
**FOOD AND NUTRITION SERVICES CERTIFICATION
CLAIMS
Intentional Program Violation (IPV) Disqualifications**

FNS 825 Intentional Program Violation (IPV) Disqualifications

Change #05-2022

October 1, 2022

825.01 DISQUALIFICATION PENALTIES

- A. Apply the following disqualification penalties for Intentional Program Violations (IPV):
1. **First Offense - 12 Months.** Select the link Disqualification (DQ) Period field from the drop-down box. on the **“New Disqualification” screen on the Investigation Case.**
 2. **Second Offense – 24 Months.** Select the DQ Period field from the drop-down box on the **“New Disqualification” screen on the Investigation Case.**
 3. **Third Offense - Permanent Disqualification. Check the “Permanent Disqualification” checkbox on the “New Disqualification” screen. If the “Permanent Disqualification” checkbox is checked, no “Disqualification Period” can be added into the Disqualification Period field because the system knows the disqualification period is permanent.**
 4. **24 Months Disqualification.** – First court conviction of using or receiving FNS in a transaction involving the sale of a controlled substance.
 5. **Permanent Disqualification** – Second court conviction of using or receiving FNS in a transaction involving the sale of a controlled substance.
 6. **Permanent Disqualification.** – Court conviction of trafficking (including drugs) involving \$500.00 or more. **Check the “Permanent Disqualification” checkbox on the “New Disqualification” screen. If the “Permanent Disqualification” checkbox is checked, no “Disqualification Period” can be added into the Disqualification Period field because the system knows the disqualification period is permanent.**
 7. **Permanent Disqualification.** – First-time court finding of purchasing firearms, ammunition, or explosives with FNS. **Check the “Permanent Disqualification” checkbox on the “New Disqualification” screen. If the “Permanent Disqualification” checkbox is checked, no “Disqualification Period” can be added into the Disqualification Period field because the system knows the disqualification period is permanent.**
 8. **Ten-year Disqualification.** - First or second offense of fraudulent misrepresentation of identity or residence in order to receive or attempt to receive multiple FNS.

NOTE: A false statement or misrepresentation is needed to establish this disqualification. The receipt of multiple benefits is not required; the act of fraud is complete when the fraudulent statement is made. This determination can be made by an Administrative Disqualification

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Hearing (ADH) or a court finding.

Choose 120 Months in the field “Disqualification Period” on the “New Disqualification” screen on the Investigation Case for this offense.

9. **Permanent Disqualification.** - Third or subsequent offense of fraudulently misrepresenting identity or residence in order to receive or attempt to receive multiple FNS. **Check the “Permanent Disqualification” checkbox on the “New Disqualification” screen. If the “Permanent Disqualification” checkbox is checked, no “Disqualification Period” can be added into the Disqualification Period field because the system knows the disqualification period is permanent.**

Base each disqualification penalty on the total number of offenses, regardless of the length of the disqualification assigned to prior offenses.

NOTE: Count all offenses which occurred prior to April 1, 1983, as a first offense. Impose the next level of disqualification when an individual commits a second or third IPV after proper notice of all prior disqualifications. Do not impose a higher-level disqualification when the individual commits an IPV prior to proper notification of a prior disqualification(s).

EXAMPLE 1: An individual was found guilty of an IPV in an administrative disqualification hearing on June 5, 2004. This was the individual’s first offense. In February 2005, the individual signed a DSS-8588, Waiver of an Administrative Disqualification Hearing, admitting to a second IPV for an overissuance for the period of January 2004 through May 2004. Since the second offense occurred prior to the first finding of an IPV, a second disqualification cannot be imposed.

EXAMPLE 2: An individual was found guilty of an IPV in an ADH on June 3, 2004. This was the individual’s first offense. On February 3, 2005, the individual signed a Waiver of ADH admitting to a second IPV for an overissuance for the period of August 2004 through December 2004. Because the second offense occurred after the first finding of an IPV, the second disqualification must be imposed.

10. The judge decides the length of disqualification for participants found guilty of an IPV through the court system. However, the period imposed cannot be shorter than the prescribed periods listed in Section 825.01, A, 1-7.

- B. The following disqualification penalties apply to fraud offenses determined before October 23, 1996:

1. First Offense - 6 Months.

Second Offense - 12 Months.

Third Offense - Permanent Disqualification.

2. Permanent Disqualification - A second-time court finding of purchasing illegal

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drugs with FNS; or a first-time court finding of purchasing firearms, ammunition, or explosives with FNS.

825.02 DISQUALIFIED RECIPIENT MATCH WITH OTHER STATES

North Carolina performs a **monthly** match in **NC FAST** to identify individuals and creates a report for active cases that have been disqualified in other states as well as North Carolina. This report **EPI-419, MONTHLY LISTING OF DISQUALIFIED RECIPIENT RECORDS** with Matches on EDRS Files, is available in **NC FAST**...

The investigator should check NC FAST at the beginning of an investigation and prior to beginning disqualification procedures. To view a disqualification, check in NC FAST on the Person Page, under the Compliance tab, under the **Disqualification** folder.

A. When **NC FAST** identifies a FNS unit member with a current out-of-state disqualification:

1. Contact the other state for verbal and written verification of the status of the disqualification or any outstanding claims. **Attach the disqualification file that is received from the other state in the Investigation Case on the Contact Tab.**
2. Disqualify the FNS unit member for any remaining months in the DQ period if he agrees with the other state's verbal verification of the disqualification.
3. Obtain the written verification from the other state for possible Fair Hearing purposes.

B. A disqualified recipient is required to report any previous or current disqualification at application. The FNS unit member with an out-of-state disqualification match may request a Fair Hearing to contest the length of the disqualification or the adverse action. The member cannot request a hearing to challenge the fact that there is an out-of-state disqualification.

1. If the FNS unit member disagrees with the out-of-state disqualification, do not disqualify the FNS unit member without written verification of the disqualification. Do not pend an expedited service application approved for emergency benefits for written verification of the disqualification. Do not delay an application beyond the processing due date while awaiting the written verification. Process the application with the received verifications.

NOTE: It is the FNS unit member's responsibility to report any current out-of-state disqualification. Establish a client responsible claim for any period of time the FNS unit member was under a disqualification penalty but received benefits in North Carolina.

NOTE: If a disqualification is incorrectly imposed, correct **NC FAST** by doing a "key change" to correct the information on the disqualification record.

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EXAMPLE: A 12-month disqualification was imposed for a first offense and it was later discovered that a 24-month penalty should have been imposed because there was already a first offense recorded in **NC FAST**. Counties must not re-notice the individual nor add additional time to the DQ period imposed in error. The only action that can be taken is to correct the record in **NC FAST** by changing the first offense to a second offense. Leave the disqualification period as 12 months.

There must be close communication between the Program Integrity Investigator and the Income Maintenance Caseworker. The eligibility record should be flagged as to the correct length of the DQ period and the fact that **NC FAST** may show a time period contradictory to the amount of time the individual will actually be disqualified.

EXAMPLE: The individual should have been disqualified for 24 months but was incorrectly disqualified for 12 months. Individual was notified that the disqualification would be for 12 months. Then the local agency later discovers the error and corrects **NC FAST** from 12 to 24 months. The Caseworker does an **NC FAST** inquiry at next review. The individual should be disqualified for 12 months only, even if the 24-month period has not passed.

- C. **Contact Program Integrity Consultant, at dss.pi.questions@dhhs.nc.gov for questions or problems with an out of state disqualification.**

825.03 ESTABLISHING AN IPV DISQUALIFICATION

An IPV disqualification can be pursued even when a claim will not be established, unless the violation is trafficking. There are four methods of establishing an IPV Disqualification. Two methods are administrative, and two involve Criminal Court. Each local agency must consult with the local District Attorney to establish the criteria to define which cases will be handled administratively, and which cases will be prosecuted. Base criteria on factors such as, the number of IPV acts, and the amount of the claim. Do not consider a client's ability to pay.

Selective prosecution is not allowed. The four methods to establish an IPV are:

- A. Administrative Disqualification Hearing (ADH). See Section **705**, Administrative Disqualification Hearings, regarding the rules and guidelines for an ADH.
- B. Waiver of ADH, **DSS-8588**. This form is the recipient's consent to disqualification whether or not they admit guilt. See Section **705.06**. Do not discuss the Waiver of ADH with a recipient that meets your local agency's criteria for criminal prosecution.
- C. Disqualification Consent Agreement:
 - 1. Must be handled by the District Attorney's Office in conjunction with deferred prosecution. Refer to Figure **825-1**.
 - 2. Requires prior notice of the disqualification be given to the recipient.

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3. Must be included with the deferred prosecution because deferred prosecution is not an admission or finding of guilt.
4. Must be signed by a DA's officer, Defendant, Defense Attorney, Presiding Judge, and a representative of the local agency.
5. Enter a disqualification only when a deferred prosecution case includes a Disqualification Consent Agreement.

NOTE: A court case adjudicated with deferred prosecution must include a Disqualification Consent Agreement (DCA) as part of the judgement to establish an IPV.

A. Court Judgments

1. Obtain a copy of the court judgment as soon as possible following a guilty verdict.
2. Follow the instructions regarding disqualification using the timelines in 825.04.
3. A judge may impose a longer period of disqualification than stated in 825.01. Follow the judge's order regarding the length of disqualification.

825.04 IMPOSING THE DISQUALIFICATION

Impose the disqualification the first calendar day of the appropriate month. Use the following deadlines. See Section 820, for instructions regarding the Notice of Disqualification. Do not delay the disqualification because the individual found guilty of an IPV is not receiving or is ineligible for FNS. View the disqualification in NC FAST on the Person Page, under the Compliance tab, under the **Disqualification** folder. If a disqualification is determined at a State Disqualification Hearing, the hearing officer will determine the start date of the disqualification. The start date will be listed on the hearing decision.

- A. Begin the disqualification effective the date ordered by the court. Notice of Adverse Action is not required.
- B. Impose the disqualification effective the first day of the month following the date of the court order when the court orders disqualification but does not specify a start date. Notice of Adverse Action is not required.
- C. Impose the disqualification effective the first day of the month following the date of the court order when the court finds the individual guilty but does not address disqualification. Notice of Adverse Action is not required.
- D. The client has 15 calendar days from the date of receipt of the ADH hearing decision to request a State Level Hearing. Allow the 15 days before applying the disqualification penalty. Begin the disqualification the month following the month the 15 days expire.

EXAMPLE: Hearing held and guilty decision made on November 23. Notice of hearing decision sent on November 23. Receipt for certified mail was signed November 25. Wait 15 calendar days from the date the receipt was signed to see if the client requests a state appeal. Do not impose the disqualification until December 11, effective January 1. Notice

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of Adverse Action is not required. See Section **705.25**, B for additional examples.

- E. Impose the disqualification effective the month following the month the client is notified of a disqualification due to signing the DSS-8588, Waiver of Administrative Disqualification Hearing.

EXAMPLE: A recipient signs a Waiver of an Administrative Disqualification Hearing on November 28. DSS-8587, Action taken of Waiver of Administrative Disqualification Hearing, is mailed November 29. Allow three (3) days for mail delivery. Impose the disqualification January 1. Notice of Adverse Action is not required. Notify the caseworker of the disqualification immediately to avoid an agency error overissuance.

825.05 DISQUALIFIED RECIPIENT RECORD

Use **NC FAST** to track the disqualification of a FNS unit member found guilty of an IPV. **NC FAST** maintains North Carolina disqualification data and forwards it to the Federal Disqualified Recipient Subsystem (eDRS). Inquiry into **NC FAST** reveals both North Carolina and out-of-state disqualifications. If an out-of-state disqualification appears in **NC FAST**, do not re-enter this disqualification in **NC FAST**. The disqualification record is already in the system. Enter disqualifications in **NC FAST** only when the person disqualified has a valid SSN. View the disqualification in NC FAST on the Person Page, under the Compliance tab, under the **Disqualification** folder.

Cancel a disqualification from **NC FAST** when there is proof that the disqualified recipient died, or an appropriate court overrules a disqualification. **Fax** a request to **cancel** a disqualification on local agency letterhead and include the individual's name, SSN, and date of death to **Information Support at (919)-334-1052**. The request must include the Investigator's and Supervisor's signatures.

IMPORTANT: Retain all IPV files permanently or until there is evidence that the individual who was disqualified has died, even if the disqualification has been served. Retain the investigative file and the eligibility file. Normal record retention requirements do not apply to IPV files. IPV files can be retained electronically. This includes but is not limited to: signed waivers, ADH officer's decision, DCA, or judge's orders.

825.06 DISQUALIFICATIONS INVOLVING DUAL PARTICIPATION

- A. The 10-year disqualification for dual participation applies when an applicant makes a false statement or representation regarding identity and/or residence in order to receive multiple food stamp benefits.

EXAMPLE 1: A person who lives, works, and receives FNS in South Carolina applies in North Carolina using an address that is not her residence. The applicant stated during the interview that she did not receive FNS from another state, and that she had not recently moved. Investigate fully as per Section 800. Pursue a 10-year disqualification and a claim if appropriate. The claim amount is the amount of benefits issued in North Carolina, if any.

EXAMPLE 2: A current North Carolina recipient applies for FNS using a false name and/or Social Security Number or presents herself as another person. Investigate fully as per Section 800. Pursue a 10-year disqualification and establish a claim if appropriate. The claim amount is for the amount of erroneous benefits issued, if any.

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- B. Moving to another state is not a reportable change for Simplified Reporting, Transitional Food and Nutritional Services, and SNAP households; however, prior to August 1, 2009 moving out of state was a reportable change for Standard and Simplified categories.
- C. For Simplified Reporting, effective 9/1/2009 cases, moving to another state is not a reportable change. A Simplified Reporting effective 9/1/2009 household is required to report they are receiving FNS if they apply for FNS in their new residence state while still active in North Carolina. There is no claim unless benefits from both states are accessed by the recipient. The states involved determine which state will proceed with the claim.

EXAMPLE: A FNS household certified through August moves from North Carolina to Virginia on May 19. They apply for FNS in Virginia on May 25 while they are still receiving in North Carolina. The applicant reports to Virginia that no household member is currently receiving FNS. The Virginia application is processed, approved, and benefits from both states are accessed. Consider the months of May through August dual participation. Because the false statement was made in Virginia, they may pursue disqualification, and establish a claim. The North Carolina local agency involved has the option to pursue a claim should Virginia decline. Document that Virginia is not pursuing a claim or disqualification, investigate, and establish an IHE claim if appropriate. The claim amount is the amount of benefits received in North Carolina during dual participation. This is not a 10-year disqualification for North Carolina.

- D. The state the recipient left should establish claims for households required to report moving. Such claims are not subject to disqualification. North Carolina should assist the other state by providing any verification needed to establish their claim. The other state has the option to transfer the claim to NC.
- E. Investigate and obtain clear and convincing evidence of the applicant's "intent to deceive" before pursuing disqualification when dual participation does not include all household members.

EXAMPLE: A North Carolina applicant gets custody of 3 grandchildren who were living in Virginia. She applies for FNS and is not aware that the children are still part of an active household in Virginia. Her application is approved. Because she did not have knowledge of the Virginia benefits, intent to deceive cannot be proven. Contact and assist Virginia in establishing a claim against the household the children left in Virginia. The claim should be in Virginia against the Virginia household.