

State of Hawaii  
Department of Human Services  
BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION  
Honolulu

**INCOME MAINTENANCE**  
**MANUAL MEMO: 13-01**  
**DATE: July 26, 2013**  
**EFFECTIVE: June 24, 2013**  
**ORIGINATOR: BESSD/SNAP**

TO: Benefit, Employment and Support Services Division Staff  
Income Maintenance

FROM: Benefit, Employment and Support Services Division Administrator

SUBJECT: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM:  
AMENDMENTS AND COMPILATION TO CHAPTERS 17-  
604.1, 17-610 AND CHAPTER 17-681 HAWAII  
ADMINISTRATIVE RULES

**EXPLANATION:**

The amendments and compilation of the above-mentioned Chapter of Title 17, Hawaii Administrative Rules, were heard in a public hearing on March 28, 2013 and filed with Office of the Lieutenant Governor, June 24, 2013.

The following is a summary of the amendments.

Section 17-604.1-2, Definitions. New terms “access device”, “EBT card”, and “trafficking” are adopted. The term “coupon” is amended to include access device. The term “intentional program violation”, is amended to include trafficking and any violation of section 17-610-11.

Section 17-604.1-8, Penalties for misuse of coupons or ATP cards. This section is amended and compiled to amend the title of this section by deleting “for misuse of coupons or ATP cards”. The section is further amended to include an unauthorized redemption of an EBT card or other access device as being subject to prosecution.

Section 17-604.1-9, Intentional program violation disqualification penalties. This section was amended and compiled to clarify penalty periods for the first, second and third violation for individuals found to have made a fraudulent statement of representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under SNAP.

Section 17-604.1-22; Waived hearings. This section is amended and compiled to delete paragraph (b) (3) to conform to federal regulation.

Section 17-610-1, Definitions. The term “coupon” is amended to include access device.

Section 17-610-6, Meals on wheels. This section is amended and compiled to delete “feeble” from paragraph (a) (2) as it is redundant with “physically handicapped” in the same paragraph.

Section 17-610-11, Benefit redemption by eligible households. This section is adopted to clarify that program benefits may be used only by the supplemental nutrition assistance program household or other persons the household selects to purchase eligible food for the household.

Section 17-610-19, Effects of reductions, suspensions, and cancellations on the certification of eligible households. This section is amended to delete the term “thrifty food plan” and replace it with “maximum benefit amount” and, compiled to clarify that households eligible for expedited processing during a suspension shall receive their benefits within five calendar days or the end of the month of application, whichever date is later.

Section 17-681-1, Purpose. This section is amended and compiled to remove reference to replacing and canceling warrants.

Section 17-681-3, Methods of payment. This section is amended and compiled to amend the title of this section for more clarity and to include direct deposits as another method of issuing cash benefits.

Section 17-681-4, Delivery of payment. This section is being amended and compiled to amend the title of this section for more clarity. Subsections (a) and (b) are repealed because the Department no longer mails out warrants.

Sections 17-681-5, Holding financial assistance warrants, 17-681-6, Warrant cancellation, and 17-681-7, Duplicate payment issuance. These sections are repealed because with the implementation of EBT, the Department no longer issues warrants.

Section 17-681-25, Definitions. The definitions for “authorization to participate (ATP) card”, “coupon”, “coupon issuer”, and “identification (ID) card” are repealed because these terms are no longer applicable for benefit issuance.

Section 17-681-26, Timely issuance of benefits. This section is amended and compiled to delete “monthly” and replace with “six month” and amend subsection (e) for clarity.

Section 17-681-31, Replacing coupons. This section is repealed and adopted as new section 17-681-35.

Sections 17-681-32, Return of coupons, 17-681-33, Old series coupons., and 17-681-34, Allotments of \$1, \$3, \$5., are repealed because coupons are no longer used in SNAP.

Section 17-681-35, Replacement issuances. This section is adopted to set forth the conditions for replacement of SNAP benefits when food is destroyed in a household misfortune.

Section 17-681-45, Conditions for receipt of a state loan. This section is being amended and compiled to delete paragraph (d) (4) as this condition is no longer required of the individual who is applying for an SSI loan.

Section 17-681-52, Methods of payment. This section is amended and compiled by correcting the reference to chapter 17-647 to section 17-681-9 in subsection (a).

Section 17-681-53, EBT cards. This section is amended and compiled to amend subsection (b) to conform to federal regulations which will provide for the replacement of EBT cards within 5 days when using a centralized card issuance.

**ACTION:**

Review the attached amendments and implement immediately.

**FILING INSTRUCTIONS:**

**17-604.1:**

Remove and destroy entire chapter and replace with new chapter.

**17-610:**

Remove and destroy entire chapter and replace with new chapter.

**17-681:**

Remove and destroy entire chapter and replace with new chapter.

  
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for BESSDA

Attachments



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HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMANS SERVICES

SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES  
DIVISION

CHAPTER 604.1

FRAUD PROVISIONS

Subchapter 1 Purpose and Definitions

- §17-604.1-1 Purpose
- §17-604.1-2 Definitions

Subchapter 2 Financial Assistance, Medical  
Assistance, Social Services  
Provisions

- §17-604.1-3 Investigation of suspected fraud
- §17-604.1-4 Penalty
- §§17-604.1-5 to 17-604.1-7 (Reserved)

Subchapter 3 Supplemental Nutrition Assistance  
Program General Provisions

- §17-604.1-8 Penalties
- §17-604.1-9 Intentional program violation  
disqualification penalties
- §17-604.1-10 Administrative disqualifications
- §17-604.1-11 Overturned intentional program violation  
disqualifications
- §17-604.1-12 Reporting requirement
- §§17-604.1-13 to 17-604.1-15 (Reserved)

Subchapter 4 Supplemental Nutrition Assistance  
Program Administrative  
Disqualification Hearings

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- §17-604.1-16 Disqualification hearing procedures
- §17-604.1-17 Scheduling of hearing
- §17-604.1-18 Participation while awaiting hearing
- §17-604.1-19 Criteria for determining intentional program violation
- §17-604.1-20 Decision format
- §17-604.1-21 Notification of the household on administrative disqualification hearing decision
- §17-604.1-22 Waived hearings
- §§17-604.1-23 to 17-604.1-25 (Reserved)

### Subchapter 5 Supplemental Nutrition Assistance Program Prosecutions

- §17-604.1-26 Court imposed disqualifications
- §17-604.1-27 Notification of the household of court decision
- §17-604.1-28 Deferred adjudication

### Subchapter 6 Financial Administrative Disqualification

- §14-604.1-29 Intentional program violation disqualification penalties

### Subchapter 7 Financial Administrative Disqualification Hearings

- §17-604.1-30 Disqualification hearing procedures
- §17-604.1-31 Waiver of the administrative disqualification hearing
- §17-604.1-32 Court actions on consent agreements

Historical Note: This chapter is based substantially upon chapter 17-604 [Eff 7/19/82; R 3/19/93] chapter 17-722 [Eff 7/19/82; am 7/5/83; am 10/3/83; am 3/1/85; am 12/27/86; R 3/19/93]

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## SUBCHAPTER 1

## PURPOSE AND DEFINITIONS

§17-604.1-1 Purpose. The purpose of this chapter is to define conditions under which the department will investigate suspected fraud in financial assistance, social services and supplemental nutrition assistance program cases. [Eff 3/19/93; am 8/01/94; am and comp 6/24/13] (Auth: HRS §346-14; 45 C.F.R. §235.110) (Imp: HRS §346-14)

§17-604.1-2 Definitions. As used in this chapter: "Access device" means any card, including EBT card, plate, code, account number, or other means of access that can be used alone or in conjunction with another access device to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under the Food Stamp Act of 1977, as amended.

"Authorization to participate (ATP) card" means a document which is issued to a certified household to show the allotment the household is authorized to receive. The ATP card may be issued by a computer or hand issued at the unit.

"Coupon" means any coupon, stamp, EBT card, access device or type of certificate printed by FNS and issued by the department to eligible households for the purchase of eligible food.

"EBT card" means the electronic benefit transfer (EBT) card issued by the department which will allow the holder to access benefits in an EBT account through an automated teller machine (ATM) or point of sale (POS) device.

"Food Stamp Act" means the Food Stamp Act of 1977, as amended (7 U.S.C. §§ 2011-2027).

"FNS" means the Food and Nutrition Service of the United States Department of Agriculture.

"Fraud" means a knowing false statement or misrepresentation of a fact which results in the receipt of a benefit that would not otherwise result

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without the false statement. For example, failing to report employment income is fraudulent when a recipient, or other party knowingly makes a false statement such as, "no income" or "no employment", to receive public assistance benefits that the recipient would not otherwise receive if the recipient reported the recipient's income.

"Intentional program violation" or "IPV" means any action by an individual, for the purpose of establishing or maintaining eligibility or for increasing or preventing a reduction in benefits, who intentionally:

- (1) Made a false or misleading statement;
- (2) Misrepresented, concealed, or withheld facts;
- (3) Committed any act that constitutes a violation of the Food Stamp Act, the supplemental nutrition assistance program regulations, or any state statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of benefits, coupons, authorization cards, or reusable documents as part of an automated benefit delivery system (access device); or
- (4) Violates the provisions of section 17-610-11.

"Nolo contendere" means "I do not contest it" and has the same effect as a plea of guilty as far as the proceedings on an indictment are concerned.

"Supplemental Nutrition Assistance Program" or "SNAP" means the nutrition assistance program formerly known as the food stamp program.

"Trafficking" means the buying or selling of coupons, ATP cards, EBT cards or other benefit instruments for cash or consideration other than eligible food; or the exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for coupons. [Eff 3/19/93; am 3/14/94; am 5/18/96; am and comp 6/24/13] (Auth: HRS §346-14; 45 C.F.R. §235.110) (Imp: HRS §§346-34, 7 C.F.R. §§271.2, 273.16(c); 45 C.F.R. §235-110)



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SUBCHAPTER 2

FINANCIAL ASSISTANCE, MEDICAL ASSISTANCE, SOCIAL  
SERVICES PROVISIONS

§17-604.1-3 Investigation of suspected fraud. (a)  
The department shall identify situations of suspected fraud such as but not limited to a recipient's receiving financial assistance or social services to which the individual is not entitled through the wilful misrepresentation of circumstances or intentional concealment of information.

(b) The department shall investigate suspected fraud and refer these cases to law enforcement officials.

(c) The methods of investigation shall not infringe on the legal rights of the persons involved and shall afford these individuals due process of law. [Eff 3/19/93; am 8/1/94; am and comp 6/24/13] (Auth: HRS §346-14; 45 C.F.R. §235.110) (Imp: 45 C.F.R. §235.110)

§17-604.1-4 Penalty. The department may initiate prosecution of an individual suspected of fraud. In addition, the individual may be subject to any other criminal, civil, or administrative sanction authorized by law. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14; 45 C.F.R. §235.110) (Imp: HRS §346-34)

§§17-604.1-5 to 17-604.1-7 (Reserved).

SUBCHAPTER 3

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM GENERAL  
PROVISIONS

§17-604.1-8 Penalties. Any unauthorized issuance, redemption, use, transfer, acquisition,

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alteration, possession, or presentation of coupons or ATP cards, EBT cards or other access device may subject any individual, partnership, corporation, or other legal entity to prosecution under the Food Stamp Act of 1977, as amended, or under any other applicable federal, state, or local law, regulation, or ordinance. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.5(b))

§17-604.1-9 Intentional program violation disqualification penalties. (a) Individuals found by an administrative disqualification hearing or by a federal, state or local court to have committed an intentional program violation or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution shall be ineligible to participate in the program for:

- (1) One year for the first violation, except as provided in subsections (b) and (c);
- (2) Two years for the second violation, except as provided in subsections (b) and (c); and
- (3) Permanently for the third violation.

(b) Individuals found 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 in section 102 of the Controlled Substances Act (21 U.S.C. §802)) shall be ineligible to participate in SNAP:

(1) For a period of two years for the first violation; and

(2) Permanently upon the second violation.

(c) For the first violation, individuals found 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 SNAP.

(d) Individuals convicted by a federal, state, or local court of trafficking SNAP benefits of an aggregate amount of \$500 or more shall be permanently ineligible to participate in the SNAP.

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(e) For the first and second violation, individuals shall be ineligible to participate in SNAP as a member of any household for a ten-year period per violation, if the individual is found by the department to have made, or is convicted by a federal or state court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under SNAP. For the third violation, an individual shall be permanently ineligible to participate in SNAP.

(f) The penalties in subsections (b) and (c) shall also apply in cases of deferred adjudication as described in section 17-604.1-28 where the court makes a finding that the individual engaged in the conduct described in subsections (b) and (c).

(g) If the court fails to impose a disqualification or a disqualification period for any intentional program violation, the department shall impose the appropriate disqualification penalty specified in subsections (a) through (e) unless it is contrary to the court order.

(h) One or more intentional program violations which occurred prior to April 1, 1983, shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration.

(i) Regardless of when an action taken by an individual which caused an intentional program violation occurred, the disqualification periods specified in subsections (b) and (c) shall apply to an case in which the court makes its finding on or after September 1, 1994.

(j) Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for participation as specified by the court order. However, if the court fails to impose a disqualification period for the intentional program violation, the branch shall impose the disqualification penalties specified in this section unless it is contrary to the court order.

(k) The branch shall disqualify only the individual found to have committed the intentional program violation, or who signed the waiver of right to

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an administrative disqualification hearing or disqualification consent agreement in cases referred for prosecution, and not the entire household. During the period of ineligibility, no household shall receive increased benefits as a result of a member of the household having been disqualified from SNAP.

(1) The remaining household members shall agree to make restitution within ten days of the date the branch's written demand letter is mailed or the household's monthly allotment shall be reduced. If the remaining household members agree to make restitution but fail to do so, the branch shall impose an allotment reduction on the household's monthly allotment. The remaining household members, if any, shall begin restitution during the period of disqualification imposed by the branch or a court of law. Restitution shall be made in accordance with chapter 17-683. [Eff 3/19/93; am 2/16/96; am 10/28/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(b); Pub. L. No. 104-193 (1996))

§17-604.1-10 Administrative disqualifications.

(a) The branch shall refer to the investigations office cases in which the branch has sufficient documentary evidence to substantiate that an individual has committed one or more acts of intentional program violation. The investigations office shall be responsible for investigating any case of alleged intentional program violation, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction. If the department does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional program violation, the department shall take action to collect the overissuance by establishing an inadvertent household error claim against the household. The department shall conduct administrative disqualification hearings:

(1) In cases in which the branch believes the facts of the individual case do not warrant

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civil or criminal prosecution through the appropriate court system; or

- (2) In cases previously referred for prosecution that were declined by the appropriate legal authority; and
- (3) In previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the branch.

(b) The department may initiate an administrative disqualification procedure or refer a case for prosecution regardless of the current eligibility of the individual.

(c) For those persons not currently certified to participate in the program at the time of the administrative disqualification or court decision, the disqualification period shall be effective from the month following the month the administrative disqualification or court decision is rendered.

(d) The department shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

(e) The department shall base administrative disqualification for intentional program violations on the determinations of hearing authorities arrived at through administrative disqualification hearings or on determinations reached by courts or appropriate jurisdiction. However, the department may allow accused individuals either to waive their rights to administrative disqualification hearings or to sign disqualification consent agreements for cases of deferred acceptance. The department may base administrative disqualifications for intentional program violation on the waiver of the right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

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(f) The department shall inform the household in writing of the disqualification penalties for intentional program violations each time it applies for program benefits. The penalties shall be in clear, prominent, and boldface lettering on the application form.

(g) The burden of proving intentional program violation shall be on the department.

(h) The department may combine an administrative disqualification hearing and a hearing into a single hearing if the factual issues arise out of the same or related circumstances and if the household receives prior notice that the hearings will be combined. If combined, the timeliness standards for conducting disqualification hearings shall be followed. If the hearings are combined for the purpose of settling the amount of the claim at the same time as determining whether or not an intentional program violation has occurred, the household shall lose its right to a subsequent hearing on the amount of the claim.

However, the department, upon household request, shall allow the household to waive the thirty-day advance notice period when the disqualification hearing and hearing are combined in accordance with section 17-604.1-16. [Eff 3/19/93; am 2/16/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(a)(1), (3), (e)(1))

§17-604.1-11 Reversed intentional program violation disqualifications. In cases where the determination of an intentional program violation is reversed by a court of appropriate jurisdiction, the branch shall reinstate the individual in the SNAP if the individual is eligible. The branch shall restore any benefits that were lost as a result of the disqualification in accordance with the procedures specified in section 17-683-17. [Eff 3/19/93; am 2/07/94; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(j))

§17-604.1-12 Reporting requirement. (a) The department shall submit the required information on

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each individual disqualified for intentional program violation through a reporting system in accordance with procedures specified by FNS so that it is received by FNS no later than thirty days after the disqualification took effect.

(b) All the data submitted by state agencies shall be available for use by any state welfare agency.

(1) The department, at a minimum, shall use the data for the following purposes:

- (A) To determine the eligibility of individual program applicants prior to certification in cases where the branch has reason to believe a household member is subject to disqualification in another political jurisdiction; and
- (B) To ascertain the appropriate penalty to impose, based upon past disqualifications, in a case under consideration.

(2) The department may also use the data in other ways, such as the following:

- (A) To screen all program applicants prior to certification; and
- (B) To periodically match the entire list of disqualified individuals against their current caseloads.

(c) The disqualification of an individual for an intentional program violation in one jurisdiction shall be valid in another. However, one or more intentional program violations which occurred prior to April 1, 1983, shall be considered as only one previous disqualification when determining the appropriate penalty to impose in a case under consideration, regardless of where the disqualification or disqualifications took place. [Eff 3/19/93; am 2/16/96; am comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(i))

§§17-604.1-13 to 17-604.1-15 (Reserved).

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SUBCHAPTER 4

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM  
ADMINISTRATIVE DISQUALIFICATION HEARINGS

§17-604.1-16 Disqualification hearing procedures.

(a) Once the investigations office decides to initiate a disqualification hearing, the hearing office shall be notified.

(b) At the disqualification hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(c) Within ninety days of the date the household member is notified in writing that the hearing has been scheduled, the hearing office shall conduct the hearing, arrive at a decision, and notify the household member and the branch of the decision. The household member or its representative shall be entitled to a postponement of the scheduled hearing, provided that the request for postponement is made at least ten days in advance of the date of the scheduled hearing. However, the hearing shall not be postponed for more than a total of thirty days and the number of postponements shall be limited to one. If the hearing is postponed, the time limits shall be extended for as many days as the hearing is postponed.

(d) The department shall make written procedures for disqualification hearings available to any interested party.

(e) The hearing officer shall schedule a hearing and shall provide a written notice to the household member suspected of intentional program violation at least thirty days in advance of the scheduled hearing. If mailed, the notice shall be sent either first class mail or certified mail-return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held. If no proof of receipt is obtained and a timely showing of non-receipt, as defined in section 17-604.1-17(e), is received from the individual, the



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department shall consider the following circumstances as good cause for not appearing at the hearing:

- (1) The individual's current address was known by the department but the department incorrectly sent the notice to an old address;
- (2) There is a breakdown in postal service, such as but not limited to the postmark date of the notice is after the hearing date; or
- (3) There is a sudden or unexpected emergency due to an unforeseen circumstance that makes contact with the individual difficult, such as but not limited to a natural disaster or the individual is incapacitated for an extended period.

(f) The notice shall contain the following information:

- (1) The date, time, and place of the hearing;
- (2) The charge against the individual;
- (3) A summary of the evidence, and how and where the evidence may be examined;
- (4) A warning that the decision shall be based solely upon information provided by the branch if the individual fails to appear at the hearing;
- (5) A statement that the household member or representative shall have ten days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
- (6) A warning that a determination of an intentional program violation will result in disqualification periods as determined by section 17-604.1-9, and a statement of which penalty the department believes is applicable to the case scheduled for a hearing;
- (7) A listing of the individual's rights as contained in section 17-602.1-40;
- (8) A statement that the hearing shall not preclude the state or federal government from prosecuting the household member for intentional program violation in a civil or criminal court action, or from collecting the overissuance; and

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(9) A statement advising the household member of the availability of an individual or organization that provides free legal representation, if available.

(g) A copy of the hearing procedures shall be attached to the advance notice.

(h) The disqualification hearing shall be conducted by an impartial hearing officer.

(i) The hearing shall be attended by a representative of the branch which initiated the action, the state investigator, if involved in the case, and the household or its representative or both. The hearing may also be attended by friends or relatives of the household, and the public, upon household consent. The hearing officer shall have the right to limit attendance if space limitations exist.

(j) The household may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household feel most at ease. The household or its representative shall be given adequate opportunity to examine documents as specified in chapter 17-602.1.

(k) Decisions of the hearing officer shall comply with federal and state law, rules, or policy and the decision shall be factually based upon the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for a final decision by the hearing officer. The record shall be retained for three years. The record shall be available to the household or its representative at a reasonable time for inspection or copying. Reproduced copies of the record shall be provided upon request at a cost related to the cost of reproduction. [Eff 3/19/93; am 4/01/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(e)(2) and (3))

§17-604.1-17 Scheduling of hearing. (a) The hearing shall be scheduled at a time and place

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accessible to the household member suspected of intentional program violation.

(b) If the household member or its representative cannot be located or fails to appear at the hearing without good cause, the hearing shall be conducted without representation of the household member.

(c) Although the household member is not present, the hearing officer shall carefully consider the evidence and determine whether an intentional program violation was committed based upon clear and convincing evidence.

(d) If the household member is found to have committed an intentional program violation but a hearing officer later determines that the household member or representative failed to appear with good cause, the previous decision shall not be valid and a new hearing shall be conducted. The hearing officer who originally ruled on the case may conduct the new hearing.

(e) In instances where good cause for failure to appear is based upon a showing of non-receipt of the hearing notice as specified in section 17-604.1-16(e), the household member has thirty days after the date of the written notice of the hearing decision to claim good cause for failure to appear. If the household member shows non-receipt of the notice in a timely fashion, any previous decision determined in absentia shall no longer remain valid and the department shall conduct a new hearing. In all other instances, the household member has ten days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. Good cause means death in the family, severe personal injury or illness (medical statement from a doctor must be submitted), or sudden and unexpected emergencies. The hearing officer shall enter the good cause decision into the record. [Eff 3/19/93; am 4/01/96; am and comp6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(e)4))

§17-604.1-18 Participation while awaiting hearing. (a) A pending disqualification hearing shall not affect the individual's or the household's right to be certified and to participate in SNAP. Since the

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branch cannot disqualify a household member for an intentional program violation until the hearing officer finds that the individual has committed intentional program violation, the branch shall determine the eligibility and benefit level of the household in the same manner as it would be determined for any other household.

(b) The household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply.

(c) The branch shall also reduce or terminate the household's benefits if the branch has documentation which substantiates that the household is ineligible or eligible for fewer benefits, even if these factors led to the suspicion of intentional program violation and the resulting disqualification hearing, and the household fails to request a hearing and continuation of benefits pending the hearing. For example, the branch may have facts which substantiate that a household failed to report a change in its circumstances even though the branch has not yet demonstrated that the failure to report involved an intentional act of program violation. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(e)(5))

§17-604.1-19 Criteria for determining intentional program violation. The hearing authority shall base the determination of an intentional program violation on clear and convincing evidence which demonstrates that the household member or members committed, and intended to commit, intentional program violation. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(e)(6))

§17-604.1-20 Decision format. The hearing officer's decision shall specify the reasons for the decision, shall identify the supporting evidence, shall identify the pertinent rule or policy, and shall respond to reasoned arguments made by the household member or the household's representative. [Eff

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3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7  
C.F.R. §273.16(e)(7))

§17-604.1-21 Notification of the household on administrative disqualification hearing decision. (a) Once the hearing decision is made, the hearing officer shall mail a written notice to the household informing it of the decision.

(b) If the hearing results in a finding that the household member did not commit an intentional program violation, no further action shall be taken except for collection of the overissuance as a claim, if appropriate.

(c) If a finding of intentional program violation is determined, a written notice shall be mailed to the household prior to disqualification. The notice shall include the following items:

- (1) The hearing decision;
- (2) The reason for the decision;
- (3) How the claim was calculated;
- (4) The intent to collect from all adults;
- (5) The benefit amount the rest of the household members, if any, will receive during the period of disqualification of the fraudulent individual;
- (6) The requirement that the remaining household members, if any, shall reapply in order to receive benefits for those situations in which the certification period has expired;
- (7) When the disqualification of the fraudulent individual will take effect; and
- (8) For those situations where the fraudulent individual is no longer participating, the information that the period of disqualification shall take effect from the month following the month the disqualification decision is rendered.

(d) If a finding of intentional program violation is determined, a written agreement letter for restitution shall also be mailed to the household. The written agreement letter shall include the following items:

- (1) The amount owed by the individual;

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- (2) The reason for the claim;
- (3) How the claim was calculated;
- (4) The intent to collect from all adults;
- (5) The period of time the claim covers;
- (6) Any offsetting that was done to reduce the claim;
- (7) The types and terms of each restitution schedule which is offered;
- (8) The household member's right to a hearing if the individual disagrees with the amount of the claim;
- (9) The household's right to request renegotiation of any agreed upon repayment schedule should the household's economic circumstances change;
- (10) Spaces for the individual to complete indicating the method of repayment desired; and
- (11) Space for the individual's signature.

(e) If the hearing officer rules that the household member has committed an intentional program violation, the household member shall be disqualified in accordance with the disqualification periods specified in section 17-604.1-9 beginning with the first month which follows the date the household receives written notification of the hearing decision. However, if the act of an intentional program violation which led to the disqualification occurred prior to notification of the disqualification periods specified in section 17-604.1-9, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional program violation repeated over a period of time shall not be separated so that separate penalties can be imposed. No further administrative appeal procedure exists after an adverse state-level hearing. The determination of an intentional program violation made by a disqualification hearing official cannot be reversed by a subsequent hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy. If the individual is not certified to partici

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pate in the program at the time the disqualification period is to begin, the period shall take effect from the month following the month the disqualification decision is rendered.

(f) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the over-issuance which resulted from the disqualified member's intentional program violation regardless of its eligibility for program benefits. [Eff 3/19/93; am 2/16/96; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.16(e)(8) and (9), 273.18(e)(3))

§17-604.1-22 Waived hearings. (a) The department shall provide written notification to the household member suspected of an intentional program violation that the member may waive rights to an administrative disqualification hearing.

- (1) Prior to providing this written notification to the household member, the department shall ensure that the evidence against the household member is reviewed by someone other than the eligibility worker assigned to the accused individual's household and a decision is obtained that the evidence warrants scheduling a disqualification hearing.
- (2) The written notification which informs the household member of the possibility of waiving the administrative disqualification hearing shall include, at a minimum:
  - (A) The date the signed waiver must be received by the department to avoid the holding of a hearing and a signature block for the accused individual, along with a statement that the head of household shall also sign the waiver if the accused is not the head of household, with an appropriately designated signature block;

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- (B) A statement of the accused individual's right to remain silent concerning the charge or charges, and that anything said or signed by the individual concerning the charge or charges can be used against the individual in a court of law;
  - (C) The fact that a waiver of the disqualification hearing will result in disqualification and a reduction in benefits for the period of disqualification, even if the accused individual does not admit to the facts as presented by the department;
  - (D) An opportunity for the accused to specify whether or not the individual admits to the facts as presented by the department;
  - (E) The telephone number and, if possible, the name of the person to contact for additional information; and
  - (F) The fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim.
- (3) The department shall develop a waiver of right to an administrative disqualification hearing form which contains the information required by section 17-604.1-16 for advance notice of a hearing. However, if the household member is notified of the possibility of waiving the member's right to an administrative disqualification hearing before the department has scheduled a hearing, the department shall not be required to notify the household member of the date, time, and place of the hearing at that point as required by section 17-604.1-16.
- (b) If the household member suspected of an intentional program violation signs the waiver of right to an administrative disqualification hearing and the signed waiver is received within the time periods specified by the department, the household



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member shall be disqualified in accordance with the disqualification periods in section 17-604.1-9.

- (1) The period of disqualification shall begin with the first month which follows the date the household member receives written notification of the disqualification. However, if the act of intentional program violation which led to the disqualification occurred prior to the written notification of the disqualification periods specified in section 17-604.1-9, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the offense. The same act of intentional program violation repeated over a period of time shall not be separated so that separate penalties can be imposed.
  - (2) No further administrative appeal procedure exists after an individual waives the individual's right to an administrative disqualification hearing and a disqualification penalty has been imposed. The disqualification penalty cannot be changed by a subsequent hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.
  - (3) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional program violation regardless of its eligibility for program benefits.
- (c) The department shall provide written notice to the household member prior to disqualification. The

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department shall also provide written notice to any remaining household members of the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The notice shall conform to the requirements for notification of a hearing decision specified in section 17-604.1-21. A written demand letter for restitution shall also be provided. [Eff 3/19/93; am 2/16/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(f))

§§17-604.1-23 to 17-604.1-25 (Reserved).

SUBCHAPTER 5

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PROSECUTIONS

§17-604.1-26 Court imposed disqualifications.

(a) The department shall refer cases of an alleged intentional program violation for prosecution in accordance with an agreement with prosecutors or state law.

(b) The branch shall refer to the investigations office cases that are suspected of an intentional program violation. The investigations office shall determine which cases shall be referred to the prosecuting authority. The investigations office shall encourage prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act of 1977 (7 U.S.C. §2015(b)) be imposed in addition to any other civil or criminal intentional program violation penalties for such violation.

(c) The branch shall disqualify an individual found guilty of fraud by a court for the length of time specified by the court.

(1) If the court fails to address or specify a disqualification period, the branch shall impose a disqualification period in accordance with the provisions of section 17-604.1-9 unless contrary to the court order;

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- (2) If the court orders a disqualification period but fails to specify a date for initiating the disqualification period, the branch shall initiate the disqualification period within forty-five days of the date the disqualification was ordered. Any other court imposed disqualification shall begin within fortyfive days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud;
- (3) If the individual is not certified to participate in the program at the time the disqualification period is to begin, the period shall take effect from the month following the month the disqualificaiton decision is rendered;
- (4) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the disqualified member's intentional program violation regardless of its eligibility for program benefits. [Eff 3/19/93; am 2/16/96; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(g)(1) and (2))

§17-604.1-27 Notification of the household of court decision. (a) If the court finds that the household member committed intentional program violation, the department shall provide written notice to the household member. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date disqualification will take effect. The department shall also provide written notice to the remaining household members, if any, of the allotment they will receive during the period of disqualification or that they must reapply because the

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certification period has expired.

(b) The procedures for handling the income and resources of the disqualified member shall be as described in chapter 17-663. In addition, the department shall provide the written demand letter for restitution. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(g)(3))

§17-604.1-28 Deferred adjudication. (a) The procedures in this section shall be used for cases in which a determination of guilt is not obtained from a court due to the accused having met the terms of a court order, or for cases which are not prosecuted due to the accused individual having met the terms of an agreement with the prosecuting attorney.

- (1) The department shall enter into an agreement with the state attorney general or, where necessary, with county prosecuting attorneys, which provides for advance written notification to the household member of the consequences of consenting to disqualification in cases of deferred adjudication.
- (2) The written notification provided for in paragraph (1) shall include, at a minimum:
  - (A) A statement for the accused individual to sign that the accused individual understands the consequences of consenting to disqualification, along with a statement that the head of household shall also sign the consent agreement if the accused individual is not the head of household, with an appropriately designated signature block;
  - (B) A statement that consenting to disqualification shall result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud;
  - (C) A warning that the disqualification penalties for intentional program

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violation under the SNAP are as specified in section 17-604.1-9, and a statement of which penalty shall be imposed as a result of the accused individual having consented to disqualification;

- (D) A statement of the fact that the remaining household members, if any, shall be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

(b) If the household member suspected of an intentional program violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with the disqualification periods specified in section 17-604.1-9, unless contrary to the court order.

- (1) The period of disqualification shall begin within forty-five days of the date the household member signed the disqualification consent agreement. However, if the court imposes a disqualification period or specifies the date for initiating the disqualification period, the department shall disqualify the household member in accordance with the court order.
- (2) If the individual is not certified to participate in the program at the time the disqualification period is to begin, the period shall take effect from the month following the month the disqualification is rendered.
- (3) Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed regardless of the eligibility of the disqualified member's household. However, the disqualified member's household shall continue to be responsible for repayment of the overissuance which resulted from the

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disqualified member's intentional program violation regardless of its eligibility for program benefits.

- (c) If the household member suspected of an intentional program violation signs the disqualification consent agreement, the department shall provide written notice to the household member. The notice shall be provided prior to disqualification, whenever possible. The notice shall inform the household member of the disqualification and the date the disqualification will take effect. The department shall also provide written notice to the remaining household members, if any, of the allotment they will receive during the period of disqualification or that

they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in chapter 17-663. In addition, the department shall provide the written demand letter for restitution.

[Eff 3/19/93; am 2/16/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.16(h))

SUBCHAPTER 6

FINANCIAL ADMINISTRATIVE DISQUALIFICATION

§17-604.1-29 Intentional program violation disqualification penalties. (a) An individual who, on the basis of a plea of guilty or nolo contendere or otherwise, is found to have committed an intentional program violation by an administrative disqualification hearing or by a court of appropriate jurisdiction shall be treated in the following manner:

- (1) The department shall not take the individual's needs into account when determining the assistance unit's need and amount of the assistance; and

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- (2) Any resource and income of the disqualified individual shall be considered available to the assistance unit.
- (b) The individual's needs shall not be taken into account for:
  - (1) Twelve months for the first violation;
  - (2) Twenty-four months for the second violation; and
  - (3) Permanently for the third or any subsequent violation.
- (c) Any period for which a disqualification penalty is imposed shall remain in effect, without possibility of an administrative stay, unless and until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction but in no event shall the duration of the period for which such penalty is imposed be subject to review.
- (d) Where an individual with a prior violation(s) moves from one state to another and has been found to have committed an intentional program violation(s), the department may impose the penalty based on the number of such violations committed in other states.
- (e) The disqualification penalties shall be in addition to, and cannot be substituted for, any other sanctions or penalties which may be imposed by law for the same offenses.
- (f) The disqualification penalties imposed only affect the individual concerned and cannot substitute for other sanctions under the financial assistance program e.g., failure to participate in the work program or to cooperate in obtaining child support. [Eff 5/18/96; am 11/22/96; am 9/26/97; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 45 C.F.R. §235.110)

SUBCHAPTER 7

FINANCIAL ADMINISTRATIVE DISQUALIFICATION HEARINGS

- §17-604.1-30 Disqualification hearing procedures.
- (a) The department may consolidate an individual's

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fair hearing with a disqualification hearing based on the same or related circumstances provided that the individual receives prior notice of the consolidation.

(b) The department may designate the same hearing officer to preside at a consolidated hearing.

(c) The department shall provide a written notice to the individual alleged to have committed the program violation at least thirty days prior to the date of the disqualification hearing. The advance written notice to the individual shall include the following information:

- (1) The date, time and location of the hearing;
- (2) The charge(s) against the individual;
- (3) A summary of the evidence, and how and where the evidence can be examined;
- (4) A warning that the individual's failure to appear without good cause will result in a decision by the hearing officer based solely on the information provided by the department at the hearing;
- (5) A statement that the individual may request a postponement of the hearing provided that such request is made to the department at least ten days in advance of the scheduled hearing;
- (6) A statement that the individual will have ten days from the date of the scheduled hearing to present to the department good cause for failure to appear in order to receive a new hearing;
- (7) A description of the penalties that can result from a determination that the individual has committed an intentional program violation and a statement of which penalty is applicable to the individual;
- (8) A statement that the hearing does not preclude the State from prosecuting the individual for an intentional program violation in a civil or criminal court action, or from collecting an overpayment;
- (9) A listing of individuals or organizations that provide free legal representation to the individuals alleged to have committed intentional program violations;



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- (10) An explanation that the individual may waive the right to appear at an administrative disqualification hearing; and
- (11) A statement of the accused individual's right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against the individual in a court of law.

(d) The department shall require the hearing officer to postpone the scheduled hearing at the individual's request provided that the request for postponement is made at least ten days in advance of the date of the scheduled disqualification hearing. However, the hearing shall not be postponed for more than a total of thirty days, and the department may limit the number of postponements to one.

(e) A hearing shall be conducted by an impartial official of the department who has had no previous involvement in the case.

(f) Medical assessments shall be obtained at department expense and made part of the record if the hearing officer considers it necessary.

(g) The individual or representative, shall have adequate opportunity to:

- (1) Examine the contents of the case file and all documents and records to be used by the department at the hearing, at a reasonable time before the date of the hearing and during the hearing;
- (2) Present the case individually or with the aid of an authorized representative;
- (3) Bring witnesses;
- (4) Establish all pertinent facts and circumstances;
- (5) Advance any arguments without undue influence; and
- (6) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(h) Decisions made by the hearing officer shall be based exclusively on evidence and other material introduced at the hearing. The transcript or recording of testimony, exhibits, or official reports introduced

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at the hearing, together with all papers and requests filed in the proceeding, and the decision of the hearing officer shall be made available to the individual or to his or her representative at a reasonable time and place.

(i) Decisions by the hearing officer shall:

(1) In the event of an evidentiary hearing, consist of a decision memorandum summarizing the facts and identifying the regulations supporting the decision;

(2) In the event of a department de novo hearing, specify the reasons for the decision and identify the supporting evidence and regulations; and

(3) Be made within ninety days of the date of the notice.

(j) The department may not disqualify an individual until the hearing officer finds that the individual has committed an intentional program violation. This does not mean, however, that the department is precluded from discontinuing, terminating, suspending, or reducing assistance, or changing the manner or form of payment to a protective, vendor, or two-party payment for other reasons.

(k) If the hearing officer finds that the individual committed an intentional program violation, the department shall provide adequate written notice to the individual prior to disqualification. The notice shall inform the individual of:

(1) The decision and the reason for the decision;

(2) The period of disqualification which shall begin no later than the first day of the second month which follows the date of notice; and

(3) The amount of payment the unit will receive during the disqualification period.

(1) In cases of an individual's disqualification resulting from a prior receipt of assistance, the disqualification shall be effective from the month following the month the administrative disqualification or court decision is rendered.

(m) If a hearing officer determines that an individual committed an intentional program violation, the notice of the hearing decision shall inform the

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individual of the right to appeal the decision to the department within fifteen days of the date of the notice. [Eff 5/18/96; am 11/22/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 45 C.F.R. §235.110)

§17-604.1-31 Waiver of the administrative disqualification hearing. (a) The department shall provide advance notice to the individual suspected of intentional program violation that he or she may waive rights to appear at an administrative disqualification hearing.

(b) The advance notice shall include a statement informing the individual of:

- (1) The date that the signed waiver shall be received by the department and a signature block for the accused individual along with a statement that a caretaker relative shall also sign the waiver if the accused individual is not the caretaker relative, with an appropriately designated signature block;
- (2) A statement of the accused individual's right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against the individual in a court of law;
- (3) The fact that waiver of the individual's right to appear at a disqualification hearing may result in a disqualification penalty and a reduction in the assistance payment for the appropriate period even if the accused individual does not admit to the facts as presented by the department; and
- (4) An opportunity for the accused individual to specify whether or not the individual admits to the facts as presented by the department.

(c) When the individual waives the right to appear at a disqualification hearing, the disqualification and appropriate reduction of assistance shall result regardless of whether the individual admits or denies the charges.

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(d) The department shall send adequate written notice informing the individual of the period of disqualification which shall begin no later than the first day of the second month which follows the date of notice and the amount of payment the assistance unit will receive during the disqualification period.

(e) If an individual whose case has been terminated waives the disqualification hearing rights, the disqualification period shall take effect from the month following the month the disqualification decision is rendered. [Eff 5/18/96; am 11/22/96; comp 6/24/13] (Auth: HRS §346-14) (Imp: 45 C.F.R. §235.110)

§17-604.1-32 Court actions on consent agreements.

(a) The department shall allow an accused individual to sign an agreement confirmed by a court in which he or she admits committing intentional program violation.

(b) The department shall enter into an agreement with the attorney general's Office which provides for advance written notification to the accused individual of the consequences of signing such an agreement.

(c) The written notification shall include, at a minimum:

- (1) A statement for the accused individual to sign that the individual understands the consequences of signing the agreement, along with a statement that the caretaker relative must also sign the agreement if the accused individual is not the caretaker relative;
- (2) A statement that signing the agreement will result in a reduction in payment for the appropriate period; and
- (3) A statement of which disqualification period will be imposed as a result of the accused individual signing the agreement.

(d) After the court confirms the agreement, the department shall provide a written notice to the individual which specifies the period of disqualification which shall begin no later than the first day of the second month which follows the date of

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notice and the amount of payment the assistance unit will receive during the disqualification period.

(e) If the court specifies the date for initiating the disqualification period, the department shall disqualify the accused individual in accordance with the court order.

(f) If an individual whose case has been terminated signs a consent agreement, the disqualification period shall be effective from the month following the month the consent agreement is signed. [Eff 5/18/96; am 11/22/96; comp 6/24/13]  
(Auth: HRS §346-14) (Imp: 45 C.F.R. §235.110)



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## HAWAII ADMINISTRATIVE RULES

### TITLE 17

#### DEPARTMENT OF HUMAN SERVICES

#### SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

#### CHAPTER 610

#### SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ADMINISTRATION

##### Subchapter 1 Overview and Program Administration

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- §17-610-2 Retention of records
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Historical Note: This chapter is based substantially upon chapter 17-714. [Eff 7/19/82; am 10/2/82; am 11/29/82; am 4/1/83; am 4/1/85; am 5/18/85; am 11/29/85; am 4/21/86; am 9/2/86; am 6/1//87; am 12/24/90; R 3/19/93]

### SUBCHAPTER 1

#### OVERVIEW AND PROGRAM ADMINISTRATION

§17-610-1 Definitions. As used in this chapter:

"Allotment" means the total value of coupons a household is authorized to receive during each month or other time period.

"Authorization to participate (ATP) card" means a document which is issued to a certified household to show the allotment the household is authorized to receive. The ATP card may be issued by a computer or hand issued at the unit.

"BA" means branch administrator.

"Bulk storage point" means any sub-unit which has the responsibility for accepting and storing supplies of coupons prior to shipment to issuance sites.

"Communal dining facility" means a public or private nonprofit establishment approved by FNS which prepares meals for elderly persons or for supplemental security income recipients and their spouses.

"Coupon" means any coupon, stamp, access device or type of certificate printed by FNS and issued by the department to eligible households for the purchase of eligible food.

"Coupon issuer or issuance agent" means any bank, savings and loan association, person, partnership, corporation, organization, political subdivision, or other entity which has been assigned or contracted by the department to issue coupons to households.

"Eligible foods" means:

- (1) Any food or food product intended for human consumption except alcoholic beverages,



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- tobacco, and hot foods and hot food products prepared for immediate consumption;
- (2) Seeds and plants to grow foods for the personal consumption of eligible households;
  - (3) Meals prepared and delivered by an authorized meal delivery service to households eligible to use coupons to purchase delivered meals, also known as meals on wheels;
  - (4) Meals served by a communal dining facility for the elderly, SSI households, or both, to households eligible to use coupons for communal dining;
  - (5) Meals prepared and served by an authorized drug addiction or alcoholic treatment and rehabilitation center to households eligible to use coupons to purchase those meals;
  - (6) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled as defined in the definition of "disabled member" contained in section 17-663-1;
  - (7) Meals prepared by and served by a shelter for battered women and children to its residents; and
  - (8) In the case of homeless food stamp households, meals prepared for and served by an authorized public or private nonprofit establishment (e.g., soup kitchen, temporary shelter), approved by the SNAPO, that feeds homeless persons.

"FNS" means the Food and Nutrition Service of the United States Department of Agriculture.

"Food Stamp Act" means the Food Stamp Act of 1977, as amended (7 U.S.C. §§2011-2027).

"Group living arrangement" means a public or private nonprofit residential setting that serves no more than sixteen residents and is certified by the department or the state department of health under federal regulations issued under section 1616(e) of the Social Security Act or under standards determined to be comparable to standards implemented by the department or the state department of health under section 1616(e) of the Social Security Act. To be eligible for SNAP benefits, a resident shall be blind or disabled

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as defined in the definition of "disabled member" contained in section 17-663-1.

"Program informational activities" means activities that convey information about the program, including household rights and responsibilities, to applicant and recipient households through means such as publications, telephone hotlines, and face-to-face contacts.

"Project area" means the entire geographic area of a county within the State.

"Retail food store" means:

- (1) An establishment, or department thereof, or neighborhood's and farmer's or people's open market food peddlers whose food sales consists of over fifty per cent of eligible staple food items used for home preparation and consumption. Eligible staple foods include meat, poultry, fish, bread, cereals, vegetables, fruits, and dairy products, but do not include hot prepared foods and accessory items such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices;
- (2) Public or private communal dining facilities, certain federally subsidized housing facilities, and meal delivery services which provide meals to eligible elderly and disabled individuals;
- (3) Recognized drug addiction or alcoholic treatment and rehabilitation program facilities and publicly operated community mental health centers which conduct residential programs for drug addicts or alcoholics that wish to redeem coupons through wholesalers;
- (4) Private nonprofit food cooperative food buying clubs;
- (5) Public or private nonprofit group living arrangements that wish to redeem coupons through wholesalers;
- (6) Public or private nonprofit shelters for battered women and children; and

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- (7) Public or private nonprofit establishments, approved by the department, that feeds homeless persons.

"Secretary" means the Secretary of the United States Department of Agriculture.

"SSI" means supplemental security income.

"State wage information collection agency (SWICA)" means the state agency administering the state unemployment compensation law, another agency administering a quarterly wage reporting system, or a state agency administering an alternative system which has been determined by the Secretary of Labor, in consultation with the Secretary of Agriculture and the Secretary of Health and Human Services, to be as effective and timely in providing employment related income and eligibility data as the two mentioned agencies.

"Sub-unit" means the physical location of an organizational entity within a project area/management unit involved in the operation of the SNAP program, excluding post offices.

"Supplemental Nutrition Assistance Program" or "SNAP" means the nutrition assistance program formerly known as the food stamp program".

"SNAPO" means the Supplemental Nutrition Assistance Program Office of the department.

"USDA" means United States Department of Agriculture. [Eff 3/19/93; am 12/09/94; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.2)

§17-610-2 Retention of records. The department shall retain all program records for audit and review purposes, for a period of three years from the month of origin of each record. The department shall retain fiscal records and accountable documents for three years from the date of fiscal or administrative closure. Fiscal closure means obligations for or against the federal government have been liquidated. Administrative closure means the department has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents shall include but

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are not limited to claims and documentation of lost benefits. [Eff 3/19/93; am and comp 6/24/13] Auth: HRS §346-14) (Imp: 7 C.F.R. §272.1(f))

§17-610-3 Nondiscrimination. (a) The department shall not discriminate against an applicant or recipient in any aspect of program administration:

- (1) Including but not limited to certification of households, issuance of coupons, and conduct of fair hearings or any other program service for reasons of age, race, color, disability, sex, religious creed, national origin, or political beliefs; and
- (2) As prohibited by the Food Stamp Act of 1977 (7 U.S.C. §§2011-2027), the Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107), the Rehabilitation Act of 1973 (29 U.S.C. §794), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d). Enforcement action may be brought under any applicable federal law. Title VI complaints shall be processed in accordance with the nondiscrimination provisions of part 15 of the Code of Federal Regulations.

(b) The following complaint procedure shall be followed by persons aggrieved by alleged discriminatory acts:

- (1) Individuals may file a complaint with the Secretary of Agriculture or the Administrator of FNS, Washington, D.C. 20250, or with the department; and
- (2) A complaint shall be filed no later than one hundred eighty days from the date of the alleged discrimination. However, the time for filing may be extended by the Secretary of USDA. The branch shall accept all complaints of discrimination, written or verbal, and shall forward them promptly to the SNAPO to be submitted to the Secretary or the Administrator, FNS.

(c) The following information on complaints shall be provided to facilitate investigations:

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- (1) Name, address, and telephone number or other means of contacting the complainant;
- (2) Location and name of the entity responsible for providing service, which is accused of discriminatory practices;
- (3) The nature of the incident, action, or the aspect of program administration which is alleged to harm an applicant, recipient, or the individual making the complaint;
- (4) The basis for which the individual alleges discrimination exists;
- (5) Names, titles, and addresses of persons who may have knowledge of the alleged discriminatory acts; and
- (6) The date or dates on which the alleged discriminatory acts occurred.

(d) If an individual verbally alleges that a discriminatory act was committed, and the individual refuses or is reluctant to put the complaint in writing, the person receiving the complaint shall document the complaint in writing. Every effort shall be made by the person accepting the complaint to have the complainant provide the information specified above. Written complaints shall be accepted by the Secretary or the Administrator even if the above information is not complete. Persons who file written complaints shall be encouraged to provide this information to facilitate investigation. Investigations shall be conducted as long as information requested under subsection (c) (2), (3), and (4) is provided. Civil rights complaints shall be resolved by FNS civil rights staff members together with the office of equal opportunity.

- (e) Notification to the public shall include:
  - (1) The USDA nondiscrimination poster, "...and Justice for All" prominently displayed in the unit offices;
  - (2) Applicants, recipients, and other low income households provided access to nondiscrimination and complaint procedures within ten days of a request; and
  - (3) The department staff publicizing the procedure for handling discrimination complaints and explaining the complaint

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system to each individual who is interested in filing a complaint. Each individual may file a complaint with either FNS, the department, or both. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.6)

§17-610-4 Complaint procedures. (a) Any complaint received by the branch or department alleging discrimination on the basis of age, race, color, disabled, sex, national origin, political beliefs, or religious creed shall be handled as specified in section 17-610-3.

(b) Any complaint received by the branch or department regarding a determination of eligibility or level of benefits by a specific household shall be handled as specified in chapter 17-602.1.

(c) Any complaint received by the branch or department regarding such areas as processing standards, service to participants, potential participants, or other individuals or groups shall be handled as described in this section.

(1) At the time of application, each household shall be informed in writing of the complaint procedure available to participants, potential participants, and other concerned individuals or groups. Complaints:

(A) May be made orally, in writing, or in person; and

(B) Shall be reported within ten days of the incident.

(i) Complaints made orally or in person shall be resolved by the individual receiving the complaint, if possible.

(ii) If the complaint cannot be resolved by the individual receiving the complaint, the complaint shall be referred to the individual next in command, until the complaint is resolved.

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- (2) Complainants wishing to file a complaint shall be encouraged to submit their complaint on the department's complaint form.
- (A) Complaints shall be submitted to the branch administrator for resolution.
  - (B) The branch administrator shall include any significant patterns of deficiencies and their causes in the branch's corrective action plan.
  - (C) SNAPO shall review the complaints periodically as part of the performance reporting system review. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.6)

§17-610-5 Restaurant meals. (a) The restaurant meal program shall allow elderly persons sixty years of age or over, disabled persons who receive disability or blindness payments under Titles I, II, X, XIV, and XVI of the Social Security Act and their spouses who participate in SNAP to purchase restaurant meals with coupons.

(b) Elderly and disabled persons shall have the option to use the coupons either at a grocery store, at a restaurant, or in combination.

(c) Participating restaurants shall sign an agreement with the State to abide by certain rules beneficial to recipients, restaurants, and SNAPO. Participating restaurants shall be authorized and monitored by FNS.

(d) Restaurants may limit the hours an individual may purchase meals with food stamps or may allow all day purchase.

(e) There shall be no discrimination in accordance with the provisions of 17-610-3.

(f) Only a SNAP card shall be used for verification at a restaurant. The SNAP card shall have the name and address of the recipient and shall be coded to show the recipient is entitled to restaurant meals. The State, through its delegated agent, shall review the restaurant agreements once a year for renewal or termination of the contract. FNS shall be notified upon termination of any agreement. [Eff

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3/19/93; am 4/01/96; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.2, 272.9, 278.1(d) and (i))

§17-610-6 Meals on wheels. (a) The following persons shall be eligible for meals on wheels:

- (1) Household members sixty years of age or over;
- (2) Individuals who are housebound, [feeble,] physically handicapped, or otherwise disabled to the extent these individuals are unable to adequately prepare meals; and
- (3) Spouses of the above individuals.

(b) Individuals eligible for meals on wheels may use all or any part of the coupons issued to them to purchase meals from a nonprofit meal delivery service authorized by FNS. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.7(g))

§17-610-7 Security for coupons and ATP cards. All individuals, partnerships, corporations, or other legal entities including the department, branches, and issuance offices having custody, care, and control of coupons and ATP cards shall, at all times, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATP cards and to avoid any unauthorized use, transfer, acquisition, alteration, or possession of coupons and ATP cards. These persons shall safeguard coupons and ATP cards from theft, embezzlement, loss, damage, or destruction. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.5(c))

§17-610-8 Personnel. (a) The branch personnel conducting certification procedures and interviews shall be employed in accordance with the current standards of a merit system of personnel administration or any standards later prescribed by the United States Civil Service Commission under Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C.



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§4728). Branch personnel participating in the SNAP shall not:

- (1) Certify or recertify a household of which that employee is a member; or
- (2) Determine the eligibility of a household consisting of an eligible member who is also an employee of the benefit, employment and support services division.

(b) Unit offices having only one employee who is also a participant in the SNAP shall have the certification or recertification of the employee's household approved by a person designated by the BA.

(c) Volunteers and others not employed by the State shall not:

- (1) Conduct the certification interview; or
- (2) Certify food stamp applicants, except for SSI households and disaster victims under certain conditions;

but may participate in related activities such as assisting applicants in completing the application form, prescreening applicants, and securing necessary verification to determine eligibility.

(d) Individuals and organizations involved in lockouts, and the individuals' or organizations' facilities, may not be relied upon or used in the certification process except to verify information supplied by the applicant.

(e) Only authorized employees of the department, coupon issuers, coupon bulk storage points, and federal employees involved in administration of the FSP shall be permitted access to food coupons, ATP cards, or other issuance documents. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.4(a))

§17-610-9 Staffing standards and bilingual requirements. (a) The department shall provide bilingual and certification materials, staff, interpreters, and volunteers as required by federal regulations to provide bilingual services.

(b) The branch shall ensure that there are sufficient bilingual staff or interpreters for the timely processing of non-English speaking households

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subject to the bilingual requirements. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.4(b))

§17-610-10 Program informational activities. (a)  
The department shall comply with the following minimum information requirements:

- (1) Nutrition information, which shall include:
    - (A) FNS supplied posters and pamphlets containing information regarding foods with substantial amounts of the recommended daily allowances of protein, minerals, and vitamins; menus making use of these foods; and the relationship between health and diet;
    - (B) Printed materials such as posters, fliers, and pamphlets, that explain the special supplemental food program for women, infants and children (WIC) and, where available, the commodity supplemental food program (CSF) shall be supplied by agencies administering the WIC and CSF programs (where available);
    - (C) Displaying the posters and making the pamphlets available at all SNAP and public assistance offices; and
    - (D) Encouraging program participants to participate in the Expanded Food and Nutrition Education Program (EFNEP), and wherever practicable, allow EFNEP personnel to come into SNAP offices to distribute informational materials and speak with recipients.
  - (2) The branch shall inform participant and applicant households of their program rights and responsibilities through the use of the department's pamphlet on rights and responsibilities. This information may be provided through whatever means the branch deems appropriate.
- (b) All program informational material shall be available in languages other than English as determined

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by the need and shall include a statement that the program is available to all without regard to race, color, sex, age, handicap, religious creed, national origin, or political belief. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §272.5)

§17-610-11 Benefit redemption by eligible households. (a) Program benefits may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households, the purchase of prepared meals, and for other households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with benefits.

(b) Program benefits shall not be used to pay for any eligible food purchased prior to the time at which an EBT card is presented to authorized retailers or meal services. Neither shall benefits be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a nonprofit cooperative food purchasing venture. [Eff and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.7(a) and (b))

§§17-610-12 to 17-610-13 (Reserved).

## SUBCHAPTER 2

## ALLOTMENT REDUCTION PROCEDURES

§17-610-14 General statement. This subchapter sets forth the rules to be followed if the monthly SNAP allotments are reduced, suspended, or canceled to comply with section 18 of the Food Stamp Act of 1977, as amended (7 U.S.C. §2027). [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(a))

§17-610-15 Nature of reduction action. (a) To avoid an expenditure of funds beyond those appropriated

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by the Congress of the United States for SNAP, action to comply with section 18 of the Food Stamp Act of 1977, as amended (7 U.S.C. §2027) by the Secretary, may include:

- (1) Suspension or cancellation of allotments for one or more months;
  - (2) Reduction in allotment levels for one or more months; or
  - (3) Combination of reduction, suspension, and cancellation for one or more months.
- (b) If a reduction in allotment is deemed necessary, allotments shall be reduced by reducing maximum benefit amounts for each household size by the same percentage which would result in:
- (1) All households of a given size having the household's benefits reduced by the same dollar amount; and
  - (2) The dollar reduction being smallest for one person households and greatest for the largest households.
- (c) All one and two person households affected by a reduction action shall be guaranteed the minimum benefit unless the action is a:
- (1) Cancellation of benefits;
  - (2) Suspension of benefits; or
  - (3) Reduction of benefits by ninety per cent or more of the total amount of benefits projected to be issued in the affected month. [Eff 3/19/93; am 11/22/08; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(b))

§17-610-16 Implementation of allotment reductions, suspensions, and cancellations. (a) When FNS notifies the department of a decision to reduce the monthly SNAP allotment, the date the reduction is to take effect, and the percentage of reduction of the thrifty food plan amounts for each household size, the department shall take immediate action to effect the reduction for the affected month, without a public hearing, by:

- (1) Making necessary computer adjustments;

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- (2) Reproducing the issuance tables provided by FNS and distributing the tables to issuance personnel;
  - (3) Ensuring one and two person households whose reduced allotments would be less than \$10 shall receive a minimum allotment of \$10 except as provided in section 17-610-15(c); and
  - (4) Adjusting the computer to round benefit levels of \$1, \$3, and \$5 to \$2, \$4, and \$6 respectively.
- (b) If FNS notifies the department of a decision to suspend or cancel the distribution of SNAP benefits in a given month and of the date the suspension or cancellation is to take effect:
- (1) The provision for a minimum benefit level shall be disregarded and all households' benefits shall be suspended or canceled; and
  - (2) The department shall take immediate action to effect the suspension or cancellation for the affected month by:
    - (A) Making necessary computer adjustments; and
    - (B) Notifying personnel of the suspension or cancellation.
- (c) Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month shall not be reduced, suspended, or canceled, even though the allotments are issued during an affected month.
- (d) The department shall act immediately to resume issuing benefits to certified households and shall resume benefit issuance as soon as practicable when notified by FNS that a suspension of benefit is over. [Eff 3/19/93; am 11/22/08; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§271.7(d)(1), (2), (3))

§17-610-17 Notification of eligible households.

- (a) Reductions, suspensions, and cancellations of allotments shall be considered federal adjustments to

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allotments. No adverse action notice shall be sent to certified households.

(b) The department shall publicize the reductions, suspensions, and cancellations of allotments by the following:

- (1) News media; and
- (2) Posters in certification offices, issuance locations, or other sites frequented by certified households; or
- (3) General notices mailed to individual households. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(d)(4))

§17-610-18 Restoration of benefits. Households whose allotments are reduced or canceled as a result of the enactment of the rules specified in this subchapter, shall not be entitled to the restoration of the lost allotments at a future date. However, if there is any surplus of funds as a result of the reduction or cancellation and the Secretary determines that such a restoration is practicable, the department shall provide affected households with restored allotments as directed by FNS. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(d)(5))

§17-610-19 Effects of reductions, suspensions, and cancellations on the certification of eligible households. (a) Determinations of the eligibility of applicant households shall continue even though a reduction, suspension, or cancellation of allotment is in effect. If the applicant is found to be eligible for allotments:

- (1) And a reduction is in effect, the amount of the allotment shall be calculated by reducing the maximum benefit amount by the percentage amount determined by FNS for the applicant's household size and then deducting thirty per cent of the household's net food stamp income from the reduced maximum benefit amount;

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- (2) While a suspension or cancellation is in effect, no allotment shall be issued to the applicant until issuance is again authorized by FNS.
- (b) Households eligible to receive expedited processing who apply and are determined to be eligible for program benefits during months in which:
  - (1) Reductions are in effect, shall be issued allotments that are reduced in accordance with the reduction and shall have one allotment available to the households within the benefit delivery time frame specified in chapter 17-647;
  - (2) Suspensions are in effect, shall have benefits issued to the household within the time specified in chapter 17-647, but if the suspension is still in effect at the time issuance is to be made, the issuance shall be suspended until the suspension is ended; and
  - (3) Cancellations are in effect, shall receive expedited service as specified in chapter 17-647. However, the deadline for completing the processing of these cases shall be five calendar days or the end of the month of application, whichever date is later.
- (c) The reduction, suspension, or cancellation of allotments in a given month shall have no effect on the certification periods assigned to households.
  - (1) Participating households whose certification period expires during a month in which allotments have been reduced, suspended, or canceled shall be recertified according to the provisions of chapter 17-648.
  - (2) Households determined eligible to participate in SNAP during a month in which allotments have been reduced, suspended, or canceled shall have certification periods assigned in accordance with the provisions of chapter 17-647.
- (d) Any household that has its allotment reduced, suspended, or canceled as a result of the implementation of the requirements of this subchapter may request a hearing if the household disagrees with the action, subject to the following conditions:

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- (1) A hearing shall be denied those households that are merely disputing the fact that a reduction, suspension, or cancellation was ordered;
- (2) A household that believes its benefit level was computed incorrectly under the reduction rule or that the rule was misapplied or misinterpreted may request a hearing;
- (3) The household shall not receive the continuation of allotments while awaiting the fair hearing decision; and
- (4) A household may receive retroactive allotments to which the household is entitled if the hearing decision results in a determination that allotments to the household were reduced by more than the department was directed to reduce by FNS. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §271.7(e) and (f))



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## HAWAII ADMINISTRATIVE RULES

### TITLE 17

#### DEPARTMENT OF HUMAN SERVICES

#### SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

#### CHAPTER 681

#### ISSUANCE OF BENEFITS

##### Subchapter 1 Financial Assistance Requirements

§17-681-1	Purpose
§17-681-2	General requirements
§17-681-3	Methods of issuance
§17-681-4	Issuance of benefits
§17-681-5	Repealed
§17-681-6	Repealed
§17-681-7	Repealed
§17-681-8	Protective payment
§17-681-9	Imprest fund issuance
§§17-681-10 to 17-681-15	(Reserved)

##### Subchapter 2 Medical Assistance Requirements

§17-681-16	Repealed
§17-681-17	Repealed
§17-681-18	Repealed
§§17-681-19 to 17-681-23	(Reserved)

##### Subchapter 3 SNAP Requirements

§17-681-24	Purpose
§17-681-25	Definitions
§17-681-26	Timely issuance of benefits
§17-681-27	Delayed issuance of benefits
§17-681-28	Repealed
§17-681-29	Repealed
§17-681-30	Repealed

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§17-681-31 Repealed  
§17-681-32 Repealed  
§17-681-33 Repealed  
§17-681-34 Repealed  
§17-681-35 Replacement issuances  
§§17-681-36 to 17-681-39 (Reserved)

### Subchapter 4 State Participation in the SSI And State Loan Programs

§17-681-40 Purpose  
§17-681-41 State financial participation  
§17-681-42 Intent of the state loan program for  
applicants of SSI  
§17-681-43 Relationship to financial assistance  
programs  
§17-681-44 Eligibility requirements for receipt of a  
state loan  
§17-681-45 Conditions for receipt of a state loan  
§17-681-46 Termination of a state loan  
§§17-681-47 to 17-681-49 (Reserved)

### Subchapter 5 Electronic Benefit Transfer

§17-681-50 Purpose  
§17-681-51 Definitions  
§17-681-52 Methods of payment  
§17-681-53 EBT cards  
§17-681-54 Delivery of benefits  
§17-681-55 Repealed  
§17-681-56 Expungement of benefits  
§17-681-57 Adjustments to EBT SNAP accounts

Historical Note: This chapter is based substantially on sections 17-626-3, 17-626-4, 17-626-4.1, 17-626-4.2, 17-626-4.3, 17-626-5, 17-626-5, 17-626-6, 17-626-7, 17-626-7.1, 17-626-20, 17-626-21, 17-626-22, 17-626-23 [Eff 7/19/82; am 11/16/82; am 2/15/83; am 6/6/83; am 11/12/83; am 12/24/84; am 8/29/85; am 5/2/87; am 8/15/87; am 11/9/87; am 2/11/91; am 6/29/91; R 3/19/93] §§17-638-21, 17-638-22, 17-638-23, 17-638-24, 17-638-

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25, 17-638-26, 17-638-27, 17-638-41, 17-638-42 [Eff 7/19/82; am 7/1/83; am 1/30/87; R 3/19/93 ] §§17-715-2; 17-715-8 [Eff 7/19/82; am 10/1/83; am 1/19/84; am 8/16/86; am 12/30/88; am 6/1/89; am 10/6/89; am 12/21/89; am 8/30/91; R 3/19/93 ] §§17-716-2, 17-716-55, 17-716-56 [Eff 7/19/82; am 4/1/83; am 10/1/83; am 7/23/84; am 3/1/85; am 8/16/86; am 12/27/86; am 10/26/87; am 12/30/88; am 7/24/89; am 10/19/89; am 7/20/91; am 8/30/91; am 1/27/92; R 3/19/93 ] §§17-719-2, 17-719-6, 17-719-7, 17-719-28, 17-719-29, 17-719-30, 17-719-31, 17-719-32, 17-719-33, 17-719-34 [Eff 7/19/82; am 10/1/83; am 6/8/84; am 7/23/84; am 3/1/85; am 9/2/86; am 12/27/86; am 5/28/87; am 8/31/87; am 5/4/89; am 7/24/89; am 10/6/89; am 8/25/90; R 3/19/93 ] §§17-742-6, 17-742-7 [Eff 7/19/82; am 8/23/84; R 3/19/93]

## SUBCHAPTER 1

## FINANCIAL ASSISTANCE REQUIREMENTS

§17-681-1 Purpose. The purpose of this subchapter is to establish the method of issuing cash benefits under the financial assistance programs. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-681-2 General requirements. (a) An individual shall receive financial assistance under one financial assistance program.

(b) An individual may be a non-needy payee in another financial assistance case.

(c) Financial assistance paid by the department shall not be subject to assignment, garnishment, or attachment.

(d) Financial assistance benefits shall be repaid to the department when:

- (1) State loans are provided to applicants of SSI under subchapter 4 who are approved for SSI;
- (2) Real property liens are obtained under chapter 17-675;

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- (3) Overpayments occur and are collectible under chapters 17-606 and 17-683; or
- (4) Claims are filed against the estate of a former recipient under chapter 17-605.
- (e) The department shall not direct the manner in which the applicant or recipient plans, budgets or spends the financial assistance benefit except in cases of money mismanagement or sanctions in which a protective payee is designated. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §§346-33 to 36; 45 C.F.R. §§233.10, 233.20, 234.60)

§17-681-3 Methods of issuance. (a) Financial assistance benefits to eligible persons shall be issued in the form of an Electronic Benefit Transfer (EBT) card, direct deposit, protective payment, or imprest fund check.

- (1) The general method of issuance shall be by EBT card or direct deposit into the bank account of the eligible recipient payee, legally appointed guardian of the recipient, or non-needy payee.
- (2) The following individuals may be designated as payee for the monthly financial benefit:
  - (A) An eligible adult in a one-member family;
  - (B) One of the eligible adults in a family with two or more eligible adults;
  - (C) A parent or relative in a family consisting of adults and children;
  - (D) A non-needy individual living in the household of eligible welfare recipients;
  - (E) An individual other than a specified relative in an emergency situation that will deprive the TANF child from receiving the required care of the parent or relative. The payee shall be changed to the parent or relative at the termination of the emergency situation; or
  - (F) The eligible minor who has a separate TANF or state AABD case if:

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- (i) The minor is living independently and is able to manage the financial assistance payment; or
  - (ii) The parents or specified relative with whom the minor is living agrees that the eligible minor shall be the payee.
- (b) The eligibility worker shall determine if an individual is in need of protection or if the need for a legal guardian is indicated in subsection (c).
- (1) Referral to an agency for assistance with financial planning and money management may be made when information indicates that the individual's ability to manage the individual's own financial affairs is highly questionable and the individual is not receiving follow-up services from an agency; and
  - (2) All referrals shall be made with the full knowledge and understanding of the adult recipient.
- (c) The eligibility worker, with supervisory approval, shall determine whether money mismanagement necessitates protective payment. Money mismanagement occurs when:
- (1) The recipient demonstrates continued inability to plan and budget necessary expenditures for the assistance period;
  - (2) There is continued evidence from the eligibility worker's observation, community complaints, medical or psychiatric reports, or social service worker reports that the children or recipient are not properly fed or clothed and that expenditures for the children or recipient are made in such a way as to threaten their chances for healthy growth and development;
  - (3) There is persistent and deliberate failure by the recipient to meet obligations for rent, food, school supplies, and other essentials; or
  - (4) There are repeated evictions of the recipient or incurrence of debts by the recipient with attachments or levies against the family's income or assets.

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(d) A recipient determined to be in need of a protective payee because of money mismanagement shall have the recipient's situation reviewed as frequently as indicated by the individual's or family's circumstances, but not less frequently than every twelve months. The review shall be made to:

- (1) Determine the continued need for protective payments; and
- (2) Ensure that the protective payee is carrying out the responsibilities of a protective payee. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §§346-14, 346-53) (Imp: HRS §346-38, 45 C.F.R. §§233.90, 234.11, 234.60, 234.70)

§17-681-4 Issuance of benefits. (a) Monthly financial assistance benefits to eligible recipients who have timely complied with the program's requirements shall be issued within the benefit month.

- (b) The financial assistance benefit shall be available not later than the fifth work day of the benefit month to recipients who have met all eligibility requirements.
- (c) The financial assistance benefit may be delayed until not later than the last day of the benefit month to eligible recipients who submit completed six month reports after the timely period specified in chapter 17-650 but within the ten day period to submit a completed six month report. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-681-5 REPEALED [R ]

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§17-681-6 REPEALED [R ]

§17-681-7 REPEALED [R ]

§17-681-8 Protective payment. (a) Issuance of benefits shall be made to the protective payee under section 17-681-3.

(b) The selection of the protective payee shall be made by the recipient or with the recipient's participation or consent. The individual who is selected as the protective payee shall:

- (1) Demonstrate a sincere interest and concern in the recipient's general welfare as evidenced by regular visits and efforts to help at times of crisis;
- (2) Be capable of helping the recipient properly receive and manage the recipient's income, and shall supervise the recipient's use of the financial assistance benefit;
- (3) Be capable of working closely with the recipient and assisting to teach basic home management skills, including ways to cope with everyday problems;
- (4) Not be a vendor of goods or service dealing directly with the recipient;
- (5) Not be an administrator, eligibility worker, or other employee of the department dealing directly with the fiscal processes of the recipient's assistance grant;
- (6) Be reliable and of good character;
- (7) Share in the responsibility with the department for the development and evaluation of plans to improve the recipient's capacity and capability to handle money; and
- (8) Respect the recipient's right to confidentiality. The department shall inform the protective payee of the recipient's right to confidentiality and shall limit the information shared with the payee to those

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facts about the family that are pertinent to fulfilling the payee's responsibility.

(c) In situations involving money mismanagement, issuance of benefits to a protective payee shall not exceed two years and shall be terminated when:

- (1) The eligibility worker, with supervisory approval, determines that the recipient or caretaker is able to manage the funds in the best interest of the recipient; or
- (2) Judicial appointment of a guardian or other legal representative has been approved or denied after action for legal adjudication has been sought by the department or any other interested party, because it appears that the need for protective payments would continue beyond two years.

(d) The recipient shall be informed of the recipient's right to appeal and have an administrative hearing on the determination of the protective payee plan or the payee selected.

(e) A review shall be made as frequently as indicated by the individual's or family's circumstances, but not less frequently than every twelve months to:

- (1) Determine the continued need for protective payment; and
- (2) Ensure that the protective payee is carrying out the responsibilities of a protective payee. [Eff 3/19/93; am 1/25/97; am 1/17/08; am and comp 6/24/13] (Auth: HRS §§346-14, 346-53) (Imp: HRS §346-38; 45 C.F.R. §§233.90, 234.11, 234.60, 234.70)

§17-681-9 Imprest fund issuance. (a) An imprest fund means those state funds in the benefit, employment and support services division's designated checking accounts which the division's eligibility units use to pay emergency financial assistance benefits.

(b) The imprest fund shall be used to pay eligible applicants and recipients without any currently available income or assets and whose immediate needs cannot be met through the usual payment



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process. Situations of immediate need shall be limited to the following situations:

- (1) An emergency situation exists under chapter 17-647;
  - (2) The individual is eligible for natural disaster assistance under chapter 17-678;
  - (3) The individual requires immediate shelter deposit or utility deposit to obtain or maintain the functions of everyday living and is eligible for a deposit under chapter 17-678; or
  - (4) The recipient must report to a temporary labor force assignment within five days after certification.
- (c) A payment issued through the imprest fund shall not exceed the sum of:
- (1) The monthly assistance allowance to which the individual or family is entitled for the month under chapter 17-678; and
  - (2) The cost of the shelter and utility deposits as allowed under chapter 17-678.
- (d) The amount of assistance payment authorized on each imprest check shall not exceed \$750.
- (e) The total amount of payments issued through the imprest fund and other methods of disbursement shall not exceed the amount the individual is entitled to receive.
- (f) The eligibility worker's supervisor, or designee in the supervisor's absence shall authorize, where justified, the worker's request to use the imprest fund. [Eff 3/19/93; am and comp 6/24/13]  
(Auth: HRS §346-14) (Imp: HRS §§40-85, 346-53)

§§17-681-10 to 17-681-15 (Reserved)

## SUBCHAPTER 2

## Medical Assistance Requirements

§17-681-16 REPEALED. [R 8/01/94 ]

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§17-681-17 REPEALED. [R 8/01/94 ]

§17-681-18 REPEALED. [R 8/01/94 ]

§§17-681-19 to 17-681-23 (Reserved).

SUBCHAPTER 3

SNAP REQUIREMENTS

§17-681-24 Purpose. The purpose of this subchapter is to establish the methods and requirements for issuing benefits under the SNAP. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §346-14)

§17-681-25 Definitions. As used in this subchapter:

"Authorized representative" means a person designated in writing by the head of the household, the spouse, or other responsible household member, to act on behalf of a household in applying for program benefits, and in accessing the household's EBT SNAP benefits. An authorized representative also means a private nonprofit organization or institution conducting a drug addiction or alcoholic treatment and rehabilitation center, or a public or private nonprofit group living arrangement whose residents are blind or disabled recipients of benefits under title II or title XVI of the Social Security Act (42 U.S.C. §§401-433; 1381-1383), which will act on behalf of households who reside at the centers in applying for and obtaining SNAP benefits.

"Certification period" means a definite period of time established by the branch during which the household shall be eligible for program benefits unless notified otherwise through appropriate notification procedures.

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"Head of household" means the person normally designated as the head by a household or designated as the head by the branch.

"Recertification" means a redetermination of the household's eligibility to continue to receive program benefits beyond the current certification period.

"Supplemental Nutrition Assistance Program" or "SNAP" means the nutrition assistance program formerly known as the food stamp program". [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §346-14; 7 C.F.R. §§273.1, 273.10(f), 273.14, 274.7)

§17-681-26 Timely issuance of benefits. (a)  
When an eligible household files a complete six month report by the scheduled filing date, the household shall have an opportunity to participate by the normal issuance date for that household.

(b) Eligible applicants shall be provided an opportunity to participate according to the processing standards under chapter 17-647.

(c) An otherwise eligible recipient shall be provided an opportunity to participate by the normal issuance date within a current certification period.

(d) An otherwise eligible recipient shall be provided an opportunity to participate by the normal issuance date in the month following the end of the current certification period. However, the recipient shall lose the right to uninterrupted benefits when the recipient fails to:

- (1) Submit an application for recertification in a timely manner;
- (2) Attend any interview scheduled on or after the deadline for timely filing of the application for recertification under chapter 17-648; or
- (3) Submit all necessary verification within the time provided by the department provided that time elapses after the deadline for filing a timely application for recertification.

(e) An opportunity to participate shall consist of:

- (1) Providing an applicant or recipient with an EBT card; and

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- (2) Having a food retailer open and available for the applicant or recipient to expend its SNAP allotment. [Eff 3/19/93; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.2(g), 273.14, 273.21)

§17-681-27 Delayed issuance of benefits. (a) When an eligible recipient files a complete six month report during the extension period, the department shall provide the recipient with an opportunity to participate not later than ten days after the recipient's normal issuance date.

(b) When an eligible recipient is terminated for failure to file a complete six month report files a complete report after the extended filing date but prior to the first day of the month the SNAP assistance is to be terminated, the department shall reinstate the recipient by providing the recipient with an opportunity to participate no later than thirty days after receipt of the completed six month report.

(c) When the recipient does not file a complete six month report prior to the first day of the month the SNAP assistance is to be terminated, a new application shall be required and the application processing requirements of chapter 17-647 shall apply.

(d) The department shall take action to provide uninterrupted benefits within the following time standards even if, to meet these standards, the department shall provide an otherwise eligible recipient the opportunity to participate outside the normal issuance date:

- (1) Eligible recipients certified for one month or certified for two months in the second month of the certification period who have met the application for recertification procedures shall be provided an opportunity to participate no later than thirty calendar days after the date the recipient had an opportunity to obtain its last allotment; or
- (2) All other eligible recipients who have met the application for recertification

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procedures shall receive their benefits as follows:

- (A) Recipients not determined eligible in sufficient time to provide for issuance by the normal issuance date due to the time period allowed for submitting any missing verification shall receive an opportunity to participate within five working days after the missing verification is submitted; or
- (B) Recipients which have timely submitted an application for recertification but, due to department error, are not determined eligible in sufficient time to provide for issuance by the recipient's next normal issuance date shall receive an immediate opportunity to participate.

(e) An otherwise eligible recipient who loses the right to uninterrupted benefits under section 17-681-26(d) shall receive benefits within thirty days after the application for recertification is filed.

(f) When the department is unable to provide an otherwise eligible recipient with an opportunity to participate within thirty calendar days after the date the application for recertification is filed due to the time period allowed for submitting missing verification, the department shall provide the recipient an opportunity to participate within five working days after the recipient supplies the missing verification. [Eff 3/19/93; am and comp 6/24/13]  
(Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.14, 273.21)

§17-681-28 REPEALED [R ]

§17-681-29 REPEALED [R ]

§17-681-30 REPEALED [R .]

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§17-681-31 REPEALED [R ]

§17-681-32 REPEALED [R ]

§17-681-33 REPEALED [R ]

§17-681-34 REPEALED [R ]

§17-681-35 Replacement issuances. (a) Subject to the restrictions in subsections (c), (d) and (e), the branch shall provide replacement issuances to a household when the household reports that food purchased with SNAP benefits was destroyed in a household misfortune.

(b) Where a federal disaster declaration has been issued and the household is eligible for disaster SNAP benefits under the disaster declaration, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

(c) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing. The report will be considered timely if it is made to the branch within ten days of the date food purchased with SNAP benefits is destroyed in a household misfortune.

(d) No limit on the number of replacements shall be placed on the replacement of food purchased with SNAP benefits which was destroyed in a household misfortune.

(e) Except for households certified under 7 CFR replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(f) Prior to issuing a replacement, the branch shall obtain from a member of the household a signed statement which:

- (1) Attests to the destruction of the household's food;

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- (2) Advises the household that the department will not provide a replacement issuance if the signed statement is not returned within ten days. If the tenth day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the branch shall consider the statement timely received; and
  - (3) States that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim. The statement shall be retained in the case file.
  - (g) Replacement issuances shall be provided to households with ten days after report of loss or within two working days of receiving the signed statement required in subsection (f), whichever date is later.
  - (h) The branch shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.
  - (i) The household shall be informed of its right to a fair hearing to contest the denial or delay of a replacement issuance. Replacements shall not be made while the denial or delay is being appealed.
  - (j) Upon receiving a request for replacement of an issuance for food destroyed in a household misfortune, the branch shall determine if the issuance was validly issued.
  - (k) Prior to replacing destroyed food that was purchased with SNAP benefits, the branch shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit.
- (1) The branch shall document in the case record:
    - (1) Each request for replacement;
    - (2) The date of the request;
    - (3) The month of the original issuance;
    - (4) The reason for replacement; and
    - (5) Whether or not the replacement was provided.

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(m) When a request for replacement is made late in an issuance month, the replacement will be issued in the month subsequent to the month in which the original benefit was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement and may be posted to the month of issuance of the original benefit, so that all duplicate transactions may be identified. [Eff and comp 6/24/13] (Auth: HRS §346-14) (Imp 7 C.F.R. §274.6)

§§17-681-36 to 17-681-39 (Reserved).

SUBCHAPTER 4

STATE PARTICIPATION IN THE SSI AND STATE LOAN PROGRAMS

§17-681-40 Purpose. The purpose of this subchapter is to:

- (1) Delineate the manner of state financial participation in the federal supplemental security income (SSI) program; and
- (2) Establish the eligibility requirements and conditions for state loans to applicants for federal SSI benefits. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-51, 346-52, 346-57)

§17-681-41 State financial participation. (a) The department may provide financial participation in the basic federal supplemental security income (SSI) program.

(b) The amount of the state participation shall be determined by the director in accordance with the requirements of the mandatory pass along provisions of the federal law and the availability of state funds.

(c) The state share, upon a contractual agreement with the Secretary of Health and Human Services, shall be administered by the federal Bureau of Supplemental



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Security Income through the Social Security Administration:

- (1) The contractual agreement and the amount of the state share shall be reviewed every state fiscal year and shall be amended as necessary; and
- (2) The contractual agreement shall be made in accordance with the provisions of Pub. L. No. 94-585, Section 1618 of the Social Security Act (42 U.S.C. §1382g), as amended. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §§346-14, 346-53) (Imp: HRS §§346-51, 346-52)

§17-681-42 Intent of the state loan program for applicants of SSI. (a) The intent of this loan shall be to make available moneys for applicants of supplemental security income who are awaiting the disposition of the applicant's application or who are awaiting a decision on the applicant's appeal of an ineligible disposition by the supplemental security income (SSI) office.

(b) The loan moneys shall be provided to prevent hardship for the applicants. [Eff 3/19/93; comp 6/24/13] (Auth HRS §346-14) (Imp: HRS §346-57)

§17-681-43 Relationship to financial assistance programs. (a) Current recipients or applicants under the GA program who may be potentially eligible for SSI shall be required to apply for federal SSI benefits.

(b) All applicants under the state AABD program who are not current recipients of SSI because of age, blindness, or disability shall be required to apply for federal SSI benefits.

(c) Applicants or recipients under the state funded TANF program who may be potentially eligible for SSI, shall be required to apply for federal SSI benefits.

(d) Upon application for SSI by the GA, AABD or state funded TANF applicant or recipient, the state funded assistance payment shall be converted to a loan

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status with the department, if the conditions of this subchapter are met.

(e) SSI applicants who are also eligible for federally funded TANF shall be entitled to TANF assistance in lieu of a state loan. [Eff 3/19/93; am 9/26/97; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §§346-7, 346-14, 346-57)

§17-681-44 Eligibility requirements for receipt of a state loan. A state loan shall be provided to an applicant of supplemental security income if the applicant meets the following requirements:

- (1) The individual shall be eligible for financial assistance under the state funded TANF, GA or state AABD program;
- (2) The individual shall be an applicant for benefits under the federal supplemental security income program;
- (3) The individual's request for an advance SSI payment shall have been denied or for a determination of presumptive eligibility shall not have been made by the Federal Bureau of Supplemental Security Income; and
- (4) The individual shall agree to the conditions for receipt of a loan as specified in section 17-681-45. [Eff 3/19/93; am 9/26/97; am and comp ] (Auth: HRS §346-14) (Imp: HRS §346-57)

§17-681-45 Conditions for receipt of a state loan. (a) The individual shall execute a written agreement with the department at the time application for the loan is made.

(b) If the individual fails to inform the department of the individual's application for SSI at the time the SSI application is made, one of the following actions shall be taken when the department becomes aware of the individual's application for SSI:

- (1) If the individual's determination for SSI has not yet been made, the individual shall be required to execute a written agreement retroactive to the date application for SSI

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was made as a part of the individual's eligibility requirement for state funded TANF, GA or state AABD and shall be placed on loan status retroactively;

- (2) If the individual has already been found to be ineligible for SSI, the department's eligibility worker shall document in the individual's case record the facts related to the individual's application for SSI, the determination of ineligibility, and the individual's reasons for not informing the agency; or
- (3) If the individual has already been found eligible for SSI and has received or is expected to receive the retroactive SSI payment, the department shall pursue, as applicable, an overpayment refund or investigation or prosecution of fraud.

(c) The written agreement shall enable the department to receive the retroactive SSI payment directly from the federal government so that the department may obtain reimbursement for the loan.

(d) In the written agreement the individual shall agree to:

- (1) Repay the department from the retroactive SSI payment:
  - (A) The exact amount of the loan if the retroactive payment is equal to or more than the amount of the loan; or
  - (B) The total amount of the retroactive SSI if the payment is less than the amount of the loan;
- (2) For a case in which an appeal is pursued, the state loan and all requirements and conditions for the receipt of the loan shall be continued in effect until the individual abandons the appeal process or the individual no longer has any recourse; and
- (3) Be ineligible for an outright state funded TANF, GA or state AABD payment until such time as the individual is determined categorically ineligible for federal SSI. If the individual appeals the SSI ineligibility decision, the individual shall continue to be

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ineligible for an outright state funded TANF, GA or state AABD payment until the appeal process is completed or until the individual has no further recourse. [Eff 3/19/93; am 9/26/97; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §§346-34, 346-57)

§17-681-46 Termination of a state loan. (a) A state loan shall be terminated:

- (1) Upon receipt by the department of the retroactive SSI check, and termination shall be retroactive to the first month the SSI benefits were effective; or
- (2) On the date the department is informed by the supplemental security income office that the individual has been determined to be ineligible for SSI payments for reasons other than the individual's failure to cooperate, and termination shall be retroactive to the date the state loan was first effective. If the individual appeals the decision of ineligibility, the state loan shall not be terminated until after the appeal process is terminated or until the individual has no further recourse.

(b) A notice shall be sent to the individual informing the individual of the:

- (1) Amount of the retroactive SSI check;
- (2) Total amount of the state loan;
- (3) Period the state loan covered;
- (4) Amount deducted from the retroactive SSI payment to cover the loan;
- (5) Amount, if any, to which the individual is entitled from the retroactive check; and
- (6) Amount of the loan discharged, if any. [Eff 3/19/93; comp 6/24/13] (Auth: HRS §346-14) (Imp: HRS §§346-14, 346-57)

§§17-681-47 to 17-681-49 (Reserved).

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## SUBCHAPTER 5

## ELECTRONIC BENEFIT TRANSFER

§17-681-50 Purpose. The purpose of this subchapter is to establish the methods of issuing and replacing benefits under an EBT system for the employment and child care, financial assistance, and SNAP programs. Where this subchapter conflicts with other subchapters, this subchapter shall take precedence for households receiving benefits issued by means of electronic benefit transfer. [Eff 8/01/98; am 9/1/03; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.2(a))

§17-681-51 Definitions. As used in this subchapter:

"Acquirer" means a financial institution that may:

- (1) own or operate automated teller machines,
- (2) sign merchant agreements with merchants for the acceptance of the Hawaii EBT card, or
- (3) sign agreements with ATM terminal drivers for the acceptance of the Hawaii EBT card.

"Adjustments" means a credit or debit transaction to correct a system error, correct an inaccurate record of a transaction, or to correct an out-of-balance condition that is identified in the settlement process.

"Alternate payee" means an adult designated by the primary payee to receive an EBT card.

"Automated Clearing House" or "ACH" means the network operated by the Federal Reserve and financial institutions to electronically process and settle funds transfers between financial institutions.

"Automated teller machine" or "ATM" means a machine used to withdraw financial assistance benefits.

"Bank day" means the weekday on which the bank is open for business. It does not include weekends or holidays.

"Calendar day" means the actual day of the month. It includes weekdays, weekends, and holidays.

"Dormant" means the inactive status of an EBT account after ninety days of no debit transaction.

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"Cash assistance households" means households receiving cash payments from any of the employment and child care programs as defined in chapters 17-794.1 and 17-798.2 and from any of the financial assistance programs as defined in section 17-600-3, excluding medical assistance, social services, and transportation assistance.

"Electronic benefit transfer system" or "EBT" means a computer-based system in which the financial assistance and SNAP benefit authorization is received from a central computer through an automated teller machine or point-of-sale device.

"EBT card" means the card issued by the department which will allow the holder to access benefits in an EBT account through an ATM or POS device.

"EBT cash account" means an account or file that is maintained by the EBT contractor on behalf of the household which contains the household's authorized cash or financial assistance benefits.

"EBT SNAP account" means an account or file that is maintained by the EBT contractor on behalf of the household which contains the household's authorized SNAP benefits.

"EBT transaction" means a transaction authorized from either the EBT cash account or EBT SNAP account in which the entire transaction amount debited is from the corresponding EBT account.

"Expunged benefits" means benefits that are reverted back to the State because the household failed to debit their benefits from their EBT account within the required timeframes established by this subchapter.

"Gateway" means a service provided by a network for access to other regional or national networks.

"Hawaii Automated Network of Assistance system" or "HANA" means the computerized eligibility system that is designed to provide on-line client tracking, case management, payment, process automation and computerized report capabilities for line staff and administration for the maintenance of the employment and child care programs as defined in chapters 17-794.1 and 17-798.2

"Hawaii Automated Welfare Information system" or "HAWI" means the computerized eligibility system that is designed to provide on-line client tracking, case

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management, payment, process automation and computerized report capabilities for line staff and administration for the maintenance of the financial assistance and SNAP programs.

"Host computer" means the computer system that stores, maintains and updates the EBT records and accounts.

"Misdispensement" means the failure of an automated teller machine to dispense out the correct amount of cash.

"Network" means an organization or company that operates computer hardware and software and telecommunication links to enable the interchange of commercial debit transactions.

"Off-line" means a transaction that is processed manually by a merchant because the merchant does not have a direct electronic connection through the Gateway to the EBT system.

"Personal identification number" or "PIN" means a secret number selected by the household to be used with the EBT card to receive benefits.

"Point-of-sale device" or "POS" means a machine in a food store that is used to allow SNAP recipients to purchase food items.

"Primary payee" means the primary information person identified in the Hawaii Automated Welfare Information System.

"Processor" means any company processing transactions on behalf of a financial institution, acquirer, or merchant.

"Provisional credit" means the process by which the EBT account is immediately re-credited pending an audit review by the EBT contractor whenever the system incorrectly debits the household's EBT account due to an electronic malfunction of the system caused by a telecommunication time-out or an error by the Processor.

"Re-presentment" means the process by which the EBT contractor will seek repayment or debit an EBT account when a manual authorization of the transaction is approved by the EBT contractor to the merchant because the EBT host system is down and the transaction authorization is based upon a backup data system. In the event the household's account balance is

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insufficient to cover the amount of the manual transaction, the EBT contractor may re-present or debit the disallowed transaction from benefits deposited into the household's EBT account in future months.

"Reversal" means the electronic cancellation of a transaction usually due to a system error.

"Surcharge" means a fee deducted from a cardholder's account by a financial institution which owns or operates automated teller machines that accepts the Hawaii EBT card.

"System error" means an error resulting from a malfunction at any point in the redemption process: from the system host computer, to the switch, to the third party processors, store host computer or POS device. [Eff 8/01/98; am 10/18/01; am 9/11/03; am 1/17/08; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.2(a), (g))

§17-681-52 Methods of payment. (a) Financial assistance and employment and child care payments to eligible persons shall be issued in the form of EBT or imprest check.

- (1) The general method of payment shall be by EBT to the eligible primary payee.
- (2) The money shall be transferred to an EBT account or direct deposited into a financial institution account designated by the primary payee.
- (3) The EBT account shall be accessed by any individual who has an EBT card and a valid PIN.
  - (A) The household's cash benefits may be accessed through ATMs or through POS devices at retail establishments who are participating in the cash-back option under the EBT program.
  - (B) The department shall provide two free ATM transactions per month and recipients will be assessed a [recipients will be assessed a] transaction fee for all subsequent transactions. The household may also be assessed a surcharge fee, which is



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unrelated to the transaction fee, on all ATM transactions by the ATM owner.

- (4) Benefits shall be issued by imprest check if necessary to meet requirements as described in section 17-681-9.
- (b) Occasionally an ATM may misdispense less cash to a recipient than what was requested. The cause of the misdispensement may be due to a system time-out or a problem with the telecommunication line anywhere between the ATM, the processor, the Gateway or the EBT system. Whenever a recipient experiences a misdispensement at an ATM, the recipient shall:
  - (1) Report the error to the EBT customer service to file a trouble ticket;
  - (2) Report the problem of the misdispensement to the unit to request a provisional credit; and
  - (3) Sign a statement attesting to the misdispensement and provide all the pertinent information, i.e., the date, time, location and the amount of the misdispensement. The client shall also acknowledge that if the audit investigation of the misdispensement proves to be false:
    - (A) The amount of the provisional credit that was credited into the household's EBT account shall be immediately debited from the household's EBT account;
    - (B) If the balance in the household's EBT account is insufficient to cover the amount of the provisional credit, the provisional credit amount shall be debited from the benefits deposited in the next month;
    - (C) If no funds are deposited into the EBT account in the next month, or if the department was unable to debit the account before the household accessed the benefits, a claim in the amount equal to the provisional credit amount shall be established against the household; and

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(D) The fraud provisions as specified in chapter 17-604.1 shall be imposed against the household.

(c) If the household received more cash from the ATM than what was originally requested, the household shall be responsible to report the overage to the ATM owner and to the household's case worker. The household may be liable for any excess amount that was misdispensed by the ATM, and may be subject to the requirements specified in section 17-681-57.

(d) SNAP benefits to eligible households shall be issued in the form of EBT. The EBT account shall be accessed by any individual who has an EBT card and a valid PIN. SNAP benefits may be accessed through:

- (1) POS devices at SNAP certified retail stores that have the capability to electronically process EBT transactions; or
- (2) Manual off-line voucher process for those SNAP certified retailers who do not have a POS device but are certified by the EBT contractor to accept EBT transactions. Manual off-line vouchers may also be used by POS merchants when normal EBT electronic processing is not possible. Recipients will not be assessed any transaction fees for purchases made with their SNAP benefits. [Eff 8/01/98; am 10/18/01; am 9/11/03; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§274.2(a) and (b), 274.3(a), 274.7)

§17-681-53 EBT cards. (a) EBT cards shall be used to access the EBT cash account and EBT SNAP account.

- (1) EBT cards shall be issued to all recipient households.
- (2) One EBT card shall be issued to the primary payee and a second card may be issued to the alternate payee. Before a second card is issued to an alternate payee, the primary payee shall provide a written statement designating the name of the alternate payee and the program accounts to which the

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alternate payee will have access. Program benefits to which the household has authorized its alternate payee access shall not be replaced if accessed by the alternate payee.

(b) The household is entitled to receive a replacement EBT card whenever the household has reported the EBT card lost or stolen. The Department shall replace EBT cards within two business days following notice by the household to the department that the card has been lost or stolen. In cases where the Department is using centralized card issuance, replacement can be extended to take place within up to five calendar days. In all instances, the Department must ensure that the clients have in hand an active card and PIN with benefits available on the card, within the time frame the department has identified for card replacement.

(c) The department shall not replace lost or stolen benefits. [Eff 8/01/98; am 10/18/01; am and comp 6/24/13] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§274.2(a), and (b), 274.6 (b))

§17-681-54 Delivery of benefits. (a) Households will have their monthly financial assistance, employment and child care payments, and SNAP benefits available on a staggered basis up to the fifth calendar day of each month. Financial and employment and child care assistance households shall have the option of receiving their benefits either through the EBT system or through a direct deposit into a designated financial institution account.

(b) A newly approved applicant household or a household whose financial or employment and child care case is reopened in a new month shall have its cash benefits made available in the EBT system no earlier than three working days after the case has been approved in the HAWI or HANA systems if the application is processed in HAWI or HANA before the last four work days of the month. Households whose cases are reopened or whose applications are approved any time during the last four work days of a calendar month will receive their first issued benefits no earlier than three

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working days after the first work day of the next month. Newly approved cash assistance households, who choose the direct deposit option, will receive their initial benefits approximately three workdays later due to the ACH process.

(c) Newly approved SNAP applicant households or households whose SNAP case is reopened shall have its SNAP benefits available the next calendar day after the benefits are authorized in the HAWI system if the application is processed in HAWI before the last four work days of the month. Households whose cases are reopened or whose applications are approved any time during the last four work days of a calendar month will receive their first issued benefits no earlier than the next calendar day after the first work day of the next month.

(d) Financial assistance households, who meet the expedited processing criteria for the financial assistance programs in chapter 17-647, shall have their benefits issued in accordance with the imprest fund issuance procedures in section 17-681-9.

(e) SNAP households, who meet the expedited service provisions in chapter 17-647, shall have their emergency SNAP benefits issued through the EBT system. [Eff 8/01/98; am 7/16/99; am 10/18/01; am 9/11/03; am and comp ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §274.2 (b), (c), (d))

§17-681-55 REPEALED [R ]

§17-681-56 Expungement of benefits. (a) For cash assistance households, benefits shall be expunged after ninety days of no debit activity.

(b) For SNAP households, benefits shall be expunged after twelve months of no debit activity.

(c) Once an EBT account is expunged, the household loses all rights to the balance amount that was remaining in the EBT account.

(d) The department may use the balance in the household's EBT account to offset any outstanding overpayments still owed by the household. The funds that are used to offset any outstanding overpayments

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are not refundable to the household. [Eff 8/01/98; am 10/18/01; am 9/11/03; am 11/22/08; am and comp ] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.18 (g) (2), §274.2 (h) (2))

§17-681-57 Adjustments to EBT SNAP accounts. (a) The department shall make adjustments to an EBT SNAP account after the benefits have been made available to the household to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error. The adjustment may occur after the availability date and may result in either a debit or credit to the household.

- (1) Client initiated adjustments shall be made no later than ten business days from the date the household notifies the department of the error. Business days are defined as calendar days other than Saturdays, Sundays and federal holidays.
- (2) The household has ninety days from the date of the error to notify the department of the need for an adjustment.
- (3) Retailer initiated adjustments shall be made no later than ten business days from the date the error occurred.
- (4) If there are insufficient benefits remaining to cover the entire adjustment, the full adjustment shall be attempted against only the household's next month's benefits.
- (5) The household shall be given, at a minimum, an adequate notice as defined in chapter 17-649. This notification shall be made no later than the date the action is initiated against the household EBT account.
- (6) The household shall have ninety days from the date of the notice to request a fair hearing in accordance with chapter 16-602.1. Should the household dispute the adjustment and a request is made within fifteen calendar days of the notice, no further action shall be taken to debit the household's EBT account until the fair hearing decision is rendered. If no fair hearing is requested within

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fifteen calendar days, the adjustment shall be made to credit the retailer's account.

(b) Under certain circumstances when manual off-line voucher transactions occur due to the inaccessibility of the host computer and the transaction is rejected due to insufficient funds in the household's account, the department may permit the re-representation of the transaction during subsequent months.

- (1) Re-representation of manual vouchers when there are insufficient funds in the EBT account to cover the manual transaction may be permitted only under the following conditions:
  - (A) The manual transaction occurred because the host computer was down and authorization was obtained by the retailer for the transaction; or
  - (B) The manual transaction occurred because telephone lines were down.
- (2) Re-representation of manual vouchers shall not be permitted when the EBT card, magnetic stripe, PIN pad, card reader, or POS terminal fails and telephone lines are operational. Manual transactions shall not be utilized to extend credit to a household via re-representation when the household's EBT account balance is insufficient to cover the planned purchase.
- (3) The department shall debit the benefit allotment of a household during the first month following the insufficient funds transaction in the amount of \$50 in the first month and the greater of \$10 or ten per cent of the allotment in subsequent months until the total balance owed is paid-in-full. If the monthly allotment is less than \$50, the department shall debit the account for \$10.  
[Eff 3/04/04; am and comp ]  
(Auth: HRS §346-14) (Imp: 7 C.F.R. 274.2(g))