

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

Amendment by section 4132 of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

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

Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958, provided that the amendment made by section 1301 is effective Oct. 1, 1977.

§ 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)(II) 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, including, 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 benefits.

(b) Collection of overissuances**(1) In general**

Except as otherwise provided in this subsection, a State agency shall collect any overissuance of benefits 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);

(C) recovering from Federal pay or a Federal income tax refund under subsection (d); 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 benefits 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 benefits 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.

(5) Overissuances caused by systemic State errors

(A) In general

If the Secretary determines that a State agency overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

(B) Procedures

(i) Information reporting by States

Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance of benefits to households by the State agency in the applicable fiscal year.

(ii) Final determination

After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

- (I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and
- (II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

(iii) Establishing a claim

Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal to the value of the overissuance caused by the systemic error.

(iv) Administrative and judicial review

Administrative and judicial review, as provided in section 2023 of this title, shall apply to the final determinations by the Secretary under clause (ii).

(v) Remission to the Secretary

(I) Determination not appealed

If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

(II) Determination appealed

If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial re-

view under clause (iv), and a finding of liability on the part of the State, the appealing State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

(vi) Alternative method of collection

(I) In general

If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this chapter by the amount due.

(II) Accrual of interest

During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

(vii) Limitation

Any liability amount established under section 2025(c)(1)(C) of this title shall be reduced by the amount of the claim established under this subparagraph.

(c) Intercept of unemployment benefits

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

(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 benefits

The amount of an overissuance of benefits, as determined under subsection (b)(1), 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; Pub. L. 110–234, title IV, §§4115(b)(9), 4133, May 22, 2008, 122 Stat. 1107, 1116; Pub. L. 110–246, §4(a), title IV, §§4115(b)(9), 4133, June 18, 2008, 122 Stat. 1664, 1869, 1877; Pub. L. 113–79, title IV, §4020(b)(1), Feb. 7, 2014, 128 Stat. 798.)

Editorial Notes

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113–79 substituted “section 2025(c)(1)(D)(i)(II) of this title” for “section 2025(c)(1)(D)(i)(III) of this title”.

2008—Pub. L. 110–246, §4115(b)(9), substituted “benefits” for “coupons” wherever appearing.

Subsec. (b)(5). Pub. L. 110–246, §4133, added par. (5).

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),” for “as determined under subsection (b) 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.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

Amendment by sections 4115(b)(9) and 4133 of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

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

Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958, provided that the amendment made by section 1301 is effective Oct. 1, 1977.

§ 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 supplemental nutrition assistance 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 section¹ 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 sections² 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.

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

² So in original. Probably should be "section".