

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
Division of Social Services**

**7000 Cash Assistance Overpayments**

**7001 Audit and Recovery Management Services (ARMS) and the Overpayment Process**

ARMS has the responsibility for five functional areas as part of Fraud/Overpayment process:

- 1) Identification - Responsible for the identification of acts of welfare fraud/overpayments from information obtained through IEVS, agency referrals, citizen complaints and other sources.
- 2) Audit/Investigation - Responsible for the Audit/Investigation of alleged acts of welfare fraud.
- 3) Referral for Prosecution/Overpayments - Responsible for the preparation of Referral for Prosecution for felony indictment to the Office of the Attorney General; referral of a case directly to a court of competent jurisdiction; or, preparation of an administrative overpayment.
- 4) Accounting - ARMS is the fiscal agent for the Department, with full responsibility for functional activity such as: establishing repayment agreements with indebted individuals, tracking overpayments and notifying DSS when overpayments are paid in full.
- 5) Collection Enforcement - Enforce recovery methods of debts through a variety of collection methods.

**7002 Determining the Amount of Overpayments**

An overpayment is a Cash Assistance payment made in excess of the amount a recipient is entitled to receive. Overpayments may be caused by client or agency error. In either situation, the recipient is expected to repay to DHSS the amount of benefits received in error. Repayment is based on the legal principle that when a person is paid benefits to which (s)he is not entitled, the payer has a right to recovery of those benefits.

All applicants for financial assistance will be informed of their responsibility to repay overpayments at application. They will be asked to sign the application which explains recipients' responsibilities to repay overpayments and outlines the methods by which overpayment debts can be recovered.

**13 DE Reg. 1462 (05/01/10)**

**7002.1 Cash Assistance Overpayments**

- 1) Technical Ineligibility (Non-financial reasons)

When an overpayment occurs because a recipient is technically ineligible for assistance, the overpayment equals the amount of the assistance grant paid.

For Example: Mrs. Jones receives assistance for herself and two children. Mrs. Jones goes on strike from her job and does not report this change to the Division. When the situation is discovered, the entire TANF payment is an overpayment.

If only some members of an assistance unit are technically ineligible, the amount of the overpayment is the difference between the actual grant the unit received and the grant that would have been issued to the remaining eligible unit members.

For overpayments based on technical ineligibility, the overpayment period begins the month following the month of the change. In the above example, if the parent went on strike in May and it was discovered in August, the overpayment would include TANF payments made to the unit from June until the month the grant amount correctly reflected the circumstances.

- 2) Financial Ineligibility

When an overpayment occurs because countable income or resources were not included in determining the assistance grant, the overpayment is the difference between the grant the unit received and the grant that would have been issued if the income had been budgeted.

- A. Reported Income

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1) Determine the unit's prospective eligibility at the time income began. Use all income that should have been included in the budget calculations. Income that was not counted (or counted incorrectly) due to agency error, is to have income disregards applied to determine the overpayment amount. See DSSM 4004.2, 4004.3, and 8028.

2) If the unit is determined prospectively ineligible, calculate the overpayment for each month using prospective budgeting. Include in the overpayment the month that the income began if the income received in that month exceeded the applicable Standard of Need.

3) If the unit would have remained eligible, calculate the overpayment for each month using retrospective budgeting, unless actual income recovered in a subsequent month makes the unit ineligible. In that case, budget the remaining months prospectively. **This is for overpayments occurring prior to November 1, 1995.**

4) Overpayments occurring after November 1, 1995 will be processed prospectively. The overpayment is to be processed prospectively regardless of whether the unit is totally ineligible for a benefit or if the unit is eligible for a partial benefit.

#### B. Unreported Income

1) Determine the unit's prospective eligibility at the time income began. Include all income that should be counted in the budget calculation. Do not allow income disregards on that income which was not reported. See DSSM 4004.2, 4004.3, and 8028.

2) If the unit is determined prospectively ineligible, calculate the overpayment for each month using prospective budgeting. Include in the overpayment the month the income began if the income received in that month exceeded the applicable Standard of Need.

3) If the unit would have remained eligible, calculate the overpayment for each month using retrospective budgeting, unless actual income recovered in a subsequent month makes the unit ineligible. In that case, budget the remaining months prospectively. **This is for overpayments occurring prior to November 1, 1995.**

4) Overpayments occurring after November 1, 1995 will be processed prospectively. The overpayment is to be processed prospectively regardless of whether the unit is totally ineligible for a benefit or if the unit is eligible for a partial benefit.

#### C. Calculating Overpayments Resulting From Unreported Income

1) Determine the unit's prospective eligibility at the time the income began. Include all income that was actually counted in the budget calculation and any income that was not included in the calculation, but should have been.

NOTE: If income was not counted because of agency error, allow income disregards applicable to the client's assistance. If income was unreported, do not allow any disregards. See DSSM 4004.2, 4004.3, and 8028.

2) If the unit is determined prospectively ineligible, calculate the overpayment for each month using prospective budgeting. Include in the overpayment the month that the income began if the income received in that month exceeded the applicable Standard of Need.

3) If the unit would have remained eligible, calculate the overpayment for each month using retrospective budgeting, unless actual income received in a subsequent month makes the unit ineligible. In that case, budget the remaining months prospectively. **This is for overpayments occurring prior to November 1, 1995.**

4) Overpayments occurring after November 1, 1995 will be processed prospectively. The overpayment is to be processed prospectively regardless of whether the unit is totally ineligible for a benefit or if the unit is eligible for a partial benefit.

To illustrate, suppose a TANF recipient begins receiving income in January, and DSS is informed of the income in May. A budget is computed to determine prospective eligibility for February, and the unit is found ineligible for February benefits. February is the first month of the overpayment period, and the overpayment amount for each month is determined using prospective budgeting. January could also be included in the overpayment period if the income actually received in January exceeded the applicable Standard of Need.

#### D. Offsetting Overpayments

When DSS discovers that a cash assistance client has been underpaid, the underpayment must be offset by any existing overpayment debt that was incurred in the same category of assistance. Once the offset has been made, any remaining underpayment is restored to the recipient. To calculate the offset, ARMS will determine if any prior overpayments exist and subtract the outstanding overpayment amount from the underpayment amount.

For example, Mrs. Jones has an outstanding TANF overpayment debt of \$200. Later, DSS discovers that Mrs. Jones was underpaid \$250 in TANF benefits. The underpayment amount (\$250) is offset with the outstanding debt (\$200) and a restoration of \$50 is issued to Mrs. Jones by ARMS.

In these situations, the new overpayment balance must be entered in DCIS by ARMS to ensure that recoupment continues properly, if applicable.

**E. Procedure For Benefit Restoration**

To restore benefits, prepare a Form 106, Benefit Restoration/Underissuance Form. Form 106 should contain signatures of the worker completing the document, the Pool Supervisor, and the respective Operations Administrator. Forward Form 106 to ARMS/Accounting Section.

Do not include any current month's benefits in the restoration, as the current month's benefits can be issued by the DSS local office. Local offices, however, are not to issue any benefits for a previous month(s).

Benefit restorations, like all other overpayments, are then submitted to ARMS. ARMS researches their overpayment records for outstanding overpayments and makes any necessary adjustments to the recoupment balance as a result of the offsetting process.

The Form 106 is then post-audited by the DMS/Client Payments Section.

**F. Exceptions To Repayment To DSS**

For cases where TANF recipients retain child support payments assigned to the State and DCSE has established a support order, the DCSE will file a claim, obtain a debt acknowledgment, and establish a repayment agreement with the indebted recipient.

**13 DE Reg. 1462 (05/01/10)**

**7002.2 Food Stamp Claims**

Repealed

**13 DE Reg. 1462 (05/01/10)**

**7002.3 Criteria for Establishing Inadvertent Household and Administrative Error Claims**

Repealed

**13 DE Reg. 1462 (05/01/10)**

**7002.4 Calculating Food Stamp Claims**

Repealed

**13 DE Reg. 1462 (05/01/10)**

**7003 Processing Overpayments**

**7003.1 Routing**

Information regarding each claim/overpayment is to be transmitted from the DSS local office network to the ARMS Regional Area Office Supervisor as follows:

**Suspected Intentional Violations**

Suspected intentional violations meeting criteria for DOJ referral specified below are to be transmitted using a "Referral for Prosecution and Overpayment Form." If the criteria is met, ARMS will prepare the overpayment for forwarding to DOJ for legal action.

Overpayments should be referred to DOJ for prosecution when the following conditions exist:

- vidence of intentional violation (e.g., information intentionally omitted from application form), and
- Net overpayment is estimated to exceed \$1,000 (overpayment may involve one or more programs, including Medicaid, as long as grand total is at least estimated to be \$1,000), or
- Interstate fraud, or
- Case involves a repeat offender with previous documented offenses of \$500 or more.

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After the overpayment is prepared, it is forwarded to the DOJ. When the overpayment has been processed through the Court system, it is returned by the Attorney General to ARMS. Here the results are logged and the Criminal Justice report is forwarded to DSS. If the client has been found guilty of an intentional Program violation, initiate action to disqualify the individual from the Program and notify ARMS of the disqualification so ARMS can complete the FCS-524 form. ARMS will initiate collection action by mailing a Repayment of Debt agreement and initiating recoupment or allotment reduction when appropriate.

When a DSS case has been referred to the DOJ for prosecution, the casefile is to be intact even though the contents may be more than three years old and otherwise subject to purging, per DSSM 1005.

To alert DSS that a record has been sent to the DOJ and should not be purged, ARMS will forward a copy of the Criminal Justice Report for insertion in the casefile. The presence of these forms will indicate that the case has been referred for prosecution and is to remain intact regardless of case activity status.

#### Suspected Intentional Violations Under \$1,000 and all Non-fraud Violations

Recoupment is automatically initiated when overpayment information is entered into DCIS. The system automatically calculates all case changes that result from recoupment and sends a notice to the recipient informing him/her of the changes. The notice is to be mailed at least ten (10) days before the changes will occur. As payments are withheld through recoupment, the system also tracks the overpayment balance. When the balance is zero (0), the system discontinues recoupment. When a regular monthly grant is not issued, the DSS worker is to deduct the monthly recoupment amount and notify ARMS of the amount deducted from the grant. If the recoupment balance is incorrect or a case has not been placed on recoupment, ARMS will enter the correct balance into DCIS.

#### CASH ASSISTANCE OVERPAYMENTS

1. Calculate the overpayment as per DSSM 7002.1.
2. Complete Part A of form 920. Then send the overpayment package with form 920 to the Operations Administrator via the supervisor for approval and signature.
3. Open Cash Assistance Cases
  - a) Date the notice and copy it. Mail one overpayment package to the client, send one overpayment package to ARMS with form 920, and file one overpayment package on the record.
  - b) Prior to taking further action, wait thirteen days from the date the notice is mailed to the client to see if the client requests a fair hearing.
  - c) If the client doesn't request a fair hearing, initiate recoupment as appropriate using reason code 757 in Section 2.

\* Check with ARMS to determine the balance amount if a prior overpayment is being recouped. Once the amount is determined, enter the amount in Section 12.

#### 4. Closed Cash Assistance Cases

Date the notice and copy it. Mail one overpayment package to the client. Send one overpayment package (with Form 920) to ARMS with a note indicating that the case is closed and that the client was noticed. File one overpayment package in the case record.

**13 DE Reg. 1462 (05/01/10)**

#### 7004 Collections

##### 7004.1 Methods of Collecting Cash Assistance Overpayments

Recoupment - Recoupment is the withholding of a portion of an assistance payment to an individual who is eligible for and in receipt of assistance under TANF or GA programs in order to recover an overpayment.

The amount recouped from an assistance grant from an agency caused overpayment will be 7% of the maximum payment standard for the family size or \$15.00, whichever is greater. The amount recouped from an assistance grant from a client caused overpayment will be 10% of the maximum payment standard for the family size or \$15.00, whichever is greater.

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FAMILY SIZE	TANF RECOUPMENT RATE		GA RECOUPMENT RATE	
	CLIENT CAUSED	AGENCY CAUSED	CLIENT CAUSED	AGENCY CAUSED
1	\$20	\$15	\$15	\$15
2	\$27	\$19	\$17	\$15
3	\$34	\$24	\$22	\$16
4	\$41	\$28	\$26	\$18
5	\$48	\$33	\$32	\$23
6	\$54	\$38	\$37	\$26
7	\$61	\$43	\$42	\$29

Over seven (7) in TANF:

Add \$5.00 per person to the amount collected for a family of seven (7) for agency caused overpayments.

Add \$7.00 per person to the amount collected for a family of seven (7) for client caused overpayments.

Over seven (7) in GA:

Add \$3.00 per person to the amount collected for a family of seven (7) for agency caused overpayments.

Add \$4.50 per person to the amount collected for a family of seven (7) for client caused overpayments.

All current cash assistance recipients who have outstanding overpayment debts are subject to recoupment if the overpayment occurred after 07/10/80, and was caused by the recipient. Agency caused overpayments are automatically recouped if they occurred after 10/01/81. Client caused overpayments that occurred before 07/10/80 and agency caused overpayments that occurred before 10/01/81 can be recouped only if the recipient agrees to this type of collection.

Only TANF overpayments can be recouped from a TANF grant, and only GA overpayments can be recouped from a GA grant. Food benefits, Medicaid, Child Support, Day Care, or other debts cannot be repaid by recouping funds from a Cash Assistance grant.

**PLEASE NOTE:** When completing an overpayment, the gross amount of the grant should be used.

For example, Ms. Jones received a TANF check for \$235 but was recouped \$15 for a previous overpayment. In calculating the new overpayment, \$250 would be used for the actual grant that was issued.

**Restitution** - Restitution is the repayment of assistance to which a recipient was not entitled. Individuals who are not subject to recoupment must make repayment directly to the Accounting Section of ARMS.

**Reimbursement** - Reimbursement is the repayment by the recipient of assistance benefits for which the recipient was eligible but is required to repay. An example is the repayment of assistance received during the six-month period in which a second real estate holding is excluded as a resource in order to allow the TANF recipient an opportunity to sell the property.

**Notification to Recipients of Overpayments** - When a cash assistance overpayment has been processed and collection will be initiated either through recoupment, restitution or reimbursement, the indebted individual must be notified of the overpayment debt. The DSS worker is to send the notice of TANF or GA overpayment to the individual, stating the amount of the overpayment, the circumstances that caused it, the amount that will be withheld from the assistance grant if they are active, and that they will be contacted at a later date regarding repayment of the overpayment debt. The notice must also inform the individual of his/her right to request a hearing on the overpayment issue. If the overpayment is not subject to recoupment, the amount of the overpayment should still be entered into DCIS.

**13 DE Reg. 1462 (05/01/10)**

**7004.2 Case Changes**

When a case that is subject to recoupment is closed and there is an outstanding overpayment balance, it is the responsibility of ARMS to contact the individual, establish a repayment agreement, and collect payments on the obligation. ARMS is notified of such closing via a report from DCIS.

If a prior recipient reapplies for Cash Assistance and has an outstanding overpayment balance, recoupment must be initiated when the application is approved. To ensure that the overpayment is recouped correctly, the intake worker is to contact the Accounting Section of ARMS for the current overpayment balance and determine if proper notification was sent to the client previously. If proper notice was not sent previously, the DSS worker must recalculate the overpayment and notify the prior recipient of the overpayment. The overpayment balance should be data entered into the DCIS system by DSS. Any corrections to recoupment balances will be corrected by ARMS.

**13 DE Reg. 1462 (05/01/10)**

**7004.3 Collection and Management of Food Stamp Claims**

Repealed

**13 DE Reg. 1462 (05/01/10)**

**7004.4 Methods of Collection – Chart**

Repealed

**13 DE Reg. 1462 (05/01/10)**

**7005 Changes in Unit/Household Composition**

ARMS can recover Cash Assistance overpayments from any assistance unit of which a member of the overpaid assistance unit has subsequently become a member.

**13 DE Reg. 1462 (05/01/10)**