TITLE 6. ECONOMIC SECURITY

CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY - FOOD STAMPS PROGRAM

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The release of this Chapter in Supp. 18-3 replaces Supp. 05-1, 7 pages
Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.
PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES
The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE
The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The Code is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the Code. Supplement release dates are printed on the footers of each chapter.
First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31
For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS
The Office began to authenticate chapters of the Administrative Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each Code chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the Code includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE
Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES
The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES
Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA
It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Register online at www.azsos.gov/rules, click on the Administrative Register link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR
At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE
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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.
ARTICLE 1. FOOD STAMPS -- GENERAL INFORMATION AND PROVISIONS

Article 1, consisting of Sections R6-14-101 through R6-14-111, recodified from A.A.C. R6-3-1901 through R6-3-1911 effective February 13, 1996 (Supp. 96-1).

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Article 3, consisting of Sections R6-14-301 through R6-14-327, expired effective February 28, 2005 (Supp. 05-1).

Article 3, consisting of Sections R6-14-301 through R6-14-320 and R6-14-322 through R6-14-327, recodified from A.A.C. R6-3-2101 through R6-3-2120 and R6-3-2122 through R6-3-2128, recodified effective February 13, 1996 (Supp. 96-1).

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New Article 4, consisting of Sections R6-14-401 through R6-14-417, made by emergency rulemaking effective July 6, 2018 for 180 days (Supp. 18-3).

Article 4, consisting of Sections R6-14-401 and R6-14-402, expired effective February 28, 2005 (Supp. 05-1).

Article 4, consisting of Sections R6-14-401 and R6-14-402, recodified from A.A.C. R6-3-2201 and R6-3-2203 effective February 13, 1996 (Supp. 96-1).

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New Article 5, consisting of Sections R6-14-501 through R6-14-507, made by emergency rulemaking effective July 6, 2018 for 180 days

Article 5, consisting of Sections R6-14-501 through R6-14-507, expired effective February 28, 2005 (Supp. 05-1).

Article 5, consisting of Sections R6-14-501 through R6-14-507, recodified from A.A.C. R6-3-2301 through R6-3-2307 effective February 13, 1996 (Supp. 96-1).

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Article 6, consisting of Sections R6-14-601 through R6-14-610, expired effective February 28, 2005 (Supp. 05-1).

Article 6, consisting of Sections R6-14-601, R6-14-602, R6-14-604 through R6-14-610, and R6-14-610, recodified from A.A.C. R6-3-2401, R6-3-2402, R6-3-2404 through R6-3-2408, and R6-3-2410 effective February 13, 1996 (Supp. 96-1).

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R6-14-101. Expired

Historical Note
Section R6-14-101 recodified from A.A.C. R6-3-1901 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-102. Expired

Historical Note
Section R6-14-102 recodified from A.A.C. R6-3-1902 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-103. Expired

Historical Note
Section R6-14-103 recodified from A.A.C. R6-3-1903 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-104. Expired

Historical Note
Section R6-14-104 recodified from A.A.C. R6-3-1904 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-105. Expired

Historical Note
Section R6-14-105 recodified from A.A.C. R6-3-1905 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-106. Expired

Historical Note
Section R6-14-106 recodified from A.A.C. R6-3-1906 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-107. Expired

Historical Note
Section R6-14-107 recodified from A.A.C. R6-3-1907 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-108. Expired

Historical Note
Section R6-14-108 recodified from A.A.C. R6-3-1908 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-109. Expired

Historical Note
Section R6-14-109 recodified from A.A.C. R6-3-1909 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-110. Expired

Historical Note
Section R6-14-110 recodified from A.A.C. R6-3-1910 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-111. Definitions
For purposes of this Section, the following terms are defined as follows:

1. “Adjusted net income”. Income remaining after all deductions from gross income.
2. “Adverse action”. The reduction or termination of program benefits within the certification period.
3. “Alien lawfully admitted to the United States”. An alien legally admitted to the United States by the U.S. Immigration and Naturalization Service. An alien legally admitted to the United States may or may not be legally admitted for permanent residence or residing under color of law.
4. “Alien lawfully admitted to the United States for permanent residence”. An alien permitted to reside continuously in the United States, as specified by appropriate documentation which the alien must have in the alien’s possession at all times.
5. “Allowance”. The total value of coupons a household is authorized to receive during each month or any specified time period.
6. “Annualization of income”. The division of yearly gross income by 12 to arrive at the monthly average.
7. “Anticipated income”. Income which is not yet available to meet needs but which is expected to become available.
8. “Appeal”. An individual’s written statement requesting a hearing to contest action to be taken or previously taken by the Department.
9. “Applicant”. A person who applies for program benefits for the that person and/or others.
10. “Assets”. All items owned by an individual which have a monetary value.
12. “Authorized representative”. A person authorized by an individual to act in the individual’s behalf.
13. “Basis of issuance or benefit level”. The amount of coupons for which the household is eligible, based on household size and adjusted net income.
15. “Certification”. Approval of the household’s application and determination of basis of issuance and period of eligibility.
16. “Citizen”. An individual born or naturalized in the United States, which is defined, for program purposes, as the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and Swain’s Island.
17. “Collateral contact”. An individual, agency, or organization contacted to confirm statements presented by the applicant and/or participant.
18. “Color of Law”. A legal status which a lawfully admitted alien may claim if the alien can satisfactorily prove that the alien has continuously resided in the United States since June 30, 1948.
19. “Coupon”. Any coupon, stamp, or certification provided pursuant to the Food Stamp Act of 1977 for the purchase of eligible food.
20. “Denial”. The formal disapproval of an application for program benefits.
22. “Drug and/or alcoholic treatment and rehabilitation center”. A center providing treatment and rehabilitation programs by a private nonprofit organization.
23. “Earned income”. Compensation received as wages, salaries, commissions, or profit, through employment or self-employment.
24. “Eligible food”. Any food for human consumption; seeds and plants to grow foods for the personal consumption of the eligible household; delivered meals and meals served at approved commumal dining facilities and rehabilitation treatment centers.
25. “Eligibility worker”. Department employee responsible for the determination of eligibility of the applicant households.
26. “Equity value”. The fair market value less encumbrances.
28. “Fraud”. An action, punishable by law, in which a person has knowingly, willfully, and with deceitful intent obtained benefits for which the person was not eligible.
29. “Hearing”. The process of reviewing a client’s situation for the purpose of deciding whether or not action taken or intended action by the Department is correct.
30. “Home visit”. A visit by an Eligibility Worker to the client’s place of residence to verify eligibility factors for program benefits.
31. “Home and land contiguous thereto”. The residential real property owned by a client, both land improvements on which client is living, as well as any land immediately touching which is also owned by the client.
32. “Identification card”. A card which identifies the bearer as eligible to receive and use food coupons.
33. “In kind”. Any gain or benefit which is not in the form of money payable directly to the household, such as meals, clothing, public housing, produce from a garden, and vendor payments.
34. “Institution of higher education”. Any institution providing post-high-school education, including but not limited to, colleges, universities, and vocational or technical schools at the post-high-school level.
35. “Liquid resources”. Financial instruments which can be converted to cash quickly (such as stocks, bonds, savings certificates, notes, sales contracts, etc.).
36. “Minor child”. A person under age 18 and under parental control.
37. “Non-eligible food”. Hot foods and hot food products prepared for immediate over-the-counter service, alcoholic beverages, tobacco, pet foods and supplies, soap, and paper products.
38. “Overissuance”. The amount of a coupon allotment received by a household which is in excess of what it was eligible to receive.
39. “Parental control”. A child under the age of 18 years and under the control of the parent or any adult other than natural parents (in loco parentis).
40. “Project area”. The county or geographic entity designated as the administrative unit for program operations.
41. “Recertification”. A re-evaluation of all eligibility factors.
42. “Restoration of lost benefits”. Issuance of coupons to an eligible household that did not receive benefits or the correct amount of benefits due to an error caused by the Department.
43. “Retroactive benefits”. An issuance of coupons to an eligible household who experienced a delay in the processing of the application.
44. “Roomer”. Individual to whom lodging is furnished for compensation.
45. “Spouse”. One of 2 individuals who are married to each other under applicable state law or who are living together and holding themselves out to the community as husband and wife.
46. “Student”. An individual 18 years of age or older and attending, at least half time, a post-high-school institution of higher education (as defined for program purposes).
47. “United States citizen”. A person who was born in the United States or naturalized in the United States and has maintained United States citizenship status.
49. “Vendor payments”. Money payments made on behalf of the household to another by a 3rd party.

Historical Note
Section R6-14-111 recodified from A.A.C. R6-3-1911 effective February 13, 1996 (Supp. 96-1).

ARTICLE 2. EXPIRED

R6-14-201. Expired

Historical Note
R6-14-201 recodified from A.A.C. R6-3-2001 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-202. Expired

Historical Note
R6-14-202 recodified from A.A.C. R6-3-2002 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-203. Expired

Historical Note
R6-14-203 recodified from A.A.C. R6-3-2003 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-204. Expired

Historical Note
R6-14-204 recodified from A.A.C. R6-3-2004 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-205. Expired

Historical Note
R6-14-205 recodified from A.A.C. R6-3-2005 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-206. Expired

Historical Note
R6-14-206 recodified from A.A.C. R6-3-2006 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).
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ARTICLE 3. CLAIMS AGAINST HOUSEHOLDS

EMERGENCY RULEMAKING

R6-14-301. Purpose and Definitions

A. The Department establishes and collects claims under 7 CFR 273.18, Claims against households. This Article clarifies the Department’s policies and procedures as permitted in federal regulation.

B. The definitions in section R6-14-111 and the following definitions apply to this Article:

1. “Agency error” or “AE claim” means any claim for an overpayment caused by an action or failure to take action by the Department.

2. “Claim” means the amount of a federal debt owed because Nutrition Assistance benefits were overpaid or benefits were trafficked.

3. “Household” means one of the following individuals or groups of individuals, unless otherwise specified under 7 CFR 273.1(b):
   a. An individual living alone;
   b. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
   c. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

4. “Inadvertent household error” or “IHE claim” means any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the Nutrition Assistance household. This includes instances when the household received more benefits than it was entitled to receive because the household requested a continuation of benefits, pending a fair hearing decision.

5. “Intentional Program Violation” or “IPV claim” means any claim for an overpayment resulting from an individual committing an IPV under 7 CFR 273.16.

6. “Trafficking claim” means any claim for the value of benefits that are trafficked, under 7 CFR 273.18. Trafficking is defined under 7 CFR 271.2.
CHAPTER 14. DEPARTMENT OF ECONOMIC SECURITY - FOOD STAMPS PROGRAM

EMERGENCY RULEMAKING

R6-14-302. Calculating a Claim Amount
Under 7 CFR 273.18, the Department shall calculate an overpayment of benefits claim by:
A. Date of discovery. The date of discovery is determined when the Department becomes aware of the overpayment. The Department becomes aware of an overpayment when:
1. For AE claims, the date that the Department received written or oral notification, or the date the Department discovered an agency error occurred that caused an overpayment to the household.
2. For IHE and IPV non-trafficking claims, the date that verification used to calculate the over-issuance is obtained.
3. For claims resulting from trafficking, the date of the court decision or the date the household signed a waiver of administrative disqualification hearing form or a disqualification consent agreement.
B. For AE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
C. For IHE claims, calculate a claim for the month of the date of discovery and for each prior month, not to exceed 36 months prior to the date of discovery.
D. For an IPV claim not related to trafficking, calculate a claim back to the month that the IPV first occurred, not to exceed 72 months prior to the date of discovery.
E. For a claim resulting from trafficking, calculate a claim for the value of the trafficked benefits, as determined under 7 CFR 273.18(c)(2).

Historical Note
R6-14-302 recodified from A.A.C. R6-3-2102 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-303. Pre-establishment Cost Effectiveness Determination
The Department shall not establish an overpayment that is not cost effective using the threshold at 7 CFR 273.18(e)(2)(i), unless the Department establishes and collects claims under a cost-effectiveness plan approved by F.N.S. under 7 CFR 273.18(e)(2)(ii) that establishes a different threshold.

Historical Note
R6-14-303 recodified from A.A.C. R6-3-2103 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-304. Claim Compromise
For households not receiving Nutrition Assistance benefits under 7 CFR 273.18(e)(7), the Department may reduce or compromise a claim when the Department reasonably determines that a household’s economic circumstances dictate that the claim will not be paid in three years. The Department shall:
1. Allow a household to repay a claim in equal monthly increments based on the following claim amounts: a. 12 month increments when the claim is $600.00 or less.
b. 24 month increments when the claim is $1,200.00 or less.
c. 36 month increments when the claim is over $1,200.00.
2. When a household reports that it is unable to afford the monthly increments established in subsection (1) and requests a compromise of the claim balance, the Department shall:
   a. Request the household to provide an oral or written financial statement that includes the sources and amounts of all earned and unearned income and all household monthly expenses.
   b. Establish a new claim balance based on the monthly amount the Department determines the household can reasonably afford to pay over a 36 month period based on the household’s oral or written financial statement.
3. The Department shall consider the claim paid in full and subsequently adjust off any amount(s) remaining from the original claim after the household pays the new claim balance established in subsection (2)(b).
4. When the household fails to pay the new claim balance established in subsection (2)(b) within the 36 month period established in the new payment agreement, the Department shall reinstate the original amount of the claim, minus any payments received.

Historical Note
R6-14-304 recodified from A.A.C. R6-3-2104 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-305. Terminating and Writing Off a Claim
A. Under 7 CFR 273.18(e)(9)(ii)(F), the Department may terminate and write off a claim when no adult member of the household who is responsible for paying the claim can be located.
B. Under 7 CFR 273.18(e)(9)(ii)(E), the Department shall not terminate and write off a claim which has been delinquent for 36 months when the claim is pending for possible payment through the Treasury Offset Program or a State Offset Program.

Historical Note
R6-14-305 recodified from A.A.C. R6-3-2105 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-306. Acceptable Forms of Payment
The Department may accept all forms of payment methods listed in 7 CFR 273.18(f) to collect a claim.

Historical Note
R6-14-306 recodified from A.A.C. R6-3-2106 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).
EMERGENCY RULEMAKING

R6-14-307. Collection Methods

A. Allotment reduction. The Department may use the allotment reduction in 7 CFR 273.18(g)(1) except the allotment reduction in 7 CFR 273.18(g)(vi).

B. Under 7 CFR 273.18(g)(5), the Department may allow the household to pay a claim in installment payments pursuant to R6-14-304(1)(a) through (c).

C. Intercept of unemployment compensation benefits.

D. Under 7 CFR 273.18(g)(8), the Department may use other collection methods that include:

1. Submit the claim to the Arizona Department of Revenue for payment through a state tax refund.
2. Submit the claim to the Arizona Lottery Commission for payment through a lottery winnings offset.
3. Submit the claim to the federal Treasury Offset Program pursuant to 7 CFR 273.18(n).
4. Wage garnishment established through a civil judgment or criminal restitution order. When the Department has obtained a judgment or order, the Department shall:
   a. Send the household a Pre-Garnishment Notice to allow the household to agree to pay the claim in a manner other than wage garnishment; and
   b. If the household fails to arrange for payment in response to the Pre-Garnishment Notice, the Department may request the Arizona Attorney General’s Office to initiate a wage garnishment pursuant to A.R.S. Title 12, Chapter 9, Article 4.1, and that garnishment may continue until the claim is paid in full.
5. Garnishment or levy of monies or property, pursuant to A.R.S. Title 12, Chapter 9, Article 4.
6. Imposition or enforcement of all liens, including judgment liens imposed pursuant to A.R.S. § 33-961.
7. Any other legal or equitable remedy for the collection of debts and judgments.

E. Under 7 CFR 273.18(i)(2), the Department may accept a claim from another state if the household subject to the claim receives Nutrition Assistance benefits in Arizona, when:
   1. The Department confirms that the household was notified by the other state of the overpayment; and
   2. There is no pending or unresolved Fair Hearing or Appeal of the overpayment in the other state.

F. Under 7 CFR 273.18(j) and at the Arizona Attorney General’s direction, the Department shall act on behalf of the federal Food and Nutrition Service in any bankruptcy proceeding against a household subject to a claim.

Historical Note

R6-14-307 recodified from A.A.C. R6-3-2107 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

EMERGENCY RULEMAKING

R6-14-308. Notice of Claim

To begin collection on a claim, the Department shall send the household a Notice of Claim. At a minimum, the notice shall include all elements required under 7 CFR 273.18(e)(3)(iv).

Historical Note

R6-14-308 recodified from A.A.C. R6-3-2108 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).
R6-14-318. Expired

Historical Note
R6-14-318 recodified from A.A.C. R6-3-2118 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-319. Expired

Historical Note
R6-14-319 recodified from A.A.C. R6-3-2119 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-320. Expired

Historical Note
R6-14-320 recodified from A.A.C. R6-3-2120 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-321. Expired

Historical Note
R6-14-321 reserved; Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-322. Expired

Historical Note
R6-14-322 recodified from A.A.C. R6-3-2122 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-323. Expired

Historical Note
R6-14-323 recodified from A.A.C. R6-3-2123 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-324. Expired

Historical Note
R6-14-324 recodified from A.A.C. R6-3-2124 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-325. Expired

Historical Note
R6-14-325 recodified from A.A.C. R6-3-2125 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-326. Expired

Historical Note
R6-14-326 recodified from A.A.C. R6-3-2126 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

R6-14-327. Expired

Historical Note
R6-14-327 recodified from A.A.C. R6-3-2127 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1).

ARTICLE 4. APPEALS AND FAIR HEARINGS

EMERGENCY RULEMAKING

R6-14-401. Entitlement to a Fair Hearing; Appealable Action
Any applicant or recipient who disagrees with any action or inaction by the Department has the right to challenge the action or inaction by requesting an administrative or fair hearing. Administrative hearings are conducted by the Department’s Office of Appeals. In this Article, “hearing” refers to a Fair Hearing as required in 7 CFR 273.15.

Historical Note
R6-14-401 recodified from A.A.C. R6-3-2201 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-402. Computation of Time
A. In computing any time period:
1. “Day” means a calendar day;
2. “Working day” means Monday through Friday, excluding federal or Arizona state holidays;
3. The Department does not count the date of the act, event, notice, or default from which a designated time period begins to run as part of the time period; and
4. The Department counts the last day of the designated time period unless it is a Saturday, Sunday, federal holiday or Arizona state holiday.

B. Documents sent by the Department are received by an applicant or recipient on the date sent to the applicant or recipient’s last known street or electronic mail address, plus an additional five calendar days only when sent by United States Postal Service. The send date is the date shown on the document unless the facts show otherwise.

Historical Note
R6-14-402 recodified from A.A.C. R6-3-2203 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-403. Request for Hearing: Form; Time Limits; Presumptions
A. An applicant or recipient who wishes to appeal an action or inaction shall make an oral or written request for a hearing to the Department within 90 days of the notice date advising the applicant or recipient of the action, except that a recipient may appeal the current level of benefits at any time within a certification period. Action by the Department shall include a denial of a request for restoration of any benefits lost more than 90 days but less than one year prior to the request for a hearing. An applicant or recipient may file a request for hearing in-person or by mail, fax, or Internet. The Department shall provide...
a form for this purpose and, upon request, shall help an appli-
cant or recipient complete the form. If the applicant or recipi-
ent makes an oral request for a hearing, the Department shall
reduce the appeal and the stated reasons for the appeal to writ-
ing, record the date of the oral request, and forward the request
to the Office of Appeals. The freedom to make a request for a
hearing shall not be limited or interfered with in any way.

B. An appellant is an applicant or recipient who files an appeal.
The appellant shall include the following information in the
request for hearing:
1. Name, address, electronic mail address, if applicable, and
telephone number of the appellant;
2. A description of the action or inaction that is the subject
of the appeal;
3. The date of the notice of adverse action or inaction; and
4. A statement explaining why the appellant disagrees with
the action or inaction.

C. The Office of Appeals shall send a notice of hearing to all par-
ties at least 20 days before the hearing date, unless a request
for an earlier hearing date is granted under subsection (B).

D. The Department shall expedite a hearing request for any per-
son covered by 7 CFR 273.15(i)(2).

E. The Department shall provide interpreters or other language
services at no cost to persons who speak a language other than
English. This shall include explaining the hearing procedures
orally in the person’s language if the materials are not trans-
lated into the person’s language.

F. The Department shall offer an agency conference as provided
by 7 CFR 273.15(d) to those persons denied expedited service
and to any person who requests a conference.

Historical Note
New Section made by emergency rulemaking at 24
A.A.R. 2081, effective July 6, 2018 for for 180 days
(Supp. 18-3).

EMERGENCY RULEMAKING
R6-14-404. Stay of Action Pending Appeal

As provided by 7 CFR 273.15(k), and subject to the exceptions
listed in that regulation, if the appellant timely requests a fair hear-
ing, the Department shall stay the implementation of an action until
the hearing officer renders a decision on the appeal and the person
receives the decision, unless the appellant signs a waiver of continu-
ation of benefits.

Historical Note
New Section made by emergency rulemaking at 24
A.A.R. 2081, effective July 6, 2018 for for 180 days
(Supp. 18-3).
A party may request a change of hearing officer as prescribed in A.R.S. § 41-1992(B) by filing an affidavit that shall include:
1. The case name and number;
2. The hearing officer assigned to the case, and
3. The name and signature of the party requesting the change.

The Office of Appeals shall send the parties written notice of rescheduled hearing at least 11 days prior to the date of the rescheduled hearing, unless the appellant agrees to shorter notice.

The hearing officer shall:
1. Administer oaths and affirmations;
2. Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;
3. Consider all relevant issues;
4. Request, receive, and admit into the record all evidence available to the party that is proper to the subject matter of the hearing and is admissible under R6-14-410(2);
5. Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department. The hearing officer shall decide on the source of the medical assessment or professional evaluation when the household and the Department are unable to agree on a mutually satisfactory source. The Department shall pay for the medical assessment or professional evaluation when such services are not available to the household as part of the household’s current health insurance coverage; and
6. Render a hearing decision and issue a written decision.

A party shall request a subpoena at least five working days before the hearing date.

The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
1. The case name and number;
2. The name of the party requesting the subpoena;
3. The name and address of the person in possession of the item;
4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item;
5. A statement about the expected substance of the testimony or other evidence as well as the relevance and importance of the requested testimony or other evidence; and
6. A description of the party’s efforts to obtain the witness or evidence by voluntary means.

A party who wishes to have a witness testify at a hearing or to offer a particular document or item in evidence shall first attempt to obtain the witness or evidence by voluntary means. Subpoena forms are available to the appellant under R6-14-410(2).

If the party cannot obtain the voluntary attendance of the witness or production of the evidence, the party may ask the assigned hearing officer to issue a subpoena for a witness, document, or other physical evidence or to otherwise obtain the requested evidence.

The party seeking the subpoena shall send the hearing officer a written request for a subpoena. The request shall include:
1. The case name and number;
2. The name of the party requesting the subpoena;
3. The name and address of any person to be subpoenaed; and
4. A description of any documents or physical evidence the appellant desires the hearing officer to subpoena, including the title, appearance, and location of the item if the appellant knows its location, and the name and address of the person in possession of the item.

A party who brings a challenge for cause shall file an affidavit as provided in subsection (A) and send a copy of the affidavit to all other parties. The affidavit shall explain the reason why the assigned hearing officer is not impartial or disinterested.

The hearing officer being challenged for cause may hear and decide the challenge unless:
1. A party specifically requests that another hearing officer make the determination, or
2. The assigned hearing officer recuses himself or herself.

The Office of Appeals shall transfer the case to another hearing officer when:
1. A party requests a change as provided in subsections (A) through (D) or;
2. The hearing officer is removed for cause, as provided in subsections (E) through (G).

The Office of Appeals shall send the parties written notice of the new hearing officer assignment.

New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for for 180 days (Supp. 18-3).
E. The hearing officer shall deny the request if the witness’s testimony or the physical evidence is not relevant to an issue in the case or is duplicative.

F. The Office of Appeals shall prepare all subpoenas and serve them by mail, except that the Office of Appeals may serve subpoenas to state employees who are appearing in the course of their jobs, by regular mail, hand-delivered mail, electronic mail, or interoffice mail.

Historical Note
New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-410. Parties’ Rights
The appellant and the Department have the following rights:
1. The right to request a postponement of the hearing;
2. The right to receive before and during the hearing a free copy of any documents in the Department’s file on the appellant and documents the Department may use at the hearing, except documents protected by the attorney-client or work-product privilege or as otherwise protected by federal or state confidentiality laws;
3. The right to request a change of hearing officer;
4. The right to request subpoenas for witnesses and evidence;
5. The right to be represented by an authorized representative, subject to any limitations on the unauthorized practice of law in the Rules of the Supreme Court of Arizona, Rule 31;
6. The right to bring witnesses, present evidence, and to confront and cross-examine adverse witnesses;
7. The right to advance arguments without undue interference, to question or refute any testimony or evidence, and to confront and cross-examine adverse witnesses;
8. The right to further appeal, as provided in R6-14-416 and R6-14-417, if dissatisfied with the Office of Appeals decision.

Historical Note
New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-411. Withdrawal of an Appeal
A. An appellant may withdraw an appeal at any time prior to the time the hearing officer issues a decision.
1. An appellant may withdraw an appeal orally, either in person or by telephone. The Department may record the audio of the withdrawal. The Department is prohibited from coercion or actions that would influence the appellant or the appellant’s representative to withdraw the fair hearing request. The Department must provide a written notice within 10 days of the oral request confirming the withdrawal request and providing the appellant an opportunity to reinstate a hearing. The notice shall explain the appellant’s right to request or reinstate the hearing within 10 days of when they receive the notice.
2. An appellant may withdraw an appeal by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.
B. The Department shall dismiss the appeal upon receipt of a withdrawal request signed by the appellant or the appellant’s representative, or upon receipt of a statement of withdrawal made on the record when the hearing officer has accepted the withdrawal.

Historical Note
New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-412. Failure to Appear; Default; Reopening
A. If an appellant fails to appear at the hearing, the hearing officer shall:
1. Enter a default and issue a decision dismissing the appeal, except as provided in subsection (B);
2. Rule summarily on the available record; or
3. Adjourn the hearing to a later date and time.
B. The hearing officer shall not enter a default or rule summarily if the appellant notifies the Office of Appeals before the scheduled time of hearing that the appellant cannot attend the hearing because of good cause and still desires a hearing or wishes to have the matter considered on the available record. Good cause exists if circumstances beyond the party’s reasonable control make it unduly difficult or burdensome for the party or the party’s representative to attend the hearing at the scheduled time.
C. A party who did not appear at the hearing may file a request to reopen the proceedings no later than 10 days after the hearing. The request shall be in writing or be made in person and shall demonstrate good cause for the party’s failure to appear.
D. If the hearing officer finds that the party had good cause for failure to appear, the hearing officer shall reopen the proceedings and schedule a new hearing with notice to all interested parties as prescribed in R6-14-405.
E. Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party. Good cause also exists when the nonappearing party demonstrates excusable neglect, as used in Arizona Rules of Civil Procedure, Rule 60(b)(1) for both the failure to appear and the failure to timely notify the hearing officer.

Historical Note
New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-413. Hearing Proceedings
A. The hearing is a de novo proceeding. The Department has the initial burden of presenting the evidence to support the adverse action being appealed.
B. The standard of proof is a preponderance of the evidence.
C. The Arizona Rules of Evidence do not apply at the hearing.
D. The hearing officer may admit and give probative effect to evidence as prescribed in A.R.S. § 41-1062(A).
E. The Office of Appeals shall record all hearings. The Office of Appeals shall also transcribe the proceedings when a transcription is requested by the Appeals Board or when a transcription is required for a judicial review under A.R.S. § 41-1993. If a transcript is prepared for any purpose, the appellant is entitled to a copy of the transcription at no cost.
F. A party may, at the party’s own expense, arrange to have a court reporter present to transcribe the hearing, provided that such transcription does not delay or interfere with the hearing.
G. The Office of Appeal’s recording of the hearing shall constitute the official record of the hearing.
EMERGENCY RULEMAKING

R6-14-414. Hearing Decision
A. No later than 60 days after the date the appellant files a request for hearing with the Department, the hearing officer shall render a decision based solely on the evidence and testimony produced at the hearing and the applicable law. The 60-day time limit is extended for any delay necessary to accommodate hearing continuances or extensions, or postponements requested by a party.
B. The hearing decision shall include:
1. Findings of fact concerning the issue on appeal,
2. Citations to the law and authority applicable to the issue on appeal,
3. A statement of the conclusions derived from the controlling facts and law and the reasons for the conclusions,
4. The name of the hearing officer,
5. The date of the decision,
6. A statement of further appeal rights and the time period for exercising those rights, and
7. That an appeal may result in a reversal of the decision.
C. The Office of Appeals shall send a copy of the decision to each party or the party’s representative.
D. When requested by the appellant, the Department, or upon the hearing officer’s own motion, the Office of Appeals may amend or vacate a decision to correct clerical errors, including typographical and computational errors.

EMERGENCY RULEMAKING

R6-14-415. Effect of the Decision
A. If the hearing officer affirms the adverse action against the appellant, the adverse action is effective as of the date of the initial determination of adverse action by the Department. The adverse action remains effective until the appellant appeals and obtains a higher administrative or judicial decision reversing or vacating the hearing officer’s decision.
B. If the hearing officer vacates or reverses the Department’s decision to take adverse action, the Department shall not take the action or shall reverse any adverse action.

Historical Note
New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

ARTICLE 5. INTENTIONAL PROGRAM VIOLATION

EMERGENCY RULEMAKING

R6-14-501. Intentional Program Violation (IPV); Defined
A. An Intentional Program Violation (IPV) consists of having intentionally:
1. Made a false or misleading statement, or misrepresented, concealed, or withheld facts; or
2. Committed any act that constitutes a violation of the Food Stamp Act, Nutrition Assistance Program Regulations, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of nutrition assistance benefits or EBT cards.
B. For the purpose of imposing sanctions as prescribed in R6-14-505, a person is considered to have committed an IPV if:
1. A person signs a waiver of an Administrative Disqualification Hearing,
2. A person is found to have committed an IPV by an Administrative Disqualification Hearing, or
3. A person is convicted of a criminal offense the elements of which would constitute an IPV under subsection (A)
above or enters into a disqualification consent agreement for deferred prosecution for fraud in a court of law.

Historical Note
R6-14-501 recodified from A.A.C. R6-3-2301 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-502. IPV Administrative Disqualification Hearings; Hearing Waiver

A. Upon receipt of sufficient documentary evidence substantiating that a person has committed an IPV, the Department shall initiate either an Administrative Disqualification Hearing, or a referral for prosecution.

B. When the Department initiates an Administrative Disqualification Hearing, the Department shall mail the person suspected of an IPV written notice of the right to waive the Administrative Disqualification Hearing. This notice shall be sent either by first class mail or certified mail – return receipt requested.

C. The waiver notice of the Administrative Disqualification Hearing shall include the following information as well as the information described in R6-14-503(D):

1. A statement that the Department has determined that the individual suspected of the IPV committed one or more acts described in R6-14-501(A) and that the Department has initiated an Administrative Disqualification Hearing against the individual suspected of the IPV.

2. A summary of the allegations and evidence against the individual suspected of the IPV and notification that the individual suspected of the IPV has the right to examine and, when requested by the individual or representative, be provided a free copy of the portions of the case file that are relevant to the hearing.

3. A statement of the right of the individual suspected of the IPV to remain silent concerning the allegation of an IPV, and that anything said or signed by the individual concerning the allegations can be used against the individual suspected of the IPV in a court of law, including signing any part of the waiver.

4. A statement that signing a waiver of the Administrative Disqualification Hearing will result in disqualification periods as determined by R6-14-505, a statement of the penalty the Department believes is applicable to the case scheduled for a hearing, and a reduction in benefits for the period of disqualification, even if the individual suspected of the IPV does not admit to the facts as presented by the Department.

5. A statement that the individual suspected of the IPV does not have to sign a waiver of the Administrative Disqualification Hearing, return the waiver form to the Department, or speak to anyone at the Department.

6. A listing of the individual suspected of the IPV’s fair hearing rights contained in 6 A.A.C. 14, Article 4 and notification that the individual suspected of the IPV will waive these rights if the waiver of the Administrative Disqualification Hearing is signed.

7. A statement that waiver of the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual suspected of the IPV in a civil or criminal court action, or from collecting any overissuance of Nutrition Assistance benefits.

8. A statement that the individual suspected of the IPV may wish to consult an attorney and a list of any individuals or organizations that provide free legal representation.

9. A statement that Nutrition Assistance benefits will continue and will only be terminated if the following occurs:
   a. The individual suspected of the IPV signs a notice to waive their rights to an Administrative Disqualification Hearing;
   b. There is an Administrative Disqualification Hearing decision that the individual suspected of the IPV is disqualified;
   c. The individual is determined to no longer be eligible on other grounds, or
   d. The individual requests that the Nutrition Assistance benefits not be continued in order to avoid a potential overissuance of benefits.

10. A statement that the remaining household members, if any, will be held responsible for repayment of the resulting overissuance claim.

11. An opportunity for the individual suspected of the IPV to specify whether or not the individual admits to the facts as presented by the Department. This opportunity shall consist of the following statements, and a method for the individual suspected of the IPV to designate the individual’s waiver choice:
   a. I admit to the facts as presented and understand that a disqualification penalty will be imposed if I sign this waiver. I understand that if I sign this waiver, there will not be an Administrative Disqualification Hearing; or
   b. I do not admit that the facts as presented are correct in my Nutrition Assistance case. However, I have chosen to sign this waiver of the Administrative Disqualification Hearing. I also understand that a disqualification penalty will be imposed. I understand that if I mark this box, I will not be able to submit additional evidence, have an Administrative Disqualification Hearing, or have the right to administrative appeal.
   c. A statement that the individual suspected of the IPV does not waive the individual’s right to an Administrative Disqualification Hearing and a method to indicate this choice:
      I do not admit that I committed an Intentional Program Violation and I do not waive my right to an Administrative Disqualification Hearing where the Department must prove that I committed an Intentional Program Violation. I understand that I may attend the hearing but I am not required to attend. If I attend the hearing, I may talk to the judge about what happened. I understand that at my hearing, I can present additional evidence to the judge if I want. I understand that I have the right to remain silent. I understand that the judge will decide if I will be disqualified from participating in the Nutrition Assistance program.

12. The telephone number of the appropriate Department unit which the individual may contact to obtain additional information.

13. A due date that the signed waiver of an Administrative Disqualification Hearing must be provided to the Department so that a hearing will not be held and a signature line for the individual suspected of the IPV, along with a statement that the head of household must also sign the waiver if the individual suspected of the IPV is not the
head of household, with an appropriately designated sign-
nature line.

D. For the purpose of imposing sanctions as prescribed in R6-14-505, a timely signed waiver of an Administrative Disqualification Hearing shall have the same effect as an administrative adjudication that an IPV occurred.

**Historical Note**

R6-14-502 recodified from A.A.C. R6-3-2302 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

**EMERGENCY RULEMAKING**

**R6-14-503. Administrative Disqualification Hearings**

A. The rules on fair hearings apply to Intentional Program Violation (IPV) Administrative Disqualification Hearings, except as provided in this Article.

B. All IPV Administrative Disqualification Hearings are conducted by the Department’s Office of Appeals.

C. If the individual suspected of an IPV does not sign and return the waiver of Administrative Disqualification Hearing by the return date set in the waiver notice, or returns the waiver notice stating they do not waive the Administrative Disqualification Hearing, the Office of Appeals shall send the individual a written hearing notice. The Office of Appeals shall send the notice by first class mail, certified mail return receipt requested, or any other reliable method, no later than 30 days before the scheduled hearing date.

D. The hearing notice shall include the following information:

1. The date, time, and place of the hearing;
2. The allegations of an IPV against the individual;
3. A summary of the evidence, and how and where the evidence can be examined. When requested by the household or its representative, the Department shall provide a free copy of the portions of the case file that are relevant to the hearing;
4. A notice that the decision will be based solely on information provided by the Department if the individual suspected of the IPV fails to appear at the hearing;
5. A statement that the individual or representative will, upon receipt of the notice, have 10 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing;
6. A warning that a determination of IPV will result in disqualification periods as defined by section R6-14-505, and a statement of which penalty the Department believes is applicable to the case scheduled for a hearing;
7. A listing of the individual’s rights as contained in R6-14-410;
8. A statement that the Administrative Disqualification Hearing does not preclude the State or Federal Government from prosecuting the individual for the IPV in a civil or criminal court action, or from collecting any overissuance of Nutrition Assistance benefits;
9. A statement that the individual suspected of the IPV may consult with an attorney and a list of any individuals or organizations known to the Department that provide free legal representation; and
10. A notice that the individual suspected of the IPV has the right to obtain a copy of the Department’s published hearing procedures together with an explanation of how the individual suspected of the IPV can obtain these procedures.

E. The hearing officer shall postpone a hearing for up to 30 days if the individual suspected of the IPV files a written or oral request for postponement with the hearing officer no later than 10 days before the hearing date. Any such postponement shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (G) below.

F. The time and place for the hearing shall be arranged so that the hearing is accessible to the individual suspected of the IPV, including making reasonable accommodations for a person with a disability.

G. At the start of the Administrative Disqualification Hearing, the hearing officer shall advise the individual suspected of the IPV or representative of the right to remain silent during the hearing and the consequences of exercising that right, including the court’s ability to draw an adverse inference from silence. The hearing officer shall also advise that if the individual suspected of the IPV or representative chooses not to exercise the right to remain silent, anything they say could be used against them.

H. A hearing officer, as prescribed in R6-14-407, shall conduct the Administrative Disqualification Hearing pursuant to the procedures set forth in R6-14-408, R6-14-409, R6-14-410, and R6-14-413, except as prescribed in this subsection.

I. The Department shall prove by clear and convincing evidence that the household member committed an IPV.

J. No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the individual suspected of the IPV a written decision. The hearing officer shall find whether the evidence shows by clear and convincing evidence that the person committed an IPV or did not commit the IPV. The decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent regulation, and respond to reasoned arguments made by the individual suspected of the IPV or representative.

**Historical Note**

R6-14-503 recodified from A.A.C. R6-3-2303 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

**EMERGENCY RULEMAKING**

**R6-14-504. Failure to Appear; Default; Reopening**

A. If the individual suspected of the IPV fails to appear at the Administrative Disqualification Hearing without good cause, the hearing officer shall conduct the hearing.

B. The hearing officer shall not conduct the hearing if the individual suspected of the IPV notifies the Office of Appeals before the hearing that the individual cannot attend the hearing because of good cause and still desires a hearing. Good cause exists if circumstances beyond the party’s reasonable control make it unduly difficult or burdensome for the party or the party’s representative to attend the hearing on the scheduled date.

C. An individual suspected of the IPV who did not appear at the hearing may file a request to reopen the Administrative Disqualification Hearing. The request shall be in writing and shall demonstrate good cause for the party’s failure to appear.

1. The individual suspected of the IPV has 30 days after the date of the written notice of the hearing decision to file a request to reopen the Administrative Disqualification Hearing if the individual did not receive a hearing notice.
2. In all other instances, the individual suspected of the IPV has 10 days from the hearing date to show good cause why the individual failed to appear.

D. The hearing officer shall review the good cause reason submitted by the individual suspected of the IPV and unless the hearing officer can grant or deny the request based on the information provided, shall set the matter for a hearing to determine whether the individual suspected of the IPV had good cause for failing to appear.

E. If the hearing officer finds that the individual suspected of the IPV had good cause for failure to appear, the previous decision shall be vacated and the hearing officer shall reopen the Administrative Disqualification Hearing and schedule a new hearing with notice to all parties. The hearing officer must enter the good cause decision on the record.

F. Good cause, for the purpose of reopening an Administrative Disqualification Hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the individual suspected of the IPV. Good cause also exists when the individual suspected of the IPV demonstrates excusable neglect for both the failure to appear and the failure to timely notify the hearing officer. “Excusable neglect” means an action involving an error such as might be made by a reasonably prudent person who attempts to handle a matter in a prompt and diligent fashion.

Historical Note
R6-14-504 recodified from A.A.C. R6-3-2304 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-505. Disqualification Sanctions; Notice
A. A person found to have committed an IPV is disqualified from program participation:
1. For a period of 12 months for the first IPV, except as provided under subsections (B) through (E) of this section;
2. For a period of 24 months for the second IPV, except as provided in subsections (B) through (E) of this section;
3. Permanently for the third IPV; and
4. The same act of IPV repeated over a period of time shall not be separated so that separate penalties can be imposed.

B. Individuals found by any court to have used or received benefits in a transaction involving the sale of a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), shall be ineligible to participate in the program:
For a period of 24 months for the first violation; and
Permanently upon the second violation.

C. Individuals found by any court to have used or received benefits in a transaction involving the sale of firearms, ammunition, or explosives shall be permanently ineligible to participate in the program upon the first violation.

D. An individual convicted by any court of having trafficked benefits for an aggregate amount of $500 or more shall be permanently ineligible to participate in the program upon the first violation.

E. Except as provided under subsection (A)(3) of this section, an individual found to have made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple Nutrition Assistance benefits simultaneously shall be ineligible to participate in the program for 10 years.

F. The Department shall not include the needs of the disqualified person in the household but shall count the income and resources of the disqualified person available to the household.

G. Upon a determination of IPV, the Department shall notify the disqualified person in writing of the pending disqualification. The written notice shall:
1. Inform the disqualified person of the decision and the reasons for the decision; and
2. Inform the disqualified person of the date the disqualification will take effect and the duration of the disqualification. If the disqualified person is no longer receiving Nutrition Assistance benefits, the notice shall inform the disqualified person that the period of disqualification will be deferred until such time as the disqualified person again applies for and is determined eligible for Nutrition Assistance benefits.

Historical Note
R6-14-505 recodified from A.A.C. R6-3-2305 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-506. Administrative Disqualification Hearings or Waiver of the Right to a Hearing: Appeal
A. Upon a determination of IPV through a signed waiver of an Administrative Disqualification Hearing, the individual has no right to further administrative appeal. The individual may seek relief in a court having jurisdiction and may seek a stay or other injunctive relief of a period of disqualification.

B. A person found to have committed an IPV through an Administrative Disqualification Hearing has no right to further administrative appeal but may seek relief in a court of appropriate jurisdiction.

Historical Note
R6-14-506 recodified from A.A.C. R6-3-2306 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

EMERGENCY RULEMAKING

R6-14-507. Honoring Out-of-State IPV Determinations and Sanctions
The Department shall honor sanctions imposed against an applicant or recipient by the agency of another state that administers the Nutrition Assistance program and shall consider prior violations committed in another state when determining the appropriate sanction.

Historical Note
R6-14-507 recodified from A.A.C. R6-3-2307 effective February 13, 1996 (Supp. 96-1). Section expired under A.R.S. § 1056(E) at 11 A.A.R. 1450, effective February 28, 2005 (Supp. 05-1). New Section made by emergency rulemaking at 24 A.A.R. 2081, effective July 6, 2018 for 180 days (Supp. 18-3).

ARTICLE 6. EXPIRED

R6-14-601. Expired