (<u>ADRC</u>) of a medical/remedial cost <del>to be used in</del>for her Group B Waiver cost share calculation.</p> <p>For FoodShare purposes, this change is not considered verified upon receipt. <del>Violet's IM worker updates her case by creating a new sequence and uses the 'OP – Out of Pocket Med/Remedial' code on the Medical Expenses page. This will allow CWW to budget the expense correctly for long-term care purposes and not impact her FoodShare determination.</del></p> <p>If the care manager had provided verification of the medical/remedial expense, the verification could be used as a FoodShare expense at the time the change was reported. The new FoodShare expense amount <del>would be entered using the appropriate code on the Medical Expense page and used in the benefit calculation.</del></p> <p><b>Note:</b> <del>The 'CM Case Management' and 'OP Out of Pocket Med/Remedial' codes are NOT applicable for FoodShare. To see what Expense Type codes will work in CWW for FoodShare vs. EBD Medicaid, click on the Reference Table Pop Up.</del> <u>is allowed as a medical expense and is used in the benefit calculation.</u></p>
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7 CFR 273.2(f)(8)(i)(A)

### Verification at Renewal

Previously unreported medical expenses ~~and~~ changes in total recurring medical expenses ~~which have changed~~ by more than \$25, ~~or when~~ and questionable information ~~is questionable~~, must be verified at renewal.

<p>Example <u>610</u></p>	<p>Sally reports and provides proof of a \$150 recurring monthly prescription medical expense at her FoodShare application. At her renewal, she states that this monthly expense continues but that it has increased by \$10. Sally's IM worker updates her case and does not require verification.</p> <p>If Sally had reported at renewal that she also had a new recurring medical expense of \$90 for monthly chiropractic visits, verification of this new expense would be required.</p>
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Examples of applicant or member statements that may be considered questionable include:

- ~~Applicant~~ An applicant or member who has private health insurance or is covered by Medicaid or BadgerCare Plus and is claiming unusually high out-of-pocket expenses for a time period when they had coverage.
- Claimed monthly medical expenses that exceed monthly income.

If questionable, workers must request verification, which ~~includes~~ may include date of service, billing date, amount owed, and date amount is due.

Medical expenses are budgeted prospectively, so do not require eligible EBD food unit members to verify recurring medical expenses monthly. Rely on estimates of recurring medical expenses during the certification period. Include changes that can be anticipated based on available information. Consider the food unit member's medical condition, public or private medical insurance coverage, and the current verified medical expenses incurred by the food unit member.

When converting medical expenses to monthly amounts, use the same calculation methods used for budgeting prospective income.



## 2.1.2 Application Processing Time Frame

### 2.1.2.1 Application Processing 30 Day Time Frame

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7 CFR 273.2(c); 7 CFR 273.2(g); 7 CFR 273.2(h)(2)(i)(A)

OM 14-48

The application process must be completed 30 days from the initial filing date, unless the applicant is eligible for expedited services (see Section 2.1.4 Expedited Service at Application). Day one of the application processing period is the day after the filing date. The time frame for processing an application is the filing date plus 30 days.

If the 30th day falls on a weekend or postal holiday:

- For denials, the action to deny should be taken the next business day.
- For approvals, the approval must be processed no later than the 30th day. Waiting until the next business day or later to process an application for an eligible FoodShare assistance group is untimely and, therefore, not allowable.

**Note** If the application is being processed after adverse action, CARES will test eligibility for the application month and the next two months. If the food unit is ineligible for the application month and the second month, eligibility for the third month will also fail and the applicant would have to reapply even if there are changes in the third month that may make the food unit eligible for that month.

Applicants are required to cooperate with the completion of this process. Agencies are required to assist the applicant in the completion of the application process if the applicant requests such assistance.

When the application process has not been completed by the end of the 30th day, a notice of pending will be sent explaining the necessary steps to resolve the delay. If there is outstanding verification, the notice of pending will list those outstanding items.

#### Late Verifications

When an applicant fails to submit required verification by the 30th day following the filing date, or ~~40~~20 days from the date verifications were requested, whichever is later, the application ~~should~~must be denied. The applicant has an additional 30 days from the date of a timely denial (denied on day 30), or 60 days from the filing date, to submit the required verification without requiring a new application or interview (that is, required verifications are received during the period on or after the 31st day but no later than the 60th day from the filing date). If the applicant is found eligible, benefits should be prorated from the date all required verifications were submitted. The initial month of application should be denied.

<b>Example 1</b>	<p>Jane applies and completes her interview on January 5, and her application is considered a regular 30-day application. Her verification checklist is mailed on January 6 with a due date of February 5. Jane fails to submit the required verifications by February 5. Her case is denied for lack of verification on the 30th day. The notice will inform Jane that she will have until March 9 (60 days from the filing date including extensions for weekends) to submit the required verification without needing to reapply.</p> <p>If verifications are not submitted by this date, Jane will need to reapply and complete a new interview in order to have her eligibility determined.</p> <p>If verifications are submitted any time after February 5 but on or before March 9, issue prorated benefits from the date all verifications were submitted.</p>
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See [1.2.1.2 REQUEST FOR VERIFICATION](#) for details on verification time frames.

## 2.1.3 Interviews

### 2.1.3.7 Post Interview Process

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If verification is needed after the interview, mail out a verification checklist and send it to the applicant or member with instructions to provide the listed documents to the local agency within ~~40~~20 calendar days or by the end of the application or renewal processing period, whichever is later. The agency must always provide the applicant with a copy of the case summary after the interview is complete.

If the food unit claims deductible expenses during the interview, the food unit must verify certain claimed deductions or the deduction will not be allowed (see [SECTION 1.2.4.5 EXPENSE VERIFICATION](#)). If verification of the deductions is not provided, do not allow the deduction and do not close the case.

#### **Applications**

At the end of the telephone interview, the agency must record the telephonic signature if they do not already have a written, telephonic, or electronic signature, and then generate a copy of the case summary to be mailed to the applicant. The applicant must review the case summary and notify the agency within 10 calendar days if corrections are needed.

If a telephonic signature is not provided at the time of application, inform the applicant during the interview they must sign the case summary and return it or an application document to set the filing date for FoodShare. The application is not complete, and a filing date is not set until a signature is on file. The application should pend for the signature.

#### **Renewals**

At the end of the renewal interview, collect a telephonic signature if a written, telephonic, or electronic signature has not already been collected. If the member refuses to provide a telephonic signature, instruct the member that you will be mailing the printed case summary to them for their signature. In this situation, the case summary needs to be signed and returned to the agency within 10 calendar days or by the end of the renewal processing period, whichever is later. The renewal is not complete until the signed case summary signature page is returned to the agency.

If the signed case summary is not returned within the 10-day period or by the end of the renewal processing period, whichever is later, the case needs to be closed for failure to return the FoodShare renewal signature.

## 2.2.1 Certification Periods (Renewals)

7 CFR 273.14(a); 7 CFR 273.10(f)

The certification period for FoodShare eligibility for most food units is 12 months. A certification period should never exceed 12 months. Food units where all members are homeless and food units that include a migrant or seasonal farm worker have a six-month certification period. Members must complete an interview (see [SECTION 2.1.3 INTERVIEWS](#)) and verify current household information in the last month of the certification period in order to be recertified and continue receiving FoodShare benefits. This is called a renewal.

Note When a food unit moves into a Transitional FoodShare (TFS) certification period, their regular certification period will end early. The TFS certification period will begin the following month and will end five months later (see Section 5.1.1 Transitional FoodShare Benefits (TFS)). The food unit must complete a renewal in the last month of the certification period the same as other FoodShare households.

FoodShare assistance groups with zero FoodShare benefits in their initial benefit month (pro-rated benefits) and a FoodShare allotment greater than zero in the second month, will be certified for six or 12 months (depending on their household composition) beginning with the application month. If FoodShare eligibility is denied in the month of application for any other reason, and eligibility begins the following month, the six- or 12-month certification period begins in the month following the application month. If the benefit calculation is zero for the first two months, the case will be denied.

Example 1	Barry applied for FoodShare in August after he lost his job. In the FoodShare benefit determination for August and September, Barry received zero for August (due to <del>excess net income</del> ) <u>pro-rated benefits</u> and \$98 in September. His certification period starts in August.
Example 2	Barry's VQT sanction ends August 8. He reapplies and re-requests FoodShare on August 25. He is ineligible in August and eligible for \$141 in September. Barry's 12-month certification period begins September 1.
Example 3	<u>Barry applied for FoodShare November 29 after his unemployment compensation ended. Barry reports during the application that he is homeless. Barry received his full unemployment benefit in his final month, so he is not eligible for FoodShare in November because his income was over the gross income limit, but he is eligible in December. Barry's six-month certification period begins December 1.</u>

### 2.2.1.4 Renewal Processing Time Frame

The 30-day processing time frame for a renewal is not the same as it is for applications. The 30-day renewal processing time frame refers to the renewal month. In other words,

a renewal must be processed and confirmed by the last day of the renewal month, with two exceptions:

1. The IM agency is unable to complete the interview by the last day of the renewal month and delays the interview once.
2. There is an agency-caused delay (for example, allowing ~~10~~20 days for verification).

When there is an agency-caused delay, the IM worker ~~should~~must document in CWW the reason for the late renewal and set the FoodShare program request date for the first of the month so that benefits are not prorated.

The FoodShare case will close effective the last day of the renewal month at adverse action of the renewal month if renewal is not completed, including confirmation. The local agency and the FoodShare member have until the end of the renewal month to complete renewal.

FoodShare that closes at renewal may reopen without requiring a new application under specific conditions. Allow FoodShare to reopen at renewal if the requested action to resolve ineligibility is completed in the month following the end of the current certification period, as long as the interview was timely.

- An interview must be completed within the renewal month of the current certification period to be considered timely. If the food unit fails to complete a timely interview, FoodShare will close effective the last day of the renewal month at adverse action and a new FoodShare application is required.
- If FoodShare closes for lack of verification after a timely renewal and the food unit takes the required action within the calendar month following the certification period, the agency shall reopen FoodShare and prorate benefits from the date the food unit took the required action. The new certification period will begin the month after the month the renewal was due.
  - The food unit must be allowed ~~10~~20 days to provide verifications. If the verification due date is in the month following the renewal month, IM workers should identify whether the closed FoodShare case may be reopened or a new application is needed (see Process Help, [Section 3.13.4 Break in Service at Renewal](#)).
- If FoodShare closes for lack of signature after a timely renewal and the food unit returns the signature page within the calendar month following the certification period, the agency shall reopen FoodShare and prorate benefits from the date the food unit returns the signature page. The new certification period will begin the month after the month the renewal was due.
- If FoodShare closes due to agency delay in completing the interview or the food unit contacts the agency within the renewal month and is not available to complete the interview until after the renewal month, benefits shall be restored back to the first of the month to ensure ongoing benefits, as long as verification is timely.

Example 34 Holly completes a timely FoodShare renewal on July 12<sup>9</sup> but does not have verification of her wages from Marigold's. ~~Holly's IM worker, Jeff, issues a request for verification~~ Verification of her earned income is requested. Holly fails to provide verification and her case closes effective July 31.

On August 5, Holly provides verification of her wages. ~~Jeff changes the date on the~~ She regains eligibility under a FoodShare ~~Break~~break in ~~Service page to~~service as of August 5 and ~~issues~~ is issued prorated benefits from August 5 through August 31. Holly's FoodShare new certification period remains unchanged.

If Holly had responded timely to ~~Jeff's~~the request for verification and submitted her verification in July, but ~~Jeff did~~the verifications were not ~~process the verification~~processed until August, benefits would have been issued back to August 1 due to ~~Jeff's late processing~~agency delay.

Example 45 Tom's FoodShare renewal is due by June 30. He completes his interview on June 27 and has verification due July 17. Tom provides the requested verification on July 5<sup>15</sup>. Although Tom's case closed effective June 30 due to lack of completed renew/verification, his FoodShare case is reopened with a certification period beginning July 1. because he completed the interview in the renewal month and provided the requested verification by the due date. Benefits are not prorated, and he is not required to submit a new application.

Example 56 Ruby calls her IM worker on August 21 to schedule a FoodShare renewal due by August 30, but the only appointment available is not until September 4. Ruby completes her renewal on September 4 but does not have verification of her wages from Sunny's Craft House. ~~Ruby's IM worker, Kim, issues a request for verification~~ Verification of earned income is requested with a verification due date of September 14<sup>24</sup>. Ruby submits the necessary verification on September 10<sup>20</sup>. Because Ruby submitted her verification timely (within 10<sup>20</sup> days) and because the agency was unable to complete the interview in August, Kim issues benefits to Ruby back to September 1.

Had Ruby submitted the necessary verification after September 14<sup>24</sup>, but before September 30, Kim would not issue benefits back to the first but only to the date verification was submitted.

Example 67 Tricia's FoodShare assistance group has a FoodShare certification period ending June 30. Tricia completed a telephone interview on June 17. and the case pends for a signature. The signature page is not returned ~~timely~~ and FoodShare close June 30. Tricia returns the

	<p>signature page on July 14. FoodShare reopens without requiring a new FoodShare application. Benefits are prorated from July 14, with a new certification period from July 14 to June 30.</p>
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## 3.6.1 ~~Foster Care Recipients~~ Out of Home Placements

### 3.6.1.1 Foster Care

#### 3.6.1.1.1 Foster Care Recipients Introduction

7 CFR 273.1(b)(4)

A foster person is a ~~person for whom foster care is being paid. They are~~ child who has been placed in the ~~homes~~ home of ~~relatives~~ a relative or other ~~individuals~~ person by a federal, state, or local government foster care program. ~~This determination is regardless of the funding source or the age of the~~ A foster care provider is the person providing foster care for a foster child. Include a foster care ~~recipient~~ child in the food unit only when the primary person or foster care provider asks that the foster care ~~recipient~~ child be included. The foster care ~~recipient~~ child may belong only to the food unit they receive ~~the~~ the foster care and meals from.

A foster ~~person~~ care child cannot participate in FoodShare independently of the ~~provider~~ foster care.

A change in placement, such as a trial reunification, comes at the order of a court. Once a reunification or new placement has been made, the foster child would no longer be a part of the ~~foster care services~~ original foster care provider's food unit and the exiting foster child's eligibility should be redetermined based on their new circumstances.

Example 1	<u>Martino is a foster care provider and has court ordered placement of Carlos. Martino applied for FoodShare. Martino can choose to include or exclude from Carlos the FoodShare assistance group. However, since Martino is the foster care provider, Carlos cannot receive FoodShare as his own FoodShare assistance group or as a part of any other FoodShare assistance groups.</u>
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Example 2	<u>Sheila, Carlos' parent, contacts the agency and provides documentation that Carlos has been placed back in the home under a trial reunification. Carlos must now be included in Sheila's FoodShare assistance group since an order of the court placed Carlos back with a parent.</u>
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#### 3.6.1.1.2 Foster Care Payment

~~A foster care provider is the person providing foster care for a foster person.~~ Money paid for the care of a foster care ~~recipient~~ child is income of the ~~recipient~~ child, not the foster care provider.



Count the foster care recipient's child's income only if the foster care recipient child is in the food unit.

A subsidized guardianship payment is equivalent to a foster care payment and is to be counted the same.

### 3.6.1.2 Kinship Care

Kinship care is an out of home placement program for children. Kinship care and foster care are separate and distinct programs. Kinship care placements are always with an adult that has a relationship with the child and their family, such relatives and close family friends. Kinship providers cannot exclude the kinship care child from their FoodShare assistance group. Additionally, there are two types of kinship care placements: court ordered and voluntary.

#### 3.6.1.2.1 Court-ordered Kinship Care

Court ordered kinship care is where a court has mandated placement of the child(ren) into a kinship provider's home. In this circumstance, the placed child(ren) **must** be included in the kinship provider's FoodShare assistance group. When the child(ren) reunify with their parent(s) or a new court-order places them elsewhere, agencies must redetermine the kinship provider's FoodShare based upon the new circumstances. This is true for trial reunifications, permanent reunifications, and new placements.

Example 3	<u>Ariel applies for FoodShare and reports and provides a court order proving that she has court ordered kinship care placement of her niece and nephew, Brittany and Cameron. The worker processes the application and sees that both children are currently receiving FoodShare on their mother, Diana's, case. Brittany and Cameron will be added to Ariel's assistance group and removed from Diana's, regardless if Ariel's application is approved or denied.</u>
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#### 3.6.1.2.2 Voluntary Kinship Care

Voluntary Kinship Care is not court ordered, and the child(ren) may be moving back and forth between two or more households. When it is unclear which household has primary placement, agencies must apply the Joint or Shared Physical Custody of Children policy to determine which FoodShare assistance group to include the child(ren) in (see Section 3.2.1.1 Joint or Shared Physical Custody of Children).

Example 4	<u>Georgia applies for FoodShare and reports that her child, Frank, lives in the household part-time. During the FoodShare interview, Georgia explains that Frank stays with her on the weekends, or two days a week, and that there is a voluntary kinship care placement for Frank with his grandparent, Ezekiel. Ezekiel has an open FoodShare case with Frank included in the assistance group. Frank remains on</u>
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	<u>Ezekiel's FoodShare case and is not added to Georgia's FoodShare assistance group.</u>
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### **3.6.1.2.3 Kinship Care Payment**

A kinship care provider is a relative who is providing care for the child(ren) in the kinship placement. Money paid for the care of a child or children in a kinship care placement is income of the child(ren), not the provider.

## 3.12.1 Citizenship and Immigration Status

### 3.12.1.1 Qualified Immigrant or Immigration Status

1. Use Chart 1 below to determine if a non-citizen is eligible for FoodShare.
2. Use Chart 2 below for decoding the admission or adjustment codes from USCIS. Refer also to Process Help, [Section 82.8 Class of Admission \(COA\) Tables](#).

**Note** If there is more than one admission or status code for the immigrant/non-citizen, always use the least restrictive code per 8 CFR 212.5(h). A best practice is to ask each year about immigrant/citizenship status changes since the code(s) may change over time.

#### CHART 1

Federal Supplemental Nutrition Assistance Program (SNAP)	
Eligible as a U.S. Citizen/National/Non-Citizen:	
<ul style="list-style-type: none"> <li>• U.S. citizens,</li> <li>• Non-citizen nationals (People born in American Samoa or Swain’s Island),</li> <li>• American Indians born in Canada,</li> <li>• Members (born outside the U.S.) of Indian tribes under Section 450b(e) of the Indian Self-Determination and Education Assistance Act,</li> <li>• Members of Hmong or Highland Laotian tribes that helped the U.S. military during the Vietnam era from August 5, 1964, to May 7, 1975, and who are legally living in the U.S., and their spouses or surviving spouses and dependent children, including a full-time student under the age of 22.</li> </ul>	
Immigrant Status Code	Eligible if:
01-Lawfully admitted for permanent residence (LPR)	<ul style="list-style-type: none"> <li>• Meets work quarters, or</li> <li>• Meets military requirement, or</li> <li>• Receives disability benefit, or</li> <li>• Under age 18, or</li> <li>• Has lived in the U.S. as a qualified immigrant for five years from the date of entry, or</li> <li>• A legal resident on August 22, 1996, and born on or before August 22, 1931.</li> </ul>
02-Permanent resident under color of law (PRUCOL)	Ineligible

03-Conditional entrant or lawfully present under Section 203(a)(7)	<ul style="list-style-type: none"> <li>• Meets work quarters, or</li> <li>• Meets military requirement, or</li> <li>• Receives disability benefit, or</li> <li>• Under age 18, or</li> <li>• Born before August 22, 1931, or</li> <li>• Has lived in the U.S. as a qualified immigrant for five years from the date of entry, or</li> <li>• A legal resident on August 22, 1996, and born on or before August 22, 1931.</li> </ul>
04-Refugee lawfully present under Section 207	Eligible
05-Asylee lawfully present under Section 208	Eligible
06-Parolee lawfully present under Section 212(d)(5)	<ul style="list-style-type: none"> <li>• Meets work quarters, or</li> <li>• Meets military requirement, or</li> <li>• Receives disability benefit, or</li> <li>• Under age 18, or</li> <li>• Born before August 22, 1931, or</li> <li>• Has lived in the U.S. as a qualified immigrant for five years from the date of entry, or</li> <li>• A legal resident on August 22, 1996, and born on or before August 22, 1931.</li> </ul>
07-IRCA – No longer valid status	Ineligible
08-Work Authorization: Temp.	Ineligible
09-Undocumented Immigrant	Ineligible
10-Illegal Immigrant	Ineligible
11-Cuban/Haitian entrant as defined in Section 501(e) of the Refugee Education Act of 1980  <u>1. Any person granted parole as a Cuban/Haitian Entrant (Status Pending) or granted any other</u>	Eligible

<p><u>special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the person at the time assistance or services are provided; and</u></p> <p><u>2. Any other national of Cuba or Haiti</u></p> <p>—</p> <p><u>a. who—</u></p> <p><u>i. was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;</u></p> <p><u>ii. is the subject of removal proceedings under the Immigration and Nationality Act; or</u></p> <p><u>iii. has an application for asylum pending with the Immigration and Naturalization Service; and</u></p> <p><u>a.b. with respect to whom a final, non-appealable, and legally enforceable order of removal has not been entered.</u></p>	
<p>12-Considered a permanent resident by USCIS</p>	<p>Ineligible</p>
<p>13-Special agriculture worker under Section 210(A)</p>	<p>Ineligible</p>
<p>14-Additional Special agriculture worker under Section 210A</p>	<p>Ineligible</p>
<p>15-An immigrant whose deportation is being withheld under Section 243(h) or 241(b)(3)</p>	<p>Eligible</p>

<p>16-Battered Immigrant</p> <p>Code the battered immigrant adult or child or parent with the broadest immigrant eligibility category that applies to that person (for example, code a battered refugee immigrant, as a refugee). Document in case comments that the person is a battered immigrant and therefore exempt from sponsor deeming. Do not list the sponsor in CWW. Do not list any of the sponsor's income and assets.</p>	<p>Ineligible unless:</p> <ul style="list-style-type: none"> <li>• Meets work quarter requirement, or</li> <li>• Meets military requirement, or</li> <li>• Receives disability benefit, or</li> <li>• Has lived in the U.S. as a qualified immigrant for five years from the date of entry, or</li> <li>• Under age 18, or</li> <li>• Was a legal resident on August 22, 1996, and born on or before August 22, 1931.</li> </ul>
<p>17- Amerasians</p>	<p>Eligible</p>
<p>18 - Native Americans born abroad</p>	<p>Eligible</p>
<p>19 - Trafficking victims, including the minor children, spouses, and, in some cases, the parents and siblings of victims of severe trafficking (treat as refugee under section 207 of the INA), the spouse, child, parent or unmarried minor sibling of a victim of a severe form of trafficking in persons under 21 years of age, or the spouse or child older than 21 who has received a derivative T visa, to the same extent as an immigrant who is admitted to the U.S. as a refugee under Section 207 of the INA.</p>	<p>Eligible</p>
<p>20 – Lawfully Residing</p>	<p>Ineligible</p>

## CHART 2

Immigration Status	CARES Code	I-94 Codes	I-551 Codes	Other
Cuban/Haitian Entrant	11	212(d)(5) or paroled or C/H Entrant and from Cuba or Haiti or I-551 stamp and CU6 or CH6	CU6 or CU7, CH6	Unexpired and expired I-551 stamp in foreign passport

Deportation Withheld	15	106 or 243(h) or 241(b)(3)	NA	USCIS Form I-688B annotated 274a.12(a)(10); USCIS Form I-766, annotated A10; order from an immigration judge showing deportation withheld under 243(h) or removal withheld under 241(b)(3)
Battered Immigrant	16	AR1, AR6,  C20 through C29, CF1, CF2, CR1, CR6, CR7, CX1, CX2, CX3, CX6, CX7, CX8,  F20 through F29, FX1, FX2, FX3, FX6, FX7, FX8, IF1, IF2, IR1, IR2, IR3, IR4, IR6, IR7, IR8, IR9, IW1, IW2, IW6, IW7, MR6, MR7, P21, P22, P23, P26, P27, P28; IB3, IB6, IB7, IB8, B11, B12, B16, B17, B20 through B29, B31, B32, B33, B36, B37, B37, B38, BX1, BX2, BX3, BX6, BX7, BX8 some Z13	AR1, AR6,  C20 through C29, CF1, CF2, CR1, CR6, CR7, CX1, CX2, CX3, CX6, CX7, CX8,  F20 through F29, FX1, FX2, FX3, FX6, FX7, FX8, IF1, IF2, IR1, IR2, IR3, IR4, IR6, IR7, IR8, IR9, IW1, IW2, IW6, IW7, MR6, MR7, P21, P22, P23, P26, P27, P28; IB3, IB6, IB7, IB8, B11, B12, B16, B17, B20 through B29, B31, B32, B33, B36, B37, B38, BX1, BX2, BX3, BX6, BX7, BX8 some Z13	I-551 stamp in foreign passport with one of the preceding codes; or  IMPORTANT: Applicant has filed an I-130 or I-360 petition as a battered immigrant.  USCIS Form - 797 is documentation of approval of an I-130 application.
Amerasian	17	AM1, AM2, or AM3	AM 6, AM7, or AM8	I-551 stamp in foreign passport with

				one of the preceding codes
Foreign born Native American	18	S13	S13	I-551 stamp in foreign passport with S13 tribal membership card from federally recognized tribe.
Trafficking Victim	19	T-2, T-3, T-4 and T-5 known as "Derivative T" visas are not currently available in the SAVE system.  Call the toll-free trafficking verification line at 1-866-401-5510 to notify ORR of the benefits for which the individual has applied.		Health and Human Service Office of Refugee Resettlement Certification Letter

This is not an all-inclusive list of government issued codes.

See also Process Help, [Section 82.8 Class of Admission \(COA\) Tables](#) for additional codes and explanations of the types of USCIS authorization documents.

## 3.12.1.8 Encouraging Application

7 CFR 273.4(b)

~~In order to encourage~~ Encourage all potentially eligible people to apply for FoodShare. ~~Make it should be made~~ clear that ~~we will not require~~ food unit members ~~who are~~ not requesting eligibility. FoodShare benefits are not required to furnish ~~an SSN or~~ an SSN or any immigration documentation.

FoodShare participation is not reviewed or considered in public charge determinations.

~~Local agencies are prohibited from contacting USCIS regarding~~ contacting USCIS regarding the immigrant status of a food unit member who is not requesting eligibility ~~unless the IM worker "knows" that the immigrant is in violation of USCIS law. "Knowing" is defined as having a determination of the USCIS or the Executive Office of Immigration Review, such as a Final Order of Deportation. Although~~



~~an agency may have contact with, or be aware of, the presence of "undocumented" immigrants, it may be unusual for a local agency to actually "know" that an immigrant is not lawfully present in the U.S.~~ FoodShare benefits.

### 3.12.1.11 Iraqis and Afghans with Special Immigrant Status

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Beginning December 19, 2009, special immigrants from Iraq or Afghanistan are to be treated like they are refugees when determining their eligibility for FoodShare as long as they have this special immigration status. This policy applies to these immigrants regardless of when they received this status. Class of Admission (COA) Codes for this group are: S16, S17, S18, SQ6, SQ7, SQ8. This special immigrant category applies to an:

- Afghan or Iraqi national who worked with the U.S. armed forces as a translator including spouse or children;
- Iraqi national who was employed by or on behalf of the U.S. government including spouse or children; and
- Afghan national who was employed by or on behalf of the U.S. government or in the International Security Assistance Force (ISAF) (or any successor name for the ISAF) in Afghanistan including spouse or children.

#### Special Immigrant (SI) or non SI parolees

Afghans and persons with no nationalities who were residing in Afghanistan and subsequently paroled into the United States between July 31, 2021, and ~~December 16, 2022~~ September 30, 2023, are to be treated as refugees when determining eligibility for FoodShare. These ~~individuals~~ persons are not subject to a waiting period and are eligible for benefits if they meet all other non-financial and financial criteria.

In addition, Afghans and persons with no nationalities who were residing in Afghanistan and subsequently paroled into the United States after September 30, 2022, are to be treated like they are refugees when determining their eligibility if they are one of the following:

- The spouse or child of ~~an individual~~ a person paroled between July 31, 2021, and ~~December 16, 2022~~ September 30, 2023
- The parent or legal guardian of ~~an individual~~ a person paroled between July 31, 2021, and ~~December 16, 2022~~ September 30, 2023, who is determined to be an unaccompanied child

All the above ~~individuals~~ persons are treated as refugees until either March 31, 2023, or the date their parole status expires, whichever is later.

Should these ~~individuals~~ persons file for and transition to asylee status, they would continue to be eligible for FoodShare benefits while they remain in that status and would not be subject to a waiting period.

Note This only applies to Afghan nationals, citizens, or those who habitually lived in Afghanistan who are granted parole status between July 31, 2021, and ~~December 16, 2022~~. September 30, 2023. All other refugees and special immigrants (SIV), including SIVs with parolee statuses, are not subject to the March 31, 2023 limitation and continue to be eligible for federal public benefits, like FoodShare, provided all other eligibility requirements are met.

The table below shows the Class of Admission (COA) Codes that are used for the groups that are treated like refugees based on their parole status:

Class of Admission Code	Description	CARES Immigrant Registration Status Code
<b>Afghan Non-Special Immigrant Parolee (Non-SI Parolee)</b>		
OAR/OAW	Non-SI Parolee (CPB implemented August 2021)	Code 04
PAR	Non-SI Parolee, used before OAR implementation	Code 04
DT	Non-SI Parolee, used before OAR implementation	Code 04
<b>Afghan Special Immigrant Parolee (SI Parolee)</b>		
SQ4	Principal	Code 04
SQ5	Dependent	Code 04
<b>Afghan Special Immigrant Lawful Permanent Residents (SI LPR)</b>		
SQ1	Principal	Code 04
SQ2	Spouse of SQ1	Code 04
SQ3	Child of SQ1	Code 04
SQ6	Principal, Adjusting Status	Code 04
SQ7	Spouse of SQ6, Adjusting Status	Code 04
SQ8	Child of SQ6, Adjusting Status	Code 04
SI1	Principal	Code 04
SI2	Spouse of SI1	Code 04
SI3	Child of SI1	Code 04

SI6	Principal	Code 04
SI7	Spouse of an SI6	Code 04
SI8	Child of an SI6	Code 04
<b>Afghan Special Immigrant Conditional Permanent Resident (SI CPR)</b>		
CQ1	Principal	Code 04
CQ2	Spouse of CQ1	Code 04
CQ3	Child of CQ1	Code 04

## 3.13.1 Social Security Number (SSN) Requirements

7 CFR 273.6

A food unit participating in or applying for FoodShare must provide the SSN of each food unit member who is requesting benefits. ~~Individuals without~~ Failure to provide an SSN must apply for one before certification, disqualifies the person from participating in the FoodShare program. An applicant does not need to provide a document or Social Security card. They only need to provide a number, which is verified through data exchanges. If ~~anyone~~ a member has more than one number, all numbers must be provided. Verify the SSN only once.

~~IM workers~~ Persons without an SSN must explain ~~apply for one before certification.~~ Agencies must assist any person that failure to provide requests help with applying for an SSN will disqualify. Assisting the person without applicant or member includes helping to file the Application for a Social Security Card form (SS-5 SSN. Allow) and obtaining a birth certificate or other document needed for a successful enumeration process. If the applicant or member has applied for an SSN applicant to participate on a month-by-month basis, while awaiting receipt of, they have satisfied the SSN- application requirement for eligibility.

They must provide the SSN or proof of application within 30 days of the FoodShare application. Proof of an SSN application can be documentation, ~~such as a letter~~ from the SSA, or collateral contact with the individual person that assisted with the SSN application, ~~such as a resettlement agency representative.~~

In cases where an application for SSN has been filed with the Social Security Administration, an SSN must be provided by the time of the next FoodShare renewal or FoodShare eligibility will be terminated for that individual person. In addition, if eligibility for another program pends for an SSN and the SSN application date on file is six months or older, eligibility for FoodShare will also pend. Members must be given a minimum of 10 days to provide an SSN, but if they do not, FoodShare eligibility must be terminated for ~~the individual~~ that person.

~~Agencies must assist any household that requests help with applying for an SSN. "Assisting the applicant" may include helping with filing the Application for a Social Security Card form ( ) and obtaining a birth certificate or other document needed to apply for the SSN.~~

~~A parent of a newborn may begin an SSN application on the newborn's behalf while still in the hospital. If the SSN has not been applied for, the worker will either need to assist in completing form SS-5 or require the parent to complete the application. A completed SS-5 is verification of application for an SSN for a newborn food unit member.~~

~~If the caretaker is unwilling to provide or apply for the SSN of a minor or 18-year-old, then the person with no SSN is ineligible.~~

~~An applicant does not need to provide a document or Social Security card. They only need to provide a number, which is verified through data exchanges.~~

~~Verify the SSN only once.~~

If immigrants ineligible for Department of Homeland Security (DHS) work authorization are not eligible for an SSN unless they have a valid nonwork reason (POMS Rm 10211.600). Eligibility for FoodShare is a valid nonwork reason to obtain an SSN.

When an applicant(s) meets all FoodShare financial and non-financial eligibility criteria except an SSN, DHS sends a letter supporting the request for a nonwork SSN. Agencies must review the applicant's non-financial and financial eligibility to ensure full eligibility before requesting a Nonwork SSN Letter. This includes receiving second and third level verification results through SAVE if applicable.

The Nonwork SSN Letter states that the applicant meets all requirements for FoodShare except for having a SSN. This letter meets the SSA criteria as detailed in SSA POMS RM 10211.600, "Request for an SSN from a Noncitizen without Work Authorization."

The letter and additional guidance are mailed to the applicant(s), who then presents the letter during their enumeration appointment with their Social Security Administration (SSA) representative.

When the SSN validation process returns a mismatch record, the worker must **first** attempt to correct the mismatched information. If the worker is ~~unable to correct the information~~unsuccessful, the worker must contact the member to correct the information.

The Inform the member ~~should be informed~~ if the SSN validation process indicates another individual person is using the same SSN ~~so the member can~~. Do not provide the member with information identifying the person using the member's SSN. The member should contact the Social Security Administration ~~and to~~ request ~~they conduct~~ an investigation. ~~The IM worker cannot provide the member with any information that would identify the individual who is using the member's SSN.~~

### 3.13.1.1 Failure to Comply

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Providing an SSN is voluntary, ~~but if an individual applying for FoodShare~~. If someone refuses to provide an SSN, they will be denied, and their income will be deemed to the assistance group. Any food unit member who does not provide an SSN is ineligible. The only exception is if there is good cause for not providing it. Disqualify only the person without the SSN, not the entire food unit. 'Good cause' is the only exception to the failure to comply policy.

### 3.13.1.2 Good Cause

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Use information from the food unit member, the SSA, the IM or tribal agency, and any other sources to determine good cause.

Apply good cause if the applicant or member makes every effort to supply the requested information in a timely manner.

If they can show good cause, allow participation on a month-by-month basis.

### **3.13.1.3 SSN Application for Newborns**

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For a newborn member, verify the SSN or that an application for an SSN has been made. ~~Do not deny benefits pending issuance of an SSN if you have documented an SSN application has been made. A parent of~~ A parent or guardian of a newborn may begin an SSN application while still in the hospital.

Do not deny benefits when documentation shows that an SSN application has been submitted. A completed Application for a Social Security Card form ([SS-5](#)) is proof of application for an SSN for a newborn food unit member.

If the applicant or member is unable to provide proof of application for an SSN for a newborn, the member must provide the SSN or proof of application at the next renewal. If the member is unable to provide an SSN or proof of application for an SSN at the next renewal, review good cause exceptions. Deny FoodShare benefits for the ~~baby~~newborn if the food unit refuses to provide an SSN for the newborn without good cause.

### **~~3.13.1.3 Good Cause~~**

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~~Use information from the food unit member, the SSA, your agency, and any other sources to determine good cause. If the member has applied for an SSN, they have satisfied the SSN application requirement.~~

~~Apply good cause if the applicant or member makes every effort to supply the information timely.~~

~~If they can show good cause, allow participation on a month-by-month basis.~~

### **3.13.1.4 Religious Exception**

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If a FoodShare applicant refuses to provide an SSN for ~~their self~~themselves and/or any other household member based on a sincere religious objection, ~~or both~~, allow them and all otherwise eligible members of the food unit to receive FoodShare.

The IM ~~worker may~~worker may check with the SSA or query whether an SSN ~~already~~ exists for the person ~~and~~. Workers can use ~~any~~an existing SSN for verification and matching purposes without further notice to the food unit member.

## 3.14.1 Intentional Program Violation (IPV) Disqualification

7 CFR 273.16

An applicant or member commits an Intentional Program Violation (IPV) when they intentionally:

- Make a false or misleading statement or misrepresent, conceal, or withhold facts, including but not limited to their identity, who they are living with, or which state they live in, to become eligible or to remain eligible for benefits; or
- Commit any act that constitutes a violation of the Food and Nutrition Act of 2008, the Supplemental Nutrition Assistance Program Regulations, or any Wisconsin statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking of FoodShare benefits or QUEST cards.

Trafficking or misuse includes the following:

- Using FoodShare benefits to purchase food for the sole purpose of returning the food for a cash refund,
- Reselling food purchased with FoodShare benefits for cash or other consideration,
- Purchasing, for cash or other consideration, food that was previously purchased from a supplier using FoodShare benefits,
- Directly or indirectly buying, selling, or stealing EBT cards, card numbers, or personal identification numbers (PINs) for cash or other consideration,
- The exchanging of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of Title 21 of the United States Code, for SNAP benefits, or
- Unauthorized person(s) knowingly obtaining, possessing, transferring, or using FoodShare program benefits.
- Using FoodShare benefits in an unauthorized way.

An IPV may be determined by the following means:

- ~~Federal, state, or local court order~~
- Administrative Disqualification Hearing (ADH) decision
- Federal, state, or local court order
  - Pre-charge or pretrial diversion agreement initiated by a local district attorney and signed by the FoodShare member in accordance with federal requirements
- ~~A signed and completed Waiver of Administrative Disqualification Hearing form (⊖):~~
  - ~~The only acceptable ADH waiver is a completed DHS forms library version (⊖). No other actions taken by or on behalf of the household should be interpreted as the individual waiving their ADH.~~

The Waiver

## 3.14.1.1 Investigating Potential Fraud

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Fraud investigations determine the accuracy of an allegation that a person receiving benefits from a public assistance program intended to misrepresent their eligibility criteria or committed any act that constitutes an IPV. A careful examination of a case record by the agency is essential in determining whether it should be referred for fraud investigation.

A fraud investigator is a worker designated to review a case, also known as a fraud referral, suspected of fraudulent activity. The investigator must determine if an overpayment of benefits occurred and if there was intent to commit fraud against the program.

Common suspected fraud cases referred to an investigator by an IM or tribal agency include:

1. A benefit overpayment is suspected, and the agency has reason to believe the overpayment is the result of misrepresentation of program eligibility requirements. The misrepresentation of program eligibility or fraudulent activity may be the result of:
  - a. False or misleading statements of circumstances.
  - b. Failure to report a change in circumstances.
  - c. Concealed or withheld facts.
  - d. Violation of a program regulation or State statute relating to program benefits.
2. The benefit(s) would not have been provided but for the false representation.
3. The conduct of the benefit recipient indicates the misrepresentation or fraudulent use of the benefit was done with knowledge and intent.

The fraud referral should contain all relevant data the agency has on the case to help the fraud investigator.

The primary purpose of a fraud investigation is to substantiate the validity of a fraud referral. To do this, the IM consortium or tribal IM agency needs to provide as much relevant information as possible so the investigator can determine if the member intended to commit any act that constitutes an IPV and if any benefits were overpaid.

Fraud investigations may include, but are not limited to:

- Gathering and examining documentary evidence
- Investigative Interviewing
- Requesting verification related to the investigation
- Investigations in the field (for example, surveillance)
- Entering findings or comments on a referral into the investigation tracking system
- Representing the agency in a hearing
- Calculating overpayments
- Creating claims



Referral criteria should include, but not be limited to:

- A statement of the fraud allegation
- The date the information was received
- CARES case number
- Source of complaint
- Investigation reason
- Potential programs affected
- Potential look-back period
- Supporting documentation

When the investigation finds that a person committed an alleged intentional program violation (IPV), the agency must decide whether to refer the case to one of the following:

1. Administrative Disqualification Hearing (ADH)
2. District Attorney (DA) for prosecution
3. Make no referral for IPV/fraud determination

### 3.14.1.2 Administrative Disqualification Hearings

An administrative disqualification hearing (ADH) is the administrative process for determining an IPV for FoodShare.

A referral agency may request an ADH when there is sufficient documentary evidence that a person or group has intentionally violated the program requirements. An ADH may be initiated regardless of the person's current eligibility for the FoodShare Program.

Consider initiating an ADH when at least one of these conditions is met:

1. The facts of the case don't warrant criminal prosecution.
2. The case does not meet the local prosecution referral criteria.
3. The DA declines to prosecute the referred person.
4. The same person was previously referred for prosecution, but no action was taken (within a reasonable period of time) and the referral was formally withdrawn.

An ADH, like a fair hearing, is held by the Department of Administration (DOA), Division of Hearings and Appeals (DHA). An ADH differs from a fair hearing in these ways:

1. The referral agency, not the accused person, requests the hearing.
2. A representative of the agency will present the evidence supporting the request for the ADH and the alleged IPV.
3. There is no time limit within which an ADH must be requested.
4. The timely notice (Notice of Administrative Disqualification Hearing ~~form should always be mailed to the individual if an IPV is being pursued. When the form is sent, it should be documented in the case comments~~) is measured from the date of the hearing.

When requesting an administrative disqualification hearing, there must be clear and convincing evidence demonstrating that the ~~individual~~ person committed,

and/or intended to commit, an ~~Intentional Program Violation (IPV)~~. The burden of proof is on ~~DHS~~State or the ~~local~~ agency ~~to prove~~ pursuing the actions were intentional and provide verification that the member's reporting requirements were understood IPV.

Exact required evidence may vary based on the specific circumstances of the case. However, the evidence must be clear and convincing. For evidence to be considered clear and convincing it should be:

1. Explicit in detail.
2. So clear as to leave no reasonable doubt.
3. Reasonably certain of issues and findings.

Administrative Law Judges frequently cite a Wisconsin Circuit Court ruling and reference Wisconsin Jury Instruction in ADH decisions as the lens through which they determine whether a case is clear and convincing.

Evidence of an IPV exists when it can be shown that the person willfully provided false information or failed to disclose information in order to receive or attempt to receive benefits to which they were not entitled.

Include evidence that shows that the accused person was informed of their rights and responsibilities, reporting requirements, information of what was used in the benefit determination, or any other related records.

Sources of evidence include, but are not limited to:

- Written proof of all information that the person intentionally failed to report.
- An application, change report form, or recertification submitted during the period of suspected violation.
- Receipt of notices that detail pertinent information related to the alleged IPV, including Notices of Decision, Case Summaries, or the Enrollment and Benefits Handbook.
- IEVS or other data sources that are considered verified on receipt, such as vital records, child support, or unemployment compensation matches.
- Documentations of agency visits (in person or via phone) including the recording of the call, if available.
- Oral evidence that is either provided under oath or affirmed by another person.

Documentary evidence must be used to show intent to break the program rules. However, documentary evidence that is not authenticated by the source is considered hearsay. Hearsay evidence consists of documentation or statements that are not substantiated or corroborated from the evidence source. Although, hearsay evidence is admissible in an ADH, hearsay evidence alone may not be enough to prove the allegation.

The accused person and their representative, if applicable, must be given adequate opportunity to:

1. Examine the contents of their case file, and all documents and records to be used by the agency at the hearing, at a reasonable time before the date of the

hearing, and during the hearing, and to receive a copy of material pertinent to the case from the file at no charge.

2. Present their case for themselves or with the aid of a representative.
3. Bring witnesses.
4. Submit evidence to establish all pertinent facts and circumstances.
5. Advance any arguments without undue influence.
6. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

A representative of the agency must attend the ADH to submit clear and convincing evidence to prove the allegations of Intentional Program Violation against the accused.

Even if the accused or their representative fails to attend the ADH, the agency must present clear and convincing evidence that the accused committed an IPV in order for the administrative law judge (ALJ) to determine that an IPV was committed.

The agency must determine the essential facts in a case. This is best done by asking, "What facts need to be shown in order to prove the case?"

1. Review program policy to determine what is required.
2. Analyze the case to see if there are any other facts that must be established.
3. Obtain the best evidence to prove each fact.

The agency's evidence on each and every essential fact must meet the test of clear and convincing. The burden of proof is placed only on the agency; the client has no burden of proof that has to be met. If the agency fails to meet the level of clear and convincing proof on each and every fact, the ALJ may rule against the agency.

### **3.14.1.2.1 ADH Request Requirements**

The referral agency must provide a written notice to the person alleged to have committed the program violation at least 30 days prior to the date of the disqualification hearing.

The written Administrative Disqualification Hearing Notice shall include the following items:

1. Date, time, and location of the hearing.
2. Allegation(s) against the person, including a statement that the agency believes benefits were received by the accused person (or that the person attempted to receive benefits) by intentionally violating a program rule.
3. A summary of the evidence, along with appropriate documentation, supporting the allegation(s) of an IPV, including:
  - a. The period of time or date(s) during which an overpayment was received or benefits misused.
  - b. The amount of the overpayment or amount of misused benefits involved.
  - c. A statement informing the person of their right to examine the evidence and instructions on how and where the evidence can be examined.

4. A warning that the person's failure to appear at the ADH without good cause will result in a decision by the ALJ based solely on the information provided by the agency at the hearing.
5. A statement that the person may request a postponement of the hearing provided that such request is made to the Department of Administration, Division of Hearings and Appeals (DHA) at least 10 days in advance of the scheduled hearing, with the following restriction. The hearing shall not be postponed for more than a total of 30 days.
6. A statement that the person will have 10 days from the date of the scheduled hearing to present to the Division of Hearings and Appeals (DHA) good cause for failure to appear in order to receive a new hearing.
7. A description of the penalties that can result from a determination that the person has committed an intentional program violation and a statement of which penalty is applicable to the person.
8. A statement that the hearing does not preclude the District Attorney from prosecuting the person for an intentional program violation in a civil or criminal court action, or the agency from establishing and collecting an overpayment.
9. A statement that the person and remaining adult members of the Assistance Group (AG) will be responsible for repayment of the overpayment.
10. A listing of persons or organizations that provide free legal representation to persons alleged to have committed intentional program violations.
11. A statement of the accused person's right to remain silent concerning the charge(s) and that anything said or signed by the person concerning the charge(s) may be used against him or her in a court of law.
12. A telephone number and, if possible, the name of the person to contact for additional information.

### **3.14.1.2.2 ADH Decision**

Decisions made by the ALJ shall be based exclusively on evidence and other material introduced at the hearing. The transcript or recording of testimony, exhibits, or official reports introduced at the hearing, together with all papers and requests filed in the proceeding, and the decision of the hearing office shall be made available to the person or to their representative at a reasonable time and place.

Decisions made by the ALJ will:

1. Include a decision summarizing the facts and identifying the regulations supporting the decision.
2. Be made within 90 days of the date of the Notice of Administrative Disqualification Hearing.

If the ADH ALJ finds that the accused person committed an IPV, the agency will enter the IPV and any related benefit recovery as soon as possible.

### **3.14.1.2.3 Waiver of the Administrative Disqualification Hearing**

Effective May 1, 2023, the administrative disqualification hearing cannot be waived. Any forms received by the Division of Hearings and Appeals on or before April 30, 2023 that were signed prior to the policy change can be accepted to waive the hearing.

### **3.14.1.3 Referring a Suspected IPV for Prosecution**

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IM and tribal agencies should work with their local district attorney to establish specific criteria for referring FoodShare cases for prosecution. Instances of fraud that meet the agency and district attorney's criteria for prosecution should be referred to the district attorney. Once a decision is made to refer the alleged fraud for prosecution, the following should be sent with a letter of referral:

1. A synopsis of the fraudulent activity.
2. The investigation summary supporting the allegation.
3. A list of supporting documentation.
4. All information obtained in the investigation.
5. Full overpayment amount and appropriate program penalties.

The referral letter should include a request that the district attorney recommend to the court that a disqualification penalty be imposed (in addition to any civil or criminal penalties).

If the IM or tribal agency has a memorandum of understanding (MOU) with the local district attorney, the established process should be followed when making a referral for prosecution. The MOU should outline necessary documentation to make a successful referral.

When a decision is made to refer a case to the district attorney for prosecution, or if there is no MOU defining the referral criteria, the following materials are recommended by the Wisconsin District Attorney's Association, et. Al, for making a satisfactory referral to prosecution.

1. Documentation that the recipient signed the application/review form.
2. Documentation of sources and amounts of income and assets, as applicable.
3. Documentation of relevant changes in the case circumstances.
4. Documentation that the recipient received more program benefits than they were entitled to.
5. Documentation to show that the recipient trafficked benefits or used benefits in an unauthorized way.
6. Calculation of the amount of all overpayments subject to prosecution.
7. A written summary of an interview or an attempted interview with the recipient or the recipient's signed statement regarding the allegations.
8. The agency's recommendation regarding restitution, including possible repayment by recoupment from on-going financial assistance benefits in accordance with policy.

9. A copy of the investigation report with a prosecution recommendation from the investigative service.

### **3.14.1.3.1 Pre-Charge Diversion Agreement**

The Pre-Charge diversion agreement is an alternative for anyone referred to the DA for an alleged IPV. It permits recovery of over issued benefits from the group member without the stigma of actual court prosecution. The referral agency should have an agreement with its local DA that provides for at least a 10 day advance written notification to the person of the consequences of signing the consent agreement.

The pre-charge diversion agreement can be used at the point in the legal process prior to the DA filing criminal charges with the court of jurisdiction. The Pre-Charge Diversion Agreement is a contract between the person who admits to committing an IPV and the DA. The Agreement includes:

1. A statement by the person that they did commit an IPV.
2. An agreement that they will make full restitution of all benefit over issuance resulting from the IPV.
3. An agreement to waive their right to an administrative disqualification hearing and agree to the appropriate program disqualification penalties.
4. An optional agreement that they will pay associated costs, assessed costs and any additional penalties.

### **3.14.1.3.2 Pre-trial Agreement**

The Pre-Trial diversion agreement is similar to the Pre-Charge agreement in that it is a contract between the person who admits to committing an IPV, and it includes the same stipulations. It is usually initiated after criminal charges have been filed with the court of jurisdiction. The agreement or contract requires the judge's signature.

The Pre-Trial diversion agreement can be used at any point in the legal process that the DA or court wishes, including after the entry of a guilty or no contest plea by the defendant.

### **3.14.1.3.3 Disqualification Consent Agreement**

If a person's case has been referred to the District Attorney for prosecution for civil or criminal misrepresentation or fraud, the person may defer prosecution by signing a Disqualification Consent Agreement ([F-16025](#)). By signing this agreement the client agrees to the penalties listed, even though the client has not been found guilty through court proceedings.

If the client signing the Disqualification consent agreement is not the primary person, the primary person must also sign this form in the line provided.

### **3.14.1.3.4 Prosecution Diversion Agreement**

The Prosecution Diversion Agreement (F-16026) is similar to the Disqualification Consent Agreement as the individual is agreeing to receive an IPV. However, it is used in cases where the person is being charged with fraud in more than one public assistance program.

Due to federal regulations specifying certain parameters that need to be on a disqualification form, the Disqualification Consent Agreement still needs to be signed in order for the agency apply an IPV to a person's case.

### **3.14.1.4 Retailer Fraud**

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A FoodShare retailer is a store authorized by FNS to sell food products in exchange for FoodShare benefits using the Wisconsin Quest Card and SNAP benefits issued by any other authorized state or territory. Retailer fraud involves an authorized store breaking program rules. Retailer fraud is investigated by the United States Department of Agriculture (USDA).

Examples of FoodShare retailer fraud include but are not limited to:

- Redeeming more FoodShare benefits than the value of food sales
- Selling ineligible items
- Accepting FoodShare benefits in payment for food sold to a FoodShare household on credit
- Buying or selling FoodShare benefits

Immediately notify the OIG Trafficking Unit at [DHSOIGTRAFFICKING@wisconsin.gov](mailto:DHSOIGTRAFFICKING@wisconsin.gov) ~~eDRS: If a worker receives a notification on the FoodShare IPV Sanction Page in the Individual Information — eDRS Details section that an IPV was received~~ of suspected retailer fraud. Referrals will be forwarded to FNS's retailer operation division for review. OIG trafficking agents assist with forwarding required information to FNS to have proper documentation for FNS to review.

You can also use the toll-free hotline (800) 424-9121 to report fraud, waste, or abuse committed by a FoodShare retailer.

### **3.14.1.5 IPV's from Other States**

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If a worker receives a notification that an IPV was imposed in another state, they must verify this information as either true or false with the other state or the member.

Documentation may be in any form deemed appropriate and legally sufficient. Such documentation may include, but shall not be limited to, electronic or hard copies of court decisions, administrative disqualification hearing determinations, signed disqualification consent agreements or administrative disqualification hearing waivers.

You may accept a verbal or written statement from another State agency attesting to the existence of the documentation listed above.



You may accept a verbal or written statement from the household affirming the accuracy of the disqualification information if such a statement is properly documented and included in the case record. If the statement from the household contradicts the disqualification data, additional documentation will be required to verify ~~that~~ whether the ~~individual person should~~ should not be disqualified.

IM workers ~~should~~ must document any collateral contacts or other information regarding the IPV disqualification in Case Comments.

### **3.14.1.64** Period of Ineligibility

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The following sanction periods are for IPV's committed after December 1, 1996. Anyone determined to have committed an IPV is ineligible for:

1. One year for the first IPV.
2. Two years for:
  - a. The second IPV or,
  - b. The first IPV for which an individual is convicted in a federal, state, or local court to have used or received benefits in a transaction involving the sale of drugs of less than \$500.
3. Permanently for:
  - a. A third IPV, or
  - b. A first IPV resulting from the conviction of the individual by a federal, state, or local court for having used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives, or
  - c. A first IPV resulting from a conviction of an individual in a federal, state, or local court involving trafficking benefits for an aggregate amount of \$500 or more, or
  - d. A second IPV for which an individual is convicted in a federal, state, or local court to have used or received benefits in a transaction involving the sale of drugs.

Once an IPV is imposed, all violations occurring before the first IPV cannot be used to pursue a second IPV. A second IPV can only be pursued if the violation occurred after the first IPV is imposed, and a 10-day notice is given.

If a second IPV is granted during the sanction period of the first IPV, it must be entered for the disqualification period to begin immediately. There may be instances in which IPV's are running simultaneously; therefore, the sanction time period may not be as long as it would have been had the IPV's been separate. Only a court or administrative law judge can set the start date of an IPV.

Only the person determined to have committed an IPV is ineligible. Other members of the FoodShare assistance group may continue to be eligible.

The individual must be notified in writing once it is determined that they are to be disqualified. If the person who committed the IPV is not the primary person, then the



FoodShare Notice of Disqualification ([F-16024](#)) must be sent. Begin the disqualification period no later than the second month following the date the individual receives written notice of the disqualification. The disqualification period must continue uninterrupted until completed regardless of the eligibility of the disqualified individual's food unit.

If a court finds an individual guilty of an IPV, the term of the disqualification period and the disqualification begin date must comply with the court order. If the court order does not specify a disqualification period, the disqualification period for the IPV is in accordance with the schedule above. If the court order does not specify the date for the disqualification period to begin, the disqualification period should begin in accordance with the provisions in the paragraph above, but within 45 days of the court decision.

For all IPV disqualifications, begin the disqualification period in the first possible payment month regardless of whether the person becomes a non-participant member or remains in the food unit. Do not pend the disqualification period until the disqualified individual reapplies.

If a non-participating person with an IPV disqualification does reapply for FoodShare, apply any remaining periods of ineligibility. If the ineligibility period has expired when the person reapplies, they may be eligible to receive benefits.

Example 1	John is notified of his one-year IPV disqualification in January, effective February 1. He doesn't request FoodShare for the first nine months of his period of ineligibility. If John reapplies for FoodShare in November and is determined otherwise eligible, he will still be ineligible for FoodShare benefits for the three remaining months of his disqualification period. If he waits until February to reapply, the disqualification period will have expired, and he may be determined eligible for FoodShare.
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A pending administrative disqualification hearing or prosecution does not affect the person's eligibility. Do not take any adverse action in the matter before the case is resolved. Continue to act on other changes in income and circumstances.

Do not impose a disqualification period retroactively on an individual who has committed an IPV, but who had not been disqualified timely. Disqualify a food unit member only to the extent that the disqualification period has not elapsed.

Example 2	An IM worker determines in December that a person should have been disqualified in June for one year based on an administrative disqualification hearing decision. The agency failed to enter the IPV in CWW timely. Therefore, the IM worker should now disqualify the person for only the remaining five months.
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All IPV's determined for an individual prior to April 3, 1983, shall be counted as one IPV for determining a current disqualification period.

### **3.14.1.72 IPV 10-Year Disqualification Penalty**

A person who makes a false or misleading statement or misrepresents their identity or place of residence in order to simultaneously receive Wisconsin FoodShare benefits and SNAP benefits from any other state shall be ineligible for a period of 10 years.

In order to apply a 10-year disqualification penalty, the state agency needs to prove a person made a false statement or misrepresented their identity or place of residence while applying for or participating in Wisconsin FoodShare.

Before imposing the 10-year disqualification period:

- A finding of fraud must be made by a state agency, or
- A conviction of fraud must be entered by a state or federal court.

The administrative disqualification hearing process, including the offer to sign the Waiver of Administrative Disqualification Hearing ([F-16039](#)), may be used for imposing this penalty.

Duplicate participation itself does not support the application of a 10-year program disqualification. There must be clear and convincing evidence that the person misrepresented or falsified their identity or place of residence to receive SNAP and/or FoodShare in more than one household.

Example 3	<p>Janice moves to Wisconsin in May and applies for FoodShare. She reports she is employed, she lives at a Wisconsin address, and that she is not receiving SNAP in another state. The IM worker determines Janice is eligible, and her application is approved after verifying her employment. Later, it is discovered that Janice received SNAP in Texas in May. The IM worker pursues an IPV through an administrative disqualification hearing.</p> <p>An ALJ finds that Janice made a false statement that she hadn't received SNAP in another state in May. This is Janice's first IPV, so Janice is barred from the program for 1 year.</p>
Example 4	<p>On January 17, Jesse contacted the IM agency to apply for FoodShare. He reported recently moving to Wisconsin from Nevada and that he was not receiving SNAP benefits from Nevada. Jesse provided a lease as verification of Wisconsin residency and met all other eligibility criteria. He was approved for FoodShare in Wisconsin starting in January.</p> <p>Several months later, the IM worker discovers that Jesse has been receiving SNAP benefits in Nevada since the time of his application. The IM worker also verifies that the lease Jesse submitted was fraudulent and that he never resided in Wisconsin. The IM worker pursues an IPV through an administrative disqualification hearing.</p>

An ALJ finds that Jesse misrepresented his residency to receive SNAP in more than one state, so he is barred from the program for 10 years.
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### **3.14.1.83 IPV Disqualification and Transitional FoodShare**

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When an individual is found by a court or administrative judge to have committed an IPV, that person is ineligible to participate in Transitional FoodShare (TFS). The exception is when that person is part of an already open TFS group. Once the TFS group is open and established, the only reason an individual will be removed is when that individual begins participating in another FoodShare assistance group or when the TFS group moves out of Wisconsin.

When an IPV is found to be valid by a court or administrative judge prior to TFS beginning, the IPV should be entered, and the individual will be excluded from the TFS assistance group at the TFS eligibility determination.

When TFS has already started, workers should continue following the instructions in the court order or fair hearing decision to begin the IPV disqualification period in the month directed by the court or administrative law judge. Even though the TFS amount will not decrease, the IPV will be enforced at the point that the TFS certification period ends, and the food unit completes a new application or recertification for FoodShare eligibility.

## 3.15.1 Student Eligibility

7 CFR 273.5

~~Individuals (ages 18-49)~~ Persons (ages 18-49) enrolled less than half-time do not have to meet a student exemption to be eligible for FoodShare. However, persons enrolled half-time or more in an institution of higher education are ineligible for FoodShare unless they meet an exemption. A student could be enrolled for in-person, online, or hybrid courses.

An institution of higher education may be defined as:

- A business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum; ~~or~~
- A regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

~~What is considered half~~ Half-time enrollment can vary based on the institution of higher education. The college, university, or school can provide enrollment status for an applicant. A student is enrolled as of the first day of the school term through normal scheduled class periods, vacation, and recess unless they:

- Graduate; ~~or~~
- Are suspended, expelled, or drop out; ~~or~~
- Don't intend to register for the next school term (excluding summer school).

Persons enrolled at least half-time at a college, but in a program outside of the regular curriculum, do not need to meet a student exemption. Special programs not part of the regular curriculum can include remedial education, continuing or community education, professional development, English for Speakers of Other Languages (ESOL/ESL), and workforce development. IM workers should not consider persons enrolled in programs like these to be enrolled in an Institute of Higher Education.

Example 1	Joe completes a FoodShare interview on July 15. He reports that he was enrolled at an institute of higher education full time for the Spring semester and intends to enroll full time for the upcoming Fall semester. Joe is considered a student effective as of his application date in July, as he was enrolled for the previous semester and intends to enroll for the upcoming semester.
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### 3.15.1.1 Student Eligibility Exemptions

~~An individual who meets one~~ Persons enrolled half time or more in a regular curriculum at an institute of higher education must meet a student exemption to be eligible for FoodShare as long as they meet all other eligibility criteria. Exemptions include students who are:

1. Physically or mentally unfit for gainful employment. If questionable, verify through receipt of temporary or permanent disability benefits, or a statement from a physician or certified psychologist.
2. ~~Be under~~Under age 18 or age 50 or over.
3. Enrolled in Wisconsin Works (W-2) or other TANF-funded program under Title IV of the Social Security Act.
4. Employed at least an average of 80 hours per month with earnings (this excludes in-kind income).
  - a. Compliance is determined by calculating whether the student worked an average of 80 hours per month over the period of a month, a quarter (calendar), a trimester (Fall, Winter, Spring), or a semester (Fall semester (1st) or Spring semester (2nd~~).~~)). This is like budgeting for contractual and fluctuating employment (see ~~).~~Section 4.3.2 Earned Income).
  - b. The payment can be received with regular frequency (that is, weekly, biweekly, semi-monthly) or as a one-time payment at the beginning or end of the employment period. There is no minimum wage or amount that must be received.
5. Self-employed at least an average of 80 hours per month with self-employment earnings (after self-employment expenses are subtracted) equivalent to at least the federal minimum wage.
  - a. Gross monthly earnings must be at least \$580 per month (\$7.25 x 80 hours = \$580 per month.~~).~~).
  - b. Use student monthly hours to calculate a weekly average. Students whose employment hours fluctuate may be determined eligible for FoodShare, provided they maintain an average of 80 hours per month at minimum wage.
6. Participating in a state~~-~~- or federally~~-~~- financed work study program during the regular school year (no minimum hourly requirement~~).~~).
  - a. The student must be approved for work study at the time of FoodShare application or reported change, the work study must be approved for the school term, and the student must anticipate actually working at a work study placement during that time.
  - b. The exemption shall begin with the month in which the school term begins~~-~~- or the month work study is approved, whichever is later. Once begun, the exemption shall continue until the end of the month in which the school term ends~~-~~- or it becomes known that the student has refused an assignment.
  - c. The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break.
7. Participating in a paid on-the-job training program. This exemption applies only during the period the person is being trained by the employer.

8. Responsible for the care of a dependent food unit member under age six. If two people exercising parental control are in the food unit, apply the exemption to only one person per child.
9. Responsible for the care of a dependent food unit member who has reached age six but is under age 12 if the agency determines adequate child care is unavailable to enable the student to attend class or work activities. If two people exercising parental control are in the food unit, apply the exemption to only one person per child.
10. ~~Is a single parent~~ Single parents enrolled in an institution of higher education on a full-time basis, as determined by the institution, and ~~is~~ are exercising care and control of a dependent food unit member under the age of 12.
  - a. To apply this provision there must be only one biological or adoptive parent or stepparent in the same food unit as the child. If there is no biological or adoptive parent or stepparent living with the child, another full-time student living with the child may qualify as an eligible student under this provision if the student has parental control of the child and does not live with their spouse.
11. Is assigned to or placed in an institution of higher education through or in compliance with the requirements of FSET, a program under the Job Training Partnership Act of 1974 (WIOA), or a program under section 236 of the Trade Act of 1974 (TAA).

Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption.-

12. Is enrolled in a program at an institution of higher education that meets the definition of a technical and/or vocational studies as detailed within the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302). Additionally, the program must lead to a diploma, certificate, apprenticeship, journeyman, or associates degree. The program must be designed to be completed in two years or less, not including post certificate apprenticeship or training.
  - a. All Wisconsin Technical College System WTCS programs, except for programs designed exclusively for transfer to a four-year program, qualify as Career and Technical Education.
  - b. The WTCS classifies any person taking classes within their system as an enrolled student. To be considered for the technical and/or vocational studies exemption, they must be enrolled in a program leading to a diploma, certificate, apprenticeship, journeyman, or associates degree.
  - c. Classes taken for personal development outside of an established program curriculum do not qualify for the technical or vocational studies exemption.-
13. A program at an institute of higher education limited to remedial courses, basic adult education, literacy, or English as a second language.

14. Enrollment in certain employment and training programs for low-income households, which are operated by a state or local government and have an equivalent component to SNAP E&T (FSET).

<p>Example <u>24</u></p>	<p>During an interview for FoodShare, Jack reports that they are a full-time student at Northern Technical College for phlebotomy and plans to graduate in the next year. Jack is enrolled in a two-year degree program that is expected to lead to a Phlebotomy Technician Technical Diploma. Jack meets all other eligibility criteria and is determined to be eligible for FoodShare because Jack is enrolled in a program at an institution of higher education that meets the definition of a technical or vocational studies as detailed within the Carl D. Perkins Career and Technical Education Act of 2006 (<a href="#">20 U.S.C. 2302(+)</a>).</p>
<p>Example <u>32</u></p>	<p>When Carla applies for FoodShare, Carla reports taking classes at Madison Area Technical College (MATC). Carla is taking cooking with herbs, pottery, and jewelry making. <del>Carla is considered enrolled at a technical college (institution of higher education) but not enrolled in a program leading to a diploma, certificate, apprenticeship, or degree.</del> While Carla is enrolled at <u>MATC</u> and taking classes <u>at MATC</u>, Carla is not considered <u>a(n) enrolled student</u> for FoodShare purposes because Carla is taking <del>only</del> personal development classes <del>and not enrolled in a specific program, which are</del> <u>outside of the regular curriculum.</u></p>
<p>Example <u>43</u></p>	<p>When Bill applies for FoodShare, Bill reports enrollment in a four-year nursing program at a <del>State University</del> <u>state university</u> and has two years left in the program. <del>The nursing program is not a technical or vocational program.</del> Bill does not meet any other student exemptions. Bill is not eligible for FoodShare.</p>
<p>Example <u>54</u></p>	<p>Bella is applying for FoodShare and reports being enrolled full time at UW-Milwaukee. Bella participates in an internship for a semester (five months). Bella works a total of 400 hours over the semester. At the end of the internship, Bella will be paid a stipend of \$1,000. The IM worker averages the 400 hours over the <u>five</u> months (400 hours/5 months equals 80 hours per month). Bella meets all other eligibility criteria and <u>meets an exemption.</u> <u>Bella</u> is determined an eligible student <del>since Bella is meeting an exemption.</del></p>

Note IRS tax dependency status does not impact FoodShare eligibility determinations. A student may be claimed as a tax dependent by their parents and still qualify for FoodShare if they meet all other non-financial and financial eligibility criteria.

### 3.15.1.2 Verification

Verification of student enrollment status is typically not required. However, there are two exceptions. Enrollment at an institute of higher education must be verified if:



- Deemed questionable by the ~~IM~~ agency, or
- An applicant or member is determined to be an ABAWD and at least half time enrollment in a qualifying institute of higher education is the applicant or member's only reported exemption from the FoodShare Work Requirement (see ~~-~~ [Section 3.17.1.4 Verification of Work Hours and Exemptions From the FoodShare Work Requirement](#)).

Verification of student eligibility exemption(s) is not required unless otherwise noted as a part of eligibility requirements, deemed questionable, or specifically listed in ~~-~~ [SECTION 1.2.3.8 STUDENT ELIGIBILITY ~~IN A TWO-YEAR PROGRAM~~ EXEMPTIONS](#).

Example <del>5</del> 6	Francois applies for FoodShare and reports that he is enrolled full time at an institute of higher education. He also reports that he is self-employed earning \$1000 per month. Self-employment earnings of greater than \$580 per month (federal minimum wage of \$7.25 x 80) is an allowable student eligibility exemption. Because income is also a mandatory verification for FoodShare, the IM worker pends for verification of self-employment income.
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### 3.15.1.3 Student Institutional Meal Plans

A student is an ineligible household member (and considered a resident of an institution) if they live in the dorms or other college housing and purchase a meal plan that provides more than 50% of their daily meals.

Determine meal plan coverage by calculating the percentage of daily meals available to the student. A meal plan offering 21 meals per week (breakfast, lunch, and dinner, seven days a week) offers 100% of daily meals. A student with access to 11 meals per week (52%) is ineligible; a student with access to 10 weekly meals (48%) is entitled to receive benefits if otherwise eligible.

Meal plan structures vary and can be counted by the number of meals, points, or dollars. IM workers must ask the applicant or member for clarification if it is unclear how many meals they receive from their plan. This information can be provided by the FoodShare applicant or member or from their school ~~and/or~~ meal plan provider. Meal plan participation can be defined as purchasing and enrolling in a meal plan at an institute of higher learning, either voluntarily or as required. If a student chooses to not eat the meals, this does not lower the percentage, as the meals are paid for and made available to the student.-

Example <del>6</del> 7	Kate is enrolled full time at UW-La Crosse and lives on campus in a dorm. Kate has a meal plan that provides the equivalent of ten meals per week. Ten meals per week is less than the majority (50%) of 21 total weekly meals. Kate meets all other eligibility criteria and is determined eligible for FoodShare.
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Example <del>7</del> 8	Marvin is enrolled full time at UW-Madison and lives on campus in a dorm. -Marvin is required to purchase a meal plan that includes 21
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	meals per week. -Marvin doesn't like the food offered and applies for FoodShare reporting that although he pays for a meal plan, he doesn't eat the food. -Marvin has more than 50% of his meals paid for, even though he chooses not to use his meal plan, and therefore he is not eligible to receive FoodShare.-
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## 3.16.1 FoodShare Basic Work Rules

### 3.16.1.6 Sanction Period

#### 3.16.1.6.1 At Application

If a sanction event occurs within the 30 days preceding the application filing date, without good cause, the applicant or member will be sanctioned from receiving FoodShare benefits as of the application filing date.

An application is not eligible for expedited FoodShare issuance if there is a sanction event. An interview is required to determine if there is a sanction event. The worker is required to determine sanction events and good cause in the interview. The IM worker ~~should~~must document exploration of sanction events and good cause in case comments.

If an applicant's or member's FoodShare eligibility is failing for another reason (for example, the applicant or member didn't verify information), a sanction will not be applied at the time of application.

Example 1	Joe completes an application on December 6 <del>and the</del> . <u>The agency is unable to reach him, Joe for the required FoodShare interview. Joe reports no income or assets, and he is otherwise eligible,</u> so the agency pends for his interview. Joe comes into the agency on December 20 and completes his interview. Joe reports he quit his job on November 26 and has no exemption or good cause. Joe is otherwise eligible, so the worker confirms the application denied, and CWW applies his first sanction beginning December 6.
Example 2	Jack applies for FoodShare on August 8. Jack completes his interview on August 21 and reports that he refused suitable employment on July 29 without good cause. Jack is not otherwise exempt. Jack's application pends for verification of his identity. Jack fails to verify his identity by his verification due date of September <del>7</del> <u>17</u> . Since Jack is being denied for failure to verify information, a sanction will not be applied.

#### 3.16.1.7 Good Cause

When considering whether a potential sanction event has taken place, IM workers are required to consider the reasons leading to the event to determine if there was good cause. ~~The IM worker should~~ The IM worker must explore potential good cause with the applicant or member. Exploration can include a verbal conversation with the member, attempting to contact a member, or sending the member a letter requesting this information. Workers must document steps taken to explore good cause in case comments. When good cause exists, a sanction should not be applied.

Reasons for good cause include, but are not limited to, the following:

1. The job did not meet the suitable employment criteria (see [SECTION 3.16.1.2 FOODSHARE BASIC WORK RULES](#)).
2. The applicant or member was fired or resigned at the employer's demand.
3. The employer discriminated based on the applicant or member's age, race, sex, gender identity, color, handicap, religious belief, national origin, or political belief.
4. Work demands or conditions made continued employment unreasonable (for example, working without being paid timely).
5. The applicant or member accepted other employment at a wage equivalent to working 30 or more hours per week at federal minimum wage.
6. The applicant's or member's work hours were reduced to less than 30 hours per week, but wages earned are equivalent to working 30 or more hours per week at the federal minimum wage.
7. The applicant or member enrolled at least half-time in any recognized school, training program, or institution of higher education that requires them to leave employment.
8. There were changes in the food unit residence that impacted access to current employment (for example, members of the food unit moved to another community because a member accepted a new job or enrolled at least half-time in a recognized school, training program, or institution of higher education).
9. The applicant or member has personal health problems, or others in the food unit have health problems requiring the presence of the applicant or member.
10. The applicant or member is under age 60 and resigned from a job, which the employer recognized as retirement.
11. The applicant or member quit in the context of the natural pattern of employment, such as a migrant worker or construction laborer.
12. Hours of employment were reduced by the employer without consent from the applicant or member, but the employer remained the same.
13. The applicant or member quit unsubsidized employment to join a volunteer program, such as Volunteers In Service To America (VISTA), AmeriCorps, etc.
14. Transportation was not available.
15. The applicant or member was unable to obtain adequate child care for a child or children younger than age 12.
16. The applicant's or member's self-employment ended.
17. There were other circumstances beyond the applicant's or member's control that the agency determines constitute good cause.

<p><b>Example 7</b></p>	<p>Sanction event resulting in a sanction:</p> <p>On December 22, Scott reports that he quit his job because he doesn't like his boss. Scott does not have good cause for quitting his job. Because the worker is processing the sanction event after adverse action in December, his sanction begin date will be February 1.</p>
<p><b>Example 8</b></p>	<p>Sanction event not resulting in a sanction due to good cause:</p>

	John reports that he quit his job because his boss was creating a hostile work environment by harassing him for his religious beliefs. Good cause exists. The worker should not create a sanction.
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Verification of good cause is not required unless the reason for good cause is questionable. If an IM worker receives conflicting or unclear information about the good cause reason, verification must be requested to clarify the circumstances. If verification of good cause is requested, the reason for requesting verification should be documented in case comments.

Any federal, state, or local government employee who participates in a strike and is dismissed because of the participation is considered to have voluntarily quit the job without good cause.

**Note** Simplified reporting does not require reporting of job loss or reduction in work hours with the exception of ABAWDs who are meeting the FoodShare work requirement because they are working at least 80 hours per month (see Section 6.1.1 Change Reporting for All Food Units (Simplified)). IM workers are required to determine good cause at the time the loss or reduction in employment becomes known to the agency. If no good cause exists, the sanction is imposed the first of the month after the month proper notice of the sanction is provided.

Example 9	While processing Scott's SMRF on December 20, Mary notices that Scott's last day of work was October 1. Mary contacts Scott to determine if his job ended due to good cause. Scott does not have good cause for quitting his job. Because Mary is processing a December SMRF, his sanction begin date will be January 1.
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Example 10	John has medical restrictions that limit him to lifting no more than 25 pounds. Pepsi offered John a job at which he would be required to lift 75 pounds regularly. This job does not meet the definition of suitable employment for John because it does not match his physical and mental ability to perform the job (see <a href="#">SECTION 3.16.1.2 FOODSHARE BASIC WORK RULES</a> ). John refused the employment, and the IM worker should grant him good cause because he could not reasonably perform the duties of the job.
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## 4.7.2 Deeming From A Sponsor

### 4.7.2.2 Exemptions from Sponsor Deeming

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7 CFR 273.4(c)(3)

The following groups are exempt from sponsor deeming:

1. Immigrants whose sponsor has not signed a legally binding affidavit of support. This applies to immigrants whose sponsors signed affidavits of support before December 19, 1997. Immigrants, such as refugees, who are sponsored by an organization or group who also fall into this category.
2. Immigrants without sponsors.
3. ~~Battered~~ Immigrants who qualify for the battered immigrant exception.
4. ~~Sponsor~~ Immigrants whose sponsor is in the same household. When the sponsor lives in the same household as the immigrant they are considered as one food unit. Deeming does not apply because the sponsor's income is already counted. There is no deeming exemption if the sponsor receives FoodShare benefits in another food unit.
5. ~~Sponsored immigrant or immigrant~~ Immigrant children.
6. ~~A sponsored immigrant~~ Sponsored non-citizen is ineligible because of immigration status.
- 6-7. Sponsored immigrants who ~~has~~ have received an indigence exemption.
8. Ukrainians (and others who last habitually resided in Ukraine), who:
  - a. Have been paroled into the United States between February 24, 2022, and September 30, 2023., or
  - b. Have been paroled into the United States after September 30, 2023, and who are:
    - i. The spouse or child of a Ukrainian paroled during the initial period.
    - ii. The parent or legal guardian of an unaccompanied Ukrainian child who was paroled during the initial period.

See SECTION 3.12.1.13 UKRAINIAN PAROLEES for more details about these immigrants.

## 6.1.2 Six Month Reporting Requirement

7 CFR 273.12(a)(iii)

Food units certified for 12 months and subject to simplified change reporting requirements are required to submit a six-month report form (SMRF) in the sixth month of the certification period. Elderly Blind and Disabled food units without earned income are exempt from the six-month report requirement.

The following changes in income must be reported on the SMRF for FoodShare members:

- A change of \$125 or more in unearned income based on the most recently verified amount.
- Changes in earned income (from the most recently verified information) that must be reported ~~includes~~include:
  - Rate of pay~~;~~.
  - Number of hours worked~~;~~.
  - Loss of job~~;~~.
  - Change from full to part-time~~;~~ and.
  - New employment, but only if the first paycheck has ~~actually~~ been received by the time the SMRF is completed.
  - New or significantly changed self-employment.

Income verification at SMRF is only required for employment that meets the criteria listed above. An IM worker should not request verification of previously verified earned income that has not changed.

Self-employment income that has already been averaged is not to be re-verified, unless a significant change is reported.

Other changes that must be reported on the SMRF are:

- Household composition (persons that have moved in or out, including newborns),
- New address and resulting changes in shelter expenses, and
- Change in legal obligation to pay child support (see Section 4.6.5 Support Payment Deductions)

~~The paper SMRF and the online form are available to members on ACCESS Renew My Benefits (RMB) and will have the employment, self-employment, unearned income, and child support expense fields pre-populated to reflect the most recently verified information in CWW. This is the income and expenses that are being used in the current FoodShare benefit calculation (the prepopulated information may not reflect all the income and expenses that factor into the budget).~~

A signature is required on the SMRF. The SMRF can be signed by the primary person or by any adult food unit member or, if applicable, an authorized representative or legal guardian.

A SMRF can be completed and submitted using the paper form, ACCESS, ~~MyACCESS~~, and by phone.

~~A SMRF signature can be completed and submitted using the paper form, through ACCESS, or the signature can be completed telephonically through CWW.~~ A “no-changes” SMRF (all information on the mailed form is current and correct) can also be signed and submitted through MyACCESS.

~~An adult food unit member, authorized representative, or legal guardian must sign the SMRF.~~

Note The paper SMRF and the online form are available to members on ACCESS Renew My Benefits (RMB) and will have the employment, self-employment, unearned income, and child support expense fields pre-populated to reflect the most recently verified information in CWW. This is the income and expenses that are being used in the current FoodShare benefit calculation (the prepopulated information may not reflect all the income and expenses that factor into the budget).

SMRFs must be submitted by the end of the sixth month of the certification period to avoid a break in service. When a SMRF is submitted in month six with changes requiring verification, a verification checklist will be sent giving ~~ten~~20 days to provide the requested verification. When the due date for verification goes into the seventh month, FoodShare will reopen without a break in service so long as the required documentation is supplied on or before the verification due date.

Example 1	Emma is certified for FoodShare from January to December. <del>Her Emma's</del> SMRF is due in June. Emma returns the SMRF June 27 <del>without</del> <u>and reports new employment. Emma did not provide</u> verification of <del>her</del> <u>the new income, with the completed SMRF.</u> The IM Worker processes the SMRF on June 27. Although Emma returned <del>her</del> <u>the</u> SMRF at the end of the process month, the due date for verification extends into July because the IM worker must allow <del>40</del> <u>20</u> days to provide verification. Emma provides the requested verification on July <del>2</del> <u>12</u> , prior to the due date of July <del>7</del> <u>17</u> . Emma's certification period for FoodShare remains the same, January to December. Benefits go back to July 1 and are not prorated. <del>If Emma returned her income verification after the verification due date, benefits would be prorated from the date the verification was received.</del>
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If FoodShare closes for lack of SMRF, verification, or other reasons and the food unit takes the required action within month seven of the certification period, the agency shall reopen FoodShare under the break in service policy and issue prorated benefits from the date the food unit took the required action. The benefit shall be prorated from the date the SMRF is returned if the action was taken prior to or by the verification due date set for month seven, or if the reason for closure is because of agency delay.

If FoodShare closes due to agency delay in processing a SMRF, benefits shall be restored back to the first of the month.

Example 2	Jon is required to submit a SMRF in March. Jon submits the SMRF April <del>17</del> . <del>Verification of 7</del> and the agency processes it on April 9. Jon <u>reported a change of in hours worked at existing employment and the case is pended for verification</u> due April <del>27</del> <u>29</u> . Jon submits <del>his</del> <u>the</u> verification April 27. Jon's benefits are prorated from April <del>17</del> forward because the verification was submitted by the due date, <u>but the SMRF itself was submitted late</u> .
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Example 3	Lillie was required to submit a SMRF by the end of August. Lillie submits <del>her</del> <u>the completed</u> SMRF <u>August 29</u> . On the SMRF, Lillie <u>reported new pension income</u> . The agency processes the SMRF on September <del>19</del> . <del>Lillie must provide 2</del> and the case is pended for verification of <del>her change in employment by</del> <u>pension income due</u> September <del>29</del> <u>22</u> . Lillie provides <del>her</del> <u>the required</u> verification on September 30. Lillie's benefits are prorated from September 30 forward because her verification was submitted after the due date.
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~~If at the beginning of month eight~~ If the SMRF process is not complete (a completed form and all verifications submitted), by the first day of month eight, a new application must be submitted unless the cause for delay into month eight is agency delay. In instances, when a complete SMRF is submitted in month seven and verification is required, verification must be provided before the end of month seven which may result in the member having less than ~~40~~20 days to provide the verification. The worker will need to manually adjust the due date to coincide with the end of month seven.

Example 4	Gwen is required to submit a SMRF in January. Gwen submits <del>her</del> <u>the</u> SMRF <u>in month seven on</u> February 26. Gwen must submit verification of her employment change by February 28. If verification is not provided, Gwen will need to reapply in March because the required verification was not submitted by the end of month seven.
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Example 5	<p>Joe has an open FoodShare case with a certification period of April through March. <del>His</del> <u>with a</u> SMRF <del>is</del> due in September. Joe fails to return a timely SMRF in September and FoodShare closes effective September 30.</p> <p>Joe returns the SMRF with required verification on October 25, but <del>he forgot to sign the form</del>. <u>the SMRF is incomplete and is missing a signature</u>. The IM agency returns the SMRF to Joe and indicates that <del>he must return</del> a signed SMRF <u>must be submitted</u> by October 31 to avoid needing a new FoodShare application.</p> <p><del>Note: The SMRF must have an action date on the View/Record Six Month Report Actions page that is in the process month otherwise CWW will continue to fail the case for lack of SMRF.</del></p> <p>Joe <del>returns</del> <u>returned</u> the signed SMRF on <del>October 31</del>. <del>Although Joe regains FoodShare eligibility October 31, FoodShare will fail with a \$0 benefit for October and pass with a FoodShare benefit for</del> November</p>
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~~and December. The FoodShare certification period for Joe's case remains the same, April through March.~~

~~Had Joe returned a timely SMRF, but the IM agency did<sup>2</sup>. Since the completed SMRF was not process the form until October, benefits would have been issued back to October 1 due to the agency's late processing.~~

~~If Joe had returned the signed SMRF on November 1, month eight, FoodShare would have closed, and he would~~ submitted by the end of month seven, Joe will need to reapply for FoodShare.

## Complete Paper SMRF

To be considered complete, all of the boxes must be checked, and a signature must be provided on the SMRF. If a box is checked indicating a change but the details of the change have not been provided, it is still a complete SMRF. Missing details related to changes must be pended or the worker must ~~call~~ contact the member for clarification.

If the SMRF does not have all of the boxes checked or is missing a signature, it is an incomplete SMRF (see Process Help, [Section 3.4 Six Month Report Forms \(SMRFs\)](#) for processing instructions).

## 6.1.3 Timely Action on Reported Changes During the Certification Period

Changes can be reported timely or untimely. ~~IM~~Agency workers must act promptly on all reported changes. If verification is requested, a minimum of ~~10~~20 days must be allowed for the member to provide the verification.

### 6.1.3.1 Processing Reported Changes

7 CFR 273.12(c)(1) waiver

~~Request~~Following the report of a change, request verification from the member as soon as possible, ~~following the report of a change~~ (see SECTION 1.2.1 VERIFICATION INTRODUCTION). To prevent “failure to act” agency QC errors, ~~IM~~agency workers must act on reported changes within 10 days. As a best practice a worker should process the change as soon as possible and not wait until the 10th day.

Example 1	<del>On June 19, Barry reports on June 29 reported having a new job that he</del> started <del>a job</del> on June 19. <del>His</del> <u>The</u> IM worker must request verification and allow Barry <del>10</del> <u>20</u> days to provide it. If verification is requested on June <del>29</del> <u>19</u> , it will be due July 9. <del>His</del> <u>The</u> IM worker will have time to process the verification and issue proper notice to Barry by adverse action in July. If the IM worker fails to act on the change by not requesting verification until <del>July 9</del> <u>June 30</u> , Barry would have until July <del>19</del> <u>20</u> to provide the verification, which is after adverse action. In this case, it is <u>likely possible</u> that August benefits would be in error due to IM worker failure to act promptly on the reported change.
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Lack of verification is a common cause of case closure. A new application for FoodShare is not always required under specific circumstances when FoodShare closes due to lack of verification during the certification period. Allow FoodShare to reopen without a new application when closing for lack of verification after a change is reported or discovered during the certification period, as long as the requested verification is submitted in the calendar month following case closure. Benefits are prorated from the date the required action was taken.

Example 2	Julie is certified for FoodShare from March through February. Julie <u>calls and reports a new job</u> on April 5 <del>that she began a job</del> . Julie’s IM agency requests verification of Julie’s <u>job employment</u> , due April <del>15</del> <u>25</u> . Julie fails to provide verification by the due date and FoodShare closes effective <del>April</del> <u>May</u> 30. Julie provides <u>the required</u> verification <del>of her job</del> on <del>May</del> <u>June</u> 8. Julie’s FoodShare case reopens without requiring a new FoodShare application and prorates benefits from <del>May</del> <u>June</u> 8 forward. Julie’s certification period remains the same March through February.
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FoodShare may also close for reasons other than lack of verification. Allow FoodShare to reopen when a change in circumstances causes the FoodShare assistance group to

regain eligibility during the month following the month of case closure, as long as the food unit takes the required action.

FoodShare members may choose to reapply for benefits in the month following closure even when not required. Completing a new application establishes a new filing date, allowing the member up to 30 days to provide needed verification. IM workers should explain the difference between completing a new application and providing needed information to members when possible.

Example 3	Pam's FoodShare closes effective September 30 due to a pay increase at her job. Pam contacts <del>her</del> <u>the</u> IM agency on October 8 to <del>indicate her hours have been cut and she wants to</del> reapply for FoodShare. <u>Pam reports a decrease in income due to a reduction in work hours.</u> The IM agency informs Pam <del>that she has</del> <u>of</u> the option <del>of reapplying to reapply</del> for FoodShare or <del>may</del> <u>to</u> provide verification <u>reflective of her new work hours</u> <del>the current circumstances</del> to reopen FoodShare effective the date <del>she provides</del> <u>the verification is provided, as long as Pam meets program criteria.</u> Pam chooses to provide verification, <del>which she and</del> <u>submits it</u> on October 12. Pam's FoodShare reopens with prorated benefits from October 12 forward.
Example 4	Joan's FoodShare closes effective October 31 as a result of <del>her new</del> <u>a newly added</u> roommate's earned income. Joan contacts <del>her</del> <u>the</u> IM agency on November 19 because <del>her</del> <u>the</u> roommate moved out and <del>she</del> <u>Joan</u> wants to reapply for FoodShare. The IM agency provides Joan the option of reapplying for FoodShare or reopening her FoodShare effective November 19. Joan chooses to reopen FoodShare without a new application. The IM agency removes the roommate from the case and re-determines a prospective estimate of Joan's income and expenses. FoodShare benefits are issued from November 19 forward.

### 6.1.3.3 Changes That Cause an Increase in Benefits, Including Person Adds and Loss of Income

7 CFR 273.12(c)(1)

FNS Memo 12/18/14

~~See SECTION 3.4.1 DUAL MEMBERSHIP AND DUPLICATE BENEFITS.~~

All reported changes that cause an increase in the FoodShare benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within ~~40~~ 20 days of the request for verification.

If needed verifications are not received within 4020 days, and the FoodShare case is not closed for at least one day, make the change effective the first of the month following the month verifications are received.

Issue the appropriate supplement by the 10th day of the month the increase in benefits is effective.

Note A person can be a member of more than one food unit but only one assistance group in the same month except residents of shelters for victims of domestic violence (see Section 3.4.1 Dual Membership and Duplicate Benefits). Prior to adding a person from one FoodShare case to another, remove the person from the previous FoodShare case.

<p>Example 5</p>	<p>If Mike (a baby) is born June 25, and <u>the change</u> is reported June 27, <del>supplement</del> FoodShare <u>benefits increase</u> effective July 1.</p> <p><del>If Mike (a baby) is born June 2, and is</del> <u>Since the case was reported June 25, supplement after adverse action, a FoodShare effective supplement is issued for July 4.</u></p> <p>If Mike (a baby) is born June <del>27</del><u>25</u>, and <u>the change</u> is reported July 1, <del>add Mike</del> <u>FoodShare benefits will increase</u> effective August 1. <u>No FoodShare supplement is issued.</u></p>
<p>Example 6</p>	<p>Jule has an open FoodShare case with a certification period of February through January. Jule reports on March 25 that <del>her</del><u>Eve, Jule's sister-Eve,</u> moved in on March 15 <u>and they purchase and prepare together.</u> Jule's IM worker requests verification of Eve's eligibility information by April 4. Verification is not provided by April <u>14</u> and the FoodShare case closes effective April 30. Eve provides verification to the local agency on May 15. FoodShare reopened without a new application <del>with.</del> <u>Eve is added to the assistance group and benefits issued from</u> <del>are</del> <u>redetermined and prorated for the month of May 15 forward.</u> <u>In June, Jule and Eve will receive a full month of benefits.</u> Jule's FoodShare certification period remains the same, February through January.</p>
<p>Example 7</p>	<p>Lisa reports on March 5 that her husband left the home on February 27. <u>Lisa's husband was working, and this change results in Lisa being eligible for more FoodShare benefits.</u> The IM worker <del>should re-determine</del><u>determines</u> the prospective estimate of Lisa's income for <u>the next benefit month, April,</u> and <u>issue confirms</u> benefits <del>for April based on.</del> <u>Since the new estimate change was processed March 5, before adverse action, no supplement is needed.</u></p>
<p>Example 8</p>	<p>Carol reports on March 25 that <del>her</del> rent is increasing <u>by \$500</u> for April. <del>She submits</del> <u>The IM worker finds the expense questionable, as Carol's current rent expense is \$300 and the rent increase more than doubles</u></p>

	<p>the total rent expense. The case is pended on March 25 and verification <del>of the increase to her IM worker on is due April 2, within 10 days. The</del> <u>15.</u> Carol provided the verification on April 3. On April 5, the IM worker makes the change to increase Carol's FoodShare benefit effective April 1 and issues a supplement for April. If Carol had reported the rent increase on April 2, <u>or provided the verification after April 15,</u> the FoodShare benefit increase would have been effective May 1.</p>
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### 6.1.3.6 Changes That Cause a Decrease in Benefits

7 CFR 273.12(c)(2)(i)

For reported changes that result in a decrease in benefits, process the change to allow for adequate negative notice to be issued to the member. If verifications are not received within ~~10~~20 days, and the FoodShare case is not closed for at least one day, make the change effective the first of the month following the month verifications are received.

<p>Example 11</p>	<p>Lisa reports on June 3 that her husband moved back into the home on May 29.</p> <p><u>On June 3,</u> Lisa's IM worker adds Roy to <del>CARES</del><u>the FoodShare case</u> and requests verification of his income <u>due June 23.</u> Roy's income will cause a decrease in FoodShare benefits. Lisa provides Roy's verification on June 10. Notice of a decrease in benefits is issued at adverse action in June and benefits are decreased for July.</p> <p>If verification was not provided <del>within 10 days, by the due date, the IM agency would take action to close the FoodShare case for lack of verification. Since the due date and agency action to close the case occurs after adverse action in June.</del> FoodShare benefits would close <del>June 30</del> <u>July 31</u> for failure to verify income. <del>If Roy's verification was submitted during the month of July, FoodShare would reopen without requiring a new application. Benefits would be prorated from the date Roy's verification was received by the agency.</del></p>
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## 6.4.1 Fair Hearings

7 CFR 273.15

7 CFR 273.15(g)

7 CFR 273.15(k)(1)

If the applicant or food unit disagrees with an agency action or the amount of FoodShare benefits, they may request a fair hearing. A fair hearing gives the applicant or member a chance to tell an Administrative Law Judge (ALJ) or other hearing officer why they think the decision about their FoodShare application or benefits was wrong. The agency that determined benefits also has the opportunity to provide justification of actions taken on the application or case. An ALJ will make a decision as to whether the agency took appropriate action and what, if any, follow up action is needed to ensure correct benefits are issued to the applicant or member.

Hearings are conducted by the Wisconsin Department of Administration, Division of Hearings and Appeals (DHA).

Hearings serve to:

1. Interpret the program to applicants and members who disagree with the agency's action.
2. Resolve factual disputes.
3. Clarify policies and their application in relation to laws and regulations.
4. Review policies in program administration and reveal those which require clarification or revision.
5. Promptly remedy unfair treatment, mistaken or arbitrary action and negligence.

The fair hearing process isn't intended to be a substitute for responsible administration.

Agency workers must assist members in filing a request for fair hearing if requested.

Some common reasons an applicant or member may file a fair hearing include:

- Denied application.
- Application not confirmed within 30 days of submission.
- Closure of benefits.
- Reduction of or disagreement with amount of FoodShare received.

A fair hearing must be requested within 90 days from the first day that a specific agency action impacted their FoodShare benefits. ~~See example 1 below.~~

A fair hearing may be requested at any time within a certification period if a food unit disagrees with their current amount of FoodShare benefits.

Example 1	On July 10 <del>a worker makes a CARES entry to reduce</del> , <u>Howie's FoodShare case is updated with verification of newly reported income.</u> <u>Howie's</u> FoodShare benefits <u>decrease</u> effective August 1. <del>The</del>
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	<del>member</del> <u>Howie</u> has 90 days from August 1 to file a hearing request <u>if he disagrees with the agency action.</u>
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<u>Example 2</u>	<u>Ignacio is open for FoodShare with a certification period of January through December and receiving the minimum allotment for an assistance group of one. In March, Ignacio talks to a friend who is also receiving FoodShare and getting a higher monthly payment. Ignacio requests a fair hearing due to disagreeing with the current amount of FoodShare benefits.</u>
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**Note** CARES Applicable member notices systematically generated in Cares Worker Web are programmed to accurately indicate this date.

~~Food units appealing an agency decision by requesting a fair hearing must do so prior to the effective date of the change or termination in order to have their benefits continued at the previous level while the hearing is pending.~~

~~While the fair hearing is pending, issue the FoodShare assistance group the lost benefits as determined by the agency. Issue FoodShare based on the fair hearing decision. Do not require another fair hearing (when the fair hearing decision was made within the last 12 months) or any other administrative action before restoring lost benefits.~~

~~If the FoodShare benefit decreases due to alignment of the FoodShare certification period with another program, a food unit may file a request for a fair hearing within 10 days and elect to continue to receive their original benefit amount until the fair hearing decision is rendered. Food units who choose to file a fair hearing should be reminded that agencies are required to act on all known information. During the FoodShare certification period, newly reported information for another program is treated as a change for FoodShare.~~

## 6.4.2 Fair Hearing Request

The applicant, member, or representative may request a fair hearing in writing by filling out the Request for Fair Hearing form (DHA-28) or writing a letter with the request and sending it to DHA. A fair hearing request can also be made verbally to the agency worker. When a verbal request is made, the agency worker must complete the Request for Fair Hearing form on behalf of the applicant or member and send it to DHA. Requests can be submitted by mail, fax, or email.

Division of Hearings and Appeals

P.O. Box 7875

Madison, WI 53707-7875

Fax (608) 264-9885

Email: [DHAMail@wisconsin.gov](mailto:DHAMail@wisconsin.gov)

DHA will schedule a hearing upon receipt of the hearing request. DHA has jurisdiction to conduct hearings if the request is received by DHA within 90 days of the action effective date. DHA may dismiss a request if the action being appealed is a result of a change in federal or state law or policy affecting a significant number of members, unless the member questions its application specific to their case. When a hearing request is dismissed, DHA will notify the applicant or member.

A hearing request from an applicant or member who plans to move from Wisconsin before a decision would normally be issued, such as a migrant worker, will be expedited so the applicant or member can receive a decision and any restored benefits before they leave the state.

A group of persons may request a group hearing if individual issues of fact are not disputed, and the sole issue being appealed is a federal or state law or policy. DHA may also consolidate several hearings on the same topic into one but only on questions of policy. Procedures for group hearings are the same as in individual hearings. Each applicant or member must be notified of the right to withdraw from a group hearing and pursue an individual hearing.



## **6.4.3 Continuation of Benefits**

Food units appealing an agency decision by requesting a fair hearing may have the previous level of benefits (the amount before the change) continued during the fair hearing process if certain criteria are met. The member must request to continue benefits before the effective date of the change or termination to have their benefits continued at the previous level while the hearing is pending. When benefits are continued, and the hearing decision goes against the food unit, the difference between the continued benefit amount and the amount the household should have been eligible to receive must be recovered through an overpayment claim.

While the fair hearing is pending, continue issuing the FoodShare assistance group the higher benefit amount as determined by the agency. Once the fair hearing decision is issued, take action to issue additional benefits not already issued or in instances where the appealing food units hearing is dismissed, recover any overpaid benefit.

Food units that choose to file a fair hearing should be reminded that agencies are required to act on all known information. During the FoodShare certification period, newly reported information for another program is treated as a change for FoodShare.

## 6.4.4 Resolution Prior to Hearing

When an applicant or member disagrees with an agency's action, the applicant or member may contact their agency to attempt to resolve the issue. This may be done through the normal modes of communication between the applicant or member and the agency, such as a phone call or in-person visit. It also may be done through an agency conference where the applicant or member meets with the worker responsible for the agency's action or other agency representatives.

This contact with the agency does not affect the applicant or member's right to a fair hearing or the time limit for requesting a fair hearing. The agency must advise the applicant or member that to have an agency conference is the applicant or member's choice and doesn't delay or replace a fair hearing. The applicant or member may request a hearing without first contacting the agency.

Note If the applicant or member requested a fair hearing, the fair hearing process will continue unless the applicant or member voluntarily withdraws the hearing request in writing to DHA .

## 7.3.1 Benefit Overpayment

### 7.3.1.1 Overpayment Claims Against Food Units

~~Establish a claim against any food unit that has received more FoodShare benefits than it was entitled to receive. Since the method used to determine the food unit's income for certification purposes was converted prospective budgeting, that is the method that is to be used for calculating overpayment claim amounts, not actual income received during the overpayment period. Prospective budgeting is calculated by converting a weekly, bi-weekly, or semi-monthly payment into a monthly amount. This is the income an applicant or member is expected to receive during the current and future months. Income prospectively budgeted over the claim period should use converted monthly income and expenses (weekly times 4.3, biweekly times 2.15, and semimonthly times 2) when applicable. Do not use actual income to calculate the claim, even if all information is received for the entire overpayment claim period.~~

~~In claim calculations, disregard income that was not previously reported and was not required to be reported.~~

~~Historically, DHS has used the terms "overpayment" and "overissuance" interchangeably. As used in this handbook, these terms refer to the same concept.~~

An overpayment, also known as an overissuance, occurs when an assistance group receives benefits they were not entitled to. An overpayment claim is the established amount that the member(s) must repay. With exceptions, a claim should be established against the adult members of any food unit that has received an overpayment.

#### Types of Overpayments

There are three types of overpayment claims: client error, non-client error, and Intentional Program Violation (IPV). ~~Collect claims for all types of errors, regardless of the date of origin. Only collect the amount of the claim.~~ A non-client error is sometimes referred to as an agency error.

<u>Non-Client Error</u>	<u>Client Error</u>	<u>IPV</u>
<u>A non-client error occurs when the state or local agency:</u>	<u>A client error occurs when the food unit unintentionally:</u>	<u>An applicant or member commits an IPV when they intentionally:</u>
<ul style="list-style-type: none"><li><u>Takes an incorrect action on a FoodShare case,</u></li><li><u>Does not take prompt action on a change the food unit reported,</u></li></ul>	<ul style="list-style-type: none"><li><u>Failed to provide correct or complete information,</u></li><li><u>Failed to report a change that was required to be reported, or</u></li></ul>	<ul style="list-style-type: none"><li><u>Make a false or misleading statement or misrepresent, conceal, or withhold facts, including but not limited to their identity, whom they are living with, or which state they live in, to become</u></li></ul>

<ul style="list-style-type: none"> <li>• <u>Fails to correct an action,</u></li> <li>• <u>Incorrectly enters information or fails to include information that results in expedited eligibility,</u></li> <li>• <u>Misapplies policy, or</u></li> <li>• <u>System programming errors, such as failure to include a W-2 payment or SSI benefit increase.</u></li> <li>• </li> </ul>	<ul style="list-style-type: none"> <li>• <u>Received FoodShare for which it was not entitled pending a fair hearing decision.</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>eligible or to remain eligible for benefits; or</u></li> <li>• <u>Commit any act that constitutes a violation of the Food and Nutrition Act of 2008, the Supplemental Nutrition Assistance Program (SNAP) Regulations, or any Wisconsin statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking** of FoodShare benefits or QUEST cards.</u></li> </ul>
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A FoodShare assistance group cannot receive commodities from a Tribal Food Distribution program (see SECTION 3.11.1 FOOD DISTRIBUTION PROGRAM (TRIBAL COMMODITIES)) and FoodShare at the same time. Make a claim against any group that receives FoodShare in the same month it also participates in a Tribal Food Distribution Program. If the group receives:

1. FoodShare and then receives Food Distribution Program commodities in the same month, the Food Distribution agency must process the claim.
2. Food Distribution Program commodities and then receives FoodShare in the same month, the FoodShare agency must process the claim.

## 7.3.1.2 Liability

7 CFR 273.16(b)(12)

7 CFR 273.18(a)(4)(i)

7 CFR 273.18(a)(4)(ii)

7 CFR 273.17(d)(4)

7 CFR 273.18(e)

All adults or emancipated minors who were included\*\* in the food unit or should have been included in the food unit at the time the overpayment occurred, are liable for the repayment of the overpaid FoodShare benefits. If a liable member moves to another food unit, responsibility of the overpayment is maintained and follows that member to the new food unit.

\*\*If someone was included in the food unit but should not have been included, they are not liable. An example may be a household reporting a change in household

composition (someone moving out) and the agency failing to remove the individual person. The overpayment still exists, but the person who should have been removed would not be liable.

<p><b>Example 1</b></p>	<p>Jack and Jake apply for FoodShare in January and include their 22-year-old son, Jeff, in their request. Their application is approved, and they receive the maximum monthly allotment for an assistance group of three. Jeff calls the agency in September to apply for FoodShare and is told he cannot receive the benefit because he is already receiving FoodShare on his parents' case. Jeff tells the worker that he just moved back to Wisconsin after graduating from college and has been out of state for the last four years. Once the IM worker determines that an overpayment exists, the worker <del>should</del> <u>will</u> create an overpayment claim with Jack and Jake as the liable parties. Jeff is not liable because, although he was included in the assistance group, he did not reside in the household during the overpayment period and is not responsible for the overpayment.</p>
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7 CFR 273.18(a)(4)(ii)

~~An authorized representative applying on behalf of a resident of a drug or alcohol treatment center, or a group living arrangement (GLA) (see Section 3.2.1.5 Group Living Arrangement), is responsible and liable for any FoodShare overpayments to the member due to misrepresentation or IPV which the authorized representative knowingly commits in the certification of treatment centers, GLA residents, or individual representatives.~~

<p>Example 2</p>	<p>Susan is receiving FoodShare, and her 21-year-old daughter Jane lives with her. Because Jane is Susan's daughter, she must be included in the FoodShare determination with her mother (see SECTION 3.3.1.3 RELATIONSHIP RULES), but the agency failed to include her. The overpayment must be calculated using Jane's income and information. Both Jane and Susan are liable for the overpayment.</p>
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<p>Example 3</p>	<p><u>Ellen received FoodShare for herself and her two minor children. Ellen failed to report that the father of the children also lived in the home. The father had earned income, which caused an overpayment of FoodShare benefits. Since the father and his income should have been included in the FoodShare benefit determination (see SECTION 3.3.1.3 RELATIONSHIP RULES) he is equally liable for the overpayment of FoodShare benefits.</u></p>
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Liability for a FoodShare overpayment is not split evenly among liable parties. Liable individuals persons are responsible for 100% of the overpayment until the debt is repaid in full.

<p>Example 4</p>	<p><u>Jessa and Abbey are roommates in the same food unit receiving FoodShare. In June, Jessa informs the IM agency that she received a raise. The IM worker does not take prompt action to process this change, leading to an overpayment of \$600. Together Jessa and Abbey are liable for the whole \$600 overpayment. In their repayment agreement, they decide to make monthly payments of \$40. They</u></p>
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	<u>decide amongst themselves that Jessa will contribute \$30 while Abbey contributes \$10.</u>
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A person connected to the household, such as an authorized representative or, legal guardian, who actually trafficks or otherwise causes an overpayment is responsible and liable for a FoodShare overpayment in addition to the applicable food unit members. A connected person is only liable if they were responsible for the overpayment.

**Exception:** An authorized representative applying on behalf of a resident of a drug or alcohol treatment center or a group living arrangement (GLA), is responsible and liable for any FoodShare overpayments to the member due to misrepresentation or IPV which the authorized representative knowingly commits in the certification of treatment centers, GLA residents, or individual representatives. An authorized representative can be a person or an organization.

<u>Example 5</u>	<u>Pat's appointed legal guardian, Nick, completed and signed a FoodShare application for Pat and completed the required FoodShare interview on Pat's behalf. Nick incorrectly reported that Pat was responsible for paying the total \$1000 monthly rent expense. Nick received rent assistance and was only responsible for paying \$200 per month in rent. This resulted in an overpayment on Pat's case. Because Nick acted on behalf of Pat and is responsible for providing the incorrect information, Nick is liable to pay back the overpayment along with Pat..</u>
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<u>Example 6</u>	<u>Jennifer receives FoodShare benefits as a household of one. Jennifer has an authorized representative, Karey, who can act on Jennifer's behalf. Jennifer completed the required SMRF and failed to report a new source of income which resulted in an overpayment. Karey did not complete the SMRF and therefore did not cause the overpayment. When the IM worker completes the overpayment, Jennifer is the only liable individual.</u>
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When a person(s) is disqualified due to IPV, there may be other adult household members that are liable for repayment of any overpayment, even if they were not connected to the act of program violation.

### **7.3.1.3 When to Establish an Overpayment Claim**

#### **~~Offsetting an Established Claim Amount~~**

7 CFR 273.18(g)(3)

~~Offset an existing FoodShare overpayment (claim) with the calculated FoodShare underpayment (supplement) amount when both situations exist. Offset the claim against any amount that has not been supplemented to the FoodShare assistance group. An IM worker may offset a suspended or terminated claim amount against an underpayment amount.~~

Not every instance of overpaid FoodShare benefits will result in an overpayment claim.

Do not establish a claim if:

- The agency did not ensure that a food unit signed the application form or the signature received was not from a responsible adult household member (or someone authorized to act on their behalf).
- The overpaid month(s) occurred after a renewal or SMRF was due and appropriate notice of a renewal or SMRF requirement was not sent due to an incorrect certification period in CARES Worker Web.
- Incorrect expedited benefits were issued resulting from a non-client error.
- Benefits are issued solely because the 10-day negative notice requirement cannot be or has not been met.
- The overpayment occurred because of incorrect Social Security, SSI, or Wisconsin Unemployment, data exchange payment information. These are trusted third-party data sources and cannot be recovered.
- The overpayment occurred because of incorrect SAVE, Wisconsin Vital Records, or other non-financial data sources that are considered verified on receipt. These are trusted third-party data sources and cannot be recovered.
- The claim is a client or non-client error, and the total overpayment claim is less than \$500. A claim that is less than \$500 should only be established in the following circumstances:
  - FoodShare overpayments discovered through a State Quality Control (QC) review. Federal regulations require that corrective action must be taken to establish a claim for any error discovered through a QC review, regardless of the size of the error. Overpayments as a result of QC are not subject to claim thresholds, regardless of the type of error. Failure to take timely corrective action may result in liquidated damages against the agency in the amount of \$250 or more.
  - FoodShare overpayments related to a member receiving duplicate benefits
  - FoodShare IPV claims

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<u>Example 7</u>	<u>Mary called the IM agency and requested to apply for FoodShare over the phone. Mary completed the FoodShare interview with the IM worker, but the call was disconnected prior to completing a telephonic signature. The IM worker inadvertently updates the case to reflect a signature was collected and confirms Mary open for FoodShare benefits without a signed application at \$281 per month. Four months later, the IM agency discovers the error. An overpayment claim is not established because Mary did not sign the FoodShare application.</u>
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<u>Example 8</u>	<u>Lex applied for FoodShare and reported no income. Lex was confirmed eligible for benefits at \$281 per month. At SMRF, the IM worker discovers that Lex was actually working at application and inadvertently failed to report income. Had Lex reported appropriately,</u>
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	<u>Lex would have received \$251 per month in FoodShare. Lex received \$30 more than entitled to receive for a total of six months, or \$180. Since the total amount overpaid was less than \$180, no overpayment claim is established.</u>
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<u>Example 9</u>	<u>Misha receives FoodShare benefits. Misha’s case was randomly selected for a QC review in June. The QC reviewer determines that Misha was overpaid \$150 in FoodShare benefits. Although the total claim amount is under \$500, the error was found during a QC review and therefore a claim is established.</u>
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## 7.3.1.4 Calculating the Overpayment Claim

### Exception

~~An initial allotment and a DSNAP benefit allotment must not be reduced to offset a claim. This includes retroactive initial allotments. Person Adds are not initial allotments. Therefore, the IM worker can offset claims against person add supplements. Offset the entire supplement, if the claim balance is more than the supplement. If the claim balance is less than the supplement, CARES will correctly apply the amount of supplement that will zero out the claim and issue the remainder of the supplement as a benefit to the member.~~

7 CFR 273.18(c)

Calculating an overpayment claim involves determining the correct amount of benefits for each month in which a food unit received more FoodShare benefits than they were entitled to receive. The correct amount of benefits is the amount the food unit would have received had the information used in the eligibility determination been accurate at the time of the determination.

#### 7.3.1.4.1 Calculating the Claim

For the overpayment period, use the correct, converted, prospective income. This is the income that should have been budgeted at the time of the original determination for each month of the overpayment period. Overpayment calculations follow the same budgeting method as eligibility determinations.

Prospective budgeting is calculated by converting a weekly, bi-weekly, or semi-monthly payment into a monthly amount. This is the income an applicant or member is expected to receive during the current and future months. Income prospectively budgeted over the claim period should use converted monthly income and expenses (weekly multiplied by 4.3, biweekly multiplied by 2.15, and semi-monthly multiplied by 2) when applicable. Do not use the actual income to calculate the claim, even if all information is received for the entire overpayment claim period.

When calculating the overpayment, consider the food unit’s reporting requirements.

<u>Example 10</u>	<u>Nehemiah applied for FoodShare on October 1. Nehemiah reported no income and was confirmed open for FoodShare. On February 25 the IM worker discovers that Nehemiah has been working since the</u>
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previous August. The IM worker uses the four weekly paystubs that Nehemiah received in September to calculate prospective income since this is the verification that would have been available as of October 1 when Nehemiah applied. The average of the four weekly paystubs is multiplied by 4.3 to determine the monthly amount used to calculate the overpayment.

#### **7.3.1.4.2 What Household Information is Appropriate to Calculate a Claim**

Only use the income and expenses reported or required to be reported for each month of the overpayment period. Do not use income or expenses, or changes in income and expenses that were not reported and were not required to be reported.

When a food unit member should have been ineligible, their income and expenses must be deemed following the appropriate deeming standard.

The ineligible person is not counted as part of the assistance group in calculating the overpayment claim (see SECTION 4.7.5 PRORATED DEEMING and SECTION 4.7.6 GROSS DEEMING).

#### **7.3.1.4.3 Verification and Calculating the Claim**

Eligibility verification requirements apply to determining overpayments (see Section 1.2 Verification).

The food unit has the primary responsibility for providing documentary evidence to support statements in the case record and to resolve any questionable information. The worker must assist the household in obtaining this verification provided the food unit is cooperating with the agency.

The agency may contact the employer directly for verification. It is not necessary to contact the food unit before contacting the employer; both contacts can be completed at the same time.

The food unit must be given a reasonable opportunity to submit verification.

Members must be given 30 days to provide required verification unless it is determined that additional time is necessary in order to collect and submit the verification requested. If more than 30 days are allowed for verification by the member, document the number of days allowed and the reason. Employers should be given 20 days to verify.

For Earned Income, verification may include:

- Dated check stubs
- Earnings reports, a statement from the employer, or EVF forms, signed by the employer
- Tax filings, Self-Employment Income Report Forms, or other business records for self-employment businesses.
- Tax filing records from the IRS or Wisconsin Department of Revenue (DOR) for self-employment businesses.

**Note** Income Eligibility Verification System (IEVS) may indicate that income was earned from an employer sometime during three months of the work quarter. Do

not use IEVS in calculations and overpayments unless no other information is received verifying the earned income and best information available must be used.

#### **7.3.1.4.4 Failure to Obtain Verification**

When all attempts to obtain needed verification are unsuccessful the worker must use the best available information to determine the monthly income amount for purposes of the overpayment calculation. When the food unit fails or refuses to provide income information needed to calculate the claim and no other information is available, there is no overpayment. If the relevant information is later provided by the food unit, the claim should be recalculated with the new information factored into calculating the monthly eligibility and benefit amount that should have been received.

When no other form of verification is available, then SWICA information is considered the best available information and should be used to calculate an overpayment.

Document clearly in case comments the unsuccessful requests for verification from the household and the employer, and the reason for using a SWICA match as the best available verification of monthly income. Also clearly document how the income amount was calculated from the SWICA match.

#### **7.3.1.4.5 Offsetting Agency Caused Underissuance**

If while calculating an overpayment claim, it is found that there was an underissuance that was a result of agency error and the underissuance is within the last 12 months, the amount of the underissuance must be offset against the total claim amount (if a claim is established) or a supplemental issuance should occur if there is no overpayment claim established.

#### **7.3.1.4.6 Assistance Group Size and Income Change Reporting Threshold**

7 CFR 273.12(a)(5)(v)

When determining if an overpayment occurred due to an unreported increase in total gross monthly income, compare the total actual unconverted income amount to the income reporting limit for the FoodShare assistance group size to determine if the income should have been reported. Use the monthly gross income limit for the household size that should have existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.

<u>Example 11</u>	<u>Craig applies for and receives FoodShare as a household of six. A SWICA match for Craig with significant wages is discovered midway through his certification period and a worker investigates for a potential overpayment. During the investigation, it is found that two of Craig's friends that had been in the household moved out in month two, but it hadn't been reported or updated on the case. Even though Craig's household size was 4 at the time employment started, Craig's reporting requirement would be if the household income increased over 130% of</u>
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	<u>the FPL for a household of six, since that was the household size the last time the case was certified.</u>
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### **7.3.1.4.7 When to Count and Disallow or Disregard Income or Expenses**

In overpayment calculations, do not apply the 20% earned income disregard to earned income that was required to be reported but was not reported timely.

Disregard income that was not previously reported and was not required to be reported due to reduced reporting requirements.

If during an investigation it is found that expenses were reported correctly at the time of the overpayment, use those same expenses when calculating the overpayment. If expenses were incorrectly reported, and subsequently verified (for example, the expense was considered questionable and the IM worker requested and received verifications, or the expense was verified through a QC review or a WHEAP data exchange, etc.) use the verified amount in the overpayment calculation.

If the IM worker knows the expense is incorrect and verification was requested but was not received, do not allow the expense in the overpayment calculation.

<u>Example 12</u>	<u>Lizzie received FoodShare from April through September. On the application, Lizzie reported no employment income. In October, the IM worker is investigating a potential overpayment. The IM worker verifies that Lizzie was working at the time of application and failed to report the income. When determining the overpayment amount, the IM worker does not allow the 20% earned income disregard because Lizzie failed to appropriately report employment income at the time of application.</u>
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<u>Example 13</u>	<u>Sam is receiving FoodShare. A fraud report is received that indicates Sam has a roommate and is only responsible for \$500 monthly in rent. Sam's FoodShare case reflects a \$1000 per month rent obligation. The IM agency investigates and finds that Sam misrepresented the rent obligation at time of application and receives verification that Sam's monthly rent obligation is \$500. When calculating the overpayment, the IM agency uses the verified correct amount of rent, \$500.</u>
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### **7.3.1.5 Moves Dates and Timeframes Associated with Overpayment Claims**

7-CFR 273.18(i)

~~Pursue collection of FoodShare claims even if the food unit moves out of a county/tribal area or out of Wisconsin.~~

~~The agency that overpaid benefits to the FoodShare assistance group has the first opportunity to collect an overpayment. If the agency does not act promptly to collect, and the group moves, the new agency can begin collection action. The new agency must contact the agency that overpaid the benefits to see if they intend to pursue collection.~~

7 CFR 273.18(d)(2)

### Date of Discovery

The date of discovery is the date the overpayment claim is established. This is the date that a claim is created, and a notice is triggered to be sent to the liable persons. The date of discovery is used to establish the look back period.

The date the claim is mailed or otherwise delivered to the food unit is considered the date of establishment of the claim for tracking purposes, including establishing delinquency for the purposes of tax intercept.

### Look Back Period

7 CFR 273.18(c)(1)

The look back period is the period of time preceding the date of discovery during which a claim can be established if an overpayment occurred. Different types of errors have different look back periods.

### Non-Client Error

The look back period for non-client errors begins with the date of discovery and extends backward to the most recent of the following:

- Twelve months, or
- To the month the error was effective had the change been acted on timely

#### Example 14

At Jeff's renewal on June 5, he verified income of \$800 per month. His IM worker miscalculated Jeff's income and budgeted \$400 per month instead of the \$800 per month that Jeff verified. When Jeff submits his SMRF on December 5, the IM worker discovers her error and corrects the case effective January 1. The IM worker determined an overpayment of more than \$500 exists and processes the overpayment that same day.

To calculate the overpayment, the IM worker budgets the correct income amount of \$800 from the job Jeff verified.

- The date of discovery is December 5.
- Had the June change been acted on accurately the change would have been effective July therefore the overpayment period is July 1 through December 31.

## Client Error

The look back period for client errors begins with the date of discovery and extends backward to the most recent of the following:

- 72 months for duplicate participation,
- 12 months for all other client errors excluding duplicate participation, or
- The month the change would have been effective had the food unit timely reported it

The overpayment period begins with the first month eligibility would have been impacted or changed had the change been reported timely and would have been effective up to the month prior to when the case and benefits were corrected.

The month the change would have been effective cannot be more than two months after the change in circumstance actually occurred.

<b><u>Example 15</u></b>	<p><u>Matt submitted a complete SMRF on August 4. On August 8, Matt's IM worker discovers that Matt started a job on April 5, and Matt received income in April that exceeded 130% of the FPL threshold. The income is sufficient that Matt is ineligible for FoodShare benefits. The new income should have been reported by the 10th of May. The IM worker corrects the case and closes it effective August 31. Matt's IM worker creates a claim the same day for the overpaid benefits.</u></p> <p><u>The date of discovery is August 8.</u></p> <p><u>Had the April income change been reported timely, the case would have closed as of May 31. Therefore, the overpayment period is June 1 through August 31. Section 6.1.1 CHANGE REPORTING FOR ALL FOOD UNITS (SIMPLIFIED) applies, and the change must be reported by the 10th of the month following the month in which the total income exceeded 130% of the FPL.</u></p>
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## IPV, Trafficking, and Duplicate Participation Claims

The look back period for IPV, trafficking, and duplicate participation claims begins with the date of discovery and extends back up to 72 months, or the oldest month in when benefits were overpaid, whichever is more recent.-

## **7.3.1.6 15% Local Agency Retention IPV**

~~When the cause of overpayment is client error, the local agency that establishes the claim may keep 15% of any collection that is made against that claim.~~

~~When the cause of overpayment is an IPV, the local agency may, in some circumstances, keep 15% of any collection against the claim.~~

7 CFR 273.16(a)(1)

7 CFR 273.16(b)(12)

Establish a claim due to an Intentional Program Violation (IPV) (see SECTION 3.14.1 INTENTIONAL PROGRAM VIOLATION (IPV) DISQUALIFICATION) only when one of these conditions exists. The food unit member:

1. Signs a disqualification consent agreement after being referred for prosecution
2. Is convicted of a FoodShare felony or found guilty of IPV in an Administrative Disqualification Hearing or judicial proceeding

For trafficking-related claims, establish the claim as determined by either:

1. The person's admission.
2. The amount ordered through adjudication, or
3. The documentation that forms the basis for the trafficking charge.

When investigating an IPV and there is sufficient evidence to pursue it in court or an administrative disqualification hearing, do not establish an overpayment claim until the hearing concludes or signs the disqualification consent form.

If there is not sufficient evidence to establish that a claim resulted from an IPV, the claim would be established as either a non-client error or client error claim based on the circumstances surrounding the overpayment. Most often, claims that were pursued for IPV and determined to be a valid overpayment, but lack sufficient evidence to establish an IPV will be client errors.

If an IPV is established, only establish a claim if there are overpaid or trafficked benefits in the previous 72 months. There is no time limit for establishing an IPV, but claims resulting from IPV's may only be established for overissuances or trafficking that occurred within the 72 months that precede the date of discovery.

~~7.3.1.7 Overpayments Due to Receipt of Tribal Food Distribution and FoodShare in the Same Month  
A FoodShare assistance group cannot receive commodities from a Tribal Food Distribution program (see SECTION 3.11.1 FOOD DISTRIBUTION PROGRAM (TRIBAL COMMODITIES)) and FoodShare at the same time. Make a claim against any group that receives FoodShare in the same month it also participates in a Tribal Food Distribution Program. If the group receives:~~

- ~~1. FoodShare and then receives Food Distribution Program commodities in the same month, the Food Distribution agency must process the claim.~~
- ~~2. Food Distribution Program commodities and then receives FoodShare in the same month, the FoodShare agency must process the claim~~

## **7.3.1.78 Notice of Overissuance (Overpayment)**

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A Notice of FoodShare Overissuance ([F-16028](#)), a completed FoodShare Wisconsin Under/Overissuance Worksheet or FoodShare Wisconsin Overpayment Calculator worksheet ([F-16030](#)), and a FoodShare Repayment Agreement ([F-16029](#)) must be sent to the member for all types of claims. Workers following the overpayment establishment process in the BRITS system will meet this requirement since the notices will be systematically generated and mailed to the liable person(s). The FoodShare Repayment Agreement is mailed out at the beginning of the month in the month following the sending of a Notice of FoodShare Overissuance.

Mail all correspondence to the last known address reported to the agency, unless through investigation it is verified that the member no longer lives at that address. In this instance, agencies must demonstrate and document the due diligence process in obtaining the best-known address for the member.

If the claim or claim amount was not established at a fair hearing, a notice of adverse action must be provided. The notice of adverse action can be included with the claim notice or mailed separately. If a fair hearing official determines that a claim does exist against the food unit, the food unit must be re-notified of the claim.

~~Attempt a personal contact with the food unit in the initial collection efforts. The agency may request the repayment be brought before the court or addressed in an agreement reached between the prosecutor and accused person.~~

~~All Repayment Agreements are due on the 25th of the month. In all cases, if the FoodShare assistance group is receiving FoodShare benefits, recoupment will take place. If the member signs and returns the repayment agreement, they are expected to make a monthly repayment in addition to the recoupment from the FoodShare benefit allotment.~~

~~If FoodShare benefits are not being issued and the member does not sign and return the FoodShare Repayment Agreement, dunning notices will be issued through CARES. The local agency may also pursue other collection action. The State of Wisconsin Public Assistance Collection Unit may also pursue collection action.~~

~~If the FoodShare assistance group fails to make a scheduled payment or underpays, send a dunning notice stating that the group must contact the local agency to renegotiate the payment schedule.~~

~~The FoodShare assistance group must either:~~

- ~~1. Negotiate a new schedule, or~~
- ~~2. Pay the overdue amount and continue to pay based on the previous schedule.~~

### ~~7.3.1.9 Overpayment Due to Client and Non-Client Error~~

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~~Federal regulations require that corrective action must be taken to establish a claim for any error discovered through a Quality Control (QC) review, regardless of the size of the error. Failure to~~

take timely corrective action may result in liquidated damages against the agency in the amount of \$250 or more.

A client error occurs when the food unit unintentionally:

- Failed to provide correct or complete information,
- Failed to report a change that was required to be reported, or
- Received FoodShare for which it was not entitled pending a fair hearing decision.

A non-client error occurs when the state or local agency:

- Takes an incorrect action on a FoodShare case,
- Does not take prompt action on a change the food unit reported,
- Fails to correct an action,
- Incorrectly enters information or fails to include information that results in expedited eligibility,
- Misapplies policy, or
- System programming error, such as failure to include W-2 or SSI benefit increase.

Do not establish a claim if:

- An overpayment occurs because the agency did not ensure that a food unit signed the application form.
- Appropriate notice of a renewal or SMRF requirement was not sent due to an incorrect certification period in CARES.
- Expedited issuance resulting from a non-client error: Expedited issuance is based on best available information at the time of the eligibility determination and the FoodShare would only pend for identity.
- Benefits are issued solely because the 10-day negative notice requirement cannot be or has not been met.
- The claim is a client or agency error, and the total overpayment claim is less than \$500. A claim that is less than \$500 should only be established in the following circumstances:
  - FoodShare overpayments discovered through a State Quality Control (QC) review, regardless of the total over-payment amount
  - FoodShare overpayments related to a member receiving duplicate benefits
  - FoodShare IPV claims

**Example 4**

Mary's W-2 payment ended, and she became eligible for TFS. CARES incorrectly set a 12-month certification period instead of a five-month certification period. Because Mary did not receive a timely notice that her TFS benefits were ending after the fifth month, she would not be responsible for paying back any benefits that were issued incorrectly after the fifth month.



~~Do not establish a claim if Social Security, SSI, or Wisconsin Unemployment updates from data exchange are incorrect. These updates cannot be recovered or found in error because the information comes from a trusted third-party source.~~

### **~~Expedited Issuance~~**

~~In general, expedited FoodShare is issued on the best information available and not recoverable. There are certain situations where expedited benefits can be recovered. In instances where an individual would not be eligible for expedited issuance and the agency either incorrectly entered information or failed to include known information (data exchange information, for example), resulting in expedited eligibility, the agency can recover. If the agency establishes an intentional program violation (IPV), the agency can recover benefits. For client errors, do not pursue recovery of expedited benefits since the issuance is based on best available information and the application can only pend for identity prior to the expedited determination.~~

## 7.3.2 Calculating Overpayment Claim Amounts

### 7.3.2.1 Repayments and Delinquency

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CARES automatically generates repayment agreements (RPA) at the beginning of the month following the month in which a claim is sent.

Failure to sign and return a repayment agreement may result in a claim becoming delinquent. If a repayment agreement is signed and returned and the required payments are not made, the claim will become delinquent and will be subject to both tax intercept and monthly repayment. In order to become delinquent, notice of the missed payment(s) must be sent to the liable person.

The policies for monthly repayments are listed on the repayment agreements:

1. Overpayments that are less than \$500 should be paid by monthly installments of at least \$50.
2. Overpayments that are \$500 and above should be paid within a three-year period either by equal monthly installments, or by monthly installments of at least \$20.

If more than one claim is established, the additional claim(s) will not be considered delinquent so long as the other claim(s) are being currently paid through an installment agreement or allotment reduction and collection on the additional claim(s) are expected to begin once the prior claim is settled.

A claim is not subject to the requirements for delinquent debts if the collection status is unknown because it is coordinated through the courts.

A claim awaiting a fair hearing decision must not be considered delinquent.

Someone who makes a repayment agreement may not be subject to tax intercept as long as they are meeting the conditions of the agreement.

Attempt a personal contact with the liable person(s) in the initial collection efforts. The agency may request the repayment be brought before the court or addressed in an agreement reached between the prosecutor and accused person.

All Repayment Agreements are due on the 25th of the month. In all cases, if the liable person(s) is receiving FoodShare benefits, recoupment will take place from their assistance group. If the liable person signs and returns the repayment agreement, they are expected to make a monthly repayment in addition to any recoupment from the FoodShare benefit allotment.

If FoodShare benefits are not being issued and the FoodShare Repayment Agreement is not signed and returned, dunning notices will be issued through CARES. The local agency may also pursue other collection action. The State of Wisconsin Public Assistance Collection Section (PACS) may also pursue collection action.

If the FoodShare Repayment Agreement is completed and the liable person fails to make a scheduled payment or underpays, send a dunning notice stating that the group must contact the local agency to renegotiate the payment schedule.

The liable person must either:

1. Negotiate a new schedule, or
2. Pay the overdue amount and continue to pay based on the previous schedule.

### **Collection**

Collect repayment for all existing claims with a balance, including all types of errors, regardless of when the claim was created. Only collect up to the amount of the claim. If the liable person wishes to pay the whole claim at once, they may do so.

Pursue collection of FoodShare claims even if the food unit moves out of a county/tribal area or out of Wisconsin.

The agency that overpaid benefits has the first opportunity to collect an overpayment. If the agency does not act promptly to collect, and the group moves, the new agency can begin collection action. The new agency must contact the agency that overpaid the benefits to see if they intend to pursue collection.

## **7.3.2.2 Allotment Reduction**

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7 CFR 273.16(g)(1)

An overpayment due to any type of error will be recovered from a FoodShare assistance group participating in the program by reducing their allotment. This will occur even if a signed and completed FoodShare Repayment Agreement is returned.

The type of error determines the amount that will be recovered each month.

1. Client/non-client error: CARES will reduce the allotment by the greater of 10% of the FoodShare assistance group's monthly allotment or \$10 each month. The minimum benefit level for one or two person groups applies before CARES reduces the allotment.
2. IPV: CARES will reduce the allotment by the greater of 20% of the group's monthly entitlement or \$20 each month. The entitlement is the amount of benefits the group would have received if not for the disqualification of a FoodShare group member. The minimum benefit level for one or two person groups applies before CARES reduces the allotment.

CARES will not allow workers to reduce the recovery amount to less than \$10 for client/non-client and less than \$20 for an IPV.

The FoodShare Repayment Agreement allows a participating member to opt to have more than the base recoupment amount withdrawn from the FoodShare issuance if they choose.

Example 1	Luther failed to report income for FoodShare and was found liable for a \$2,000 overpayment claim. Luther receives the FoodShare Repayment agreement and commits to repaying \$30 per month. Luther is still eligible for FoodShare and receives the maximum benefit but does not use his entire benefit. In addition to choosing to repay \$30 per month, Luther also indicates he wants \$40 per month taken from his FoodShare benefit via allotment reduction. Luther has agreed to a total of \$70 to be repaid each month, \$30 direct payment and \$40 via allotment reduction.
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CARES will not reduce the initial allotment when the food unit is first certified unless they agree to a reduction.

### 7.3.2.3 Collecting Client and Non-Client Error Claims Against Participating Food Units

7 CFR 273.17(d)(4)

7 CFR 273.18(e)

A participating food unit is one that is still open and receiving FoodShare benefits.

Establish collection of overpayment claims against participating food units unless claims are protected by the Federal Bankruptcy Code.

Do not charge any interest on the claim.

Food units must be allowed to voluntarily pay towards an overpayment claim(s) by reducing the issued benefits from the EBT account. Written permission must be obtained for this to occur which can be completed with the Request to Reduce Quest Card Balance (F-19002) form. If oral permission is instead obtained for a one-time reduction, a receipt showing the reduction must be sent to the food unit within 10 days.

Expunged benefits will be automatically applied to an outstanding claim balance.

If the member wishes to pay whole claim at once, they may do so.

### 7.3.2.4 Offsetting an Established Claim Amount

7 CFR 273.18(g)(3)

Offset an existing FoodShare overpayment (claim) with the calculated FoodShare underpayment (supplement) amount when both situations exist. Offset the claim against any amount that has not been supplemented to the FoodShare assistance group. An IM worker may offset a suspended or terminated claim amount against an underpayment amount.

An initial allotment and a DSNAP benefit allotment must not be reduced to offset a claim. This includes retroactive initial allotments.

Person Adds are not initial allotments and person add benefit supplements can offset an overpayment claim(s). Offset the entire supplement if the claim balance is more than the supplement. If the claim balance is less than the supplement, CARES will correctly apply the amount of supplement that will zero out the claim and issue the remainder of the supplement as a benefit to the member.

## 7.3.2.5 Tax Intercept

7 CFR 273.18(g)(8)

The State of Wisconsin Public Assistance Collections Section (PACS) uses tax intercept from both state and federal tax refunds to recover overpayments claims from anyone who has become delinquent in repayment of a claim.

To use tax intercept, the overpayment must be considered delinquent. Delinquency prior to establishing a repayment agreement is defined as a failure to establish an agreement by its due date. Once the due date passes, the claim is considered delinquent. Delinquency after a repayment agreement is established is defined as failing to make the monthly payment by the due date three times over the life of the debt. The collection system sends three dunning, or past due, notices for each of the three missed payments. The debt must meet all six of the criteria below:

<u>-</u>	<u>State Debt Criteria</u>	<u>Federal Debt Criteria</u>
<u>1</u>	<u>Valid and legally enforceable</u>	<u>Valid and legally enforceable</u>
<u>2</u>	<u>All error types</u>	<u>All error types</u>
<u>3</u>	<u>\$20</u>	<u>\$25</u>
<u>4</u>	<u>At least 30 days after the third notification of the tax intercept.</u>	<u>At least 120 days from notification of overpayment.</u>
<u>5</u>	<u>Free from any current appeals.</u>	<u>Free from any current appeals.</u>
<u>6</u>	<u>Incurred by someone who is not currently in bankruptcy.</u>	<u>Incurred by someone who is not currently in bankruptcy.</u>

### Notice and Review

State tax intercept notices include a 30-day fair hearing right. The Division of Hearings and Appeals conducts the fair hearing. Federal intercept notices have a 60-day

administrative review process. The Public Assistance Collections Section conducts the federal administrative desk review. The member must provide evidence showing the claim is not past due or is not legally enforceable. If the member cannot provide that evidence, the case will be sent for intercept.

The case is not subject to the state tax intercept while under appeal with the Division of Hearings and Appeals. A State fair hearing has no effect on a Federal Tax Intercept Action. A Federal desk review does not stay a Federal tax intercept action.

### **7.3.2.6 Overpaid Claims**

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7 CFR 273.18(h)

The Department of Children and Families Bureau of Finance, Public Assistance Collections Section (PACS) monitors and processes all refunds centrally at the State level. This section monitors all accounts for refunds. If a refund is due on a FoodShare overpayment and the FoodShare case is open, the PACS will contact the appropriate agency to issue a FoodShare supplement benefit in the amount of the refund due. If an agency notices that a refund has not been processed, the agency can contact the PACS at [dwspacu@wisconsin.gov](mailto:dwspacu@wisconsin.gov).

### **7.3.2.7 15% Local Agency Retention**

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When the cause of overpayment is client error, the local agency that establishes the claim may keep 15% of any collection that is made against the claim.

When the cause of overpayment is an IPV, the local agency may, in some circumstances, keep 15% of any collection against the claim.

When the cause of the overpayment is a non-client, also known as agency, error, the local agency cannot retain any portion of any collection that is made against the claim.

Repayment of overpayment claims through expungement does not allow for local agency retention.

### **7.3.2.8 Writing Off Claims Against Non-Participating Food Units**

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7 CFR 273.18(e)(8)

Claims against non-participating food units and FoodShare assistance groups may be written off if reasonable collection efforts have been made and the debt is determined to be uncollectable.

Claims that have been referred to and or have resulted in a successful tax intercept should not be written off but should remain open until paid in full.

Recommendation to write-off can be made if proper documentation is submitted to demonstrate that the claim meets any of the following criteria:

1. It is found to be invalid in a fair hearing, administrative or judicial decision.
2. It is against a food unit in which all adult members are deceased, and the State does not plan to pursue collection against the estate.
3. It has been discharged through bankruptcy or a bankruptcy stay is in effect.
4. It cannot be substantiated from case records.
5. The state agency has determined, after exhausting collection efforts, that it is not cost-effective to collect the claim. If the request to write off the claim is made on this basis, the following criteria should be used:
  - a. The outstanding claim balance is \$24 or less and has been past due for 90 days or more.
  - b. The outstanding claim balance is from \$26 to \$499 and:
    - i. Three past due notices have been sent, and
    - ii. It has been past due for at least three years, and
    - iii. There have been no successful tax intercepts.
  - c. The outstanding claim balance is from \$500 to \$4,999 and:
    - i. Three past due notices have been sent, and
    - ii. It has been past due for at least five years, and
    - iii. There have been no successful tax intercepts, and
    - iv. It has been considered for referral to a collection agency or credit bureau.
  - d. The outstanding claim balance is \$5,000 or greater and:
    - i. Three past due notices have been sent, and
    - ii. It has been past due for at least 10 years, and
    - iii. There have been no successful tax intercepts, and
    - iv. It has been considered for referral to a collection agency or credit bureau.

Documentation of the following information is required:

1. The age of the claim(s),
2. Actions taken to collect, and
3. Documents relevant to the specific claim (for example, death certificates, bankruptcy discharge orders, and administrative or judicial decisions).

Recommendations for the writing-off of claims must be submitted to the Public Assistance Collection Section (PACS) by mail or email:

Public Assistance Collection Section

PO Box 8938

Madison, WI 53708-8938

[dwspace@wisconsin.gov](mailto:dwspace@wisconsin.gov)

## 7.4.1 Benefit Underpayment

### 7.4.1.2 Calculating the Amount of the Underpayment

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7 CFR 273.17(d)

**Supplement** When a benefit underpayment is identified, supplement the difference between the issued allotment and the correct allotment. Issue the supplemental benefits in addition to the FoodShare assistance group's regular allotment. Consider the food unit's reporting requirements when calculating the underpayment. Do not use income, expenses, or changes in income and expenses that were not reported and were not required to be reported.

The system will allow a worker to offset the supplement amount, as long as it is not an initial allotment.

If the FoodShare assistance group was eligible but received an incorrect allotment, calculate the underpayment amount (supplement) only for those months the group was participating in the program.

If the FoodShare assistance group was found erroneously, determine the date the ineligibility began based on the following:

Incorrect Action Taken	Underpayment Month(s) Outcome
Incorrect denial or delayed application	Use the application month
Terminated erroneously	Use the month the loss first occurred
Incorrect denial of renewal	Use the month following the expiration of the certification period

Calculate the underpayment amount for each month the FoodShare assistance group was, or should have been, eligible. Use the food unit's income and expenses reported or required to be reported for each month of the adjustment period. Benefits cannot be supplemented beyond 12 months from the month the underpayment is discovered.

Example 1	On May 22, <del>2017</del> 2022, an IM worker discovers that benefits had been underpaid since February <del>2016</del> 2021. The IM worker counts back 12 months from May <del>2017</del> 2022 and supplements benefits from June 1, <del>2016</del> 2021 to May 31, <del>2017</del> 2022.
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To calculate an underpayment:



1. Review the income and/or expenses in error. Do not review income and/or expenses that were not the cause of the error.
2. Use only the income and/or expenses that were reported or were required to be reported.
3. Request any verification necessary to determine correct eligibility and benefit amounts. Do not re-verify income and/or expenses that were not found in error. If requested verification is not provided in ~~40~~20 days, do not issue a supplement for the months the requested verification would have impacted eligibility or benefit amounts.

Example 2	On June 10, Brian's IM worker discovers that she did not allow Brian the full dependent care deduction that he was eligible to receive since February 1. The IM worker uses the full dependent care deduction of \$200 per month to determine the difference between what Brian received and what he should have received from February to June. The IM worker does not request verification of Brian's income and other expenses because they were not found in error.
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## 7.5.1 Emergency Allotments

Emergency allotments were an extra monthly benefit issued as a supplement to open FoodShare households. Emergency allotments were authorized under the Families First Coronavirus Response Act. These benefits were sunset following the February 2023 issuance by the Consolidated Appropriations Act of 2023.

March 2020 through March 2021, the amount of the emergency allotment benefit issued brought each household up to the maximum allotment for their household's assistance group size. During this period, member's already receiving the maximum allotment for their household size did not receive an emergency allotment payment.

Starting in April 2021, the emergency allotment amount issued was the difference between a household's allotment and the maximum allotment for open a FoodShare household's assistance group size, or \$95, whichever was more.

FoodShare households that receive zero benefits for their first month due to proration and then receive FoodShare benefits in subsequent months were considered FoodShare recipients and were entitled to emergency allotments beginning in the initial month. The emergency allotment amount was based on the total ongoing monthly benefit amount for which the household was eligible, and not the pro-rated amount of the initial application month.

The emergency allotment amount was calculated based on what the FoodShare assistance group was eligible for, not what was received. Assistance groups with a recoupment had their emergency allotment benefit determined based on the monthly entitlement (the amount before the recoupment was taken out).

Following the sunseting of emergency allotments, the continuation of emergency allotments was not allowed pending a fair hearing.