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**Informational Letter**

**Section 1**

<b>Transmittal:</b>	06-INF-20
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Division of Program Support and Quality Improvement Division of Employment and Transitional Supports
<b>Date:</b>	June 13, 2006
<b>Subject:</b>	Clarification of the Treasury Offset Program (TOP) Collection Process
<b>Suggested Distribution:</b>	Temporary Assistance Staff Food Stamp Benefits Staff Staff Development Coordinators Fiscal/Accounting Staff
<b>Contact Person(s):</b>	Program Questions: Food Stamp Bureau (518) 473-1469 Budget, Finance & Data Management (CAMS related questions) Regions 1-4 Carolyn Oleyourryk at 1-800-343-8859 Ext. 47549 E-mail: Carolyn.Oleyourryk@otda.state.ny.us Fax No.: (518) 486-6350 Region 5 Michael Borenstein at 631-854-9704 E-mail: Michael.Borenstein@otda.state.ny.us Fax No.: (212) 961-8244 Region 6 Marian Borenstein at 212-961-8250 E-mail: Marian.Borenstein@otda.state.ny.us Fax No.: (212) 961-8244 Audit & Quality Control (TOP processing questions) Larry Pittz (518) 486 -1076
<b>Attachments:</b>	TOP 60 Day Letter
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

**Filing References**

<b>Previous ADMs/INFs</b>	<b>Releases Cancelled</b>	<b>Dept. Regs.</b>	<b>Soc. Serv. Law &amp; Other Legal Ref.</b>	<b>Manual Ref.</b>	<b>Misc. Ref.</b>
03 INF-15, 03 LCM-5		18 NYCRR 387.1, 387.17	7 CFR Parts 272 and 273, SSL Section	FSSB Chapter XV, CAMS Manual Chapter	

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## Section 2

### I. Purpose

The purpose of this release is to provide information to local districts now dealing with clients who are subject to collection under the reimplemented TOP procedures.

### II. Background

The reimplementation of TOP, coupled with changes in locally administered collection activities, has resulted in situations requiring further clarification and definition. The information provided in this letter is almost entirely the result of local district inquiries, and is provided as a means of establishing procedures to handle the new situations. Information will be provided in a Q&A format. The following definitions may be helpful for the purposes of this letter:

- Certified - Claims defined as meeting collection standards and subject to intercept under TOP
- Terminated – An action that removes the claim from collectible debt status at the state or local level and leaves the claim information on CAMS. Terminated claims are not reported as district debt to USDA
- Deleted – Removed from collectible status and the debt is written off as in claims established in error or subject to court action.
- Active Case – A household that is currently in receipt of Food Stamp (FS) benefits
- Refunded or Rebated – Amounts repaid by local district due to TOP intercept will be fully reimbursed as a bottom line adjustment on the federal settlement notice. Further information can be found in the CAMS Manual (Chapter 7).
- Intercept – Automated involuntary collection of a FS debt from federal sources

### III. Program Implications:

1. Q. Will cases subject to bankruptcy judgments be certified to TOP?
  - A. Any debt with a bankruptcy date in the Payer Record will not be certified to TOP. Although a valid debt may not be certifiable to TOP as the result of bankruptcy date, local districts still may be permitted to pursue the debt through other collection methods. Also, if a debt is discharged as the result of bankruptcy, it should be removed from CAMS by the district using the Bankruptcy Discharge code (T-31).
2. Q. If an intercept occurs on a debt and a client subsequently makes a payment on the same debt citing the TOP 60 Day Notice, can both payments be credited?
  - A. Yes, so long as the payments do not exceed the debt. If that is the case, the client should be contacted to determine if s/he wants the payment credited to another debt. Otherwise, if the debt in the TOP Notice is satisfied and the payment is a duplicate, it must be refunded. If the combined payment exceeds the debt, the excess is refunded by the local district. Clarification on individual case collection circumstances resulting from TOP activities is available from Audit and Quality Control (A&QC) at (518) 402-1560.
3. Q. If the client has overpaid the TOP-noticed claim and has other debts, even PA debts, can the payment be posted to them?

- A. Procedures for collection conducted pursuant to TOP differ from conventional methods. In the case of the TOP noticed claim, if the client agrees in writing to have the payment applied to other debts, it is permissible. Otherwise, the payment must be refunded to the client.
4. Q. May a client with an outstanding debt who has moved to another state and is once again in receipt of FS, be certified for TOP in New York?
- A. Audit and Quality Control (A&QC) will suspend TOP certification and track such cases. If the client contacts A&QC directly, A&QC will act on the information. However, in the event that the client contacts the former district of residence, the district should contact A&QC by phoning (518) 402 -1560 to initiate the suspension of TOP certification.
5. Q. If a client, after receiving a TOP 60 Day Notice, makes a payment to the local district or enters into and maintains a Repayment Agreement, will the TOP collection activities cease?
- A. A current payment on a FS debt will suspend TOP collection and any payment made on a FS debt within the 60 days will be presumed to be for the debt in the TOP notice. TOP collection would be suspended for 60 days but if no further payment is received, the claim is returned to certified status. However, payments posted to a PA debt will not impact the Food Stamp claim being pursued via the TOP process. It should be noted that while a district may offer a FS Repayment Agreement or a client may offer a payment on the debt, districts do not have to accept either an offer or a payment if they consider it to be unreasonable or simply an attempt to circumvent TOP.
6. Q. If a claim was established and the household has no responsible adult, how should collection be pursued?
- A. Closed case claims with no responsible adult are uncollectible and should be terminated by using the "No Responsible Adult" code (T-71).
7. Q. Clients who engage the services of a tax preparer and choose to obtain a loan secured against their refund (often characterized as a form of "expedited refund") from the firm rather than wait for their refund, often find that their checks are on hold because of the intercept. To whom should they address inquiries about the balance of their refund account?
- A. Such questions should be answered by the Internal Revenue Service. However, if the client's actual refund is intercepted, the amount will appear on the TOP report.
8. Q. In response to a TOP notice, a debtor contacts the local district to request a compromise as part of the Request for a Repayment Agreement. However, despite the fact that the claim has been inactive for years, the debt turns out to be the result of an Intentional Program Violation (IPV) that had a mandated payment schedule. Does the district, using compromise and repayment agreements, have the authority to alter the terms?
- A. IPV's are subject to compromise, repayment agreements and even termination. Local districts have the discretionary authority to change terms in order to expedite collection

based on administrative considerations. Local districts also have the authority to deny offers that they consider to be unreasonable.

9. Q. When we review the TOP rebate reports we sometime see amounts to be refunded that are as small as \$.12, \$.52 and the like. What causes such small rebates and how are we to handle them administratively?
- A. Usually, they are the result of small balances left inactive in FS EBT accounts for over 9 months. The system automatically expunges these balances, applies them to outstanding debts and informs the U.S. Treasury of the action. But sometimes, the information doesn't arrive soon enough to forestall the full intercept from happening, as well. If the client has other debt(s) and agrees to the action, these amounts may be posted to another debt. Otherwise, the rebate must be refunded by the district.
10. Q. A local district is contacted by a client who has received a 60 Day Letter and wants a fair hearing on the claim in question. What procedure should be followed?
- A. Clients in this circumstance are entitled to an Administrative Review and should follow the procedures outlined in the letter. They have been afforded their Fair Hearing rights earlier in the process and are now handled by the review process. Local districts are advised to refer to the TOP 60 Day Letter (attached) in order to explain to the client what steps they may now take.

### **III. Forms Revisions - None**

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