

Intentional Program Violation

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Overview

The Department of Human Services is responsible for investigating any case of alleged intentional program violation (IPV) and for making sure that cases are acted upon through either an administrative disqualification or a court hearing.

This chapter explains the policies and procedures for pursuing and establishing IPVs.

Legal authority is found in the Food Stamp Act of 1977, Title 7 Code of Federal Regulations 273.16, Iowa Code Chapter 234, and 441 Iowa Administrative Code, Chapters 7 and 65.

Definition of Intentional Program Violation

Legal reference: 7 CFR 273.16(c)

An "intentional program violation" means having **intentionally**:

- ◆ Made a false or misleading statement, or
- ◆ Misrepresented, concealed, or withheld facts, or
- ◆ Committed an act that is a violation of the Food Stamp Act, Supplemental Nutrition Assistance Program regulations, or any state rule relating to the use, presentation, transfer, acquisition, receipt or possession of a benefit transfer instrument.

A person can only be found guilty of an intentional program violation through an administrative disqualification or court hearing.

Administrative Disqualification

The following sections explain:

- ◆ [When to refer a case for an administrative disqualification hearing](#)
- ◆ [How to refer a case for a disqualification hearing](#)
- ◆ [Client benefits while waiting for a hearing](#)
- ◆ [Notifying the client of a hearing decision](#)

When to Refer a Case for a Disqualification Hearing

Legal reference: 7 CFR 273.16(a)

Unless the individual has been found guilty in a federal, state, or local court, refer the following types of cases to the Department of Human Services Appeals Section for an administrative disqualification hearing:

- ◆ Cases where:
 - The SNAP claim is \$1,000 or less and no other program claim is involved, or claims for all programs for this incident are \$1,000 or less, **and**
 - You have sufficient documentary evidence to substantiate that a person has intentionally made one or more acts of intentional program violation.
- ◆ Cases previously referred for prosecution that were declined by the legal authority or formally withdrawn by the state. See [Court Referrals](#). The county office will be notified by the DIA Investigations Division when this occurs. Do **not** refer the case while DIA is pursuing or plans to pursue the case in court.

“Sufficient documentary evidence” includes applications, wage reports, IEVS reports, employer’s statements, RREDs, or any documentation on which the client has not fully reported income, resources, household composition, etc. It can also include statements provided to the client explaining reporting requirements. Include all information used to establish the client’s intent to commit fraud.

Refer a person for an administrative disqualification hearing regardless of the person’s current eligibility. An IPV referral may be appropriate for a new applicant even if the applicant is denied benefits. Evaluate the situation to determine whether an IPV referral is appropriate. More than one member of a household can be referred for an intentional program violation.

How to Refer a Case for an Administrative Disqualification

Legal reference: 7 CFR 273.16

To make a referral for an administrative disqualification hearing, complete form 470-3035, *IPV Referral Cover Sheet*, and obtain a supervisor's signature. To refer more than one member of a household, send a separate form for each person.

Email the *IPV Referral Cover Sheet* to the DHS Appeals Section at appeals@dhs.state.ia.us. The Appeals Section will set up the appeal record and notify staff once an appeal number has been assigned.

Within two working days of receipt of the email stating the appeal file has been established, upload a copy of the IPV Referral Packet, along with copies of all supporting documentation, into the Appeals Information System (AIS). Once the supporting documentation is uploaded, the DHS Appeals Section will review and certify the referral to the Department of Inspections and Appeals so a hearing can be scheduled.

When making the referral, make every effort to ensure you have the most recent, valid address for the person.

When referring a person for more than one act (e.g., failure to report income or failure to report resources) during the same period, include referral information on all actions. (If the case is found guilty, only one disqualification period is established.)

While additional information can later be submitted indicating further fraudulent behavior, only one disqualification period can be imposed for the same time period. Once a disqualification period is established, another disqualification period cannot be imposed for infractions that occurred before that period. This is true also if the household commits a second offense before the final decision being reached on the first offense.

Although another disqualification period cannot be imposed, refer these cases for an IPV so the claim can be considered an IPV claim if appropriate.

1. Mrs. C is found guilty of an intentional program violation for failure to report income during January 2017. The disqualification period is established for 12 months, as the first offense. The worker later determines that Mrs. C also intentionally failed to report income in November 2016. The worker establishes a claim for an inadvertent household error and refers the November 2016 incident for an IPV hearing.

If Mrs. C is found guilty of IPV, the claim will be changed to an IPV claim. However, a second disqualification period will not be imposed, as the act was committed before the establishment of the first disqualification period.

2. Mr. A fails to report income during January 2016. A referral is made when the offense is discovered in March 2016. In May 2016, Mr. A again fails to report income. The final decision stating that Mr. A is guilty of an IPV is issued on July 7, 2016. The second offense is discovered in July 2016.

The worker refers the second offense for an IPV hearing. If Mr. A is found guilty, the claim will be changed from an inadvertent household error to an IPV. No additional disqualification will be imposed, as the second offense was committed before the first disqualification period was established.

Do not notify the household member of the administrative disqualification hearing referral. The Administrative Hearings Division of the Department of Inspections and Appeals will notify the household member of the scheduled hearing on *Notice of IPV Hearing*. When you receive the notice of hearing, send the client a copy of all information you submitted for the referral.

Client Benefits While Waiting for a Hearing

Legal reference: 7 CFR 273.16(e)(5)

A pending disqualification hearing does not affect the person's or household's right to be certified and participate in the program. Determine the eligibility and benefit level of the household in the same manner as for any other household.

You cannot disqualify a household member for intentional program violation until you receive notification that one of the following has occurred:

- ◆ The final decision has been issued on an administrative disqualification hearing, and the person has been found guilty of committing an IPV, or
- ◆ DIA informs you that the person was found guilty in a federal, state, or local court.

Notifying the Client of the Hearing Decision

Legal reference: 7 CFR 273.16(e)(9)

The Administrative Hearings Division of DIA notifies the household and the county office of the proposed decision. The Appeals Section of DHS issues the final decision. Procedures concerning the proposed and final decisions are found in 1-E, [Appeal Decision](#).

When the decision is that the household member did **not** commit an intentional program violation, the final decision serves as the written notice to the household.

When the final decision is that the person committed an intentional program violation, send a written notice to the person before imposing the disqualification. Use the written notice furnished to you by the Appeals Section on form 470-0288, *Notice of Disqualification*. The Appeals Section sends instructions for this process with the form.

Disqualification Hearing Process

The Department of Inspections and Appeals (DIA) conducts administrative disqualification hearings. The following sections describe procedures for:

- ◆ [Waiver of Administrative Disqualification Hearing](#)
- ◆ [Scheduling an administrative disqualification hearing](#)
- ◆ [Consolidating hearings](#)
- ◆ [Conduct of the hearing](#)
- ◆ [A client's failure to attend a hearing](#)
- ◆ [Time frames for the hearing and decision](#)
- ◆ [Appealing the decision](#)

Waiver of Administrative Disqualification Hearing

Legal reference: 273.16(f)

Individuals facing an IPV Administrative Disqualification Hearing (ADH) may voluntarily waive their rights to that hearing and be automatically disqualified. Only the DHS Appeals Unit is authorized to issue this form. The form will be considered invalid if issued by anyone other than the DHS Appeals Unit.

If the household member chooses to sign form 470-5530, *Waiver of Right to an Administrative Disqualification Hearing*, the member will be disqualified from participating in SNAP for a specified time. No administrative disqualification hearing will be held.

NOTE: the process for establishing a claim is not affected and clients will still have appeals rights on the amount of the overpayment.

The same disqualification penalty will be imposed if the individual chooses to give up their right to an ADH and signs the waiver form or if the individual participates in the hearing and is found guilty by an ALJ.

No further administrative appeal procedure exists after an individual waives their right to an ADH and a disqualification penalty has been imposed.

Procedure: Upon receiving an IPV ADH referral, the Appeals Unit will send the *Waiver of Right to an Administrative Disqualification Hearing* 470-5530 to the client. They have 10 days to return the signed form to take advantage of the waiver option.

If the individual doesn't return the signed waiver by the due date, the Appeals Unit will proceed with scheduling an ADH. Individuals will be allowed to sign and return the waiver form prior to or during the hearing. The ALJ will dismiss the hearing if that signed/dated waiver form is received.

Scheduling an Administrative Disqualification Hearing

Legal reference: 7 CFR 273.16(e)(3), (4), 441 IAC 7.22(217)

The DIA Administrative Hearings Division provides written notice to the suspected household member on the *Notice of IPV Hearing* at least 30 days before the scheduled hearing. The notice is sent by first class mail to the last known valid address. If the notice is returned as undeliverable, the judge is required to proceed with the hearing.

The time and place of the hearing must be arranged so that the hearing is accessible to the household member suspected of intentional program violation. Hearings are generally conducted over the telephone. An in-person hearing will be held at the request of the household member suspected of committing the violation.

Consolidation of Hearings

Legal reference: 7 CFR 273.16(e)(1)

Appeal hearings and administrative disqualification hearings may be combined if the issues arise out of the same or related circumstances and due notice has been provided the person by the DIA Administrative Hearings Division. If the hearings are combined, the timeliness standards for conducting disqualification hearings apply.

If the hearings are combined for the purpose of setting the amount of the claim at the same time as determining whether or not an IPV has occurred, the household will lose its right to a subsequent hearing on the amount of the claim.

Conduct of the Hearing

Legal reference: 7 CFR 273.16(e)(2)

Hearings are conducted in accordance with procedures in 1-E, [Rights of Appellants During Hearings](#), by an administrative law judge from the DIA Administrative Hearings Division. Final decisions may be appealed to the Iowa district court, the same as for other appeal hearings.

At the administrative disqualification hearing, the administrative law judge advises the household member or representative that he or she may refuse to answer questions during the hearing. The household member is advised of this right because the information may be used in a civil action by the state or federal government.

When a Client Does Not Attend a Hearing

Legal reference: 7 CFR 273.16(e)(4)

If the household member or the household's representative fails to appear at the hearing, the hearing will be conducted without the household member represented.

The judge considers the evidence and determines if there is clear and convincing evidence that an intentional program violation was committed.

A client who does not appear for the hearing may request review of the proposed decision and provide the reason for not attending. A client can claim good cause up to 30 calendar days after the proposed decision is issued. The county office will have the opportunity to respond to the client's request for review. Then the file will be returned to DIA for the judge to determine if good cause for not attending the hearing exists.

If the judge determines that good cause does exist, the file will be reopened and a new hearing will be set.

Criteria for Determining Intentional Program Violation

Legal reference: 7 CFR 273.16(e)(6)

The administrative law judge must base the determination of intentional program violation on clear and convincing evidence that demonstrates the person committed, and intended to commit, an intentional program violation. It is your responsibility to gather the evidence the administrative law judge uses to make a decision. Clear and convincing evidence lies somewhere between a preponderance of proof and evidence beyond a reasonable doubt. Evidence that will help document and support your case includes:

- ◆ Documentation of prior failure to report changes.
- ◆ Documentation of prior failure to provide accurate information.
- ◆ Documentation of prior IPV decision.
- ◆ A copy of the judgment in a criminal court conviction.
- ◆ A copy of the *Confession of Judgment*, if household admitted the overissuance to DIA.

Time Frames

Legal reference: 7 CFR 273.16(e)(2)

The DIA Administrative Hearings Division must conduct the hearing and issue a proposed decision, and the DHS Appeals Section must notify the household and the county office of the final decision within 90 days of the date the household member is notified in writing that the hearing has been scheduled. The household member or the appeals advisory committee may request a review, as in all other appeals.

The household member or representative is entitled to a postponement of the hearing of up to 30 days, provided that the request is made at least ten days in advance of the scheduled hearing date. If the hearing is postponed, the 90-day time limit is extended for as many days as the hearing is postponed.

Appealing the Decision

Legal reference: 7 CFR 273.16(e)(8)(ii)

No further administrative appeal procedure exists after the final decision of an adverse disqualification hearing is issued. The determination of intentional program violation cannot be reversed by a subsequent hearing decision. However, the household member is free to appeal the case to the Iowa district court.

Filing of a court appeal does not stop the Department from imposing the disqualification penalty. The period of disqualification may be subject to stay if a client files for judicial review and requests a stay order preventing the Department from implementing the disqualification period. A stay order must be issued by the court.

Court Referrals

This section deals with court hearings initiated by the DIA Investigations Division. It does not relate to judicial reviews of administrative disqualification hearings. The following subsections describe:

- ◆ [When to refer a case for a court hearing](#)
- ◆ [How to refer a case for a court hearing](#)
- ◆ [How to process a court conviction](#)
- ◆ [Procedures when a disqualification decision is reversed](#)

When to Refer a Case for a Court Hearing

Legal reference: 7 CFR 273.16(a) and (g)

Refer the following types of cases to the DIA Investigations Division for a court hearing:

- ◆ Cases where the SNAP claim is over \$1,000.
- ◆ Cases where the combined claims for all programs are over \$1,000 and you believe there may have been an intentional program violation.

Refer a person for a court hearing regardless of the current eligibility of the person.

How to Refer a Case for a Court Hearing

Legal reference: 7 CFR 273.16(a) and (g)

In the web-based Overpayment Recovery (WOPR) system, the fraud referral screen is visible when a court hearing is needed as explained above. This referral screen must be completed before submitting the claim, or an error message will be received. Submission of this screen completes the referral process.

The Investigations Division will send form 427-0500, *Overpayment Recovery Case Status*, giving the status of the referral. When there are changes in status of the referral, final court decisions, or any necessary action, the Investigations Division will send form 427-0500. Review the criteria for initiating a referral for administrative disqualification hearing if the prosecution action has been declined or withdrawn.

How to Process a Court Conviction

Legal reference: 7 CFR 273.16(g)(3)

If the court finds that the household member committed a fraudulent act involving SNAP, you will receive notification from the DIA Investigations Division.

A separate referral for an administrative disqualification hearing is not necessary. The appropriate disqualification period shall be imposed based on the decision of the court.

When a Disqualification Decision Is Reversed

Legal reference: 7 CFR 273.16(j)

If a determination of intentional program violation is reversed by a court decision, the Appeals Section will notify you whether to restore lost benefits.

Penalties for Intentional Program Violation (IPV)

Legal reference: 7 CFR 273.16(b) and 273.18(c)(2)ii; 441 IAC 65.21(5)

The penalty for being found guilty of committing an IPV is disqualification from participating in SNAP. The disqualification period depends on whether the finding was made through an administrative disqualification (including waiver of hearing) or court hearing, as explained below.

Apply the penalty only after a person is found to have committed an IPV through an administrative disqualification hearing, signed waiver, or court hearing. Disqualify only the person found to have committed the IPV. One or more IPV's that occurred before April 1, 1983, are considered as one previous disqualification when determining these penalties.

IPV Determined Through Administrative Disqualification Hearing or Signed Waiver

If the finding is that a person committed an IPV:

- ◆ By falsely representing identity or residency in order to get SNAP benefits in more than one household at the same time, the person is ineligible to participate in the program:
 - For 10 years for the first or second violation.
 - Permanently for the third violation.
- ◆ For any other reason, including trafficking of benefits less than \$500, the person is ineligible to participate in SNAP:
 - For 12 months for the first violation.
 - For 24 months for the second violation.
 - Permanently for the third violation.

IPV Determined Through Court Hearing

If the finding by a federal, state, or local court is that the person committed an IPV, impose the disqualification period as ordered by the court. If the order does not specify a disqualification period, impose the period as explained below. If the finding is that the person committed an IPV:

- ◆ By using or receiving benefits in a transaction involving the sale of a controlled substance, the person is ineligible to participate in the program:
 - For 24 months for the first violation.
 - Permanently for the second violation.
- ◆ By trafficking SNAP benefits of \$500 or more, the person is ineligible to participate in the program permanently for the first violation. (See 7-A, [Definitions](#), for the definition of “trafficking.”)
- ◆ By trading firearms, ammunition, or explosives for SNAP benefits, the person is ineligible to participate in the program permanently for the first violation.
- ◆ For any other reason, the penalties are no different than they are through an administrative disqualification hearing.

Imposing the Disqualification Period

Legal reference: 7 CFR 273.16(e)(8)(i), (iii), and (iv)

When the person is found to have committed an intentional program violation, disqualify that person the first month that action can be taken following the final decision. If a client chooses the Waiver of Administrative Disqualification Hearing, the Appeals Unit will contact the worker to implement the IPV. Once the disqualification period begins, it continues uninterrupted until completed, regardless of the household's eligibility. Regardless of whether or not the person is actively on benefits at the time of disqualification, always start the disqualification period on the first of the month.

Notification must be in writing. The DHS Appeals Section will send you the form to use to take action and notify the client.

1. Ms. A is found guilty of a first IPV and the final decision is issued March 5, 2017. Ms. A received March SNAP benefits. Ms. A is removed from the SNAP household effective April 1, 2017, as this is the first month that action can be taken with timely notice. The IPV disqualification starts April 1, 2017.
2. Mr. B is found guilty of a first IPV and the final decision is issued March 30, 2017. Mr. B received March SNAP benefits and will receive April benefits. Mr. B is removed from the SNAP household effective May 1, 2017, as this is the first month that action can be taken with timely notice. The IPV disqualification starts May 1, 2017.
3. Ms. C is found guilty of a first IPV. The final decision is issued March 25, 2017. Ms. C is not active for SNAP in March because she did not reapply after her previous certification expired in January. Since there are no benefits to cancel, timely notice is not an issue. The IPV disqualification starts the first day of the next month, April 1, 2017.
4. Mr. D signs the *Waiver of Administrative Disqualification Hearing* 470-5530 to accept the IPV. Upon receipt of the signed waiver, the Appeals Unit will notify the worker to impose the IPV.

See [7-I](#) for the treatment of income and resources of household members who are ineligible because of an intentional program violation.

Restitution

Legal reference: 7 CFR 273.16(b)

The remaining household members must agree to make restitution within 30 days of the date the DIA Investigations Division mails the written demand letter to the household. All restitution must be made in accordance with established procedures for cash or coupon repayment or allotment reduction. (See 7-H, [Intentional Program Violation Claim](#).)

If the household members do not agree to make restitution or fail to make restitution, the household's monthly allotment will be reduced.