

§ 272.12

States that participate in SAVE, the State agency must use this secondary verification procedure whenever the applicant-individual's documented alien status has not been verified through automated access to the ASVI or significant discrepancies exist between the data on the ASVI and the information provided by the alien applicant.

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§ 272.12 Intercept of unemployment compensation benefits.

(a) General. State agencies may, at their option, arrange for the intercept of unemployment compensation (UC) benefits to collect claims for intentional Program violations as defined in § 273.16(c). State agencies may not conduct such intercepts unless they have an FNS-approved attachment to their Plan of Operation as required by § 272.2(d)(1)(x). Acceptance of the intercept of UC method of collection is voluntary with each affected household.

(b) Identification of households subject to the intercept. (1) State agencies which decide to use the intercept procedure shall, in the attachments to the Plan of Operations required by § 272.2(d)(1)(x), specify if they will use the intercept for nonparticipating households only or for both nonparticipating and participating households. They shall also specify the type of case subject to UC intercept or the selection criteria for referral of households for intercept.

(2) Upon request of the UC agency, State agencies may provide such agencies identifying casefile information about individuals subject to the intercept.

(3) State agencies shall request that the UC agency provide the State agency the following information from UC files about any such individuals:

- (i) Whether the individual is receiving UC benefits;
- (ii) The amount of any such benefits; and
- (iii) The current (or most recent) home address of the individual.

(c) Notice of intercept procedures. (1) State agencies shall notify households subject to the intercept pursuant to paragraph (b) of this section as follows:

(i) State agencies shall notify participating households of the UC intercept procedures with the initial de-

mand letter sent in accordance with § 273.18(d)(3). This letter shall explain to the households that it may use the intercept alone or in combination with other repayment methods, that use of the intercept is voluntary, and that the intercept is one of several repayment methods available to them;

(ii) State agencies shall notify nonparticipating households which have failed to repay claims for intentional program violation of the intercept method unless the judicial action specified in paragraph (f) of this section will be taken without attempting to reach a voluntary agreement. Notices to nonparticipating households shall include a copy of the agreement described in paragraph (d) of this section and directions for contacting the State agency. If the State agency plans to initiate judicial process as described in paragraph (f) of this section against a household which does not voluntarily agree to the intercept, the notice shall advise such households that judicial action shall be initiated unless the household contacts the State agency within 10 days of receipt of the notice.

(2) As part of the agreement with UC agencies described in paragraph (g) of this section, State agencies may arrange for UC agencies to provide UC claimants a notice of the intercept option with directions about how to contact the State agency for further information to be included on or with the application for UC benefits.

(d) Agreements with individuals. State agencies may arrange with households for deductions from UC benefits by executing agreements with individual household members who receive UC benefits. Copies of agreements with individuals shall be provided to UC agencies as provided in paragraph (g) of this section. The agreements shall include:

- (1) The total amount to be deducted from UC benefits otherwise due;
- (2) The amount of UC benefits to be deducted each week;
- (3) The number of weeks the deduction will be made;
- (4) A statement that:

(i) It is the individual's responsibility to notify the State agency if a change in the amount of the deduction is necessary, for example, because of a

Food and Nutrition Service, USDA

§ 272.12

change of earnings or in other circumstances affecting income;

(ii) The amount of a weekly deduction is a maximum which may be decreased if there are insufficient UC benefits to allow the full deduction and the number of weeks for the deduction may be correspondingly increased to complete collection; and

(iii) The State agency will provide the individual a receipt for the total amount of deductions actually made;

(5) The signature of the individual agreeing to the deductions; and

(6) Either on the agreement or on a transmittal to the UC agency, a signature of a State agency official indicating concurrence with the agreement.

(e) *Amounts of deduction.* The amount of the weekly deduction shall be determined by agreement between the individual and State agency, provided that for participating households the amount, in combination with any other repayment methods, shall result in a scheduled repayment rate no less than that which would be repaid through the allotment reduction prescribed in §273.18(g)(3). The determination of the amount shall take into account such factors as the total amount of the claim, the amount of weekly UC benefits and the number of weeks they are expected to be paid, other income available to the individual, and any other deductions from the individual's UC benefits, allowing priority to such mandatory deductions as those for child support payments required by the Social Security Act and recoveries of prior excess UC benefits.

(f) *Court-ordered deductions.* State agencies may attempt to recover claims for intentional program violations from nonparticipating households by obtaining a writ, order, summons, or other similar process in the nature of garnishment from a court of competent jurisdiction to require the withholding of amounts from unemployment compensation. Subject to State and local law, State agencies may seek such judicial action before or after attempting to reach a voluntary agreement as described in paragraph (d) of this section.

(1) The State agency shall determine an amount to be withheld each week by

considering as many of the factors listed in paragraph (e) of this section as it has knowledge of and shall recommend such amount to the court. The State agency shall notify the court of any mandatory deductions from an individual's UC benefits of which it has knowledge.

(2) The State agency shall assure that any individual against whom a court-ordered deduction is sought is notified of:

(i) The total amount to be deducted from UC benefits otherwise due;

(ii) The amount of UC benefits to be deducted each week; and

(iii) The number of weeks the deduction will be made.

(3) The State agency shall provide the UC agency the information specified in paragraph (f)(1) of this section and a copy of the court order or a summary as the UC agency may request.

(g) *Agreement with UC agencies.* State agencies using the procedures specified in this section shall execute written agreements with UC agencies, including UC agencies in other States when circumstances and experience indicate that would be useful. The agreements shall include:

(1) The requirements specified in this section which affect both agencies, including the identifying information the State agency will provide, the frequency of and the procedures for exchanging information;

(2) The particular costs, both initial and ongoing, which the State agency shall reimburse the UC agency. Such costs shall be limited to those attributable to the repayment of claims for intentional Program violations for which the State agency does not otherwise reimburse the UC agency; and

(3) The frequency of transmittals of deductions from UC benefits to the State agency and of reports of amounts deducted for each individual and the total amount transmitted.

[Amdt. 320, 55 FR 6239, Feb. 22, 1990]

EFFECTIVE DATE NOTE: By Amdt. 389, 65 FR 41774, July 6, 2000 §272.12 was removed. At 65 FR 47587, Aug. 2, 2000, the effective date of this removal was corrected to Aug. 1, 2001.