

**OFFICE OF INVESTIGATIVE SERVICES  
POLICY AND PROCEDURE #730**

**DISQUALIFICATION PENALTIES**

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**FOOD STAMPS:**

Disqualification from participation in the Food Stamp Program occurs when an offender admits guilt or is found guilty of Food Stamp IPV. The offender is disqualified from further participation in the Food Stamp Program for a prescribed period of time. Pursuant to U.S. Code, Title 7, Section 2015(b) (1), Agriculture, Food Stamp Program, the disqualification penalties are as follows:

- First time offenders are disqualified for one year (12 months).
- Second time offenders are disqualified for two years (24 months).
- Third time offenders are disqualified permanently.

An individual shall be ineligible to participate in the Food Stamp Program for 10 years if the individual made a fraudulent statement or representation of identity or residence in order to receive multiple benefits simultaneously.

Food Stamp Program disqualification penalties have been increased for individuals who are found guilty in a Federal, State, or local court of trading or receiving Food Stamps for firearms, ammunition, explosives or controlled substances. If a court finds that an individual traded Food Stamps for illegal drugs, the disqualification is for 24 months for a first violation and permanent disqualification for a second violation. If a court finds that an individual traded Food Stamps for guns, ammunition, or explosives, the disqualification is permanent for a first violation. Individuals convicted of selling \$500 or more of Food Stamp benefits will be permanently disqualified from the Food Stamp Program.

It is important that disqualification from the program be brought to the attention of the court prior to sentencing.

If the court fails to impose a disqualification period for the IPV, the Agent must instruct the county to impose the appropriate disqualification penalty unless it is contrary to the Court Order.

Habitual offender statutes indicate that the purpose of such laws is to deter individuals from criminal activities after having previously been found guilty of an offense. On this basis, courts have refused to impose enhanced penalties where individuals have been found guilty of separate offenses in the same proceeding. This appears to be consistent with the purpose of the disqualification penalties in the Food Stamp Act. Therefore, enhanced penalties must be based on a prior hearing determination, court order, or a signed hearing waiver (WDH). A current IPV determination may result in an enhanced disqualification penalty only to the extent it involves offenses that occurred after the previous IPV determination or waived opportunity for a hearing.

## DISQUALIFICATION PENALTIES (continued)

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### TANF:

Disqualification from participation in the TANF Program occurs when an offender admits guilt or is found guilty of TANF IPV. The offender is disqualified from participation in the TANF Program for a prescribed period of time. Pursuant to U.S. Code, Title 42, Section 616 (b) Public Health and Welfare, Social Security Act, effective 5/92 in Georgia, the disqualification penalties are as follows:

- First time offenders are disqualified for 6 months.
- Second time offenders are disqualified for 12 months.
- Third time offenders are disqualified permanently.

An individual shall be ineligible to participate in the TANF Program for 10 years if the individual made a fraudulent statement or representation of residence in order to receive multiple benefits in two or more states at the same time.

If the court fails to impose a disqualification period, the Agent must instruct the county to impose the appropriate disqualification penalty unless it is contrary to the court order.

Habitual offender statutes indicate that the purpose of such laws is to deter individuals from criminal activities after having previously been found guilty of an offense. On this basis, courts have refused to impose enhanced penalties where individuals have been found guilty of separate offenses in the same proceeding. This appears to be consistent with the purpose of the disqualification penalties in the AFDC/TANF Fraud Control Program. Therefore, enhanced penalties must be based on a prior IPV disqualification and court order after 5/92. A current IPV determination may result in an enhanced disqualification penalty only to the extent it involves offenses that occurred after the previous IPV determination.

### TANF CONVICTIONS IN GEORGIA:

On April 24, 1996, Code Section 49-4-15 of the Official Code of Georgia was amended to include stricter penalties for individuals **prosecuted and convicted** of fraud as a result of the passage of Senate Bill 446. Section 1.2 of this Act is known as the "Two Strikes and You're Off Act." The stricter penalties set forth in this Act are as follows:

- 12 months for the first conviction
- Permanently for the second conviction

Beginning 6/98, TANF recipients were notified that these stricter penalties would apply to prosecution and conviction of IPV months beginning July 1998.