

collected from your share of such a joint refund.

(I) If you request a review of our intent to collect the claim from your income tax refund, you should provide documentation showing that at least one of the items listed below is incorrect for the claim cited in this notice. If you do not have such documentation, for example a cancelled check, you should explain in detail why you believe that the claim is not collectible under FTROP.

(J) The claim cited in this notice is subject to collection from your tax refund for the following reasons:

(1) The claim was properly established according to Food Stamp Program regulations and was caused by an inadvertent household error or an intentional Program violation;

(2) No individual who is jointly and severally liable for the claim is also currently participating in the Food Stamp Program in [the name of State initiating the collection action];

(3) The claim is for at least [the minimum dollar amount required by the IRS];

(4) The date of the initial demand letter for the claim is within 10 years of January 31, [the offset year]. If the claim was reduced to a final court judgment ordering you to pay the debt, this 10-year period does not apply, and the date of the initial demand letter may be older than 10 years; and

(5) We are neither receiving voluntary payments pursuant to an agreed upon schedule of payments as provided in current Food Stamp Program regulations nor are we receiving scheduled, involuntary payments such as wage garnishment. Claims are considered past due and legally enforceable for collection from Federal income tax refunds 30 days after the due date for such a regular payment which is not received.

(K) In addition, collection of the claim is not barred by bankruptcy.

(v) *State agency action on requests for review.* (A) For all written requests for review received within 60 days of the date of the 60-day notice, the State agency shall determine whether or not the subject claims are past due and legally enforceable, and shall notify individuals in writing of the result of such determinations.

(B) The State agency shall determine whether or not claims are past due and legally enforceable based on a review of its records, and of documentation, evidence or other information the individual may submit.

(C) If the State agency decides that a claim for which a review request is received is past due and legally

enforceable, it shall notify the individual that:

(1) The claim was determined past due and legally enforceable, and the reason for that determination. Acceptable reasons for such a determination include the individual's failure to provide adequate documentation that the claim is not past due or legally enforceable;

(2) The State agency intends to refer the claim to the IRS for offset;

(3) The individual may ask FCS to review the State agency decision. FCS must receive the request for review within 30 days of the date of the State agency decision. FCS will provide the individual a written response to such a request stating its decision and the reasons for its decision. The claim will not be referred to the IRS for offset pending the FCS decision; and

(4) A request for an FCS review must include the individual's SSN and must be sent to the appropriate FCS regional office. The State agency decision shall provide the address of that regional office, including in that address the phrase "Tax Offset Review."

(D) If the State agency determines that the claim is not past due or legally enforceable, in addition to notifying the individual that the claim will not be referred for offset, the State agency shall take any actions required by food stamp regulations with respect to establishing the claim, including holding appropriate hearings and initiating collection action.

(E) The State agency shall not refer for offset a claim for which a timely State agency review request is received unless by October 31 preceding the offset year the State agency determines the claim past due and legally enforceable, and notifies the individual of that decision as specified in paragraphs (g)(5)(v)(C)(1), (g)(5)(v)(C)(2) and (g)(5)(v)(C)(3) of this section.

(vi) *FCS action on appeals of State agency reviews.*

(A) FCS shall act on all timely requests for FCS reviews of State agency review decisions as specified in paragraph (g)(5)(v)(C) of this section. A request for FCS review is timely if it is received by FCS within 30 days of the date of the State agency's review decision.

(B) If a timely request for FCS review is received, and the State agency's decision is dated on or before October 31 of the year prior to the offset year, FCS shall:

(1) Complete a review and notification as specified in paragraphs (g)(5)(vi)(D), (g)(5)(vi)(E), and (g)(5)(vi)(F) of this section, including providing State

agencies and individuals the required notification of its decision; or

(2) Notify the State agency that it has not completed its review and that the State agency must delete the claims in question from files to be certified to FCS according to paragraph (g)(5)(vii) of this section. If FCS fails to timely notify the State agency and because of that failure a claim is offset which FCS later finds does not meet the criteria specified in paragraph (g)(5)(ii) of this section, FCS will provide funds to the State agency for refunding the charge for the offset fee.

(C) If a timely request for FCS review is received, and the State agency's decision is dated after October 1 of the year prior to the offset year, FCS shall complete a review as specified in paragraphs (g)(5)(vi)(D), (g)(5)(vi)(E) and (g)(5)(vi)(F) of this section, but the claim shall not be referred for offset as specified in paragraph (g)(5)(v)(E) of this section.

(D) When FCS receives an individual's request to review a State agency decision, FCS shall:

(1) Request pertinent documentation from the State agency about the claim. Such documentation shall include such things as printouts of electronic records and/or copies of claim demand letters, results of fair hearings, advance notices of disqualification hearings, the results of such hearings, records of payments, 60-day notices, review requests and documentation, decision letters, and pertinent records of such things as telephone conversations; and

(2) Decide whether the State agency correctly determined the claim in question is past due and legally enforceable.

(E) If FCS finds that the State agency correctly determined that the claim is past due and legally enforceable, FCS will notify the State agency and individual of its decision, and the reason(s) for that decision, including notice to the individual that any further appeal must be made through the courts.

(F) If FCS finds that the State agency incorrectly determined that the claim is past due and legally enforceable, FCS will notify the State agency and individual of its decision, and the reason(s) for that decision. FCS will also notify the State agency about any corrective action the State agency must take with respect to the claim and related procedures.

(vii) *Referral of claims for offset.* (A) State agencies shall submit to FCS a certified file of claims for collection through FTROP by the date specified by FCS in schedules which FCS will provide as stated in paragraph (g)(5)(i)