

PART XVI		RESTORATION OF LOST BENEFITS	
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A. RESTORATION OF LOST BENEFITS (7 CFR 273.17(a) and (b))

1. The local agency must restore any benefits that the household lost whenever:
  - a. The State Department or local agency causes an error that results in a loss, including an invalid denial of an application or termination of benefits;
  - b. Federal regulations or instructions specifically provide for restoration of lost benefits; or,
  - c. The loss was due to an intentional program violation disqualification based on a court conviction and the decision of the court is reversed.

The local agency must also restore benefits whenever the loss was caused by an error of the Social Security Administration (SSA) when the error resulted from joint processing of an SSI household. Such an error would include, but is not limited to, the loss of a SNAP application after the applicant filed an application with SSA.

2. Households will not normally receive restoration for an action that occurred more than 12 months before the most recent of the following:
  - a. The month the household, or another person or agency notified the local agency in writing or orally of the possible loss to a specific household;
  - b. The month the local agency discovers, in the normal course of business, that a loss to a specific household has occurred; or,
  - c. The date the household requested a fair hearing to contest the adverse action that resulted in the loss.

Any exceptions to the 12 month restriction on restoration, will be noted at the time specific policy requiring a restoration is issued.

If the state or local agency determines that a loss of benefits has occurred and the household is entitled to restoration of those benefits, the local agency must take action immediately to restore any benefits lost within the limits described above. No action by the household is necessary.

The local agency must notify the household of its entitlement and other pertinent information by providing the household with the *Entitlement to Restoration of Lost Benefits*. See Part XXIV for a copy of the form and instructions. The agency must also use the form to notify households who have requested a review of their case for lost benefits that the household is not entitled to restored benefits.

The agency must provide restoration benefits to any household entitled to the benefits even if the household is currently ineligible.

B. COMPUTING THE AMOUNT TO BE RESTORED (7 CFR 273.17(d))

After correcting the error and excluding those months for which benefits may have been lost prior to the 12-month time limits described in Part XVI.A., the local agency must calculate the amount to be restored as follows:

1. If the household was eligible but received an incorrect allotment, the agency must calculate lost benefits only for those months the household participated.
2. If the loss was caused by an incorrect denial or termination of benefits, the EW must calculate the months affected by the loss as follows:
  - a. If an eligible household's initial application or reapplication was erroneously denied, the month the loss initially occurred will be the month of application, or for an eligible household filing a timely application for recertification, the month following the expiration of its certification period.
  - b. If an eligible household's benefits were erroneously terminated, the month the loss initially occurred will be the first month benefits were not received as a result of the erroneous action.

Example

An eligible household's benefits were erroneously terminated effective June 30. The error was discovered in August and the household was given an opportunity to participate in August. The household is entitled to restoration of lost benefits for the month of July.

After computing the date the loss initially occurred, the loss must be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

Examples

- 1) The local agency has determined that a household is entitled to restoration of lost benefits beginning July 1. The error made by the local agency was corrected in September and an opportunity to receive the correct allotment was provided in September. Benefits must be restored for July and August.
- 2) The local agency has determined that another household is also entitled to restoration of lost benefits beginning July 1. The error was found in September, at which time it was determined that the household would not have been eligible for other reasons in either August or September. The household would have been eligible in July. Benefits must be restored for July only.

3. For each month affected by the loss, the local agency must determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible in that month, the local agency must advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household is ineligible.
4. For the months the household was eligible, the local agency must calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

Example

A household was certified for benefits for \$70.00 for the months of July through September. The household participated, i.e., benefits were posted to the EBT account each of these three months. The amount of benefits should have been \$100.00 each month. As a result, the household is entitled to \$90.00 in lost benefits ( $\$100.00 - \$70.00 = \$30.00 \times 3 \text{ months} = \$90.00$ ).

5. If a claim against a household is unpaid or if an overissuance and an underissuance of benefits are discovered at the same time, the agency must offset the amount to be restored against the amount due on the claim before the household will receive any restored. Claims may not be offset against the household's current month's even if the initial allotment includes a retroactive amount.

C. METHOD OF RESTORATION (7 CFR 273.17(f))

Regardless of whether a household is currently eligible or ineligible, the local agency must restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The agency must provide the restored amount in addition to the monthly benefits currently eligible households are entitled to receive.

The local agency must honor reasonable requests by households to restore lost benefits in monthly installments. A reasonable request would include that the amount to be restored is more than the household can use in a reasonable period of time.

D. RESTORING BENEFITS TO HOUSEHOLDS NOT RESIDING IN THE LOCALITY

There may be times when a household no longer residing in the locality is due restoration of lost benefits. In these instances, if the household is receiving SNAP benefits in another Virginia locality, the agency must notify the new locality and submit documentation to allow the new agency to **authorize restored benefits**. If the household is not receiving SNAP benefits in another Virginia locality, the agency must **authorize restored benefits**.

**E. CHANGES IN HOUSEHOLD COMPOSITION (7 CFR 273.17(g))**

Whenever a household is due lost benefits and the household's membership has changed, the local agency must restore the lost benefits to the household that contains a majority of the individuals who were household members at the time the loss occurred. If the local agency cannot locate or determine the household that contains a majority of household members, the local agency must restore the lost benefits to the household containing the person designated as the head of the household at the time the loss occurred.

**F. RECORD KEEPING (7 CFR 273.17(h))**

The local agency must maintain any documentation that supports the entitlement to restoration for each instance in which restoration of lost benefits is appropriate.

**G. DISPUTED BENEFITS (7 CFR 273.17(c))**

If the local agency determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the local agency, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost benefits. The household may also request a hearing on any other action taken by the local agency to restore lost benefits. If the household requests a hearing before or during the time the agency is restoring lost benefits, the household will receive the lost benefits as determined by the local agency pending the results of the fair hearing. If the fair hearing decision is favorable to the household, the local agency must restore the additional lost benefits in accordance with the decision.

If a household believes it is entitled to restoration of lost benefits, but the local agency does not agree after reviewing the case file, the household has 90 days from the date of the local agency determination to request a fair hearing. The local agency must restore lost benefits to the household only if the fair hearing decision is favorable to the household. The household is not entitled to benefits lost more than twelve (12) months before the date the local agency initially discovered the household's possible entitlement to lost benefits.

**H. SNAP REPLACEMENT DUE SKIMMING, CLONING OR OTHER FRAUDULENT MEANS**

**On December 29, 2022, the 117<sup>th</sup> Congress enacted the Consolidated Appropriations Act of 2023 ([H.R. 2617](#)) that authorized states to utilize federal funds for a limited period of replace SNAP benefits that were stolen due to skimming, card cloning and other similar fraudulent methods. States were directed to develop a plan for the implementation and use of these federal dollars. The Commonwealth of Virginia's plan was approved on May 18, 2023, and implemented by VDSS on July 17, 2023.**

**1. Eligibility for SNAP Replacement Benefits due to skimming, cloning or other fraudulent means.**

- Replacement due to the loss of SNAP benefits because of skimming, cloning and other similar fraudulent methods is limited to the losses of SNAP benefits between October 1, 2022, and September 30, 2024.
- Only two replacements are allowed from October 1 to September 30 of each year.
- The client must submit and sign a completed SNAP EBT Replacement Request and Client Attestation in the timeframe designated below.
- The LDSS must determine based on a review of the transaction history and the information provided by the client using reasonable, consistent, and prudent judgement that the transaction(s) that resulted in the loss of benefits are most likely due to cloning, scamming, phishing, or other fraudulent methods.

**2. Timing and due dates.**

For those that lost benefits from October 1, 2022, to July 31, 2023, the households must report the loss of benefits and submit a signed and completed “[SNAP EBT Replacement Request and Client Attestation](#)” to the local department by September 30, 2023.

For those that lost benefits from August 1, 2023, to September 30, 2024, the households must report the loss of benefits to the local department within 30 days of discovering their loss of benefits. Households must submit a signed and completed “[SNAP EBT Replacement Request and Client Attestation](#)” to the local department within 10 days of reporting the loss.

LDSS will process and pay all validated and eligible requests for replacements the later of:

- Ten (10) business days after the LDSS receives the completed and signed SNAP EBT Replacement Request and Client Attestation request from the household,  
OR
- Two (2) business days after receiving a signed and completed “SNAP EBT Replacement Request and Client Attestation”.

<b>Date of loss of benefits</b>	<b>Required to report loss of benefits to LDSS</b>	<b>Attestation due to LDSS</b>
<b>October 1, 2022, to July 31, 2023</b>	<b>Between July 17, 2023 &amp; September 30, 2023</b>	<b>Within 10 days of reporting loss to LDSS</b>
<b>August 1, 2023, to September 30, 2024</b>	<b>Within 30 days of discovering the loss</b>	<b>Within 10 days of reporting loss to LDSS</b>

**3. Calculating the replacement benefits.**

The amount of the replacement benefits is the lesser of:

- Twice the amount of all the SNAP benefits in the month prior to the fraud transaction,  
OR
- The amount of the fraud transaction.

If the theft occurred in the first month of the household's receipt of SNAP benefits, then the LDSS will use the first month of SNAP benefits to calculate the replacement benefits.

If the theft occurred after a gap in receipt of benefits, then the LDSS will use the last prior issuance month of SNAP benefits to calculate the replacement benefits.

**Example 1:**

On July 17, 2023, the household reported a loss of \$2,195 in SNAP benefits as a result of an October 23, 2022. The client submitted a completed and signed SNAP EBT Replacement Request and Client Attestation on July 19, 2023, which states that the transaction is due to skimming, cloning, or other similar fraudulent methods. The LDSS worker reviewed the transaction in question in EPPIC and found that the transaction was a single transaction from a farmers' market vendor based out of New York City at 2:13 am. Based on the review of the transaction and the attestation, the LDSS worker determines that it is likely that the transaction is as a result of skimming, cloning or other similar fraudulent methods. The household does not have any previous SNAP EBT replacements.

To calculate the amount of the replacement, the worker will review all the SNAP transactions in September 2022 (the month prior to the occurrence of the theft). In September, the household received the following in SNAP benefits:

- \$500 in emergency allotments
- \$125 in regular SNAP benefits

These amounts combined totals \$625. Twice the monthly benefit of September is \$1,250. Since \$1,250 (twice the monthly benefit) is less than \$2,195 (amount of fraud), the household would receive \$1,250.

**Example 2:**

The household reported a loss of \$2,195 in SNAP benefits as a result of an October 23, 2022, transaction on July 17, 2023. The client submitted a completed and signed SNAP EBT Replacement Request and Client Attestation on July 19, 2023, which states that the transaction is due to skimming, cloning, or other similar fraudulent methods. The LDSS worker reviewed the transaction in question in EPPIC and found that the transaction was a single transaction from a farmers market vendor based out of New York City at 2:13 am. Based on the review of the transaction and the attestation, the LDSS worker determines that it is likely that the transaction is as a result of skimming, cloning or other similar fraudulent methods. The household does not have any previous SNAP EBT replacements.

To calculate the amount of the replacement, the worker will review all the SNAP transactions in September 2022. In September, the household received the following in SNAP benefits:

- \$1,000 in emergency allotments
- \$125 in regular SNAP benefits

These amounts combined totals \$1,125. Twice the monthly benefit of September is \$2,250. Since \$2,195 (amount of fraud) is less than \$2,250 (twice the monthly benefit), the household would receive \$2,195.

**Example 3:**

On July 17, 2023, the household reported a loss of \$2,195 in SNAP benefits as a result of an October 23, 2022, transaction. The client submitted a completed and signed SNAP EBT Replacement Request and Client Attestation form on July 19, 2023, which states that the transaction is due to skimming, cloning, or other similar fraudulent methods. The LDSS worker reviewed the transaction in question in EPPIC and found that the transaction was a single transaction from a farmers market vendor based out of New York City at 2:13 am. Based on the review of the transaction and the attestation, the LDSS worker determines that it is likely that the transaction is as a result of skimming, cloning or other similar fraudulent methods. The household does not have any previous SNAP EBT replacements. However, the household has a gap in benefit months in the months prior to the fraudulent act month of October 23, 2022.



To calculate the amount of the replacement, the worker will review all the SNAP transactions in the first prior month to the reported fraudulent activity. The LDSS worker discovers the prior month to be July 2022 in which the household received the following in SNAP benefits:

- \$1,000 in emergency allotments
- \$125 in regular SNAP benefits

These amounts combined totals \$1,125. Twice the monthly benefit of September is \$2,250. Since \$2,195 (amount of fraud) is less than \$2,250 (twice the monthly benefit), the household would receive \$2,195.

**4. Restoring Benefits to households not residing in the locality.**

There may be times when a household no longer resides in the locality is due restoration of lost benefits. In these instances, if the household is receiving SNAP benefits in another Virginia locality, the local department must notify the new locality and submit documentation to allow the new LDSS to authorize restored benefits. If the household is not receiving SNAP benefits in another Virginia locality, the LDSS must authorize restored benefits.

**5. Record keeping.**

The LDSS will upload any documents to support the SNAP Replacement transaction to the case in VaCMS via DMIS. The Items that should be uploaded, include but not limited to:

- Complete Attestation
- EPPIC Transaction History screenshot or PDF
- Notice of Action (approval or denial letter)
- Any information submitted by the client
- Police report (optional)

The LDSS will provide the household in writing the determination of approval or denial of the restoration of benefits within 2 business days of the LDSS determination. The notice of determination will include, at a minimum, a summary of the determination, the approval status, the amount requested, the amount approved, and the right to appeal.

For disputed benefits, refer to the previous Chapter, Part XVI.G.