



DEC 03 2012

United States  
Department of  
Agriculture

SUBJECT: Supplemental Nutrition Assistance Program (SNAP) - State Agency liability for Employee Fraud

Food and  
Nutrition  
Service

TO: All Regional SNAP Directors  
Supplemental Nutrition Assistance Program

3101 Park  
Center Drive

Alexandria, VA  
22302-1500

The increased focus on SNAP integrity has required the Food and Nutrition Service (FNS) and the States to review their procedures for responding to integrity issues, specifically a clarification of FNS' responsibility when a State employee is found guilty of fraud while administering the program. In those cases where the State is actively pursuing an employee fraud case through the courts, FNS has historically left the State to handle the case as it works its way through the legal system and has not established a claim against the State and/or held the State liable unless it was determined that they were not acting with due diligence. This practice was called into question because 7 CFR 276.1(a) holds State agencies strictly liable for any losses or shortages of SNAP benefits.

After careful review, FNS has determined that while the state employee is indeed a representative of the State there is a difference between State certification policy procedures as a whole and individual illegal activity. State certification policy operates under the assumption that the employee is following the directions of the State and that any losses or shortages are the result of errors in implementation either on the part of the State or the employee. Fraud and Theft are the sole actions of the employee(s) and the State can only take proactive steps to mitigate, identify and pursue fraudulent activities.

FNS seeks to foster State cooperation and establish a partnership with the States by assisting them in their efforts to mitigate and pursue internal fraud rather than taking immediate punitive action by billing the State for benefits fraudulently obtained or issued by an employee.

Therefore, FNS will reserve the ability to bill the State for employee fraud to those instances where a State has demonstrated negligence by not taking action once they are made aware of potential employee fraud and/or failing to take steps to recoup lost funds.

If you have any questions, please contact Jane Duffield by phone at (703) 605-4385 or email at [Jane.Duffield@fns.usda.gov](mailto:Jane.Duffield@fns.usda.gov).

Sincerely,

Ronald Ward  
Director  
Program Accountability and Administration Division

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