

in accordance with regulations issued under this chapter separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine.

(g) Disqualification of retailers who are disqualified under WIC program

(1) In general

The Secretary shall issue regulations providing criteria for the disqualification under this chapter of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 1786 of title 42.

(2) Terms

A disqualification under paragraph (1)—

(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

(C) notwithstanding section 2023 of this title, shall not be subject to judicial or administrative review.

(Pub. L. 88-525, §12, Aug. 31, 1964, 78 Stat. 707; Pub. L. 95-113, title XIII, §1301, Sept. 29, 1977, 91 Stat. 974; Pub. L. 97-253, title I, §§175, 176(a), Sept. 8, 1982, 96 Stat. 781; Pub. L. 99-198, title XV, §1532(a), Dec. 23, 1985, 99 Stat. 1582; Pub. L. 100-435, title III, §344, Sept. 19, 1988, 102 Stat. 1664; Pub. L. 101-624, title XVII, §§1743-1745, Nov. 28, 1990, 104 Stat. 3795, 3796; Pub. L. 103-66, title XIII, §§13943, 13944, Aug. 10, 1993, 107 Stat. 677; Pub. L. 104-127, title IV, §401(a), Apr. 4, 1996, 110 Stat. 1026; Pub. L. 104-193, title VIII, §§841-843, Aug. 22, 1996, 110 Stat. 2331, 2332.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-193, §841, inserted at end “Regulations issued pursuant to this chapter shall provide criteria for the finding of a violation and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.”

Subsec. (b)(3)(B). Pub. L. 104-127, §401(a), struck out “(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)” after “substantial evidence” and substituted “, including evidence that—” and cls. (i) and (ii) for “; or”.

Subsec. (b)(4). Pub. L. 104-193, §842, added par. (4).

Subsec. (g). Pub. L. 104-193, §843, added subsec. (g).

1993—Subsec. (b)(3)(B). Pub. L. 103-66, §13943, substituted “for violations occurring during a single investigation” for “during a 2-year period”.

Subsec. (b)(3)(C). Pub. L. 103-66, §13944, substituted “substance (as)” for “substances (as the term is)” and “for violations occurring during a single investigation” for “during a 2-year period”.

1990—Subsec. (b)(3). Pub. L. 101-624, §1743, in subpar. (A) struck out “or” after “disqualification;”, in subpar. (B) inserted “for each violation (except that the amount of civil money penalties imposed during a 2-

year period may not exceed \$40,000)” after “\$20,000” and “(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)” after “evidence”, and substituted “; or” for period at end, and added subpar. (C).

Subsec. (e)(3). Pub. L. 101-624, §1744, added par. (3).

Subsec. (f). Pub. L. 101-624, §1745, added subsec. (f).

1988—Subsec. (b)(3). Pub. L. 100-435 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern.”

1985—Subsec. (e). Pub. L. 99-198 added subsec. (e).

1982—Subsec. (a). Pub. L. 97-253, §175(1)–(3), redesignated first sentence as subsec. (a), substituted “\$10,000” for “\$5,000”, and struck out second sentence relating to disqualification.

Subsec. (b). Pub. L. 97-253, §175(3), added subsec. (b) relating to disqualification.

Subsec. (c). Pub. L. 97-253, §175(4), redesignated last sentence as subsec. (c).

Subsec. (d). Pub. L. 97-253, §176(a), added subsec. (d).

1977—Pub. L. 95-113 substituted revised provisions covering civil money penalties and disqualification of retail food stores and wholesale food concerns for provisions relating to the determination and disposition of claims which are now covered by section 2022 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective, and to be implemented beginning on, Oct. 1, 1993, see section 13971(a) of Pub. L. 103-66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101-624, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-435 to be effective and implemented on Oct. 1, 1988, see section 701(a) of Pub. L. 100-435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97-253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2016, 2018, 2023 of this title; title 26 section 6109; title 42 section 405.

§ 2022. Disposition of claims

(a) General authority of the Secretary

(1) Determination of claims

Except in the case of an at-risk amount required under section 2025(c)(1)(D)(i)(III) of this title, the Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this chapter or the regulations issued pursuant to this chapter, includ-

ing, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients, including the power to waive claims if the Secretary determines that to do so would serve the purposes of this chapter. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies. The Secretary shall have the power to reduce amounts otherwise due to a State agency under section 2025 of this title to collect unpaid claims assessed against the State agency if the State agency has declined or exhausted its appeal rights under section 2023 of this title.

(2) Claims established under quality control system

To the extent that a State agency does not pay a claim established under section 2025(c)(1) of this title, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 2025(c)(7) of this title. If the State agency appeals such claim (in whole or in part), the interest on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 1 year after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned.

(3) Computation of interest

Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues.

(4) Joint and several liability of household members

Each adult member of a household shall be jointly and severally liable for the value of any overissuance of coupons.

(b) Collection of overissuances

(1) In general

Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

- (A) reducing the allotment of the household;
- (B) withholding amounts from unemployment compensation from a member of the household under subsection (c) of this section;

- (C) recovering from Federal pay or a Federal income tax refund under subsection (d) of this section; or
- (D) any other means.

(2) Cost effectiveness

Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

(3) Maximum reduction absent fraud

If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 2015(b)(1) of this title and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

- (A) 10 percent of the monthly allotment of the household; or
- (B) \$10.

(4) Procedures

A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.

(c) Food stamp intercept of unemployment benefits

(1) As used in this subsection, the term “uncollected overissuance” means the amount of an overissuance of coupons, as determined under subsection (b)(1) of this section, that has not been recovered pursuant to subsection (b)(1) of this section.

(2) A State agency may determine on a periodic basis, from information supplied pursuant to section 49b(b) of title 29, whether an individual receiving compensation under the State’s unemployment compensation law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law) owes an uncollected overissuance.

(3) A State agency may recover an uncollected overissuance—

- (A) by—
 - (i) entering into an agreement with an individual described in paragraph (2) under which specified amounts will be withheld from unemployment compensation otherwise payable to the individual; and
 - (ii) furnishing a copy of the agreement to the State agency administering the unemployment compensation law; or

(B) in the absence of an agreement, by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from the unemployment compensation.

(d) Recovery of overissuance of coupons

The amount of an overissuance of coupons, as determined under subsection (b)(1) of this section, that has not been recovered pursuant to

such subsection may be recovered from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 or a Federal income tax refund as authorized by section 3720A of title 31.

(Pub. L. 88–525, §13, Aug. 31, 1964, 78 Stat. 707; Pub. L. 95–113, title XIII, §1301, Sept. 29, 1977, 91 Stat. 974; Pub. L. 97–35, title I, §113, Aug. 13, 1981, 95 Stat. 363; Pub. L. 97–253, title I, §§177, 178, Sept. 8, 1982, 96 Stat. 781, 782; Pub. L. 99–198, title XV, §§1533–1535(a), Dec. 23, 1985, 99 Stat. 1583; Pub. L. 100–435, title VI, §§601, 602, Sept. 19, 1988, 102 Stat. 1674; Pub. L. 101–624, title XVII, §1746, Nov. 28, 1990, 104 Stat. 3796; Pub. L. 102–237, title IX, §911, Dec. 13, 1991, 105 Stat. 1887; Pub. L. 103–66, title XIII, §§13941(b), 13951(a), Aug. 10, 1993, 107 Stat. 676, 677; Pub. L. 104–193, title VIII, §844(a), Aug. 22, 1996, 110 Stat. 2332; Pub. L. 107–171, title IV, §4118(b), May 13, 2002, 116 Stat. 321.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171, inserted subsec. (a) heading, redesignated par. (2) as (4) and inserted heading, designated existing provisions of par. (1) as pars. (1) to (3) and inserted headings, in par. (1) substituted “Except in the case of an at-risk amount required under section 2025(c)(1)(D)(i)(III) of this title, the Secretary” for “The Secretary” and struck out “In determining whether to settle, adjust, compromise, or waive a claim arising against a State agency pursuant to section 2025(c) of this title, the Secretary shall review a State agency’s plans for new dollar investment in activities to improve program administration in order to reduce payment error, and shall take the State agency’s plans for new dollar investment in such activities into consideration as the Secretary considers appropriate.” after “section 2023 of this title.”, and in par. (2) substituted “claim established under section 2025(c)(1) of this title” for “claim established under section 2025(c)(1)(C) of this title”.

1996—Subsec. (b). Pub. L. 104–193, §844(a)(1), added subsec. (b) and struck out former subsec. (b) which provided for reduction of allotment for households with ineligible individuals and collection by State agencies of claims against households arising from overissuance of coupons.

Subsec. (d). Pub. L. 104–193, §844(a)(2), substituted “, as determined under subsection (b)(1) of this section,” for “as determined under subsection (b) of this section and except for claims arising from an error of the State agency,” and inserted before period at end “or a Federal income tax refund as authorized by section 3720A of title 31”.

1993—Subsec. (a)(1). Pub. L. 103–66, §13951(a), in fifth sentence, struck out “(after a determination on any request for a waiver for good cause related to the claim has been made by the Secretary)” after “30 days from the date on which the bill for collection” and in sixth sentence substituted “1 year” for “2 years”.

Subsec. (d). Pub. L. 103–66, §13941(b), added subsec. (d). 1991—Subsec. (b)(2)(A). Pub. L. 102–237 inserted before period at end of first sentence “, except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the household’s monthly allotment”.

1990—Subsec. (b)(1)(A). Pub. L. 101–624 substituted “on the date of receipt (or, if the date of receipt is not a business day, on the next business day)” for “within thirty days”.

1988—Subsec. (a)(1). Pub. L. 100–435, §601, inserted provisions relating to review of State agency’s plans for program investment to reduce payment error when Secretary determines whether to settle, etc., claims under section 2025(c) of this title.

Pub. L. 100–435, §602, inserted provisions relating to failure of State agency to pay a claim under section

2025(c)(1)(C) of this title and interest with respect to unpaid portion of such claims.

1985—Subsec. (a). Pub. L. 99–198, §1533, designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1)(B). Pub. L. 99–198, §1534, substituted “shall” for “may” and inserted “, unless the State agency demonstrates to the satisfaction of the Secretary that such other means are not cost effective”.

Subsec. (c). Pub. L. 99–198, §1535(a), added subsec. (c).

1982—Subsec. (b)(1). Pub. L. 97–253, §§177(a), 178, redesignated existing provisions, which were formerly undesignated, as subpar. (A), inserted “within thirty days of a demand for an election” after “make an election”, and added subpar. (B).

Subsec. (b)(2). Pub. L. 97–253, §177(b), redesignated existing provisions, which had been undesignated, as subpar. (A) and added subpar. (B).

1981—Pub. L. 97–35 designated existing provisions as subsec. (a), inserted provisions relating to power to waive claims, and the power to otherwise reduce amounts, and added subsec. (b).

1977—Pub. L. 95–113 substituted revised provisions relating to the determination and disposition of claims for provisions relating to administrative and judicial review which are now covered by section 2023 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title IV, §4118(e), May 13, 2002, 116 Stat. 321, provided that: “The amendments made by this section [amending this section and sections 2025, 2027, and 2031 of this title] shall not apply with respect to any sanction, appeal, new investment agreement, or other action by the Secretary of Agriculture or a State agency that is based on a payment error rate calculated for any fiscal year before fiscal year 2003.”

Amendment by Pub. L. 107–171 effective Oct. 1, 2002, except as otherwise provided, see section 4405 of Pub. L. 107–171, set out as an Effective Date note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13941(b) of Pub. L. 103–66 effective, and to be implemented beginning on, Oct. 1, 1993, and amendment by section 13951(a) of Pub. L. 103–66 effective Oct. 1, 1991, see section 13971(a), (b)(1)(A) of Pub. L. 103–66, set out as a note under section 2025 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective Dec. 13, 1991, see section 1101(d)(4) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–435 effective Oct. 1, 1985, with respect to claims under section 2025(c) of this title for quality control review periods after such date, and provisions of this section that relate to claims against State agencies and that were in effect for any quality control review period or periods through fiscal year 1985 to remain in effect for claims arising with respect to such periods, see section 701(b)(5)(B), (D)(i) of Pub. L. 100–435, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 effective Sept. 8, 1982, see section 193(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective on earlier of Sept. 8, 1982, or date such amendment became effective pursuant to section 117 of Pub. L. 97–35, set out as a note under section 2012 of this title, see section 192(a) of Pub. L. 97–253, set out as a note under section 2012 of this title.

Amendment by Pub. L. 97–35 effective and implemented upon such dates as Secretary of Agriculture

may prescribe, taking into account need for orderly implementation, see section 117 of Pub. L. 97-35, set out as a note under section 2012 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided that the amendment made by that section is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2014, 2020, 2023, 2025, 2027 of this title; title 42 section 503.

§ 2023. Administrative and judicial review; restoration of rights

(a)(1) Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 2018 of this title, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 2021 of this title, or a retail food store or wholesale food concern forfeits a bond under section 2021(d) of this title, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 2022 of this title, or a claim against a State agency is stated pursuant to the provisions of section 2022 of this title, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved.

(2) DELIVERY OF NOTICES.—A notice under paragraph (1) shall be delivered by any form of delivery that the Secretary determines will provide evidence of the delivery.

(3) If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this chapter, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate.

(4) If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final.

(5) If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination.

(6) Determinations regarding claims made pursuant to section 2025(c) of this title (including determinations as to whether there is good cause for not imposing all or a portion of the penalty) shall be made on the record after opportunity for an agency hearing in accordance with section 556 and 557 of title 5 in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence.

(7) Such judges shall have authority to issue and enforce subpoenas in the manner prescribed

in sections¹ 499m(c) and (d) of this title and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence.

(8) The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 2025(c) of this title.

(9) The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 2025(c) of this title in amounts less than \$50,000.

(10) Such summary procedure need not include an oral hearing.

(11) On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than \$50,000.

(12) Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a claim made pursuant to section 2025(c) of this title shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.

(13) If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination.

(14) The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process.

(15) The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue, except that judicial review of determinations regarding claims made pursuant to section 2025(c) of this title shall be a review on the administrative record.

(16) If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence.

(17) During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless on application to the court on not less than ten days' notice, and after hearing thereon and a consideration by the court of the applicant's likelihood of prevailing on the merits and of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under

¹ So in original. Probably should be "section".