**PURPOSE**

To provide instructions regarding the determination of CalWORKs (CW) and Refugee Cash Assistance (RCA) overpayments and underpayments, and on recoupment of CW and RCA overpayments.

**OVERPAYMENT**

An overpayment is that amount of aid payment an assistance unit (AU) received to which it was not eligible. It may be all or a portion of an aid payment. This includes an immediate need payment, a special needs payment, or aid paid pending a state hearing.

For any overpayment discovered on or after April 2, 1982, the overpayment shall be recouped in accordance with regulations and county policy in effect on the date of discovery.

CalWIN allows us to create manual claims for overpayments that were not calculated or were not present at the time of conversion. See CalWIN Resource Guide Non-System Determined Claim – Active Cases for guidelines on when to create a manual claim in CalWIN.

**INVESTIGATION OF OVERPAYMENTS**

When information indicates that an overpayment may have occurred, the worker shall take the following actions:

1. Review the eligibility and grant factors to find what the correct grant amount should have been.
2. Calculate the overpayment
3. Determine from whom the overpayment may be recovered.
4. Determine the appropriate recovery method and the amount to be recovered.
5. If appropriate, initiate any referrals to the District Attorney – Public Assistance Division (DA-PAD), formerly known as District Attorney Welfare Fraud Investigators (DAWFI)

CalWIN automatically initiates the Benefit Recovery process when workers make a change in Data Collection for a prior month or current month for which the ten-day notice is already past. See CalWIN Resource Guide Benefit Recovery for CalWIN entries.

**Note**: All overpayments due to client's failure to report must be referred to the DA-PAD, including overpayments caused by alleged Intentional Program Violation (IPV).

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**CALCULATION OF OVERPAYMENTS**

**OVERPAYMENT DUE TO EXCESS PROPERTY**

An overpayment shall be assessed when property information that should have been reported on the QR7 was not reported or the worker failed to act correctly on property information on the QR7.

Unless the excess property was spent down prior to the first of the next QR Payment Quarter, which followed the QR7 on which the excess property should have been reported, the worker shall determine an excess property overpayment based on an accurate report and/or correct county action.

When a recipient has held property in excess of eligibility limits, the overpayment shall be calculated as follows:

1. Determine the period of time in which the recipient held property exceeding the property maximums.
2. Determine the month within the period in which the property value, on the first day of the month, was the highest and calculate the amount by which the property exceeded the eligibility limit.
3. Calculate the total amount of aid actually paid to the recipient during the months excess property was held, subtracting any money, excluding child support recoupment, received by the county which was credited against the aid payment for those months.
4. Determine whether the recipient received aid in "good faith". The determination of "good faith" receipt of aid shall be based on a preponderance of evidence establishing that the recipient believed himself/herself to be eligible to the aid received.
5. If the worker determines that the recipient received aid in "good faith", the amount of the overpayment is the lesser of the amounts calculated above between # 2, when the property was the highest and # 3, the total amount of aid during the month(s) of excess property.
6. If the worker determines that the recipient did not receive aid in "good faith", the amount of the overpayment is the total grant paid during the month(s) the excess property was held as calculated in #3 from above.

**OVERPAYMENT DUE TO INCOME OR NEED OR**

**CIRCUMSTANCES**

An overpayment shall not be assessed based on any differences between the amount of income the worker reasonably anticipated the recipient would receive during the QR Payment Quarter and the income the recipient actually received during that period, provided the recipient's reports were complete and accurate.

An overpayment shall be assessed when an AU receives more cash aid than entitled to as a result of not reporting income or circumstances timely, or the worker does not act correctly on a recipient report, or the worker did not act timely. The worker shall redetermine the cash aid the recipient should have received based on the required report and correct county action.

1. Compute the correct grant amount based on correct information for the month involved in the overpayment. If the recipient was totally ineligible for that month, the correct grant amount is zero (0).

   In this computation, allow all income disregards that would have been allowed if the grant had been computed correctly. The regulations in effect at the time the overpayment occurred shall be used to determine the correct amount of the grant with the following exceptions:

   A. Regulations subsequently invalidated by a court decision shall not be used in determining the correct grant for the applicable period(s) as required by the court decision. Instead, the instructions implementing the court decision shall be used.

      - If a recipient fails to report income timely or the worker fails to act correctly or timely on a recipient report, the worker shall redetermine the cash aid the recipient should have received based on an accurate report and correct county action. If the recalculation results in an overpayment, the date that the overpayment begins is the first date that the change would have been made if timely and correct action had been taken based on the complete, timely and accurate recipient report.

      - When computing cash aid results in an overpayment, the worker shall re-create case circumstances using the correct county processing time frames based on

what the recipient should have reported.

B. If the overpayment occurred prior to January 1, 1998, and if the overpayment is due to any earned income that the recipient failed, without good cause, to report timely, no earned income disregards shall be allowed for that individual in the month.

2. Subtract the correct grant amount for the amount of aid actually paid. If the county received any money, excluding child support recoupment, it will be credited against the aid payment from the aid actually paid. The total overpayment is the sum of all amounts calculated monthly.

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**EXCEPTIONS**

The county shall not assess Technical Error Overpayments. A Technical Error Overpayment occurs where all of four of the following conditions are met:

1. The applicant/recipient fails to perform an act constituting a condition of eligibility for aid.
2. The applicant's/recipient's failure to perform an act constituting a condition of eligibility is caused by a state agency error or by county error and not by an applicant/recipient error.
3. The amount of aid paid would have been the same had the condition of eligibility been performed.
4. The state agency or county error is discovered, or an overpayment is being calculated or an overpayment is being recouped on or after January 1, 1985.

**Note:** CalWIN will not recoup Technical Error Overpayments. Please contact Program if a case is identified as meeting all 4 of the above criteria. Otherwise, only use Technical Error Overpayment Type in CalWIN when instructed by Program.

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**OVERPAYMENT RECOUPMENT**

The worker shall take all reasonable steps necessary to promptly correct and collect any overpayments that are known to the county including recovery of overpayments due to either applicant/recipient and/or county administrative errors.

In general, to make changes in CalWIN on established overpayment claims, staff should correct information in Data Collection and run EDBC rather than changing the status of an overpayment claim in the Benefit Recovery Subsystem.

**OVERLAPPING OVERPAYMENTS**

When there is more than one cause or type of overpayment in the same month, separate overpayment claims should be established for that month and collected sequentially at the appropriate rate level.

CalWIN is not automated to determine multiple overpayment claims within the same month. It only calculates one overpayment claim in any given month. Subsequent overpayment claims must be processed manually.

For CalWIN entries see the following 2 scenarios:

1. Recalculation of Overpayment/Overissuance – Overlapping Claims

2. Recalculation of Overpayment/Overissuance – NSDI

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**METHODS OF RECOVERY**

**Grant Adjustment**

Grant adjustment is the recovery of an overpayment by reducing the grant of a presently eligible individual or family.

Recoupment by grant adjustment shall only be initiated at the beginning of a QR Payment Quarter. Grant adjustment shall be discontinued mid-quarter when the debt is paid in full. A new overpayment collection may begin mid-quarter by grant adjustment if the new collection of the overpayment does not decrease aid mid-quarter.

If the overpayment is to be recovered by grant adjustment, the following methods shall be used:

- Agency Error
  The AU's adjusted grant amount is the AU's computed grant amount for the payment month minus 5% of the Maximum Aid Payment (MAP) amount for the AU rounded to the next lower dollar.
- All other overpayments
  The AU's adjusted grant amount is the AU's computed grant amount for the payment month minus 10% of the MAP amount for the AU rounded to the next lower dollar.

Any remaining overpayment balance shall be applied to succeeding months and the adjustment process shall be repeated.

**Voluntary Grant Offset**

Voluntary grant offset is a voluntary repayment made to the

county by a recipient foregoing all or a portion of a grant to which he or she is eligible.
When the overpayment could not be recovered in the appropriate adjustment period, the worker should explain voluntary grant offset to those recipients who have available income and resources. However, no request for voluntary repayment should be made.

If the recipient chooses this voluntary grant offset as a method of recovering an overpayment, the worker must obtain in writing an agreement to repay. This agreement must indicate to the individual that repayment is voluntary.

The recipient is not required to fulfill any agreement he/she enters into and may request payment of the full grant to which he/she is eligible at any time.

Contact Program for CalWIN instructions to perform a voluntary grant offset.

**Voluntary cash recovery**
Voluntary cash recovery is a voluntary repayment made to the county by a recipient who has incurred an overpayment.

The county should explain voluntary cash recovery to a recipient (or former recipient) but no request for voluntary payment should be made.

If a recipient or former recipient 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 county must obtain in writing an agreement to repay. This agreement must indicate to the individual that repayment is voluntary.

The recipient is not required to fulfill any agreement he/she enters into and may suspend at any time payments he or she has agreed to make.

**Demand for repayment**
Demand for repayment is the notification to a recipient or former recipient that an overpayment occurred for which there is a right for judicial restitution. Where demand for repayment is appropriate, it may be used concurrently with other methods of adjustment.

**Action of Civil Judgment**
Action of Civil Judgment is the action taken by the appropriate county official to take the recipient or former recipient to court.

**Balancing**
Balancing is a method for the recovery of all or a portion of an overpayment by applying it against a repayable underpayment.

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**PRIORITY ORDER FOR OVERPAYMENT RECOUPMENT**

Overpayment shall be recouped in the following priority order:

**Caretaker Relative Recipient**

When the caretaker relative was a member of the AU at the time of the overpayment, the worker shall first seek recoupment from the caretaker relative recipient. The worker shall continue to seek recovery of the overpayment from the caretaker relative even when he/she moves to another AU, or is no longer on aid.

The worker shall only initiate recovery of the overpayment from the other members of the overpaid AU after all efforts to collect from the caretaker relative recipient have been exhausted, and the caretaker relative recipient:

- Dies and the county cannot collect the entire unpaid balance of the overpayment from the caretaker relative's estate; or
- Is unlocatable; or
- Has the overpayment discharged in bankruptcy; or
- Is no longer on aid; the overpayment is less than $35 and there are other members of the AU who remain on aid; or
- Is no longer on aid, and the county has determined that it is not cost effective to collect the overpayment from the caretaker relative.

**Unaided Caretaker Relative**
The worker may not demand repayment from the caretaker who was not a member of the AU at the time of the overpayment. If the unaided caretaker relative is presently receiving CalWORKs on behalf of aided children who were in the overpaid AU, then the worker may recoup the overpayment by grant adjustment.

If the caretaker relative was not a member of the AU at the time the overpayment occurred, there should be no priority order in seeking collection of the overpayment from members of the overpaid AU who were not the caretaker relative. Collection may occur in sequence against any one member at a time or concurrently from any of the members, when in separate AU'sor when not receiving aid

**OVERPAYMENT COLLECTION ON CLOSED CASES**

Collection efforts from any individual of the overpaid AU no longer receiving aid will be handled by Program Integrity and Accounting/Collections units. If a program is discontinued before the overpayment is fully recouped notify the overpayment unit as follows:

- Fraud Overpayment – Contact the Fraud Review Unit (FRU) for forward evaluation
  - Narrate action taken in Case Comments
- Nonfraud Overpayment – Complete "Notice of Nonfraud Overpayment" form F063-07-96 (rev 3-01), section I, in triplicate
  - File one copy in case
  - Send 2 copies to Nonfraud Overpayment Unit by the 10th calendar day of the month following program discontinuance
  - Narrate action taken in Case Comments.

**UNDERPAYMENTS**

An underpayment occurs when the AU receives less cash aid than the AU was entitled to receive and shall be corrected in accordance with the regulations and county policy in effect on the date of discovery.

Underpayments are corrected either by authorizing an additional cash aid payment or by balancing against any existing overpayment.

There is no time limit for corrective action on underpayments.

For any underpayment that is over $1,500.00, the recipient should be given the option of receiving the additional cash aid payment by warrant, direct deposit or EBT account. This can be done verbally or in writing. Case comments should indicate that the recipient was given the option and the recipient's preference.

Form CW2203 may be used to inform recipients of their options when these large underpayments are established. It gives the recipients 15 days to choose the method of payment.

Upon sending form CW2203, set a **Batch Authorization Exception** in CalWIN with a 2 week end date to prevent the supplement from being authorized in the batch process. If the recipient opts for a different issuance method, the **Case Issuance Method** window must be updated with the new issuance type prior to authorizing the benefits. If a warrant was

issued, change the issuance type back to EBT after the issuance of the supplement.

**REFERENCES**

ACL 84-93
ACL 95-55
ACIN I-113-84
ACIN I-80-09
EAS 44-350 – 44-355
EAS 44-340

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**ATTACHMENTS**

1. Non-System Determined Claim RG
2. Benefit Recovery RG
3. Recalculation of Overpayment/Overissuance – Overlapping Claims
4. Recalculation of Overpayment/Overissuance – NSDI
5. CW2203