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| COLORADO DEPARTMENT OF HUMAN SERVICES 1575 SHERMAN ST., DENVER, COLORADO 80203-1714 AGENCY LETTER | NUMBER: FA-09-03-P CROSS REFERENCE NUMBER: |
| DIVISION OR OFFICE: Office of Self Sufficiency | DATE: March 31, 2009 |
| PROGRAM AREA: Food Assistance - FA | DIVISION MANAGER: <i>(Signature Only)</i>  |
| TITLE: Compromise of Food Assistance Claims for Overissuances TYPE: P - Procedure | OFFICE DIRECTOR: <i>(Signature Only)</i>  |

Please Distribute this Agency Letter to all Food Assistance Eligibility, Recovery, Bookkeeping and Investigative Supervisors and Staff

Purpose:

The purpose of this Agency Letter is to provide direction to counties on compromising claims. Compromising a claim reduces the claim balance.

Background:

Federal regulations give states the option to compromise claims. The State of Colorado took that option under State Regulation 4.4430.4.

Procedure or Information:

Counties do not have the option of applying a policy of never compromising claims. Counties must review the circumstances of a household that requests a compromise and determine if a compromise would be appropriate.

Language is being added to the Notice of Overpayment as required by federal regulation at 7 CFR 273.18 (e) (3). This notice is sent to each liable party of a claim informing them of a possible compromise.

Upon client request, Administrative Error and Client Error claims may be compromised if the full or remaining balance of the claim cannot be repaid in three years. A claim that has been compromised may be renegotiated if necessary. Intentional Program Violation claims may not be compromised. Claims that are already reduced by either an Administrative or District Court order are considered compromised claims and are not eligible for an additional compromise.

Claims should be compromised as follows:

The household demonstrates need. The household proves an inability to repay a claim within a three-year period. An active Food Assistance case

establishes a demonstration of need since the household's income meets Food Assistance Program eligibility. If the household indicates they will have difficulty paying the claim and they are receiving food assistance benefits, the claim may be compromised.

EXAMPLE: An Administrative Error claim is established for \$1200. The household is receiving \$150 per month in Food Assistance benefits. The claim would be recouped at ten percent of the allotment, which would equal \$15 per month. Multiply 36 months (3 years) by \$15 to equal \$540. \$540 is the amount the household would be expected to pay in three years. The claim could be compromised to \$540 by adjusting the claim downward by \$660.

Summary:

Total amount of claim = \$1,200

Monthly recoupment amount = \$15

Recoupment amount x 36 months (3 years) = \$540

Total claim amount – 3 year recoupment amount = \$1,200-\$540 = \$660

The claim should be revised downward by \$660, leaving a balance of \$540.

The County may consider compromising a claim to zero if the situation warrants. The example above is just one method of determining an amount to be compromised.

The household demonstrates hardship. The household proves that financial, physical or mental hardship would exist if forced to pay the full amount of the original claim. Some circumstances include, but are not limited to medical hardships, high shelter costs, loan payments, and other extraordinary expenses. Consideration should be given to the future earning potential of the household over the next three years to pay back the claim based on:

- Age
- Disability
- Other household factors

Step 1- Regardless of whether or not the household is still receiving benefits, use the last allotment amount received by the household and the claim type to determine the recoupment amount. For Client and Administrative Error claims, the recoupment amount is the greater of \$10 or 10% of the total benefit amount.

Multiply the recoupment amount times 36 months.

Subtract that amount from the claim amount to determine the difference.

Step 2- What is the ability of this household to pay the difference, in addition to the recouped amount figure, over a 3 year time period?

A compromise based on hardship may be applied to a Food Assistance case whether or not the household is still receiving Food Assistance benefits.

EXAMPLE: A Client Error claim is established for \$2000. The household is no longer receiving Food Assistance. The household has little earning potential since the adult household members are unskilled and historically have always worked at low paid jobs. The household also has extensive medical bills. The claim may be compromised to an amount that can be paid in three years by calculating ten percent of the full allotment amount for the household size and multiplying that amount by 36 months. The claim should then be reduced to that amount. The county may consider compromising a claim to zero if the situation is appropriate.

Decisions regarding compromises must be documented in case comments in the automated system and a hard copy should be maintained in the case record.

Effective Date: Immediately

Supersedes: N/A

Contact Person:

E-mail Food Assistance Policy at foodstamp.policy@state.co.us

Or call:

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