

NUMBER

#19-85-01

DATE

November 25, 2019

OF INTEREST TO

County Directors
Social Services Supervisors and
Staff

ACTION/DUE DATE

Please read information and
prepare for implementation

EXPIRATION DATE

November 25, 2021

2019 Changes to Agency Error Overpayment Policy for Cash Programs

TOPIC

This bulletin summarizes changes to the agency error overpayment policies for the Minnesota Family Investment Program, Diversionary Work Program, General Assistance, Minnesota Supplemental Aid, Refugee Cash Assistance, Emergency General Assistance effective November 25, 2019.

PURPOSE

To provide updated information and instructions on agency error overpayments for cash assistance programs.

CONTACT

Submit policy questions to PolicyQuest. Submit a PF11 for all MAXIS related questions.

SIGNED

LISA BAYLEY
Interim Assistant Commissioner
Children and Family Services

STACY TWITE
Interim Assistant Commissioner
Community Supports

TERMINOLOGY NOTICE

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

I. Background

Legislation passed in the 2015 legislative session for implementation on August 1, 2016, directed that participants receiving cash assistance should not have to pay back agency error overpayments – unless the “amount of the overpayment is large enough that a reasonable person would know it is an error.” Minnesota Statutes, section [256P.08](#), subdivision 2(c)

The initial guidance provided to counties was that an agency error overpayment would be collectible only if the amount of the error exceeded the amount of the benefits the participant was entitled to receive in a claim period. While this guidance allowed counties to disregard some agency error overpayments, the Minnesota Tenth Judicial District Court ruled the guidance provided by the Department is inconsistent with state law. In response the Department is issuing updated guidance including this bulletin and revisions to Chapter 25.12.03 in the Combined Manual.

This updated guidance impacts the following programs:

- Minnesota Family Investment Program (MFIP) cash portion
- MFIP Housing Assistance Grant
- Diversionary Work Program (DWP)
- General Assistance (GA)
- Minnesota Supplemental Aid (MSA)
- Refugee Cash Assistance (RCA)
- Emergency General Assistance (EGA)

The new policy does NOT affect:

- The food portion of the Minnesota Family Investment Program benefit
- Supplemental Nutrition Assistance Program
- Minnesota Food Assistance Program
- Housing Support program (formerly Known as Group Residential Housing)
- Health Care programs.

Agency error overpayments are errors in benefits or eligibility not attributed to the person applying for or receiving benefits. This includes:

- Failure by a county or tribe to act on known changes reported by a participant or former participant
- Worker errors
- Misapplied program policy

- Failure to act on data matches in a timely manner
- Inaccurate data matches that resulted in erroneous benefit calculations
- Programming glitches in MAXIS or EBT that result in incorrect benefits being issued.

A. Overpayment Policy Changes

1. Agency error overpayments should rarely be collectible.

Whether a reasonable person would know there was an agency error requires a case specific determination. Certain prevalent conditions may make it difficult for the people served by cash assistance programs to recognize errors made by the county or tribe, MAXIS or the state. These include:

- Complex rules that vary across programs
- Retrospective budgeting in some cash programs that base a month's benefits on income from two months earlier
- Interactions between various public assistance programs that can impact benefit amounts
- Program rules that are often not clear to the people receiving them.
- Communication challenges between recipients and agency staff.
- Benefit amounts that change because of changes in earnings, household composition or other circumstances that may impact the grant amount.

Because claim periods can often extend over many months, analysis by the Department indicates that overpayments less than \$3,000 for MFIP and less than \$2,000 for GA or MSA are likely to fall within the normal range of fluctuation in grant amounts for those periods.

2. Do not charge an overpayment for agency errors made in the initial month of eligibility.

This applies for however long the error continues before being discovered.

This applies for people receiving assistance for the first time or for people who have received assistance in the past and have re-applied after any break in assistance.

3. For agency errors not subject to collection, create a non-collectible agency error overpayment.

In MFIP cases:

- For the cash portion, establish a non-collectible claim
- For food portion, establish a collectible claim.

See POLI/TEMP TE 02.09.01.22 Non-Collectible Agency Error Claims.

4. Submit any case the county or tribe believes should be collectible to PolicyQuest.

Use this process only if there are cases that do not meet the guidance in steps 1 and 2 above or for which the county or tribe believes a reasonable person would have recognized the error.

Submit the attached 'Request for Guidance for an Agency Error Overpayment (DHS-3926) to:

- Explain why the participant should have recognized the error causing the overpayment
- Outline what the county or tribe knows about the participant's circumstances that might explain why or why not the participant could have recognized the agency error.
- Document the nature of the communications that occurred in the period before the overpayment was discovered.

Do not enter the claim into MAXIS until the Department determines that it is collectible.

The Department will:

- Look at the circumstances of the overpayment and information about the participant
- Determine if the participant should be charged with the overpayment
- Notify the county of the decision within 14 days and record its findings in the PolicyQuest system.

If the decision is to collect the overpayment, the county or tribe will take the action to initiate the claims, including sending notice to the recipient that the overpayment resulted from agency error.

If the decision is NOT to collect the overpayment, create a non-collectible agency error overpayment.

Americans with Disabilities Act (ADA) Advisory

This information is available in accessible formats for people with disabilities by calling (651) 431-4670 (voice) or by using your preferred relay service. For other information on disability rights and protections, contact the agency's ADA coordinator.