



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised August 2023

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison	f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address		
h. Date of Public Notice	i. Comment Period End Date	
j. Public Comment URL or Email Address:		
k. Program		
Amended Program Name (if applicable):		
* ☐ By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.		

2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

☐ No. ☐ Yes. If the rules are new, please provide the Legislative Chapter Number and Year Enacted:	Chapter:	Year:
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3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

Chapter Number:	Chapter Name:	☐ New ☐ Amended ☐ Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	☐ New ☐ Amended ☐ Repealed
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Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	☐ New ☐ Amended ☐ Repealed
Amended Chapter Name (if applicable):		

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. ☐ No. ☐ Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

b. What is the manner in which interested persons may present their views on the rulemaking action?

☐ By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

☐ To the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. ☐ No. ☐ Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:	
	Indicate one (1): ☐ The proposed rules meet, but do not exceed, minimum federal requirements. ☐ The proposed rules exceed minimum federal requirements.
	Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to: ☐ To the Agency at the physical and/or email address listed in Section 1 above. ☐ At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

☐ The proposed rule change *MEETS* minimum substantive statutory requirements.

☐ The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. ☐ The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

☐ By contacting the Agency at the physical and/or email address listed in Section 1 above.

☐ At the following URL: _____

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

☐ These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

☐ The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

(Provide chapter numbers)

☐ These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

(Provide chapter numbers)

b. Checklist

☐ The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

☐ If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual

Title of Authorized Individual

Date of Authorization

Wyoming Department of Family Services

Eligibility Integrity Unit

STATEMENT OF REASONS

Currently in the Secretary of State's Rules database, the Overpayment Recovery Program (ORP) is part of an administrative division of the Department of Family Services (Department) and rules were promulgated in 1992. The Department has worked extensively with the Wyoming Attorney Generals' Office (AGO), and in accordance with advice from them, the Department is repealing the 1992 ORP rules in their entirety and simultaneously creating a new program entitled the Eligibility Integrity Unit (EIU) and promulgating applicable rules. The repeal of ORP is being completed, in lieu of strike and underscore, as it would be too cumbersome and difficult to follow the track changes of the existing Rules due to the amount of changes necessary. Also, the Administrative Rules have been updated to align more consistently with current Regulations in order to more accurately portray current structure, process and procedures; these processes and procedures have been in operation so there are no major changes that need to be brought to the forefront. The Department is promulgating the EIU Rules and repealing the ORP Rules as authorized under Wyoming Statute § 42-2-103.

Chapter 1 Eligibility Integrity Unit General Provisions

- Section 1. Authority
- Section 2. Purpose
- Section 3. Incorporation by Reference
- Section 4. Severability
- Section 5. Definitions

Chapter 2 Referrals for Claim Establishment of Overpaid Public Assistance Benefits

- Section 1. Types of Referrals for Claim Establishment
- Section 2. Claim Establishment Intake Process
- Section 3. Notice of Overpayment
- Section 4. Performance Requirement

Chapter 3 Referrals for Investigation

- Section 1. Types of Investigations
- Section 2. Investigative Activities
- Section 3. Potential Outcomes of Investigations

Chapter 4 Disqualification

- Section 1. Referrals for Disqualification
- Section 2. Factors Considered Before Making a Referral
- Section 3. Notice
- Section 4. Waiver
- Section 5. Disclosure Statement
- Section 6. Disqualification Hearing Process
- Section 7. Disqualification Appeal
- Section 8. Actions Taken Following the Disqualification Decision
- Section 9. Disqualification Penalties

Chapter 5 Prosecution

- Section 1. Investigative Report
- Section 2. Restitution
- Section 3. Subsequent to Conviction

Chapter 6 Collection

- Section 1. Methods of Collection
- Section 2. Acceptable Forms of Payment
- Section 3. Non-payment Outcomes
- Section 4. Compromise of SNAP Debts

Section 5. Termination and Reinstatement of SNAP Debts

Section 6. Compromise of Child Care Recipient Debts

Section 7. Termination of Child Care Recipient Debts

Section 8. Compromise of POWER Debts

Section 9. Termination of POWER Debts

Section 10. Termination of Medicaid Debts

Chapter 1

Eligibility Integrity Unit General Provisions

Section 1. Authority. These Rules of the Department of Family Services (Department) are promulgated pursuant to Wyoming Statute § 42-2-103(b)(xiv).

Section 2. Purpose. These Rules are adopted to implement a process for the Department and the Eligibility Integrity Unit (EIU) to investigate public assistance fraud, examine cases for possible erroneous public assistance benefits, sanction fraudulent activity by disqualification or prosecution, and pursue repayment of financial assistance that was incorrectly paid, pursuant to W.S. §42-2-112.

Section 3. Incorporation by Reference.

(a) For any rule or regulation incorporated by reference in these Rules:

(i) The Department has determined incorporation of the full text in these Rules would be unduly cumbersome or inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated rule or regulation is maintained at the Department's Office and is available for public inspection and copying at cost at the same location.

(b) The rule or regulation incorporated by reference is the Department's Chapter 1 – Contested Case hearing Procedures adopted by the Office of Administrative Hearings and effective on February 8, 2019, found at <https://rules.wyo.gov>

Section 4. Severability. If any provision of these Rules or the application thereof to any person, program, service or circumstance is held invalid, unconstitutional or contrary to federal or state law, the invalidity shall not affect other provisions or applications of these Rules. To the extent these Rules can be given effect without the invalid provision, the remaining provisions of these Rules are severable.

Section 5. Definitions.

(a) "Benefit Specialist" is a person who determines an applicant's eligibility for the public assistance programs administered by the Department.

(b) “Child Care Assistance Program” is a program for low-income families who need child care services in order to work or attend approved educational or training programs. The Child Care Assistance Program is funded under the Child Care Development Block Grant (CCDBG).

(c) “Claim” is a record that relates to an overpayment and depicts the month(s) of overpayment and the amount(s) overpaid for each month within that claim. A total amount of overpaid benefits is also reflected on the claim.

(d) “Claim Establishment Office” is the part of the EIU which is responsible for redetermining eligibility and establishing program claims.

(e) “Date of Discovery” is the date the potential overpayment is identified by the Department.

(f) “Date of Establishment” is the date the claim is authorized and established.

(g) “Delinquent Claim” is a claim that has not been paid by the due date and a satisfactory payment arrangement has not been established; or a payment arrangement has been established but a scheduled payment has not been made by the due date.

(h) “Disqualification” is an action that is taken against an adult recipient wherein they are not allowed to participate in the Supplemental Nutrition Assistance Program (SNAP), Personal Opportunities With Employment Responsibilities (POWER) or Child Care Assistance program(s) for a specified period of time.

(i) “Disqualification Hearing” is a formal hearing which is conducted to determine whether an intentional program violation occurred.

(j) “Electronic Benefits Transfer (EBT)” is the means through which public assistance benefits are transferred to electronic cards.

(k) “Eligibility Integrity Unit”, formerly known as the Prosecution Recovery Investigation Collection and Enforcement (PRICE) Unit, is the entity within the Department that is responsible for investigating allegations of public assistance fraud, establishing overpayments and the collection of overpayments.

(l) “Eligibility Investigator” is a person who is responsible for reviewing potential overpayment claim cases and making a redetermination of eligibility.

(m) “Hearing Officer” is a person authorized to conduct disqualification hearings and make a decision whether an IPV occurred.

(n) “Intentional Program Violation (IPV)” may occur when an individual intentionally:

- (i) made a false or misleading statement;
 - (ii) misrepresented, concealed or withheld facts; or
 - (iii) committed any act that constitutes a violation of SNAP, SNAP regulations, or any Wyoming State Statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of SNAP benefits or EBT cards.
- (o) “Investigator” is a person who is responsible for the investigation of allegations of public assistance fraud and who has the responsibility to collect any public assistance overpayments.
- (p) “Medicaid” is the medical assistance and services program for family and children, and those who are aged, blind or disabled pursuant to Title XIX of the Social Security Act and the Wyoming Medical Assistance and Services Act.
- (q) “Offset” means reducing the amount of the overpayment by the amount of an existing underpayment.
- (r) “Overpayment” means the amount of benefits issued to a household that exceeds the amount it was eligible to receive.
- (s) “Performance Requirement” is a specified eligibility child support or work condition an applicant or recipient must meet in order to receive a performance payment from a program.
- (t) “Personal Opportunities With Employment Responsibilities (POWER)” is a cash assistance program funded under the Temporary Assistance for Needy Families (TANF) block grant.
- (u) “Supplemental Nutrition Assistance Program (SNAP)” is a nutrition benefits program to supplement the food budget of needy families so they can purchase healthy food and move towards self-sufficiency.
- (v) “Trafficking” means the buying or selling of EBT cards or other benefit instruments for cash or consideration other than eligible food; or for the exchange of firearms, ammunition, explosives or controlled substances.
- (w) “Treasury Offset Program (TOP)” is a program administered through the United States Department of Treasury which allows states to collect outstanding SNAP debts, most commonly through tax intercepts.

Chapter 1

Eligibility Integrity Unit General Provisions

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Chapter 2

REFERRALS FOR CLAIM ESTABLISHMENT OF OVERPAID PUBLIC ASSISTANCE BENEFITS

Section 1. Types of Referrals for Claim Establishment. A referral for claim establishment shall be made when:

(a) The Department issued benefits for Supplemental Nutrition Assistance Program (SNAP), Personal Opportunities with Employment Responsibilities (POWER), Low Income Energy Assistance Program (LIEAP) or Child Care Assistance in error;

(b) The recipient inadvertently failed to report, or inaccurately reported a household circumstance or other event resulting in a potential overpayment while receiving public assistance benefits; or

(c) An Investigator believes an applicant or recipient committed an intentional program violation (IPV) against the program(s) for which he or she has applied for, or received a benefit from.

Section 2. Claim Establishment Intake Process.

(a) The Intake Process begins when a Department Benefit Specialist or an Investigator discovers a potential overpayment.

(b) The recipient's public assistance file is accessed through the Department's Electronic Document Imaging System.

(c) The Department's Benefit Specialist or an Investigator reviews the public assistance file to determine the time frame of the potential overpayment and to determine if other verification is required.

(d) Once verification is obtained, the Eligibility Investigator shall conduct a redetermination of public assistance benefits to ascertain whether benefits were overpaid.

Section 3. Notice of Overpayment.

(a) The Notice of Overpayment shall be sent to the debtor when the overpayment claim is established, except as provided in subsection (d) below.

(b) Content of Notice:

(i) The reason for the overpaid benefits;

(ii) The amount of the overpaid benefits;

(iii) The time frame of the overpaid benefits;

(iv) The error cause resulting in an overpayment claim, may be any of the following:

- (A) Agency;
 - (B) Inadvertent household error;
 - (C) Documented evidence; or
 - (D) Fraud when an overpayment claim initially designated as documented evidence is verified to have been an IPV.
- (v) The specifics of how and what was used to calculate the overpayment; and
- (vi) The name of the Investigator to contact for repayment arrangements.

(c) The adult(s) responsible for the overpayment may request an administrative hearing after receipt of the Notice of Overpayment, in accordance with the Department's Contested Case Hearing Rules and Procedures.

(d) When the investigative circumstances dictate that the case shall be referred to the prosecuting attorney, the Notice of Overpayment will not be sent. Should the prosecuting attorney decline the case, or if other circumstances arise and the case will not be pursued through the criminal courts, a Notice of Overpayment shall be sent at that time.

Section 4. Performance Requirement. As part of a performance requirement of the POWER and Child Care Assistance Program(s), recipients shall sign a repayment agreement in order to receive continued benefits from those programs.

Chapter 2

REFERRALS FOR CLAIM ESTABLISHMENT OF OVERPAID PUBLIC ASSISTANCE BENEFITS

Section 1. Types of Referrals for Claim Establishment. A referral for claim establishment shall be made when:

(a) The Department issued benefits for Supplemental Nutrition Assistance Program (SNAP), Personal Opportunities with Employment Responsibilities (POWER), Low Income Energy Assistance Program (LIEAP) or Child Care Assistance in error;

(b) The recipient inadvertently failed to report, or inaccurately reported a household circumstance or other event resulting in a potential overpayment while receiving public assistance benefits; or

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Chapter 3

REFERRALS FOR INVESTIGATION

Section 1. Types of Investigations. Referrals for investigation of public assistance fraud are received by the Eligibility Integrity Unit (EIU) and may involve, but are not limited to:

- (a) Household composition;
- (b) Unreported income;
- (c) Unreported assets;
- (d) Residency in question; or
- (e) Dual issuance of public assistance benefits from Wyoming and another state.

Section 2. Investigative Activities. Investigative activities may include, but are not limited to:

- (a) Obtain verification and statements from other governmental agencies or officials;
- (b) Identify, analyze and examine relevant records pertaining to the household's application and eligibility for public assistance benefits;
- (c) Interview various persons of interest; and
- (d) Make relevant inquiries necessary in order to substantiate or unsubstantiate allegations of fraud.

Section 3. Potential Outcomes of Investigations.

(a) If the allegations are unsubstantiated in the electronic case file, the EIU shall close the investigation.

(b) If the allegations are substantiated in the electronic case file, one (1) of the following determinations may result:

(i) If benefits were not overpaid:

(A) The adult(s) in the household may be referred for disqualification, if there is proof of an intentional program violation (IPV).

(ii) If benefits were overpaid:

(A) A program overpayment shall be established within the appropriate system; and

(B) The EIU shall send a Notice of Overpayment to the recipient, unless the case is referred to a persecutor for prosecution.

(C) All of the responsible parties shall be pursued for repayment;

(D) Adults may be referred to a prosecutor for criminal prosecution;
and

(E) If there is proof of an IPV, the adult(s) in the household may be referred for a disqualification.

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(ii) If benefits were overpaid:

(A) A program overpayment shall be established within the appropriate system; and

(B) The EIU shall send a Notice of Overpayment to the recipient, unless the case is referred to a persecutor for prosecution.

(C) All of the responsible parties shall be pursued for repayment;

(D) Adults may be referred to a prosecutor for criminal prosecution;
and

(E) If there is proof of an IPV, the adult(s) in the household may be referred for a disqualification.

Chapter 4

DISQUALIFICATION

Section 1. Referrals for Disqualification. Adult(s) may be referred for disqualification from Supplemental Nutrition Assistance Program (SNAP), Personal Opportunities with Employment Responsibilities (POWER) and/or Child Care, if evidence exists that an intentional program violation (IPV) occurred and a referral for a disqualification hearing is made by an Investigator.

Section 2. Factors Considered Before Making a Referral.

(a) When making a referral for a disqualification hearing, the Investigator may consider factors including, but not limited to:

- (i) Extent of the fraudulent activity;
- (ii) Duration of the fraudulent activity; and
- (iii) Documentation or information which supports an alleged IPV.

Section 3. Notice.

(a) The Eligibility Integrity Unit (EIU) shall send a written notice of the disqualification hearing to the individual suspected of committing an IPV at least thirty (30) days in advance of the date a disqualification hearing has been scheduled.

(b) The notice shall contain at a minimum:

- (i) The date, time and place of the disqualification hearing;
- (ii) The allegation(s) against the individual;
- (iii) A summary of how and where the Department's documentation and information can be examined;
- (iv) A statement that if the individual fails to appear at the disqualification hearing, the decision shall be based solely on documentation and information provided by the EIU;
- (v) A statement that in the event the individual fails to appear at the disqualification hearing, in order to receive a new disqualification hearing, the individual or the individual's representative shall have ten (10) days from the date of the scheduled hearing to present good cause for failure to appear;

(vi) A statement that a determination of an IPV shall result in a disqualification period, and

(vii) A statement of which penalty the Department believes is applicable to the case scheduled for a disqualification;

(viii) A listing of the individual's rights;

(ix) A statement that the disqualification hearing does not preclude the State or Federal Government from prosecuting the individual for the IPV in a civil or criminal court action, or from collecting any overpayment(s); and

(x) If there is an individual or organization available that provides free legal representation, a statement advising the individual of the availability of the service.

Section 4. Waiver.

(a) The EIU shall allow an individual suspected of committing an IPV to waive their rights to a disqualification hearing.

(i) The waiver shall be included in the advanced notice of disqualification hearing and instruct the individual that they have the right to waive their right to a disqualification hearing.

(b) The waiver shall include, at a minimum:

(i) The date the signed waiver must be received by the Department to avoid holding a disqualification hearing;

(ii) A signature block for the individual suspected of committing an IPV, along with a statement that the head of household must also sign the waiver, if the alleged individual is not the head of household;

(iii) A statement of the individual's right to remain silent concerning the allegation(s), and that anything said or signed may be used against the individual;

(iv) A statement indicating that signing the waiver shall result in a disqualification and a reduction in benefits for the period of disqualification, even if the individual does not admit to the allegations presented by the EIU;

(v) An opportunity for the individual to specify whether or not they admit to the allegations presented by the EIU;

(vi) The telephone number and name of the person at the EIU to contact for additional information; and

(vii) A statement that remaining non-disqualified adult household members, if any, shall also be held responsible for the repayment of any resulting claim(s).

Section 5. Disclosure Statement. The Investigator shall prepare and submit a Disclosure Statement to the Hearing Officer no later than fourteen (14) days prior to the hearing. The adult(s) named in the action may submit a response to the Disclosure Statement no later than seven (7) days prior to the hearing.

Section 6. Disqualification Hearing Process.

(a) Attendance.

(i) The Investigator, as a representative of the Department, the Petitioner, shall attend the disqualification hearing.

(ii) The individual alleged to have committed an IPV, the Respondent, shall attend the disqualification hearing, unless the individual has executed a Waiver pursuant to Section 4 of this Chapter.

(A) The Respondent has the right to have legal counsel or other representation present at the hearing.

(B) With the consent of the Respondent, friends or relatives of the Respondent may attend the hearing. However, the Hearing Officer may limit the number of persons in attendance if space limitations exist.

(b) The Hearing Officer shall address the parties present and;

(i) Explain the rights guaranteed by the Administrative Hearing Process;

(ii) Explain the applicable rules and potential penalties; and

(iii) Administer an oath to all parties identified to testify.

(c) Burden of Proof. The Department shall, by clear and convincing evidence, prove the Respondent committed an IPV.

(d) Each party shall have the opportunity to present an opening statement.

(e) Each party shall have the opportunity to present evidence and testimony.

(f) Each party shall have the opportunity to make a closing statement.

Section 7. Disqualification Appeal.

- (a) No administrative appeal procedure exists after an individual waives their right to a disqualification hearing and the penalty has been imposed.
- (b) An individual may appeal the disqualification decision in the District Court of appropriate jurisdiction, as outlined in Chapter 1 of the Department's rule for Contested Case Hearing Procedures.
- (c) The imposed disqualification period may be subject to stay by the District Court.
- (d) In cases where the District Court reverses the disqualification for an IPV, the Department shall purge the file of the information related to the reversed disqualification.
- (e) In cases where the District Court reverses the determination of an IPV, the Department shall reinstate the individual in the program(s) if they are eligible. The Department shall further restore any benefits that were lost as a result of the disqualification in accordance with program regulations.

Section 8. Actions Taken Following the Disqualification Decision.

- (a) When the Disqualification Hearing Officer makes a finding of an IPV:
 - (i) The Department shall enter information regarding a SNAP IPV into the electronic disqualification recipient system (eDRS).
 - (ii) If a household is responsible for an overpayment claim associated with an IPV, the Investigator shall ensure appropriate coding is made to the Eligibility Payment Information Computer System (EPICS) to reflect the finding of an IPV, and the total household benefits shall be reduced by twenty percent (20%).
- (b) When the Disqualification Hearing Officer makes a finding of no IPV:
 - (i) If a household is responsible for an overpayment associated with the allegation, as long as the household remains open for SNAP or POWER, the appropriate coding shall be made to the EPICS to reflect the finding of no IPV, and the total household benefits shall be reduced by ten percent (10%).

Section 9. Disqualification Penalties.

- (a) For SNAP:

(i) Individuals found to have committed an IPV either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed a Waiver of Right to an Administrative Disqualification shall be ineligible to participate in the program:

- (A) For a period of twelve (12) months for the first IPV;
- (B) For a period of twenty-four (24) months upon the second occasion of an IPV; or
- (C) Permanently for the third occasion of an IPV.

(ii) Individuals convicted by a Federal, State or local court to have used or received benefits in a transaction involving the sale of a controlled substance as defined by federal law shall be ineligible to participate in the program:

(A) For a period of twenty-four (24) months upon the first occasion of such violation; and

(B) Permanently upon the second occasion of such violation.

(iii) Individuals convicted by a Federal, State or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.

(iv) An individual convicted by a Federal, State or local court of having trafficked benefits for an aggregate amount of five hundred dollars (\$500.00) or more shall be permanently ineligible to participate in the program upon the first occasion of such violation.

(v) An individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the program for a period of ten (10) years.

(vi) The penalties in paragraphs (i), (ii) and (iii) of this section shall also apply in cases of deferred adjudication.

(vii) If a court of law fails to impose a disqualification penalty period for an IPV, the Department shall impose the appropriate disqualification penalty as specified in paragraphs (a)(i) - (v), unless it is contrary to the court order.

(b) For POWER:

(i) Individuals found to have committed an IPV either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed a

waiver of right to an administrative disqualification hearing shall be ineligible to participate in the program:

- (A) For a period of twelve (12) months for the first IPV;
- (B) For a period of twenty-four (24) months upon the second occasion of an IPV; or
- (C) Permanently for the third occasion of an IPV.

(ii) An individual found to have made a fraudulent statement or representation with respect to the individual's place of residence in order to receive multiple Temporary Assistance for Needy Families (TANF) benefits simultaneously shall be ineligible to participate in the program for a period of ten (10) years.

(c) For Child Care:

(i) The adult in the child care assistance unit shall be disqualified if found guilty of an IPV in an administrative hearing, federal, state or local court, until full restitution is paid and the sentence is completed;

(ii) The adult in the child care assistance unit shall be disqualified if given a deferred prosecution, until full restitution of all erroneous payments is paid, and the sentence is completed; or,

(iii) The adult in the child care assistance unit shall be disqualified if they were not prosecuted, but waived their right to a hearing or were found guilty of an IPV after the disqualification hearing as follows:

- (A) Twelve (12) months for the first disqualification;
- (B) Twenty-four (24) months for the second disqualification; or
- (C) Permanently, for the third disqualification.

Chapter 4

DISQUALIFICATION

Section 1. Referrals for Disqualification. Adult(s) may be referred for disqualification from Supplemental Nutrition Assistance Program (SNAP), Personal Opportunities with Employment Responsibilities (POWER) and/or Child Care, if evidence exists that an intentional program violation (IPV) occurred and a referral for a disqualification hearing is made by an Investigator.

Section 2. Factors Considered Before Making a Referral.

(a) When making a referral for a disqualification hearing, the Investigator may consider factors including, but not limited to:

- (i) Extent of the fraudulent activity;
- (ii) Duration of the fraudulent activity; and
- (iii) Documentation or information which supports an alleged IPV.

Section 3. Notice.

(a) The Eligibility Integrity Unit (EIU) shall send a written notice of the disqualification hearing to the individual suspected of committing an IPV at least thirty (30) days in advance of the date a disqualification hearing has been scheduled.

(b) The notice shall contain at a minimum:

- (i) The date, time and place of the disqualification hearing;
- (ii) The allegation(s) against the individual;
- (iii) A summary of how and where the Department's documentation and information can be examined;
- (iv) A statement that if the individual fails to appear at the disqualification hearing, the decision shall be based solely on documentation and information provided by the EIU;
- (v) A statement that in the event the individual fails to appear at the disqualification hearing, in order to receive a new disqualification hearing, the individual or the individual's representative shall have ten (10) days from the date of the scheduled hearing to present good cause for failure to appear;

- (vi) A statement that a determination of an IPV shall result in a disqualification period, and
- (vii) A statement of which penalty the Department believes is applicable to the case scheduled for a disqualification;
- (viii) A listing of the individual's rights;
- (ix) A statement that the disqualification hearing does not preclude the State or Federal Government from prosecuting the individual for the IPV in a civil or criminal court action, or from collecting any overpayment(s); and
- (x) If there is an individual or organization available that provides free legal representation, a statement advising the individual of the availability of the service.

Section 4. Waiver.

- (a) The EIU shall allow an individual suspected of committing an IPV to waive their rights to a disqualification hearing.
 - (i) The waiver shall be included in the advanced notice of disqualification hearing and instruct the individual that they have the right to waive their right to a disqualification hearing.
 - (b) The waiver shall include, at a minimum:
 - (i) The date the signed waiver must be received by the Department to avoid holding a disqualification hearing;
 - (ii) A signature block for the individual suspected of committing an IPV, along with a statement that the head of household must also sign the waiver, if the alleged individual is not the head of household;
 - (iii) A statement of the individual's right to remain silent concerning the allegation(s), and that anything said or signed may be used against the individual;
 - (iv) A statement indicating that signing the waiver shall result in a disqualification and a reduction in benefits for the period of disqualification, even if the individual does not admit to the allegations presented by the EIU;
 - (v) An opportunity for the individual to specify whether or not they admit to the allegations presented by the EIU;

(vi) The telephone number and name of the person at the EIU to contact for additional information; and

(vii) A statement that remaining non-disqualified adult household members, if any, shall also be held responsible for the repayment of any resulting claim(s).

Section 5. Disclosure Statement. The Investigator shall prepare and submit a Disclosure Statement to the Hearing Officer no later than fourteen (14) days prior to the hearing. The adult(s) named in the action may submit a response to the Disclosure Statement no later than seven (7) days prior to the hearing.

Section 6. Disqualification Hearing Process.

(a) Attendance.

(i) The Investigator, as a representative of the Department, the Petitioner, shall attend the disqualification hearing.

(ii) The individual alleged to have committed an IPV, the Respondent, shall attend the disqualification hearing, unless the individual has executed a Waiver pursuant to Section 4 of this Chapter.

(A) The Respondent has the right to have legal counsel or other representation present at the hearing.

(B) With the consent of the Respondent, friends or relatives of the Respondent may attend the hearing. However, the Hearing Officer may limit the number of persons in attendance if space limitations exist.

(b) The Hearing Officer shall address the parties present and;

(i) Explain the rights guaranteed by the Administrative Hearing Process;

(ii) Explain the applicable rules and potential penalties; and

(iii) Administer an oath to all parties identified to testify.

(c) Burden of Proof. The Department shall, by clear and convincing evidence, prove the Respondent committed an IPV.

(d) Each party shall have the opportunity to present an opening statement.

(e) Each party shall have the opportunity to present evidence and testimony.

(f) Each party shall have the opportunity to make a closing statement.

Section 7. Disqualification Appeal.

- (a) No administrative appeal procedure exists after an individual waives their right to a disqualification hearing and the penalty has been imposed.
- (b) An individual may appeal the disqualification decision in the District Court of appropriate jurisdiction, as outlined in Chapter 1 of the Department's rule for Contested Case Hearing Procedures.
- (c) The imposed disqualification period may be subject to stay by the District Court.
- (d) In cases where the District Court reverses the disqualification for an IPV, the Department shall purge the file of the information related to the reversed disqualification.
- (e) In cases where the District Court reverses the determination of an IPV, the Department shall reinstate the individual in the program(s) if they are eligible. The Department shall further restore any benefits that were lost as a result of the disqualification in accordance with program regulations.

Section 8. Actions Taken Following the Disqualification Decision.

- (a) When the Disqualification Hearing Officer makes a finding of an IPV:
 - (i) The Department shall enter information regarding a SNAP IPV into the electronic disqualification recipient system (eDRS).
 - (ii) If a household is responsible for an overpayment claim associated with an IPV, the Investigator shall ensure appropriate coding is made to the Eligibility Payment Information Computer System (EPICS) to reflect the finding of an IPV, and the total household benefits shall be reduced by twenty percent (20%).
- (b) When the Disqualification Hearing Officer makes a finding of no IPV:
 - (i) If a household is responsible for an overpayment associated with the allegation, as long as the household remains open for SNAP or POWER, the appropriate coding shall be made to the EPICS to reflect the finding of no IPV, and the total household benefits shall be reduced by ten percent (10%).

Section 9. Disqualification Penalties.

- (a) For SNAP:

(i) Individuals found to have committed an IPV either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed a Waiver of Right to an Administrative Disqualification shall be ineligible to participate in the program:

- (A) For a period of twelve (12) months for the first IPV;
- (B) For a period of twenty-four (24) months upon the second occasion of an IPV; or
- (C) Permanently for the third occasion of an IPV.

(ii) Individuals convicted by a Federal, State or local court to have used or received benefits in a transaction involving the sale of a controlled substance as defined by federal law shall be ineligible to participate in the program:

- (A) For a period of twenty-four (24) months upon the first occasion of such violation; and
- (B) Permanently upon the second occasion of such violation.

(iii) Individuals convicted by a Federal, State or local court to have used or received benefits in a transaction involving the sale of firearms, ammunition or explosives shall be permanently ineligible to participate in the program upon the first occasion of such violation.

(iv) An individual convicted by a Federal, State or local court of having trafficked benefits for an aggregate amount of five hundred dollars (\$500.00) or more shall be permanently ineligible to participate in the program upon the first occasion of such violation.

(v) An individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously shall be ineligible to participate in the program for a period of ten (10) years.

(vi) The penalties in paragraphs (i), (ii) and (iii) of this section shall also apply in cases of deferred adjudication.

(vii) If a court of law fails to impose a disqualification penalty period for an IPV, the Department shall impose the appropriate disqualification penalty as specified in paragraphs (a)(i) - (v), unless it is contrary to the court order.

(b) For POWER:

(i) Individuals found to have committed an IPV either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed a

waiver of right to an administrative disqualification hearing shall be ineligible to participate in the program:

- (A) For a period of twelve (12) months for the first IPV;
- (B) For a period of twenty-four (24) months upon the second occasion
of an IPV; or
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(ii) An individual found to have made a fraudulent statement or representation with respect to the individual's place of residence in order to receive multiple Temporary Assistance for Needy Families (TANF) benefits simultaneously shall be ineligible to participate in the program for a period of ten (10) years.

(c) For Child Care:

(i) The adult in the child care assistance unit shall be disqualified if found guilty of an IPV in an administrative hearing, federal, state or local court, until full restitution is paid and the sentence is completed;

(ii) The adult in the child care assistance unit shall be disqualified if given a deferred prosecution, until full restitution of all erroneous payments is paid, and the sentence is completed; or,

(iii) The adult in the child care assistance unit shall be disqualified if they were not prosecuted, but waived their right to a hearing or were found guilty of an IPV after the disqualification hearing as follows:

- (A) Twelve (12) months for the first disqualification;
- (B) Twenty-four (24) months for the second disqualification; or
- (C) Permanently, for the third disqualification.

Chapter 5

PROSECUTION

Section 1. Investigative Report.

(a) Allegations of public assistance fraud may result in the Department submitting an Investigative Report to a prosecuting attorney, who may decide to file criminal charges.

(b) Factors considered before making a referral to a prosecutor may include, but are not limited to:

- (i) Extent of the fraudulent activity;
- (ii) Duration of the fraudulent activity;
- (iii) Documentation and information supporting the fraudulent activity; or
- (iv) Amount of the overpayment.

Section 2. Restitution. The Investigator shall request restitution of the total amount of the overpayment be included as part of the Judgment and Sentence.

Section 3. Subsequent to Conviction.

(a) The Investigator shall monitor the repayment of the restitution and work with the Wyoming Department of Corrections, as appropriate, to assure repayment of restitution.

(b) Upon receipt of the criminal Judgment, the convicted adult shall be referred for a program disqualification, as appropriate.

(c) If restitution is not paid, the Department may seek to obtain a civil judgment in order to obtain repayment.

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(b) Upon receipt of the criminal Judgment, the convicted adult shall be referred for a program disqualification, as appropriate.

(c) If restitution is not paid, the Department may seek to obtain a civil judgment in order to obtain repayment.

Chapter 6

COLLECTION

Section 1. Methods of Collection. The Department of Family Services (Department) may collect an established overpayment through any method described in this Chapter. The Eligibility Investigator shall notify the responsible individual or adult recipient who was overpaid public assistance benefits of the amount, reason, time frame covering debt, how the debt was calculated and who to contact to arrange repayment.

Section 2. Acceptable Forms of Payment.

(a) If a recipient has an open Supplemental Nutrition Assistance Program (SNAP) or Personal Opportunities with Employment Responsibilities (POWER) case, a portion of their benefit shall automatically be deducted from their household's monthly amount until the SNAP or POWER overpayment claim is paid in full.

(b) Voluntary payment shall be accepted in any form acceptable to the Department including money orders, personal checks, electronic funds transfers, electronic benefit transfers, credit card payments, or cash.

Section 3. Non-payment Outcomes.

(a) The following involuntary collection actions may be applied to the individual responsible for repayment:

(i) For SNAP, offset through the United States Treasury Offset Program (TOP);
or

(ii) For any public assistance program overpayment, filing of a civil action, which may result in, but is not limited to:

(A) Garnishment of earnings or bank accounts; or

(B) Liens.

Section 4. Compromise of SNAP Debts.

(a) A portion of the debt may be compromised:

(i) If the household circumstances warrant;

(ii) With an agreement between DFS and the individual that the remaining balance shall be paid within a specified time; and

(iii) With the approval of the Eligibility Integrity Unit Manager.

(b) The full amount of the debt may be compromised based on the household's economic circumstances which dictate that the claim will not be paid in three (3) years; however, the debt must be active for the TOP.

Section 5. Termination and Reinstatement of SNAP Debts.

(a) A SNAP debt shall be terminated if:

(i) After a claim is established, the EIU determines that the claim is invalid.

(ii) All adult household members die, unless recovery is expected to be pursued against the estate.

(iii) The claim balance is twenty-five dollars (\$25.00) or less and the claim has been delinquent for ninety (90) days or more, unless other claims exist against the household resulting in an aggregate claim total of greater than twenty-five dollars (\$25.00).

(iv) It is determined that it is not cost effective to pursue the claim any further.

(v) The claim is delinquent for three (3) years or more, unless the debt will be pursued through the TOP.

(vi) The household cannot be located after reasonable efforts.

(vii) If bankruptcy is filed, unless the debt is associated with an intentional program violation (IPV) or criminal adjudication.

(b) A SNAP debt may be reinstated if a new collection method or unforeseen event substantially increases the likelihood of further collection.

Section 6. Compromise of Child Care Recipient Debts.

(a) A portion of the debt may be compromised:

(i) If the household circumstances warrant;

(ii) With an agreement between the Department and the individual that the remaining balance shall be paid within a specified time; and

(iii) With the approval of the Eligibility Integrity Unit Manager.

Section 7. Termination of Child Care Recipient Debts.

- (a) A Child Care debt shall be terminated if:
 - (i) After a claim is established, the Department determines that the claim is invalid;
 - (ii) All adult household members die, unless recovery is expected to be pursued against the estate;
 - (iii) Bankruptcy is filed, unless the debt is associated with an IPV; or
 - (iv) The overpayment is older than five (5) years and has been delinquent for three (3) or more years.

Section 8. Compromise of POWER Debts.

- (a) A portion of the debt may be compromised:
 - (i) If the household circumstances warrant;
 - (ii) With an agreement between the Department and the individual that the remaining balance shall be paid within a specified time; and
 - (iii) With the approval of the Eligibility Integrity Unit Manager.

Section 9. Termination of POWER Debts.

- (a) A POWER debt shall be terminated if:
 - (i) After a claim is established, the Department determines that the claim is invalid;
 - (ii) All adult household members die, unless recovery is expected to be pursued against the estate.
 - (iii) Bankruptcy is filed, unless the debt is associated with an IPV;
 - (iv) The overpayment is older than five (5) years and has been delinquent for three (3) or more years;
 - (v) The overpayment amount is less than thirty-five dollars (\$35.00) and the individual is no longer receiving public assistance; or

(vi) The overpayment amount owed by an individual no longer receiving public assistance is thirty-five dollars (\$35.00) or more and the Department determines that it is no longer cost-effective to continue overpayment recovery as long as reasonable efforts were made to recover the debt.

Section 10. Termination of Medicaid Debts.

(a) A Medicaid debt shall be terminated if:

(i) The case was established at least ten (10) years prior to request for termination;

(ii) The last payment was credited to the debt at least three (3) years prior to the request for termination;

(iii) The inability to repay the debt is documented and warranted; and

(iv) Attempts to locate the debtor have been unsuccessful.

Chapter 6

COLLECTION

Section 1. Methods of Collection. The Department of Family Services (Department) may collect an established overpayment through any method described in this Chapter. The Eligibility Investigator shall notify the responsible individual or adult recipient who was overpaid public assistance benefits of the amount, reason, time frame covering debt, how the debt was calculated and who to contact to arrange repayment.

Section 2. Acceptable Forms of Payment.

(a) If a recipient has an open Supplemental Nutrition Assistance Program (SNAP) or Personal Opportunities with Employment Responsibilities (POWER) case, a portion of their benefit shall automatically be deducted from their household's monthly amount until the SNAP or POWER overpayment claim is paid in full.

(b) Voluntary payment shall be accepted in any form acceptable to the Department including money orders, personal checks, electronic funds transfers, electronic benefit transfers, credit card payments, or cash.

Section 3. Non-payment Outcomes.

(a) The following involuntary collection actions may be applied to the individual responsible for repayment:

(i) For SNAP, offset through the United States Treasury Offset Program (TOP);
or

(ii) For any public assistance program overpayment, filing of a civil action, which may result in, but is not limited to:

(A) Garnishment of earnings or bank accounts; or

(B) Liens.

Section 4. Compromise of SNAP Debts.

(a) A portion of the debt may be compromised:

(i) If the household circumstances warrant;

(ii) With an agreement between DFS and the individual that the remaining balance shall be paid within a specified time; and

(iii) With the approval of the Eligibility Integrity Unit Manager.

(b) The full amount of the debt may be compromised based on the household's economic circumstances which dictate that the claim will not be paid in three (3) years; however, the debt must be active for the TOP.

Section 5. Termination and Reinstatement of SNAP Debts.

(a) A SNAP debt shall be terminated if:

(i) After a claim is established, the EIU determines that the claim is invalid.

(ii) All adult household members die, unless recovery is expected to be pursued against the estate.

(iii) The claim balance is twenty-five dollars (\$25.00) or less and the claim has been delinquent for ninety (90) days or more, unless other claims exist against the household resulting in an aggregate claim total of greater than twenty-five dollars (\$25.00).

(iv) It is determined that it is not cost effective to pursue the claim any further.

(v) The claim is delinquent for three (3) years or more, unless the debt will be pursued through the TOP.

(vi) The household cannot be located after reasonable efforts.

(vii) If bankruptcy is filed, unless the debt is associated with an intentional program violation (IPV) or criminal adjudication.

(b) A SNAP debt may be reinstated if a new collection method or unforeseen event substantially increases the likelihood of further collection.

Section 6. Compromise of Child Care Recipient Debts.

(a) A portion of the debt may be compromised:

(i) If the household circumstances warrant;

(ii) With an agreement between the Department and the individual that the remaining balance shall be paid within a specified time; and

(iii) With the approval of the Eligibility Integrity Unit Manager.

Section 7. Termination of Child Care Recipient Debts.

- (a) A Child Care debt shall be terminated if:
 - (i) After a claim is established, the Department determines that the claim is invalid;
 - (ii) All adult household members die, unless recovery is expected to be pursued against the estate;
 - (iii) Bankruptcy is filed, unless the debt is associated with an IPV; or
 - (iv) The overpayment is older than five (5) years and has been delinquent for three (3) or more years.

Section 8. Compromise of POWER Debts.

- (a) A portion of the debt may be compromised:
 - (i) If the household circumstances warrant;
 - (ii) With an agreement between the Department and the individual that the remaining balance shall be paid within a specified time; and
 - (iii) With the approval of the Eligibility Integrity Unit Manager.

Section 9. Termination of POWER Debts.

- (a) A POWER debt shall be terminated if:
 - (i) After a claim is established, the Department determines that the claim is invalid;
 - (ii) All adult household members die, unless recovery is expected to be pursued against the estate.
 - (iii) Bankruptcy is filed, unless the debt is associated with an IPV;
 - (iv) The overpayment is older than five (5) years and has been delinquent for three (3) or more years;
 - (v) The overpayment amount is less than thirty-five dollars (\$35.00) and the individual is no longer receiving public assistance; or

(vi) The overpayment amount owed by an individual no longer receiving public assistance is thirty-five dollars (\$35.00) or more and the Department determines that it is no longer cost-effective to continue overpayment recovery as long as reasonable efforts were made to recover the debt.

Section 10. Termination of Medicaid Debts.

(a) A Medicaid debt shall be terminated if:

(i) The case was established at least ten (10) years prior to request for termination;

(ii) The last payment was credited to the debt at least three (3) years prior to the request for termination;

(iii) The inability to repay the debt is documented and warranted; and

(iv) Attempts to locate the debtor have been unsuccessful.