

### 20.3 CASH ASSISTANCE CLAIMS AND REPAYMENT PROCEDURES

Repayment is pursued for cash assistance overpayments made under the former AFDC/U Program, WV WORKS, CSI, the former TANF Program, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance.

**EXCEPTION:** DCA and EA overpayments are not subject to repayment, unless fraud is established.

The establishment, notification and collection of cash assistance claims are the responsibility of the Claims and Collections Unit, IFM.

When an AG has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled. The policy by which cash assistance claims are referred, established, collected and maintained follows.

**NOTE:** Referrals must be made for all overpayments, regardless of the dollar amount. However, IFM does not write claims for under \$100 unless there is a liable debtor approved for cash assistance at the time the claim is processed. Claims under \$100 are written and collected by check reduction. See Item F below.

Once the claim is established, there are no hardship provisions or exceptions which delay, suspend or terminate efforts to collect the claim.

#### A. REFERRAL PROCESS

Upon discovery of a potential cash assistance claim, the Worker refers the case to the RI by completion of the BVRF screen in RAPIDS.

**NOTE:** If either of the following conditions exist, see the fraud referral process in Section 20.6:

- The amount of the cash assistance due to client misrepresentation is greater than \$500; or
- The cash assistance overpayment in combination with other overissued benefits from other programs due to client misrepresentation is greater than \$500;

B. PROCEDURES FOR ESTABLISHING CASH ASSISTANCE CLAIMS

The following actions are taken by the RI/CI in establishing a claim against the AG. The RI/CI:

- Accepts all referrals related to potential cash assistance overpayments.
- Reviews the case record.
- Obtains third-party verifications to support the allegations.
- Identifies the month(s) for which the claim is established.
- Classifies the claim as agency or client error.
- Uses policy which was in effect at the time of the error to determine the amount of the overpayment.
- Notifies the AG of the overpayment.
- Initiates and monitors collection activity on the claim.

C. IDENTIFYING THE MONTH(S) FOR WHICH CLAIMS ARE ESTABLISHED

When a client fails to report changes timely according to Section 2.17,B, and the change would have decreased benefits, a claim is established.

**NOTE:** Claims are NOT established for excess benefits received solely because of the 13-day advance notice period.

Items 1 and 2 below are used when the overpayment is not contested in a Fair Hearing. If a Fair Hearing is held, the Hearing Officer's decision is final.

1. Agency Errors

a. Failure to Take Prompt Action

The first month of overpayment is the month the change would have been effective had the agency acted properly.

b. Computation Error

The first month of overpayment is the month the incorrect payment was effective.

2. Client Errors

When the client fails to provide accurate or complete information, the first month of the overpayment is the month the incorrect, incomplete or unreported information would have affected the benefit level, considering reporting and noticing requirements.

3. Fraud Claims

Any claim established as a result of an investigation conducted by the Criminal Investigation Unit and subsequent court order is classified as a fraud claim.

**NOTE:** When determining the amount of overpayment due to the failure of the household to report earned income in a timely manner, the amount of benefits the client should have received is computed without applying the earned income disregard and deductions to any portion of the earned income the client did not report.

D. FACTORS AFFECTING THE AMOUNT OF THE CLAIM

The Repayment Investigator must consider the following when determining the amount of the claim.

1. Redirected Child Support

a. Recoupment of Total WV WORKS Payment

When child support is redirected to BCSE, the total amount is considered in determining the amount of the claim. The RI/CI must request payment information from BCSE for each month for which repayment is sought. On a month-by-month basis, the amount applied by BCSE to the month for which repayment is due is subtracted from the amount the client would otherwise have to repay. If BCSE refunds the support to the client, the full check amount is subject to repayment.

**EXAMPLE:** In July, the Worker discovers that the client was ineligible for the cash assistance payment she received in June. The June cash assistance payment was \$275. The RI/CI sends a DHS-1 to BCSE to request the amount of support

credited to this case for June. The BCSE Worker responds with \$100. Therefore, the client must repay the difference between \$275 and \$100, which is \$175.

**EXAMPLE:** In July, August and October, a cash assistance client was ineligible, but received the following cash assistance amounts: July - \$206; August - \$275; October - \$275. The RI/CI sends a DHS-1 to BCSE to determine the amount of child support applied to her case for these months and receives the following information: July - \$280; August - \$270; October - \$270. Therefore, there is no repayment required for July. The client owes the Department \$5 for August and \$5 for October. The total repayment amount for this client is \$10.

b. Recoupment of Partial WV WORKS Payment

If part, but not all, of the WV WORKS check is to be repaid, the amount paid to BCSE is compared to the repayment amount and to the amount for which the client was eligible. If the BCSE amount is less than the check amount but more than the amount he was eligible for, the difference between the BCSE amount and the amount he was eligible for is used to offset the repayment amount. If the BCSE amount is less than the amount the client was eligible for, the BCSE amount does not affect the repayment amount.

**EXAMPLE:** In November, an cash assistance client received a check for \$360 but was only eligible to receive \$100. The BCSE amount for November was \$210. Because the State was reimbursed the redirected child support, the repayment is the difference between the check received and the amount of child support. The amount the client is eligible for is subtracted from the child support to determine the offsetting amount:  $\$210 - \$100 = \$110$ . The amount of overpayment, \$260, is then offset by the redirected child support, \$110, leaving \$150 as the repayment amount.

**EXAMPLE:** In December, a client received a check of \$312, but was only eligible to receive \$200. The BCSE amount paid for December was \$100. Since the redirected child support is less than the

amount the client was eligible for, the BCSE amount does not offset any of the repayment amount of \$112.

2. Determining The First Month Of Ineligibility

In situations involving ineligibility, the first month is determined as follows:

- Any month that countable income exceeds the payment level, is an ineligible month, even if the case closure is for a reason other than increased income, except when the case becomes ineligible due to excessive, redirected child/spousal support. See below.

**NOTE:** A month for which a claim cannot be established due solely to the 13-day advance notice requirement is not counted as a month of ineligibility.

**EXAMPLE:** A cash assistance client reports on August 19th that he started to work full-time and that his only dependent child left the home. Because of advance notice, the first month of ineligibility is October.

- In all other cases, including cases which become ineligible due to excessive, redirected child/spousal support, the first month of ineligibility is the month following the month in which the change occurs.

3. Corrective Payments Due The AG

**NOTE:** Initial payments and DCA payments are not subject to recoupment or offsetting.

If the AG has both an overpayment and an underpayment, the amount of the underpayment is treated as a payment toward the overpayment.

E. COLLECTING THE CLAIM

1. Collection Priority

Collections can be made on only one claim at a time. Claims are collected according to the following priority order.

- Fraud
- Client error
- Agency error

Based on this priority order, payments are credited to the oldest claim first, until it is paid. Payments are then credited to the next claim in priority order.

**EXCEPTION:** Payments received due to a court order are credited to the specific claim, regardless of the priority order or age of the claim.

The following persons are equally liable for the total amount of overpayment and are liable debtors:

- S Adult or emancipated minors in the AG
- S Disqualified individuals who would otherwise be required to be included
- S Caretaker relatives who signed the application/redetermination at the time of overpayment.
- S An unreported adult who would have been required to be in the AG had he been reported
- S Sponsors of alien AGs when the sponsor is responsible for the overpayment

When the AG composition changes, collection is pursued against any and all AG's which include a liable debtor.

**NOTE:** The Department may not under any circumstance retain more than the total amount of all outstanding claims. When this occurs regardless of the reason, benefits must be restored.

For AG's containing a liable debtor, collection activity may begin immediately. Repayment is initiated at the time the notification letter is generated by RAPIDS. Repayment by benefit reduction is mandatory when a liable debtor receives cash assistance. RAPIDS automatically begins recoupment and posts these payments to the claim.

**NOTE:** When the benefit reduction causes the check to be reduced to zero, cash assistance benefits must remain at \$1.00, if otherwise eligible.

2. Claim Notification

a. Client and Agency Claims

The AG is notified of the cash assistance claim by computer-generated notification/demand payment letters from RAPIDS. Enclosed with the letter is a repayment agreement, form ES-REPAY-1, and a postage-paid envelope.

b. Fraud Claims

Fraud claims are only established by court order. Upon receipt of the court order, the claim is entered into RAPIDS and notice that the claim has been established is produced. Enclosed with the letter is a repayment agreement, form ES-REPAY-1, and a postage paid envelope.

3. Collection Procedures

A claim, whether UPV or IPV, must be collected by offsetting when lost benefits due the AG have not been restored. The OFS Worker determines the amount of corrective benefits due the household and initiates the auxiliary issuance in RAPIDS. The auxiliary code used by the OFS Worker causes RAPIDS to search for outstanding cash assistance claims and offset the claim, if appropriate.

F. DETERMINING THE REPAYMENT AMOUNT

1. Active Recipients

The monthly repayment amount is 10% of the AG's total gross, non-excluded earned and unearned income, including the actual WV WORKS check amount, which may include reductions and incentives described in Section 10.24 or sanctions described in Section 13.9 and the Child Support Incentive. The amount is determined as follows:

- If the AG has no income other than the WV WORKS check, the repayment amount is determined by multiplying the check amount, after application of

any reductions, incentives, or sanctions by 10% and dropping the cents.

- If the AG has income other than the WV WORKS check, the repayment amount is determined as follows:

Step 1: Add together:

- The non-excluded gross earned income of the income group, with no deductions applied
- All non-excluded unearned income of the income group
- The actual WV WORKS check amount, including the Child Support Incentive

Step 2: Determine 10% of the amount in Step 1 and drop the cents.

This is the monthly repayment amount. When the amount determined in Step 2 is less than the WV WORKS check amount, the monthly recoupment amount is equal to the amount calculated in Step 2. When the amount determined in Step 2 is greater than or equal to the WV WORKS check amount from Step 1, the monthly recoupment amount is equal to the WV WORKS check amount less \$1.

The client may voluntarily repay at a higher rate, but the Department may not require repayment at a higher or lower rate than that specified above.

**EXAMPLE:** A six-person AG has been overpaid \$300. They have \$100 unearned income and receive a \$313 check. The total income for the AG is \$413. Ten percent of \$413 is \$41.30 which after dropping the cents is \$41. This is the required monthly repayment.

**EXAMPLE:** A family of three receives a \$12 WV WORKS check. They have \$241 per month unearned income. The monthly repayment amount is 10% of the gross income (\$241 + 12) or \$25. The check is less than the repayment amount. The check is reduced to \$1 and \$11 is recouped. The client must be encouraged to supplement this amount from his other income.



2. Former Recipients

Liable debtors are responsible for payment of all claims regardless of case status. Form ES-REPAY-1 offers the client the following options to repay when there is no liable debtor.

a. Lump Sum Payment

One payment is made to pay the claim in its entirety.

b. Installment Payments

When the AG is financially unable to pay the claim in one lump sum, regular monthly installment payments are accepted. The minimum amount of the monthly payment is \$50. If the CI/RI determines that the AG cannot afford the minimum payment, the payment amount is negotiated on a case-by-case basis.

G. RIGHT TO A FAIR HEARING

The client has 90 days from the date of the initial notification/demand payment letter in which to request a Fair Hearing. The Hearings Officer only rules on the type and amount of the claim. If the client requests a Fair Hearing within 30 days of the initial notification/demand payment letter, the Worker stops collection until the Fair Hearing is completed. Any adjustments in the amount of the claim, required by the Fair Hearing decision, are made after the decision.

H. MAINTENANCE OF THE CASH ASSISTANCE CLAIM

1. Notification of Delinquent Payments

Open status claims receive delinquent notice letters 60 days after the last payment.

2. Receipts

Clients who make cash payments receive a receipt at the end of the month in which the payment is posted.

3. Action Required When Client Moves

There is no special action required when a client moves to or from West Virginia. Claims from other states will not be pursued for collection. Claims established in

West Virginia may be collected in another state, depending upon that state's policy.

4. Repayment Of An Overpaid Claim

RI's and Financial Clerks are responsible for cash refunds when a claim has been overpaid. If benefits must be restored, IFM notifies the Worker.

5. Effect of Bankruptcy

The Department may act as a creditor for a bankrupt AG against which the Department has established a claim. When the RI receives documentation, he changes the claim status to "B" for agency and client error claims and forwards the document to the Investigations and Fraud Management State Office. Further collection action is suspended.

**NOTE:** Court adjudicated claims which declare Chapter 7 bankruptcy are not dischargeable and remain in "O" status. Court adjudicated claims which declare Chapter 13 bankruptcy are dischargeable and change to "B" status. If there is more than one liable debtor, all liable debtors must declare bankruptcy for the claim to be changed to "B" status. If not, the status must remain open.