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POLICY TRANSMITTAL NO. 08-17	DATE: MAY 23, 2008
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-15, Table of Contents; 50-15-1 through 50-15-5; 50-15-7; 50-15-9; 50-15-25; and 50-15-27.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

OAC 340:50-15-1 is amended to include: (1) current responsibilities for who writes and establishes overpayments; (2) revise the name of the Family Support Services Division (FSSD) Section that receives overpayments; and (3) update form numbers.

OAC 340:50-15-2 is amended to: (1) remove information about overpayment claims not being required in certain instances for categorically eligible households as this language was removed from federal regulations; and (2) update language to current terminology.

OAC 340:50-15-3 is amended to: (1) update form names and numbers; and (2) include current responsibilities for who writes and establishes overpayments.

OAC 340:50-15-4 and 340:50-15-5 are amended to: (1) update form numbers; and (2) add clarifying information.

OAC 340:50-15-7 and 340:50-15-9 are amended to update language to current terminology.

OAC 340:50-15-25 is amended to: (1) update form names and numbers; and (2) update language to current terminology.

OAC 340:50-15-27 is amended to: (1) correct a state statute reference; and (2) update language to current terminology.

Original signed on 4-25-08

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Mary Stalnaker, Director  
Family Support Services Division

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Sharon Neuwald, Coordinator  
Office of Legislative Relations and Policy

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WF # 07-40 (NAP)

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## **INSTRUCTIONS FOR FILING MANUAL MATERIAL**

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

### **REMOVE**

340:50-15, Table of Contents

340:50-15-1

340:50-15-2

340:50-15-3

340:50-15-4

340:50-15-5

340:50-15-7

340:50-15-9

340:50-15-25

340:50-15-27

### **INSERT**

340:50-15, Table of Contents, 1 page only, revised 6-1-08

340:50-15-1, pages 1-3, revised 6-1-08

340:50-15-2, 1 page only, revised 6-1-08

340:50-15-3, 1 page only, revised 6-1-08

340:50-15-4, pages 1-2, revised 6-1-08

340:50-15-5, 1 page only, revised 6-1-08

340:50-15-7, 1 page only, revised 6-1-08

340:50-15-9, 1 page only, revised 6-1-08

340:50-15-25, pages 1-3, revised 6-1-08

340:50-15-27, 1 page only, revised 6-1-08



**SUBCHAPTER 15. OVERPAYMENTS AND FRAUD****PART 1. OVERPAYMENTS**

## Section

- 340:50-15-1. Scope and applicability
- 340:50-15-2. Instances when overpayment claim is not required
- 340:50-15-3. Overpayment claim procedures
- 340:50-15-4. Overpayments by classification
- 340:50-15-5. Right to appeal
- 340:50-15-6. Development of repayment
- 340:50-15-7. Suspension of collection efforts
- 340:50-15-8. Compromising amount of overpayment **[REVOKED]**
- 340:50-15-9. Termination of collection of food benefit debt

**PART 3. FRAUD**

- 340:50-15-25. Cases referred for intentional program violation determination
- 340:50-15-26. Reporting incidences of abuse in the food stamp program
- 340:50-15-27. Other penalties for misuse of benefits



**340:50-15-1. Scope and applicability**Revised 6-1-08

An overissuance or overpayment of food benefits occurs when a household receives more food benefits than it is entitled to receive. When the worker determines a household may have received more food benefits than it is entitled to receive, the worker documents the circumstances leading to the overpayment and computes the amount of the overpayment. ■ 1

(1) Instances which may result in establishment of an overpayment claim include, but are not limited to:

(A) the household:

- (i) failing to provide the Oklahoma Department of Human Services with correct or complete information;
- (ii) failing to report changes in household circumstances;
- (iii) electing to receive benefits pending a fair hearing decision which subsequently found the household ineligible or eligible for fewer benefits; or
- (iv) trafficking benefits;

(B) the worker:

- (i) assigning an incorrect allotment;
- (ii) failing to take prompt action on a change reported by the household;
- (iii) incorrectly computing the household's income, deductions, or both; or
- (iv) incorrectly authorizing issuance to a household; or

(C) any overissuance discovered as a result of an Office of Inspector General Administrative Review Unit review.

(2) Persons responsible for paying a claim are:

(A) each person who was an adult member of the household when the overpayment or trafficking benefits occurred and which resulted in an established

overpayment claim; or

(B) a person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(3) The Family Support Services Division (FSSD) Benefit Integrity and Recovery Section classifies overpayments as inadvertent household error, intentional program violation also known as fraud, or agency error. All food benefit overpayment claims are considered as inadvertent household error or agency error until Form 08OP016E, Administrative Disqualification Hearing Waiver, is signed or a court of law finds a household guilty of fraud. ■ 2

(4) The worker and supervisor calculate all overpayment claims and establish any overpayments under \$500 due to inadvertent household error and all agency error overpayments, regardless of the amount. Once an overpayment is established, notices sent to the client include:

(A) Form 08OP009E, Notification of Food Stamp Overpayment;

(B) page 1 of Form 08OP005E, Report of Food Stamp Overissuance; and

(C) Form 08OP118E, Food Stamp Repayment Agreement.

(5) When the overpayment is \$500 or more and due to inadvertent client error, it is sent to the FSSD Benefit Integrity and Recovery Section. FSSD Benefit Integrity and Recovery Section staff either establishes the overpayment claim and notifies the household of the overpayment with appropriate notices or refers the case to OIG for a possible judicial determination.

(A) When the case is transferred to OIG, the overpayment claim is not established and notices are not sent to clients until after OIG completes its determination.

(B) After OIG acquires a judicial determination and the claim is either determined to be an intentional program violation or fraud or remains an inadvertent household error, the claim is released back to the FSSD Benefit Integrity and Recovery Section to establish the overpayment claim.

(C) After the overpayment claim is established, the client is sent Form 08OP009E, page 1 of Form 08OP005E, and Form 08OP118E.

(6) Food benefit overpayment claims classified as inadvertent household error or

agency error do not cover more than 12 months prior to the month in which the overpayment was discovered. Food benefit overpayments classified as fraud or intentional program violation may cover the entire time the overpayment occurred. However, the time covered cannot include periods more than six years prior to the date the overpayment was discovered.

(7) Food benefit overpayments arising from trafficking related offenses are the value of the trafficked benefits as determined by the person's admission, adjudication, or documentation that forms the basis for the trafficking determination. OIG refers these cases directly to the FSSD Benefit Integrity and Recovery Section for establishment of the claim and/or disqualification.

### **INSTRUCTIONS TO STAFF 340:50-15-1**

#### **Issued 6-1-08**

- 1. The worker uses the Oklahoma Program Integrity (OPI) system to document the circumstances leading to the overpayment and calculates the amount of the overpayment claim. To be considered timely, per Section 273.18 of Title 7 of the Code of Federal Regulations, all food benefit overpayment claims must be established within the quarter following the quarter of discovery.**
- 2. When fraud is established, the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section codes the food benefit claim as intentional program violation in the OPI system with an agency error (AE), inadvertent household error (IHE), or intentional program violation (IPV) reason.**



**340:50-15-2. Instances when overpayment claim is not required**

Revised 6-1-08

Per Section 273.18(e)(2)(ii) of Title 7 of the Code of Federal Regulations, the worker does not establish an overpayment claim when the error causing the overpayment is classified as inadvertent client error or agency error and all of the conditions included in (1) through (3) exist.

- (1) The overpayment is less than \$250.
- (2) The household is not participating in the Food Stamp Program at the time of discovery of the overpayment.
- (3) The overpayment was not discovered in an Office of Inspector General Administrative Review Unit review.



**340:50-15-3. Overpayment claim procedures**Revised 6-1-08

(a) The earned income deduction is not allowed in determining the overpayment amount when a recipient fails to report earned income in a timely manner.

(b) When the worker believes a household received an overissuance of food benefits, the worker documents the circumstances causing the overpayment and calculates the overpayment claim. The food benefit claim is considered established when the overpayment notice is dated and mailed to the client. ■ 1

(c) The worker and supervisor establish overpayment claims classified as inadvertent household error and less than \$500, and all agency error claims regardless of the amount. Notices sent to the client include:

(1) Form 080P009, Notification of Food Stamp Overpayment;

(2) page 1 of Form 080P005E, Report of Food Stamps Overissuance; and

(3) Form 080P118E, Food Stamp Repayment Agreement.

(d) Calculated overpayments that are \$500 and over that are not due to agency error are not established until reviewed by staff in the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section staff. In most instances after calculation, FSSD staff sends these overpayments to the Office of the Inspector General (OIG) to determine fraudulent intent prior to establishing the overpayment. ■ 2

**INSTRUCTIONS TO STAFF 340:50-15-3****Issued 6-1-08**

**1. The worker uses the Oklahoma Program Integrity (OPI) system to calculate the amount of the overpayment claim and document the circumstances leading to the overpayment in the Comments Section of OPI.**

**2. Once staff in the Office of the Inspector General (OIG) makes a determination regarding fraudulent intent, the overpayment is sent back to the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section through OPI to establish the overpayment claim.**



**340:50-15-4. Overpayments by classification**Revised 6-1-08

(a) **Overpayment claim classified as inadvertent household error.** An overpayment claim is classified as an inadvertent household error if the overissuance was caused by a misunderstanding or unintended error on the part of the household. Instances of inadvertent household error which may result in an overpayment claim include, but are not limited to, when the household inadvertently:

- (1) failed to provide the Oklahoma Department of Human Services (OKDHS) with correct or complete information;
- (2) failed to report changes in household circumstances; or
- (3) received benefits or more benefits than it was entitled to receive pending a fair hearing decision.

(b) **Overpayment claim classified as agency error.** An overpayment claim is classified as an agency error if the overissuance was caused by OKDHS action or failure to take action. Instances of agency error which may result in an overpayment include, but are not limited to, when OKDHS:

- (1) failed to take prompt action on a change reported by the household;
- (2) incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;
- (3) incorrectly issued benefits to a household;
- (4) incorrectly applied policy or procedure; or
- (5) failed to reduce food benefits because the household's public assistance benefits changed.

(c) **Overpayment claim classified as intentional program violation.** An overpayment claim is classified as an intentional program violation when it is determined that a person has intentionally given false information or withheld facts in order to receive food benefits or trafficked benefits for cash or non-food items. This determination is made through an administrative disqualification hearing, signing Form 08OP016E, Administrative Disqualification Hearing Waiver, or by a court decision. Instances of intentional program violation which may result in an overpayment claim

include, but are not limited to, when a person in the household:

(1) made a false or misleading statement, or misrepresented, concealed, or withheld facts; or

(2) committed an act that constitutes a violation of the Food Stamp Program relative to the use, presentation, transfer, acquisition, receipt, or possession of food benefits.

**340:50-15-5. Right to appeal**Revised 6-1-08

If there is a disagreement with the overpayment decision, the household may request a hearing within 90 calendar days of the date on Form 08OP009E, Notification of Food Stamp Overpayment. Upon notification from the Appeals Unit of receipt of Form 13MP001E, Request for a Fair Hearing, the Family Support Services Division (FSSD) Benefit Integrity and Recovery Section postpones reduction in food benefits pending the hearing decision.



**340:50-15-7. Suspension of collection efforts**

Revised 6-1-08

(a) The Family Support Services Division (FSSD) Benefit Integrity and Recovery Section suspends collection action on cases no longer receiving food benefits when the:

- (1) head of household is deceased and there are no remaining adult household members responsible for the overpayment;
- (2) household cannot be located; or
- (3) cost of further collection action is likely to exceed the amount that can be recovered.

(b) FSSD Benefit Integrity and Recovery Section may:

- (1) reopen debts held in suspension based on changes in household circumstances;  
or
- (2) initiate reduction in the food benefit if the client reapplies and becomes eligible in the future.



**340:50-15-9. Termination of collection of food benefit debt**

Revised 6-1-08

In the case of repayment in full, the household and the human services center are notified that the debt has been satisfied.



**340:50-15-25. Cases referred for intentional program violation determination**Revised 6-1-08

(a) **Cases determined by administrative disqualification hearing (ADH).** For a determination of intentional program violation, Family Support Services Division (FSSD) Benefit Integrity and Recovery Section and Oklahoma Department of Human Services (OKDHS) Office of Inspector General (OIG) staff make referrals for an ADH to the OKDHS Appeals Unit. The cases referred contain documentary evidence of intentional program violation, but do not warrant civil or criminal prosecution.

(1) **Waiving of ADH.** A client suspected of intentional program violation may choose to waive his or her rights to an ADH. The client must complete and sign Form 080P016E, Administrative Disqualification Hearing Waiver, if the client requests a waiver. A waiver of the hearing subjects the client to the same penalties as if the hearing process determined intentional program violation.

(2) **Penalties for intentional program violation.** When the ADH results in an intentional program violation determination or the client waives his or her right to the hearing process, the FSSD Benefit Integrity and Recovery Section imposes the penalties in (A) - (B) of this paragraph.

**(A) Disqualification.**

(i) **Notification.** FSSD Benefit Integrity and Recovery Section sends Form 08AD019E, Program Penalty/Disqualification Notice, to the disqualified member. Form 08AD019E includes information regarding the remaining household members' eligibility.

(ii) **Period of disqualification.** The period of disqualification for an individual is one year for the first violation, two years for the second violation, and permanently for the third violation. Any person disqualified for intentional program violation prior to April 1, 1983, is considered to have one violation regardless of the number of prosecutions. A person is disqualified for a period of ten years if the person is found to have made a fraudulent statement or representation with respect to identity or place of residence in order to receive multiple benefits simultaneously under the Food Stamp Program.

(iii) **Disqualification effective date.** Disqualification begins the first possible effective month following the date of Form 08AD019E, or the date specified

on the ADH decision letter. Once the disqualification begins, it runs continuously until the end of the period imposed.

(iv) **Disqualification computation.** Either the worker or FSSD Benefit Integrity and Recovery staff removes the disqualified person from the household size. The worker counts the resources and gross income of the disqualified person in their entirety as available to the remaining household members and allows all applicable deductions for remaining household members. ■ 1

(B) **Repayment.** A client must repay food benefit overpayments regardless of any disqualification penalty. FSSD Benefit Integrity and Recovery Section notifies the client of the necessity for making a repayment plan by Form 080P118E, Food Stamp Repayment Agreement. The options for the repayment plan are the same as those listed in OAC 340:50-15-6.

(b) **Cases determined by a court.** The FSSD Benefit Integrity and Recovery Section refers all cases suspected of intentional program violation to OIG to make a determination of whether court action is feasible.

(1) OKDHS staff must not discuss the overpayment claim with the client until court action is completed or the FSSD Benefit Integrity and Recovery Section notifies the human services center (HSC) of any action to be taken. Local staff forwards further information or directs client inquiries to the FSSD Benefit Integrity and Recovery Section.

(2) A court of appropriate jurisdiction may find one or more persons in the household guilty of obtaining food benefits by fraudulent means. The court may charge the person with either a misdemeanor or felony depending on the amount of food benefits obtained fraudulently.

(3) Procedures for disqualification penalties are the same as in cases determined by administrative disqualification hearings at (a)(2) of this Section with the exceptions included in (A) through (D).

(A) The court may specify the length of the disqualification. These court specified periods of disqualification override (a)(2)(ii) of this Section.

(B) A person determined by a court to have committed intentional program violations of trading benefits for firearms, ammunition, explosives, or controlled substances is subject to disqualification:

- (i) for two years for the first offense and permanently for the second offense involving the sale of a controlled substance for food benefits; and
  - (ii) permanently for the first offense involving the sale of firearms, ammunition, or explosives for food benefits.
- (C) A person convicted of trafficking food benefits of \$500 or more is permanently disqualified from participation in the Food Stamp Program. Trafficking includes:
- (i) fraudulently using, transferring, altering, acquiring, or possessing Electronic Benefit Transfer (EBT) cards or access devices; or
  - (ii) presenting food benefits for payment or redemption knowing the same to have been fraudulently obtained or transferred.
- (D) A person is disqualified from participation in the Food Stamp Program for a 10-year period if the person is found to have made a fraudulent statement or representation with respect to identity or place of residence in order to receive multiple benefits simultaneously under the Food Stamp Program.
- (4) The court may also stipulate a repayment plan. The repayment plan cannot be renegotiated. The Benefit Integrity and Recovery Section may refer the case back to the district attorney's office if the client fails to comply with the repayment plan.

## INSTRUCTIONS TO STAFF 340:50-15-25

Revised 6-1-08

1. **(a) OAC 340:50-7-29(c)(1) mandates staff not to prorate the income, resources, or deductions of a disqualified person.**  
**(b) To ensure the household is prohibited from receiving an increase in benefits, the worker must code the person as disqualified in the Family Assistance Client Services (FACS) Household tab of the Interview Notebook.**



**340:50-15-27. Other penalties for misuse of benefits**Revised 6-1-08

Section 243 of Title 56 of the Oklahoma Statutes provides for penalties due to misuse of food benefits for those recipients who receive benefits fraudulently. ■ 1 Federal penalties for misuse of food benefits are found in Section 15 (b) and (c) of the Food Stamp Act [7 U.S.C. § 2024]. ■ 2

**INSTRUCTIONS TO STAFF 340:50-15-27**Revised 6-1-08

1. Oklahoma Statutes stipulate any person who receives food benefits fraudulently shall be guilty of a misdemeanor if the amount of food stamps or coupons is \$500 or be imprisoned at the discretion of the court. Also, if one is found guilty of a felony, food stamps or coupons obtained or transferred in excess of \$500 and upon conviction shall be fined not more than \$5,000 or be imprisoned for not more than two years or by both such fine and imprisonment at the discretion of the court. In addition, federal law provides grounds for potential federal prosecution of coupon abuse.
2. (a) Section 15(b) of the Food Stamp Act states, "*Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this Act or the regulations issued pursuant to this Act shall, if such coupons or authorization cards are of the value of \$100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than five years, or both, or if such coupons or authorization cards are of a value of less than \$100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than one year, or both.*"  
  
(b) Section 15(c) of the Food Stamp Act states, "*Whoever presents, or causes to be presented, coupons for payments or redemption of the value of \$100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of the Act or the regulations issued pursuant to this Act shall be guilty of a felony and shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than \$100, shall be guilty of a misdemeanor and shall, upon conviction there of, be fined not more than \$1,000 or imprisoned for not more than one year, or both.*"