

DEPARTMENT OF HUMAN RESOURCES FAMILY INVESTMENT ADMINISTRATION	TEMPORARY CASH ASSISTANCE MANUAL	
PAYMENT IRREGULARITY 1101	COMAR 07.03.03.04	PAYMENT IRREGULARITY-1100

1101.1 PAYMENT IRREGULARITY

A. Payment irregularity means a benefit amount was incorrect and occurs when the assistance unit or the household does not receive the amount it is entitled to. The payment could be:

1. More than entitled to – resulting in an overpayment, or
2. Less than entitled to – resulting in an underpayment

B. Payment irregularities are classified as:

1. **Agency Error(AE)** - when the local department:
 - a. Fails to take any action on a known change
 - b. Fails to take action in a timely manner on a known change
 - c. Incorrectly applies policy or procedures
 - d. Makes an incorrect calculation
 - e. Issues benefits when the certification period has expired and no redetermination has been completed
 - f. Is cited with a QC error
2. **Customer Error (CE)** - also called Inadvertent Household Error when the customer fails to:
 - a. Give complete or accurate information
 - b. Report a change
 - c. Report a change in a timely manner
3. Intentional Program Violation or IPV when the customer deliberately and knowingly:
 - a. Makes false statements to receive benefits, maintain benefit level increase or avoid a reduction in benefits

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- b. Misrepresents facts in order to receive benefits the customer is not eligible for
- c. Is found guilty of Food Supplement Program trafficking (see FSP manual for additional information)

Note: Do not code any overpayment as fraud or an IPV unless there is a legal decision establishing the fraud or the individual signed a waiver of an administrative disqualification hearing (ADH).

1101.2 CAUSES OF PAYMENT IRREGULARITIES

- A. Unreported changes or local department failure to act on known changes in:
 - 1. Household composition
 - 2. Earned and unearned income
 - 3. Household expenses and shelter costs
- B. Local department incorrect application of policy and procedure
- C. Fraud

REMINDER: Overpayments in associated programs do not necessarily mean there is an overpayment in the FSP benefits. Under simplified reporting requirements, there is no overpayment, as long as the customer's income does not exceed 130% of the federal poverty level for household size. (See the FSP Manual for additional information).

1101.3 LOCAL DEPARTMENT ACTION

- A. Local departments must take immediate action to correct payment irregularities.
 - 1. Issue underpayments as quickly as possible
 - 2. Make changes in the system in the on-going month first to ensure the change is made and prevent additional overpayments or underpayments
 - 3. Make changes in each historical month in which the error occurred to determine the payment irregularity

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- B. Establish a claim against the household or assistance unit regardless of the reason for the overpayment.
- C. Before establishing an overpayment on a change, allow for the appropriate adverse action time.
 - 1. The first month, following the adverse action period, that the change could have been made is the beginning of the overpayment
 - 2. The end of the overpayment is the last month incorrect benefits were paid
 - 3. When a payment irregularity occurs in one program, review eligibility in all associated programs

1101.4 VERIFICATION OF THE OVERPAYMENT

- A. Attempt to obtain verification that documents the household's circumstances for each month of the payment error.
- B. Allow the customer 10 days to provide verification.
- C. If the customer cannot or will not provide verification, attempt to have the customer sign a consent for the release of information form to allow the local department to obtain the information.
- D. Contacts may include but are not limited to: the employer, landlord, or child care provider.
 - Secondary sources of verification include: Maryland Automated Benefit System (MABS), the Income and Eligibility Verification System (IEVS), "The Work Number" and MD/DC Online.
- E. When using MABS to verify earnings, the case manager must divide the quarterly income by 3 to arrive at a monthly figure.

1101.5 OVERPAYMENTS

- A. Discovery Date: The date the potential claim is detected as a possible overpayment.
- B. Establishment Date: The date the initial demand notice (in CARES, Notice 18) is sent to the customer.

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C. Case managers should also review Medical Assistance eligibility and refer to DHMH for possible MA overpayment.

D. Complete the DHMH 1169 and mail it to

Chief of Utilization and Eligibility Review
Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

1101.6 LOSS OF EARNINGS DISREGARDS AND CHILD CARE DEDUCTIONS FOR LATE REPORTING

Customers not reporting new earned income or an increase in earned income timely are not entitled to the earned income disregards (40% for regular earnings and 50% if self-employed) and the child care deduction for the months that the income was unreported.

1101.7 WAIVER OF OVERPAYMENT CLAIMS

The local department may waive the establishment of a TCA overpayment if the:

- Total overpayment is \$125 or less and
- TCA case is closed.

1101.8 MANUAL CALCULATION OF A PAYMENT IRREGULARITY

The calculation to determine an OP or UP is the same. It is the difference between what was received and what the applicant or recipient was eligible for.

1101.9 SPECIAL CIRCUMSTANCES REGARDING TCA OVERPAYMENTS

A. Recipient convicted of a drug felony.

1. A custodial parent convicted of a drug related felony on or after July 1, 2000 while receiving TCA, is ineligible for TCA for one year from the date of the conviction and is subject to substance abuse testing and treatment
2. Remove the custodial parent from the TCA, after timely and adequate adverse action is given

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3. Establish an OP for every month that the custodial parent received TCA from the month of the conviction to the effective date of the change

B. 60 Month time limit.

1. Federal TCA benefits cannot be paid to adults who have received benefits for 60 months, whether consecutive or not, unless the customer meets the requirements for a hardship
2. Do not count any month a customer is overpaid an entire month of TCA benefits and subsequently repays the entire benefit towards the 60-month time limit

C. Child Support

1. Review child support screens to determine the amount, if any, of child support payments received and retained by the Agency
2. Offset (reduce) the TCA OP amount by the amount of child support collected and retained by the Agency

1101.10 NOTIFICATION TO THE CUSTOMER

A. Customers must be provided with written notification of a payment irregularity.

B. Whether the overpayment notification letter to the customer is a system generated letter or a manual letter it must state the following information:

1. The amount owed
2. Reason for the overpayment
3. The period of time the overpayment occurred
4. Ways the overpaid amount can be repaid
5. The customer's right to an administrative hearing if the customer disagrees with the overpayment (that an overpayment exists or the amount)
6. The customer's right to renegotiate any repayment schedule if the assistance unit/household's circumstances change

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7. The requirement to return the enclosed repayment agreement, completed and signed within 30 days (00/00/0000) of the date of the mailed, indicating an agreement to make restitution and the method by which repayment will be made
8. Failure to return the completed agreement by 00/00/0000 may result in further collection action, including a referral to the State's Central Collections Unit

1101.11 RIGHT TO AN ADMINISTRATIVE HEARING

- A. Customers have the right to a hearing before an administrative law judge (ALJ) regarding a payment irregularity.
- B. The CARES system generates a "Request for A Hearing" (DHR/FIA 334) form along with the CARES repayment notice.
 - Customers can pick up a DHR/FIA Request for Hearing form (DHR/FIA 334) in the local department or have the local department mail them one.
- C. If the customer requests a hearing within 10 days of the notification of the overpayment and recoupment, the customer may request benefits be continued pending the hearing decision.
 - There are specific rules in each program regarding the continuation of benefits pending a hearing decision. Please refer to the policy for a specific program.
- D. If the customer requests an administrative hearing and the hearing decision upholds the proposed reduction or termination, the overpayment includes any benefits issued pending the decision.
- E. Once the hearing decision is received, upholding the local department action, do not send another adverse action before implementing recoupment.
- F. The local department must comply with the ALJ's decision within 10 days.

1101.12 RECOURPMENT

- A. Discussion of recoupment is in the CARES section of this manual since it is primarily a systems action.
- B. However, there is some policy that is the same for all programs.

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1. For TCA, TDAP, FSP, PAA, and RCA cases that are Agency Error (AE) or Customer Error (CE) overpayments the recoupment amount is \$10 or 10 percent, whichever is greater
2. The rules for IPVs and fraud are slightly different for each program. They are discussed in the individual program sections
3. Customers have the option of paying more than the standard recoupment amount
4. Do not recoup benefits from an initial benefit
5. Approving a recoupment BEG within the last 10 days of the month reduces the following month's benefit, without allowing 10 days adverse action time. Local departments should avoid approving BEG plans during the end of the month adverse action period
6. Re-screening the same assistance unit number when customers, whose benefit case closed with an outstanding balance, reapply for benefits CARES automatically begins recoupment when the case is approved

1101.13 TCA INCREASE IN BENEFITS (UNDERPAYMENT)

Note: When a change is reported or the local department becomes aware of a change, the case manager must re-evaluate the assistance unit's eligibility and benefit amount.

- A. Changes resulting in increases in benefits must be made so that the benefits increase no later than the month following the month the change was reported.
- B. Supplements or underpayments should be issued when the case manager is not able to make the change the month following the month the change was reported.
- C. Issue supplements for the month in which a customer reports that a newborn or other member has joined the household.

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EXAMPLES:

Example 1. Mr. and Mrs. Pluto receive TCA for themselves and their son. On June 5, Mr. Pluto reported that his wife had a baby. The case manager did not add the baby to the case until August 10. The newborn was added retroactively to the case effective June 5. Underpayments must be issued for June, July and August since the change was not processed timely.

Example 2. Ms. Mars receives TCA for herself and two children. She is employed part-time. On March 15 she reported she was laid off and provided a letter from her employer to verify her last day worked and last date paid. She received her last paycheck on March 10. On March 23, the case manager removed the earnings from the TCA case for the ongoing month of April. The TCA benefit increased April 1.