

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

Overpayment

Number

Page

44-350.A

1 of 5

Revision Date:

July 20, 2017

Background:

An overpayment is any amount of any aid payment received by an Assistance Unit (AU) that they were not entitled to receive. An overpayment may be all, or a portion, of the payment. This includes payments issued for regular aid payment, Immediate Need, Homeless Assistance, or Aid Paid Pending (APP) for a state hearing.

This material revision is to incorporate overpayment policies for certain cases, when the termination or reduction in benefits cannot take place due to lack of 10-day notice.

Policy

44-350.A.1 Establishment of Overpayment

Overpayments will be established based on the following:

- Recipient's failure to report accurately and completely
- County error
- County inability to issue the correct grant amount due to 10-day notice requirement when the recipient reported timely, completely, and accurately

Late reporting applies to the timing of mandatory recipient mid-period reports, as well as the timing of the submission of the SAR 7 or redetermination. The Eligibility Worker will establish an overpayment based on mandatory reports of information impacting eligibility when the recipient received a grant amount to which he/she was not entitled under Semi-Annual Reporting (SAR) and Annual Reporting/Child Only (AR/CO) rules, regardless of whether the recipient reported timely, except as noted under CPG 44-350.A.2 below.

44-350.A.2 Overpayment Will Not Be Assessed

Overpayment will not be assessed:

- Based on any differences between the amount of income the county reasonably anticipated the recipient would receive during the payment period, and the income the recipient actually received during that period, provided the recipient's reports were complete and accurate.
- For changes which were not required to be reported, but that may be voluntarily reported. An overpayment cannot be assessed based on an AU failing to make a voluntary mid-period report, or when the required report does not impact eligibility.
- For mid-period changes to deprivation, property or household composition, unless the changes are not reported on the following SAR 7 or at redetermination. The changes in deprivation, property and household composition are only required to be reported on the SAR 7 or at redetermination.

Note: Customers may waive the 10-day notice requirement to avoid incurring an overpayment. The worker will explain and offer this option to the customer.

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

Overpayment

Number

Page

44-350.A

2 of 5

Effective January 1, 2017, if the worker is unable to provide a 10-day notice of a reduction or termination of the benefits, no overpayment will be established for the following month after the AU timely reports a change in:

- Income over the IRT for a SAR AU, or
- Income over the IRT or household composition for an AR/CO AU

44-350.A.3 General

The worker must take all reasonable steps necessary to promptly correct and collect any overpayments that are known. The following are roles/guidelines for evaluating, establishing and collecting overpayments:

- The worker computes overpayments and grant adjustments
- Quality & Eligibility Support Department (QESD) computes overpayments based on Bureau of Public Assistance Investigations (BPAI) reports and the review/findings of Integrated Fraud Detection (IFD) reports
- BPAI investigates and evaluates cases with suspected fraud and determines whether to prosecute
- Office of Revenue and Recovery (ORR) demands repayment, establishes collection accounts, and seeks civil judgments for overpayments which can no longer be recouped by grant adjustment
- Suspected fraud overpayments that are not prosecuted are evaluated by QESD for an Administrative Disqualification Hearing

44-350.A.4 Overpayment Adjustment

Overpayment adjustment will only be started at the beginning of a payment period. Benefit adjustments will be discontinued mid-period when the overpayment is recouped.

However, complete recoupment of one overpayment in mid-period may permit the recoupment of another overpayment in the following month (i.e., before the next payment period), the next overpayment recoupment may begin in mid-period as long, as the amount being adjusted does not result in the benefits being decreased mid-period.

44-350.A.5 Mandatory Reporting

Per SAR and AR/CO rules, recipients must report the following:

- Fleeing felon status;
- Probation/parole violations;
- Income over the IRT; and
- Address changes, including moving out of state mid-quarter.

Refer to CPG 44-260.D and CPG 44-270.G for complete mandatory reporting information.

An overpayment will be calculated for failure to report all of the above, except for address changes when they do not involve a move out of state.

For mandatory mid-period reports, which either result in ineligibility or a decrease to the grant amount, but it is too late to provide a 10-day notice of adverse action, the worker will release benefits for the next month at the previous (higher) level. The worker will then establish an overpayment, except as noted under CPG 44-350.A.2.

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

Overpayment

Number

Page

44-350.A

3 of 5

44-350.A.6 Voluntary Reporting

Changes which are not required to be reported, but voluntarily reported, will not be considered when determining overpayments.

When an AU voluntarily reports the acquisition of property in excess of the property limit, the worker will not discontinue the recipient's benefits mid-period. The AU will remain eligible for the entire period. The worker will generate a No Change NOA to the household. The recipient must report the information on the next SAR 7 or redetermination.

Voluntary changes need only be reported on the SAR 7 that follows the change. If the change is not reported when the SAR 7 is submitted, that is when the AU will be considered to have failed to report. In this case, the worker is required to notify the AU of an incomplete SAR 7, and issue the appropriate NOAs. If the worker fails to do this, any resulting overpayments will be recorded as Agency Error, with the overpayments established for the amount the AU was not entitled to receive, beginning the SAR Payment Period after the incomplete SAR 7 or redetermination were due.

44-350.A.7 Recoupment

- Any nonwillful overpayment which occurred prior to April 2, 1982, will not be collected except through voluntary repayment
- For any willful overpayment which was discovered prior to April 2, 1982, if the maximum adjustment period did not expire prior to April 2, 1982, the adjustment will continue as long as necessary to recover the overpayment
- For any overpayment, which is discovered after April 2, 1982, the overpayment is to be recouped in accordance with regulations in effect on the date of discovery
- When the overpayment is determined to be due to excess property, the overpayment is to be recouped in accordance with the regulations set CPG 44-350.F.2
- Workers will take all reasonable steps necessary to promptly correct and collect all overpayments, regardless of the overpayment amount, except that the worker will not send a demand letter to the liable individual, when the liable individual is no longer on aid, and the overpayment is less than \$35 and no fraud was involved

44-350.A.8 Collecting Overpayments

Responsibility of worker:

- Determine and compute all overpayments
- Determine from whom (the adult liable individual) the overpayment can be collected. If the liable individual is no longer in the AU, the overpayment is referred to ORR. Only after all efforts to collect from the liable individual are exhausted, can the overpayment be collected from the AU.

Refer to the following sections for additional information:

CPG 44-250.G.4 Priority of Recovery

CPG 44-350.G.5 Child Only Cases

CPG 44-250.G.6 Minors in Overpaid Assistance Units

Responsibility of QESD:

- QESD computes fraudulent overpayments (received from BPAI)

County of San Diego, Health and Human Services Agency (HHS)A) CalWORKs Program Guide

Overpayment

Number

Page

44-350.A

4 of 5

Active Cases:

The amount that can be recovered is the **total** amount calculated. For active cases, CalWIN automatically initiates recoupment once an overpayment is established.

Closed Cases:

If the CalWORKs program discontinues with outstanding overpayments (or if the overpayments are established for closed cases), the claims balance is automatically referred to ORR via the CalWIN / Revenue Plus Collection System (RPCS) interface.

ORR staff will establish a collection account and will initiate collection activities on all outstanding overpayments as follows:

- IPV or fraudulent:
 - ORR will start collection activities on any remaining balance, regardless of the amount
- Total (combined) amount of all non-fraudulent, remaining overpayments is **\$35 or more**:
 - Collection of overpayments will be demanded from any **liable** individual of the overpaid AU
- Total (combined) amount of all non-fraudulent, remaining overpayments is **less than \$35**:
 - Collection of overpayments will **not** be demanded from any individual of the overpaid AU

Procedure:

To be able to start or continue collecting an overpayment after the case is discontinued, the AU will have been notified of the overpayment. Therefore, all closed CalWORKs cases must be thoroughly reviewed **before** being assigned to the closed case bank to ensure:

- Repayment notices and budget worksheets have been sent to the AU for each claim:
 - **NOA M44-352A** to be issued when the overpayment was never collected through grant reduction
 - **NOA M44-352G** to be issued when the overpayment was being collected through grant reduction and there is a balance owing
 - The worker will complete the required NOA variables, review the notices for information accuracy and issue the NOAs to the liable individual
- Refer to CPG 44-350.I.3 section for Non-System Determined Claims; and
- A complete and clear explanation of the reason for the overpayment and action taken by the worker has been entered into CalWIN Case Comments.

Overpayments not currently being collected, such as when the liable individual for the overpayment leaves the AU or the home of the AU, the worker will follow the unlocatable procedures:

- If the overpayment was referred to ORR contact ORR to determine if the person is unlocatable; and follow up/review ORR's response within 30 days
- Only after all efforts to collect from the person responsible for the overpayment, can the overpayment be collected from other members of the AU

References:

ACL No. 16-120

Sunset Date:

This policy will be reviewed for continuance by July 31, 2020.

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

Overpayment

Number

Page

44-350.A

5 of 5

Approval for Release:



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