

**County of San Diego, Health and Human Services Agency (HHSa)
CalWORKs Program Guide**

Methods of Overpayment Recovery

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Revision Date:

April 20, 2020

Background:

Recoupment is the method of recovering an overpayment by grant adjustments, or voluntary grant offset from individuals or the Assistance Unit (AU). The methods of recovery are set forth in this section.

Purpose:

The purpose of this material revision is to incorporate clarification to the balancing regulation. No policy changes.

Policy:

Methods of Recovery

All the following methods can be used concurrently. However, the methods that will result in the maximum recovery shall be used.

Maximum Grant Adjustment Amount:

- Agency Errors - overpayment to be recouped at a rate of 5% of MAP (rounded down, drop the cents)
- All Other Errors - overpayment to be recouped at a rate of 10% of MAP (rounded down, drop the cents)

Note: Income and resources of the AU are not considered.

Adjust the overpayment from the current aid payment. The adjustment will be the lesser of the following:

- The overpayment balance - When the overpayment balance is less than the maximum grant adjustment amount, adjust the entire overpayment amount
- The maximum adjustment amount - When the overpayment balance is more than the maximum grant adjustment amount:
 - Adjust the maximum amount
 - Apply the remaining overpayment to succeeding months
 - Repeat the adjustment process
- The current aid payment - When the aid payment is less than the maximum adjustment amount:
 - Adjust the entire aid payment
 - Apply any remaining overpayment balance to succeeding months
 - Repeat the adjustment process

Grant of Less Than \$10:

Adjust an overpayment if the grant is less than \$10 and there is an outstanding overpayment balance. In this situation the customer does not receive a cash grant due to the regulations. However, the customer is eligible for CalWORKs therefore adjust any balance on an existing overpayment.

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Example:

A customer is eligible for \$5. The cash grant for \$5 will not be issued, however the customer is eligible for that amount. The customer has an outstanding overpayment balance. The \$5 will be recouped from the grant therefore the overpayment balance will be reduced by \$5.

Resuming Grant Adjustment When a Case Reopens

Fiscal adjusts balances according to any payments made on the claims while the case was in closed status. When the case reopens, or the AU is active and the liable individual who was overpaid is unlocatable, review if proper overpayment notices have been sent to the liable individual for each “active” and “open” claims with outstanding balances.

If the overpayment notice:

- Has been sent to the liable individual, and the liable individual is in the case or unlocatable, start recoupment by grant reduction
- Was not sent, send the corresponding overpayment notice. Start recoupment subject to Semi-Annual Reporting (SAR) (CPG 44-270) and Annual Reporting/Child Only (AR/CO) (CPG 44-260) and 10-day advance notice requirements when the case is already granted and the adjustment results in a decrease.

Referral to the Office of Revenue and Recovery (ORR)/Demand for Repayment

When a collectable overpayment can no longer be adjusted from the grant, refer the overpayment to ORR.

A referral to ORR must be made when any of the following applies:

- The overpayment is an IPV or fraudulent, regardless of the amount
- The amount of the overpayment is \$250 or more, the overpayment is not fraudulent, and aid has been discontinued
- The case remains active, but grant adjustment is no longer possible because the liable individual is no longer in the AU

See CPG 44-350.A

A referral to ORR is not required when any of the following applies:

- The overpayment on a closed case is not fraudulent and the balance is less than \$250
 - The \$250 overpayment threshold applies to each non-fraudulent overpayment claim, rather than the total overpayment figure resulting from multiple overpayment claims
- The overpayment cannot be recouped due to a court order

General

In addition to grant adjustment and demand for repayment, the following methods of recovery apply to all overpayments:

Voluntary Cash Recovery:

Explain voluntary cash recovery to a customer (or former customer) but do not initiate or request for voluntary payment.

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If a customer or former customer offers to repay all or a portion of an overpayment which is not subject to grant adjustment or a demand for repayment and action for civil judgment, the following applies:

- An agreement made with the customer must be in writing and must clearly indicate to the individual that the repayment is voluntary
- The customer is not required to fulfill any voluntary agreement they enter into and may suspend payments at any time

Provide a CW 2217 - CalWORKs Request for Voluntary Repayment form to customers only under the following conditions:

- The customer asked if voluntary repayment of their overpayment can be made
- The request followed an explanation by the county of the overpayment
- The county did not in any way initiate or request that the customer undertake voluntary repayment
- The customer understands that they are not required to voluntarily repay the overpayment and can suspend voluntary repayment at any time

Voluntary Grant Offset:

Explain voluntary grant offset to those customers who have available income and resources when the overpayment could not be recovered in the appropriate adjustment period. However, do not initiate or request for voluntary grant offset.

If the customer offers to repay the remaining overpayment by foregoing all or a portion of a grant to which they are eligible, the following applies:

- Obtain a written agreement to repay - The agreement must clearly indicate to the individual that the repayment is voluntary
- The customer is not required to fulfill any voluntary agreement they enter into and may request payment of the full grant to which they are eligible at any time

Balancing:

A method for the recovery of all or a portion of an overpayment by applying it against an underpayment. Balancing allows offsetting any underpayment against any properly established overpayment. However, prior to balancing, the county must properly establish the overpayment and provide notification to the recipient by issuing the appropriate Notice of Action (NOA).

Note: Supplemental payments resulting from reports of decreased income or other household changes are not considered "corrective underpayments" and may not be used to offset overpayments. This is true whether the supplement is provided in the month of the report or in the following month.

Civil Judgment

ORR will determine the next course of action if the customer or a former customer refuses or is unable to repay the amount demanded, which may include filing a Small Claims action resulting in a civil judgment. At their discretion, ORR will:

- Cause an abstract of civil judgment to be recorded pursuant to Section 674, Code of Civil Procedure, in any county in which the customer or former customer owns real property

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- Take all appropriate actions pursuant to Section 681, et seq., Code of Civil Procedure, to execute the judgment when a customer is ineligible for further aid due to current income, property or other factors affecting eligibility

Refer to CPG 44-350.A Civil or Criminal Prosecution for CalWORKs Overpayments section for information when a consumer credit report was used for determining the overpayment.

Note: If the customer's sources of income include Supplemental Security Income/State Supplemental Payment (SSI/SSP) benefits, these benefits are exempt from collection and will not be used to repay an overpayment unless agreed to by the customer.

Procedure:

None.

Impacts:

None.

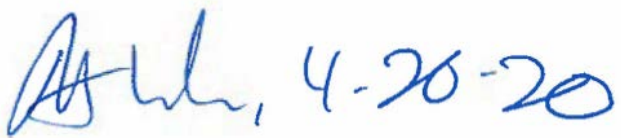
References:

- SB 80, SB 726
- Welfare and Institutions Code 10851, 11004
- EAS 44-351
- ACLs No. 15-13, 19-19, 19-102
- ACIN No. I-72-19

Sunset Date:

This policy will be reviewed for continuance by April 30, 2023.

Approval for Release:



Rick Wanne, Director
Eligibility Operations