CERTIFICATION

WPPM #280-20.1

Subject: Disqualification
Item: Prosecution and Recovery of Funds

POLICY:
I. When cost effective and appropriate, the participant/alternate/proxy/parent/guardian/caretaker/representative must repay the CDPH/WIC for financial loss resulting from Program violations specified in WPPM 280-20. Financial loss is limited to the value of the over-issued food benefits. When cost effective and appropriate, the CDPH/WIC must also pursue prosecution through state and local law enforcement authorities. Local agencies (LAs) must cooperate fully with the CDPH/WIC and law enforcement authorities in these matters.

PROCEDURE(S):
I. Prosecution
   A. CDPH/WIC must refer participants who violate program rules to federal, state, or local law enforcement authorities for prosecution under applicable statutes when appropriate. The LA must contact local law enforcement authorities in cases of check stock or printed food instrument theft. The LA may contact local law enforcement authorities in cases of harm or threatened harm of WIC staff.

II. Pursuing recovery
   A. Whenever the CDPH/WIC assesses a claim for financial loss in any amount due to a program violation, the CDPH/WIC will pursue/demand restitution for the full value of the loss. Recovery or restitution may not include offsetting the claim against future program benefits, even if agreed to by the participant or the parent or caretaker of an infant or child participant.

III. Guidelines for pursuing recovery
   A. For all claims, the CDPH/WIC must issue a letter demanding payment. If full restitution is not made or a repayment schedule is not agreed on within 30 days of receipt of the letter, the CDPH/WIC must take additional collection actions. CDPH/WIC will continue to pursue collection until restitution is made or a repayment schedule is agreed on, unless the CDPH/WIC determines that further collection actions would not be cost-effective.

   B. A repayment schedule must be established based on the participant's ability to pay. The term of the repayment schedule must be no longer than thirty-six (36) months and no less than ten ($10.00) per month.

   C. CDPH/WIC will be responsible for notifying participants by written notice, with certified return receipt requested, of the reported Program violation, the total amount due for repayment, the term of the repayment schedule, and the monthly
amount due. The first payment will be due thirty (30) days from the receipt date of the written notice to the participant.

D. At the time of claim for repayment, the participant must be advised of the right to a fair hearing, and that failure to agree to and fully comply with the repayment schedule may result in the participant being disqualified from the Program. The participant must receive 15-days advance notice prior to disqualification. If the participant appeals the action within those 15-days, the CDPH/WIC must continue to provide benefits until the participant’s certification expires or an appeal decision is made, whichever occurs first.

E. If at any time the CDPH/WIC determines the participant is at least three (3) repayments in arrears, the CDPH/WIC will disqualify the participant from the Program. The number of months of disqualification must be determined as a prorated portion of the original 12 month penalty based on the percentage of months of unpaid restitution. Such disqualification will commence on the date in the notification letter, will be subject to notification requirements, and will be subject to appeal as described above.

IV. Reapplication of Disqualified Participant

A. The CDPH/WIC will allow a disqualified participant to reapply for Program benefits once the participant's claim has been repaid in full, or prior to full repayment if the CDPH/WIC determines that the participant is complying with the repayment schedule, or expiration of the disqualification period, whichever occurs first. In such instances the disqualified participant may reapply as a new applicant and meet all Program eligibility requirements, as specified in WPPM 280-20.

V. Record Keeping.

A. The CDPH/WIC will be responsible for documentation of the participant's violation and claim record. All actions and determinations, including a determination that it is not cost effective to pursue further collection actions, must be documented in the case file.

AUTHORITY:
7 CFR §246.7(l)(1)
7 CFR §246.12(u)
7 CFR §246.23(c)(1)
22 CCR §40757
22 CCR §40803
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CROSS REFERENCE:
WPPM 280-20 Criteria for Disqualification