



**United States
Department of
Agriculture**

Food and
Nutrition
Service

Southwest Region

1100 Commerce St.
Dallas, TX
75242

September 25, 2018

Mr. Brent Earnest
Secretary
New Mexico Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504

Dear Secretary Earnest:

The Food and Nutrition Service (FNS) appreciates the New Mexico Human Services Department's (HSD) cooperation as FNS continues to monitor the effectiveness of actions implemented since November 2016 to address Supplemental Nutrition Assistance Program (SNAP) administration issues in the State. FNS understands that HSD is committed to improving program administration, customer service, and program integrity. However, HSD's improper administration of SNAP between May 2014 and October 2016 has resulted in overissuances of benefits to a significant number of SNAP households in New Mexico. This letter establishes a claim against HSD for those overpayments.

As provided in Section 13(b) of the Food and Nutrition Act (the Act), the State agency is required to collect any overissuance of benefits to a SNAP household. However, if the State agency has overissued benefits to a substantial number of households as a result of a major systemic error by the State agency, under Section 13(b)(5), FNS is required to establish a claim in the amount of the overissuance against the State, and FNS may prohibit the State agency from collecting overissuances from households.

Over the past two years, FNS has worked closely with your staff to determine the scope of the improper certification procedures systemically implemented by HSD. To assist in this effort, HSD granted FNS' request to work directly with HSD's eligibility system (ASPEN) contractor to obtain raw data for analysis. Between July and September 2017, FNS reviewed the data provided by HSD's eligibility contractor and has identified the total amount of benefits over-issued between May 2014 and October 2016.

The following outlines each type of improper certification procedure that resulted in overissued benefits:

Providing Three-Month Certifications

HSD was providing 3-month certifications to households who submitted an application for recertification or interim report but who failed to complete the certification process by the end of the household's certification period or interim report period. Specifically, HSD was certifying households for 3 months based on

eligibility factors from the preceding certification period without conducting an interview and/or not following appropriate verification requirements. FNS also discovered that many households received multiple 3-month certifications.

Federal program rules at 7 CFR 273.14(e)(2) and 7 CFR 273.12(a)(5)(iii)(D) require State agencies to close or terminate a SNAP household's participation if the household fails to provide the information necessary to meet the certification requirements.

This improper certification procedure resulted in HSD issuing a total of **\$110,137,431.25** in benefits, covering over 104,962 instances.

Providing Retroactive Benefits at Initial Application

HSD was incorrectly pending SNAP initial applications beyond 60 days from the date of the initial application for client-caused delays instead of denying the application. HSD provided retroactive benefits back to the date of the initial application to these applicants in pending status if the applicant completed the outstanding application requirements – completing an interview or submitting missing verification – or if the applicant failed to complete any outstanding requirement(s) and simply made contact with HSD. HSD also provided retroactive benefits back to the original application date in instances where the pending applicant submitted a new application. HSD staff inputted false data into ASPEN in order to force ASPEN to issue the retroactive benefits.

Federal program rules at 7 CFR 273.2(h)(2)(ii) and 7 CFR 273.2(h)(4)(iii) state that applicants lose their entitlement to benefits for the month of application if, by day 30 (from the date of application), the client is at fault for not providing/cooperating with the application requirements. If the applicant is at fault for not completing the application process by day 60, the applicant must submit a new application and is not entitled to any lost benefits.

HSD issued a total of **\$16,699,157.90** retroactive benefits back to the date of the initial application, covering over 85,866 instances.

Providing Retroactive Benefits at Recertification

HSD provided retroactive benefits back to the end date of the previous certification period to households that should have been denied for client-caused delays at recertification but were instead placed into, what HSD calls, "suspended" status. HSD provided the retroactive benefits if these households completed the outstanding recertification requirements – completing an interview or submitting missing verification – or if the household failed to complete any outstanding requirement(s) and simply made contact with HSD. HSD staff inputted false data into ASPEN in order to force ASPEN to issue the retroactive benefits.

Federal program rules at 7 CFR 273.14(e)(2) state that households have 30 days after the end of the certification period to take any required actions to complete the recertification process and have its application be treated as a recertification. If the household completes the required actions within 30 days from the end of the certification period, the State shall reopen the case and provide benefits retroactive to the date the household took the required action. 7 CFR 273.14(e)(3) provides that if the household submits their recertification application after the end of their certification period but within 30 days from the end of the certification period, benefits must be prorated in accordance with 7 CFR 273.10.

HSD issued a total of **\$36,900,169.00** retroactive benefits at recertification back to the date of the previous certification period, covering over 112,756 instances.

FNS Establishment of Claim

HSD's systemic errors between May 2014 and October 2016 have resulted in overissuances of benefits to a substantial number of households, as outlined above. In accordance with Section 13(b)(5) of the Act, FNS is prohibiting the State agency from collecting these overissuances from the affected households and is establishing a claim of **\$163,736,758.15** against the State, which is equal to the sum value of the overissuances described above.

Enclosed please find a SF-1114 "Bill for Collection" in the amount of \$163,736,758.15. If you do not agree with this bill, you have 10 days to file a formal appeal in accordance with 7 CFR 276.7.

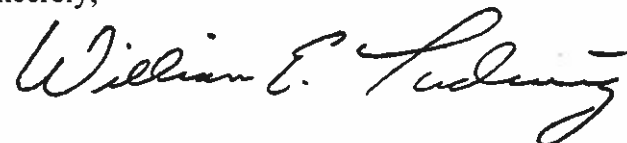
The mailing address for your appeal is:

Executive Secretary
State SNAP Appeals Board
c/o Administrative Review Branch
Food and Nutrition Service, USDA
3101 Park Center Drive, Room 608
Alexandria, Virginia 22302

FNS understands the burden this places on the State, and we are interested in working with HSD to negotiate a repayment plan that may include the ability to repay the outstanding debt over multiple fiscal years.

Please feel free to contact Dwight Crudup, Southwest Regional Office SNAP Program Director, at (214) 290-9920 or me, at (254) 640-0006, with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "William E. Ludwig". The signature is written in a cursive style with a prominent initial "W" and a long, sweeping underline.

William Ludwig
Southwest Regional Administrator
USDA – Food and Nutrition Service

Enclosure

BILL FOR COLLECTION

USDA - Food and Nutrition Service
Southwest Region
1100 Commerce Street, Suite 522
Dallas, TX 75242

BILL NO.
DATE: September 25, 2018
DUE DATE: October 24, 2018

Bill To:
Mr. Brent Earnest
Secretary
New Mexico Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504

DESCRIPTION	AMOUNT
FY2014 - 2017 SNAP - The financial resolution to settle the SNAP HSD's systemic errors between May 2014 and October 2016 have resulted in overissuances of benefits to a substantial number of households. In accordance with Section 13(b)(5) of the Act, FNS is prohibiting the State agency from collecting these overissuances from the affected households.	
Amount due this bill; to be paid by 10/24/2018:	\$163,736,758.15
Total Due: \$163,736,758.15	
Interest	\$0.00
AMOUNT DUE THIS BILL	\$163,736,758.15

Remittance should be made payable to:
USDA-FNS-HQ
PO BOX 979027
St. Louis, MO 63197-9000

Repayment will be based upon the agreement reached between NM SDNAP and FNS. NM SNAP has until 10/24/2018 to make full payment.