



**SUBJECT:** FSP - Revisiting Policy Regarding Head of Household as Individual Responsible for Intentional Program Violations (IPV)

**TO:** All Regional Directors  
Food Stamp Program

After this topic was brought up during the April program directors' conference call, as promised, we have conducted a more extensive review of our position on this issue. Our position was originally laid out in a memorandum signed by Thomas O'Connor on March 28, 2001, (copy attached). As a result of conversations with the Midwest Regional Office staff held subsequent to the conference call, we believe we have a better understanding of how States develop evidence in Electronic Benefits Transfer (EBT) trafficking cases and the difficulties in identifying the guilty party in such cases. We also became aware of the possibility of holding the head of household responsible when a strong case based on circumstantial evidence could be made. For example, by demonstrating that a pattern of misuse exists, it may be possible to show that the head of household must either have participated in or was certainly aware of the trafficking of the household's benefits.

All of this was discussed at length during a conference call with our program attorneys at the Office of the General Counsel (OGC). As a result of our review and conversations, we must adhere, with OGC's support, to our original position. To wit, the head of household may not be held "automatically" responsible for trafficking the household's benefits if there is no direct evidence identifying him/her as the guilty party. However, OGC was also supportive of holding the head of household responsible when there was sufficient circumstantial evidence to show his/her complicity in the violative act. Complicity in this case means that even though the head of the household may not have actually conducted the transaction, upon questioning there is convincing evidence that he/she was aware of it, may have benefited from it, and took no actions to correct it. Circumstances vary, of course, but complicity may be shown by the State establishing a clear pattern of misuse over time with the head of household not providing a reasonable explanation and never reporting a loss/theft of the EBT card or benefits.

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Director  
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Attachment --  
Head of Household as Individual Responsible for Intentional Program Violations (IPV) (issued 03/28/01)