C. **Overpayments**

1. **Expectations and definitions of overpayments**

   (A) **Expectations**

   The department provides overpayment identification and collection services to the extent possible based on the following expectations:

   - The department has a responsibility to ensure that state and federal funds are appropriately expended and to identify where funds have been misapplied;
   - Individuals receiving services or payments have a responsibility to provide timely and accurate information to assist the department in appropriate distribution of services and funds;
   - The department will hold claimants accountable for repayment of overpayments;
   - When overpayment recovery is necessary, the process must be clear and fair to all parties to maintain public trust.

   (B) **Definitions of overpayment**

   A benefit or service received by or on behalf of an individual, or a payment made by the department on behalf of an individual, that exceeds the amount for which the individual is eligible.

   **NOTE**

   If an individual was not eligible for a medical program but during the period in question was eligible for another medical program with the same benefit level there is no overpayment. Example: A child is not eligible for MAA medical, but would have been eligible for OHP Plus benefits.

   A payment made by the department and designated for a specific purpose which is spent by a person on an expense not approved by the department and not considered a basic living expense. In the REF, SFPSS and TANF programs, this
includes the full amount of cash benefits when the cash benefits were used or accessed in Oregon, outside Oregon or on Tribal lands at a:

- Liquor store: This includes retail establishments that exclusively or primarily sell beer or wine.
- Casino, gambling casino or gaming establishment.
- Retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. This includes adult video stores that exclusively or primarily sell or feature adult-oriented videos or movies.
- Marijuana dispensaries.

These restrictions also apply to using or accessing TANF cash benefits from a private bank account.

**NOTE**

For the REF, SFPSS and TANF programs, Central Office will track reports of use or access of cash benefits in any EBT transaction in the locations listed above. For the first instance that cash benefits are reported to have been used or accessed in one of these locations, Central Office will send notice to the individual that another instance will result in an overpayment. (A copy of the notice will be sent to the case manager and local program manager. The case manager will contact the family for a conversation about the family situation and locations where TANF cash benefits may be used or accessed.) For any subsequent reported use or access at one of these locations, Central Office will notify the Overpayment Unit.

**NOTE**

Basic living expenses are limited to the need of the individual at the time the payment was designated for shelter, utilities, household supplies (other than food, and personal incidentals that the individual could not meet with other immediately available resources. Payment amounts are limited to 200 percent of the payment standard for the benefit group (see OAR 461-155-0030(2)).

A payment for child care made by the department to or on behalf of an individual that:

- Is paid to an ineligible provider;
• Exceeds the amount for which a provider is eligible;

• Is paid when the individual was not engaged in an activity which made the individual eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and OAR 461-190-0151 and following); or

• Is paid when the individual was not eligible for child care benefits.

**NOTE**

It is not an individual overpayment in the child care program when an individual would otherwise be eligible for a child care payment and provides inaccurate information due to an aspect of a documented disability of the individual.

**NOTE**

It may not be a provider overpayment in the child care program when the total paid to two or more providers exceeds the monthly limit the department may pay on behalf of the individual unless:

- Two or more providers were paid at the full-time rate; or
- One of the providers is under contract with the department to provide child care.

A misappropriated payment is when a person cashes and retains the proceeds of a check from the department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.

**NOTE**

In the case of a forged instrument, follow DHS forgery policy DHS-040-003 (see Field Business Procedures Manual) for proper identification and resolution of forged instruments. If you need assistance to determine when it is an overpayment, staff with the Overpayment Writing Unit in the Office of Payment Accuracy and Recovery.

A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the
A cash benefit received by an individual in the General Assistance (GA) or SFPSS programs for each month for which the individual receives a retroactive Supplemental Security Income (SSI) lump-sum payment.

In the SNAP program, the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act in 21 U.S.C.802) is the buying or selling of SNAP program benefits for cash or consideration other than eligible food; or the exchange for SNAP program benefits of firearms, ammunition, explosives or controlled substances.

**NOTE**

*Cash benefits include JOBS program support payments (this includes child care support service payments) (see OAR 461-190-0211).*

**NOTE**

*Medical benefits include medical transportation payments and health insurance reimbursements.*

**Definitions and Categories of Overpayments Rule**

461-195-0501 — Definitions and Categories of Overpayments

2. **Identifying and establishing overpayments**

(A) Identifying overpayments

Identifying who is responsible for the overpayment is an important part of the process. The overpayment process provides the basis for determining:

- When an overpayment occurs;
• Who is responsible for the overpayment;
• The type of overpayment (overpayment categories);
• The amount of the overpayment;
• Who is liable for repaying the overpayment; AND
• Appropriate actions, including collection.

Overpayments may be discovered from the following sources:

• Information from the individual or provider;
• Discrepancies identified by agency staff;
• Community complaints;
• Information received from an employer;
• Information supplied by the Fraud Investigation Unit;
• Information received from community partners;
• Employment Department quarterly wage reports; and
• Other sources of information.

(B) Establishing overpayments in the initial month

The department may establish an overpayment for the initial month (see OAR 461-001-0000) of eligibility under circumstances including but not limited to:

• The filing group, ineligible student, or authorized representative (see OAR 461-115-0090) withheld information;
• The filing group, ineligible student or authorized representative provided inaccurate information;
• The department fails to use income reported as received or anticipated in determining the benefits of the filing group; or
• The error was due to an error in computation or processing by the department.

(C) In the OCCS Medical programs, the department may establish an overpayment for the budget month (see OAR 410-200-0015) when OCCS medical program
household group (see OAR 410-200-0015) or authorized representative withheld or provided inaccurate information

(D) Establishing overpayments in months of ongoing eligibility

When an overpayment is caused by reported or unreported changes as required per OAR 461-170-0011, the overpayment start date is determined as follows:

- For cases in CRS:

  Administrative error overpayments: When the change is reported as required per OAR 461-170-0011, allow 10 days to report the change, 10 days to take action and the notice period per OAR 461-175-0050.

  An individual’s error and fraud overpayments: When the change is not reported as required per OAR 461-170-0011, allow 10 days to report the change and the notice period per OAR 461-175-0050 only.

- For cases in SRS:

  For SRS the overpayment start date is the same for reported or unreported changes Per OAR 461-170-0011, required changes must be reported by the 10th day of the month following the month of occurrence. The overpayment begins the month after the required change is due. This allows for the required notice period per OAR 461-175-0050.

(E) Establishing overpayments when prospective budgeting was used

It is not an overpayment when prospective budgeting under OAR 461-150-0020(2) is used to calculate income and the actual income is different unless:

- The department failed to use income reported;
- The department miscalculated the income;

NOTE

This applies to administrative error, an individual’s error and fraud overpayments.
• The filing group, ineligible student, or authorized representative failed to make a required change report;

• The filing group, ineligible student or authorized representative provided inaccurate information; or

• The filing group, ineligible student or authorized representative withheld information.

(F) Continuation of benefits pending a hearing

When benefits issued incorrectly are continued unreduced pending a hearing and the hearing decision supports the department, the additional benefits beyond the initial notice period are an overpayment. This overpayment is considered an individual’s error.

In all programs except OSIP and OSIPM, when an individual disputes a disqualification and benefits are continued do not establish an overpayment for the continued benefits unless an overpayment exists for a reason other than the disqualification.

NOTE

The disqualification will be applied when the department is upheld.

3. Overpayment categories and thresholds

(A) Overpayment categories

AE “administrative error” overpayment is a result of an error made by the department. Examples include:

• The department fails to reduce, suspend or end benefits after timely reporting by the filing group, OCCS Medical Program household group, ineligible student or authorized representative of a change covered under OAR 461-170-0011 or OAR 410-200-0235 and the reported change requires the department to reduce, suspend or end benefits;

• The department fails to use the correct benefit standard;
• The department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, OCCS medical program household group, ineligible student or authorized representative;

• In the GA and SFPSS programs, the department fails to require an individual to complete an interim assistance agreement; or

• The department commits a procedural error that was no fault of the filing group, OCCS medical program household group, ineligible student or authorized representative. For example, a case that is opened as JOBS Plus, but SNAP benefits continue to be issued.

CE “client error” overpayment is caused by a misunderstanding or unintended error on the part of the individual, ineligible student or authorized representative, such as unintentionally providing incomplete information or not reporting a change, even if the information was available to the department. Examples include:

• An overpayment caused by the failure of a filing group, OCCS Medical Program household group, ineligible student, or authorized representative to declare or report information or a change in circumstances as required under OAR 461-170-0011 or OAR 410-200-0235, including information available to the department, that affects the individual’s eligibility to receive benefits or the amount of benefits;

• An individual’s unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the department;

• An individual’s failure to return a benefit known by the individual to exceed the correct amount;

• An individual’s use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose (see note on basic living expenses in FSMC1B);

• A payment for child care when the individual was not engaged in an activity that made the individual eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and OAR 461-190-0151 to OAR 461-190-0401);

• A payment for child care when the individual was not eligible for child care benefits; or
• The failure of an individual to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and OAR 461-160-0800) in the month in which it is due;

• In the REF, SFPSS and TANF programs, an overpayment caused by the individual using or accessing cash benefits in any EBT transaction in Oregon, outside Oregon or on Tribal lands in a:
  - Liquor store: This includes retail establishments that exclusively or primarily sell beer or wine.
  - Casino, gambling casino or gaming establishment;
  - Retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. This includes adult video stores that exclusively or primarily sell or feature adult-oriented videos or movies.
  - Marijuana dispensaries.

This includes when an individual uses or accesses cash benefits from a private bank account.

**FR** “fraud” occurs when an overpayment is determined to be an intentional program violation (see OAR 461-195-0601 and OAR 461-195-0611) or is substantiated through a criminal prosecution.

**PE** “provider error” overpayment:

• In the SNAP program, a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as an individual’s authorized representative;

• In the child care programs, a provider error overpayment is a payment made by the department on behalf of an individual to a child care provider when:
  - Paid to an ineligible provider; or
  - The payment exceeds the amount for which a provider is eligible;
  - Paid to a provider who does not submit attendance logs upon request.

**PF** “possible fraud” overpayment occurs when an individual or provider is suspected of intentionally causing an overpayment to occur in order to receive or increase payments or benefits they are not eligible to receive.
“Provider intentional” overpayment occurs when there is clear and convincing evidence that the provider intended to mislead, misrepresent, conceal or withhold facts.

**NOTE**

Provider intentional overpayment occurs when provider intentionally does any of the following:

- Bills the department for more child care than actually provided, including duplicate billings;
- Collects payment directly from an individual after the department’s payment for the services has been garnished or after overpayment recovery action have reduced the amount paid;
- Fails to comply with the agreements of the Child Care Provider Listing (DHS 7494) form, including failing to list required individuals for the record check;
- Establishes eligibility for payment for another person.

**NOTE**

Applies to all categories: In the TANF program, when an overpayment puts the individual at greater risk of domestic violence (see OAR 461-001-0000), the overpayment is waived (see OAR 461-135-1200).

(B) Overpayment thresholds

Except as provided in section C, the department establishes an overpayment when the following thresholds are exceeded:

**AE** overpayments concerning:

- Cash and child care programs, when the amount is greater than $200;
- SNAP open case, when the amount is greater than $100;
- SNAP closed case, when the amount is greater than $200;
- Do not establish AE overpayments in the medical programs.
CE overpayments in:

- Cash and child care programs, when the amount is greater than $200;
- SNAP open case, when the amount is greater than $100;
- SNAP closed case when the amount is greater than $200;
- Medical programs, when the amount is greater than $750.

NOTE

When using prospective budgeting (see OAR 461-001-0000) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be an individual error overpayment only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information.

PE overpayments in:

- Cash and child care programs, when the amount is greater than $200;
- SNAP open case, when the amount is greater than $100;
- SNAP closed case when the amount is greater than $200.

(C) There are no overpayment thresholds in the following situations:

- In the SNAP program, if the overpayment was identified in a quality control review;
- In all programs; if the overpayment was caused by an individual’s receipt of continuing benefits in a contested case;
- In all programs, if the overpayment was caused by possible fraud by an individual or provider;
- In the REF, SFPSS and TANF programs, for an overpayment caused by the individual using or accessing cash benefits in any EBT transaction in a:
  - Liquor store: This includes retail establishments that primarily or exclusively sell beer or wine.
  - Casino, gambling casino or gaming establishment.
Retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. This includes adult video stores that exclusively or primarily sell or feature adult-oriented videos or movies.

Marijuana dispensaries.

The amount of the overpayment is the amount of cash benefits that were used or accessed in the EBT transaction.

### Verification and overpayment claims establishment timelines

Seek verification of potential income or eligibility discrepancies within 30 working days of first identifying them. Additional steps may need to be taken before discovering if an overpayment of benefits has actually occurred.

The date of discovery of an overpayment is defined as:

- The date on which an overpayment of benefits, the specific dollar amount, and time period are all confirmed. This is typically achieved once all evidence, eligibility verifications, earnings, and household composition factors have been confirmed and the appropriate benefit level has been calculated.

The goal is to complete the overpayment within 90 days following the calendar quarter in which the overpayment was discovered. For SNAP benefits, 90 percent of the overpayments should be written within this time frame.

### Responsibility for completing overpayments and referral process

When department employees receive information indicating a potential overpayment exists, report the information to the appropriate branch worker. The case is reviewed by the worker to determine if a discrepancy exists resulting in an overpayment. The worker is responsible for referring potential overpayments that exceed the overpayment threshold guidelines (see GP-C.3.B). Narrate the referral in TRACS. If a potential overpayment does not meet the threshold, do not submit a referral and narrate the reason for not referring. Overpayment Writers from the Office of Payment Accuracy (OPAR), Overpayment Writing Unit (OWU) complete all cash, medical, SNAP and child
care (both individual and provider) overpayments. To refer an overpayment to OWU, follow the process below:

(1) Complete **Shared Services – Self-Sufficiency Overpayment Referral form (MSC 284F).** Include your name, branch number, date and your phone number. Indicate on the referral form the approximate dates of the potential overpayment and describe the cause. It is important that the cause of the potential overpayment be specific and clear. List sources of income and the persons receiving it. If the overpayment was caused by earned income, list the employer and the name of the person on the case who was working.

(2) Attach the documentation you have gathered. It is not a requirement for field staff to obtain supporting documents, such as verification of earnings, mainframe screen prints and copies of narratives. This preparatory work is completed by an overpayment referral specialist in OPAR.

(3) Submit the referral form to OPAR using **one** of the following methods:

(a) Email to: OVERPAYMENT REFERRALS;
(b) Fax to: 503-378-3872;
(c) Mail to: OPAR OVP Referrals, PO Box 14150, Salem OR 97309;
(d) Submit directly to your local overpayment writer if there is no preparatory work that needs to be done or supporting documentation that needs to be obtained. For example, income cases where no hard copy verification needs to be obtained from an outside employer or agency, such as:

(i) Home Care Worker income (HINQ);
(ii) Child Support (SMUX);
(iii) Unemployment (ECLM);
(iv) The Work Number; (please note on the referral form if income is on the Work Number).

**NOTE**

When a QC review results in an overpayment, the referral will be sent to OWU by staff in the QC unit. This does not apply to overpayments resulting from other types of reviews, such as those conducted by the Self-Sufficiency Program Accuracy Team, manager reviews or peer reviews.
6. **Calculating overpayments**

Calculate the overpayment by determining the amount the individual received or the payment made by the department on behalf of the individual that exceeds the amount for which the individual was eligible.

The overpayment starts with the first incorrect payment or program benefit following receipt or possession of income, property, resources, or another change in circumstances that caused the overpayment, and ends with the payment in which benefits are corrected or ended.

Benefits paid during a required notice period (see OAR 461-175-0050, OAR 410-200-0120) are included in the calculation of the overpayment when:

- The filing group, OCCS Medical Program household group, ineligible student or authorized representative failed to report a change within the reporting time frame under OAR 461-170-0011 or OAR 410-200-0235; and

- Sufficient time existed for the department to adjust the benefits to prevent the overpayment if the filing group, OCCS Medical Program household group, ineligible student or authorized representative had reported the change at any time within the reporting time frame.

**NOTE**

To determine when the overpayment begins, see [GP-C.2](#) for identifying and establishing overpayment.

When an overpayment is caused by both an administrative and the individual’s error in the same month, the department determines the primary cause of the overpayment and assigns as either an administrative or the individual’s error overpayment.
A) Income general

Assign unreported income to the applicable budget month without averaging the unreported income, except:

- An individual’s earned income reported quarterly from the Employment Department is considered received by the individual in equal amounts during the months identified in the report;
- In the ERDC, REF, SNAP and TANF programs, an individual’s actual self-employment income is annualized retrospectively to calculate the overpayment;
- In the OCCS Medical Program, if actual income is not available for the month in which overpayment occurred, an individual’s actual self-employment income (see OAR 411-200-0015) received during the year when an overpayment occurred is annualized to calculate an overpayment.

When benefits were calculated using prospective budgeting (see OAR Division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), use the actual income to calculate the overpayment when:

(a) The filing group, ineligible student or authorized representative failed to report a change;

(b) The filing group, ineligible student or authorized representative provided inaccurate information; or

(c) The filing group, ineligible student or authorized representative withheld information.

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<th>NOTE</th>
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When prospective income was reported correctly, but the department miscalculated the income or failed to use income reported, use the actual income only if it results in a lesser overpayment amount for the individual.

When using anticipated income for the OCCS Medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be an individual error overpayment only when the OCCS Medical program household group or authorized representative withheld information, failed to report a change or provided
inaccurate information. In such case, the department uses the actual income to determine the amount of an overpayment.

(B) Earned income overpayments.

Reported earned income:


**NOTE**

*For SFPSS and TANF overpayment’s, see gp-c.6 for allowing a Post-TANF credit.*

**NOTE**

*For TANF overpayments that occurred between October 1, 1989, and June 30, 1997, if the $30 and one-third deduction was used for four consecutive months, it is not allowed in computing the overpayment. The $30 may be used for an additional eight consecutive months after the $30 and one-third deduction is allowed. For administrative error overpayments that occurred after June 30, 1997, allow the 50 percent deduction.*

Unreported and under-reported earned income:

Compute total countable earned income on a month-to-month basis, allowing earned income deductions (see OARs 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) as follows:

- In OSIP, OSIPM, QMB and REF, allow the earned income deduction;
- In REF and TANF, do not allow the earned income deductions, unless good cause exists;
- In SNAP, do not allow the earned income deduction on the portion of the income not reported or under reported.
NOTE

For purposes of this section good cause means circumstances beyond the individual’s reasonable control that caused the individual to be unable to report income timely and accurately.

(C) Unearned income overpayments

Compute unearned income on a month-by-month basis if it is:

- Less than the monthly benefit amount for cash, SNAP or child care programs. Remember, there may not be a medical program overpayment if this is the only income source;

- Equal to or more than the monthly benefit amount for cash, SNAP or child care programs.

NOTE

For medical programs if the individual is eligible for another medical program with the same benefit level during the period in question, there is no overpayment.

Example: MAA went OVI due to an increase in child support, there is no overpayment in MAA for the months they met EXT eligibility.

- For GA and General Assistance Medical (GAM) programs in prospective budgeting, an administrative overpayment occurs in the month the financial group received a lump sum that resulted in ineligibility, regardless of when the income is reported.

(D) Child support - including cash medical support

When support is retained:

- In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine eligibility. When an individual is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement;
In the medical programs, the amount of the cash medical support the department retains each month is excluded income and not used to determine eligibility for medical program benefits. When an individual has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the department retains during each month of the overpayment.

In the REF and TANF programs, when an individual directly receives support used to determine eligibility or calculate benefits, the overpayment is:

- If still eligible for REF or TANF program benefits, the amount of support the individual received directly; or
- If no longer eligible for REF or TANF program benefits, the amount of program benefits the individual received.

In the SNAP program, exclude child support payments the group receives that must be assigned to the department to maintain TANF eligibility, even if the group fails to turn the payments over to the department, per OAR 461-145-0080.

(E) Credits against overpayments:

Allow appropriate credits against the amount of benefits paid in error. Document credits allowed in the narrative portion of the Overpayment/Overissuance Report form (MSC 284) or the Overpayment/Overissuance Change Report form (MSC 284A). Allowable credits are:

- In all programs, for underpayments or adjustments;
- In GA, REF and TANF an individual’s verified payment for medical services made during the period covered by the overpayment, in an amount not to exceed the department fee schedule for the service. Do not allow a credit for an elective procedure unless it was prior authorized by the department;
- In TANF months where there was no eligibility, child support payments made on behalf of the individual that is retained by the state and applied to reimburse assistance paid. Only the amount up to the monthly legally obligated support is allowed;
- For SFPSS and TANF earned income overpayments occurring on or after 4/1/09: Allow a credit for Post-TANF only if:
  - The individual reported timely;
  - The individual met Post-TANF eligibility per OAR 461-135-1250, including verification of the minimum number of work hours; and
The individual has received less than 12 months of Post-TANF program benefits. An individual cannot receive a Post-TANF payment and a credit in the same month.

- In medical programs cash medical support the department retained during each month of the overpayment;

- In SNAP, if the overpayment was caused by unreported earned income allow a credit for the following, (when verified only):
  
  - Paid child care costs, to the extent they would have been deductible under OAR 461-160-0040 and OAR 461-160-0430.

**NOTE**

*The overpayment cannot be adjusted for other types of costs that were not reported timely.*

(F) Overpayments caused by failure to reimburse the department

When an overpayment occurs due to the failure of an individual to reimburse the department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:

- The amount of the payment from the department;

- Cash medical support; or

- The amount by which the total of all payments exceeds the amount payable for such a need under the department's rules.

(G) SNAP Program Categorical Eligibility and American Recovery and Reinvestment Act of 2009

Categorical eligibility, in the SNAP program:

- If the benefit group (see OAR 461-110-0750) was categorically eligible, there is no overpayment based on resources;

- For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual
income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under OAR 461-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum food benefits allotment under OAR 461-165-0060;

- For a filing group found eligible for food benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of food benefits incorrectly received.

In compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009, through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits.

**Normal TFP for October 1, 2008 – September 30, 2009**

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<th>Monthly Amount</th>
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<td>8</td>
<td>1,058</td>
</tr>
<tr>
<td>Each additional individual</td>
<td>132</td>
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</table>

(H) Medical, screening for all programs

In the OCCS Medical Program, OSIPM, QMB and REFM programs, if the individual was not eligible for one program, but during the period in question was eligible for another program:

- With the same benefit level, there is no overpayment;
• With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the individual exceeding the amount for which the individual was eligible.

NOTE

When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFSS or TANF program benefits is not counted as income when determining eligibility for the GAM, OCCS Medical Program, OSIPM and REFM programs.

(i) OSIP and OSIPM, Individual’s Share of Cost of Service and EPD Program Participant Fee

In the OSIP and OSIPM programs, when a participant does not pay his or her share of the cost of services or the EPD program participant fee (see OAR 461-160-0610 and OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:

• All payments made by the department on behalf of the participant during the month in question are totaled, including but not limited to any payment for:
  – Capitation;
  – Long term care services;
  – Medical expenses for the month in question;
  – Medicare buy-in (when not concurrently eligible for an MSP);
  – Medicare Part D;
  – Mileage reimbursement;
  – Special needs under OAR 461-155-0500 to OAR 416-155-0710; and
  – Waivered services, including home delivered meals and nonmedical transportation.

• Any partial or late liability payment made by a participant receiving in-home waivered services or participant fee paid by an EPD program participant is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.
(J) Continuation of benefits pending a hearing

When benefits issued incorrectly are continued unreduced pending a hearing and the hearing decision supports the department, the additional benefits beyond the initial notice period are an overpayment. The overpayment is considered the individual’s error. Calculate from the date of the proposed action to the date benefits are reduced or closed as a result of the hearing decision.

In all programs except OSIP and OSIPM, when the individual disputes a disqualification and benefits are continued do not establish an overpayment for the continued benefits unless an overpayment exists for a reason other than the disqualification.

If the hearing concerns a proposed action to reduce, suspend, or end benefits due to an overpayment that has already been reported, add the additional overpayment amount via the Overpayment/Overissuance Change Report form (MSC 284A). If the overpayment has not been completed, report the entire overpaid amount via the MSC 284.

When the individual’s liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the individual has repaid.

(K) Overpayment notification

The Overpayment Writing Unit (OWU) completes the overpayment calculation, enters the overpayment in the overpayment system and sends the overpayment notice to the individual or provider. Overpayment benefit calculation worksheets are also included to explain how the overpayment was calculated. The notice includes hearing rights (see OAR 461-025-0310, OAR 410-200-0145) and recovery information (see OAR 461-195-0551).

When notice is required in an alternate format it is noted on the MSC 284. OWU Central Office will have the alternate format notice generated.

If any overpayment notice is returned by the Postal Service as “undeliverable,” the Overpayment Recovery Unit (ORU) will attempt to locate the person’s current address and resend the notice.

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7. **Overpayment liability**

(A) **Liability for REF, SFPSS and TANF participant overpayments**

In the REF, SFPSS and TANF programs, the following individuals are liable for repayment of an overpayment (see OAR 461-195-0501):

- Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know he or she was included in the filing group;

- A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred;

- A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative or spouse was a member of or resided with the filing group when the overpayment was incurred;

- An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group;

- An authorized representative (see OAR 461-115-0090) when the authorized representative gave incorrect or incomplete information or withheld information resulting in the overpayment.

(B) **Liability for SNAP Program overpayments**

In the SNAP program, the following individuals are liable for repayment of an overpayment or a claim that results from the trading of a controlled substance (see OAR 461-195-0501(6)):

- The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults who were members of or required to be in the filing group (see OAR 461-110-0370) when excess benefits were issued;
NOTE

No member of a financial group (see OAR 461-110-0530) is liable for an overpayment caused by a change the group was not required to report.

NOTE

An emancipated minor is an adult under state law and therefore liable. For example, a benefit group consists of an 18-year-old with his 17-year-old wife. The wife became emancipated when she got married and is therefore equally liable for an overpayment as the 18-year-old husband.

• A sponsor of a noncitizen household member if the sponsor is at fault, for payments prior to November 21, 2000;

• A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the individual.

Liability for Overpayments Rule

461-195-0541 — Liability for Overpayments

(C) Liability for the OCCS Medical and REFM programs overpayments

In the OCCS Medical and REFM programs, the following individuals are liable for repayment of an overpayment:

• Each individual in the OCCS Medical Program’s household group, filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:
  
  – Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or
  
  – Did not reside with and did not know he or she was included in the filing group.

• A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group.
or OCCS Medical Program household group when the overpayment was incurred;

- A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the filing group or OCCS Medical Program household group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group or OCCS Medical Program housed group when the overpayment was incurred;

- An authorized representative (see OARs 461-115-0090 and 410-200-0015) when the authorized representative gave incorrect or incomplete information or withheld information that resulted in the overpayment.

### Liability for Overpayments Rule

**461-195-0541** — Liability for Overpayments

**(D) Liability for GA, GAM, OSIP, OSIPM and QMB Program overpayments**

In the GA, GAM, OSIP, OSIPM and QMB programs, the following persons are liable for repayment of an overpayment:

- Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:
  - Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or
  - Did not reside with and did not know he or she was included in the filing group.

- A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred;

- A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred;

- An authorized representative (see OAR 461-115-0090) when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.
(E) Liability for Child Care Program overpayments

An overpayment caused by administrative error is collectible as follows:

- The provider is liable for a provider overpayment made on behalf of the individual eligible for child care payments;
- Each adult in the filing group or required to be in the filing group is liable for an overpayment if the individual was not eligible for the payment. This is referred to as the individual-liable overpayment.

Each adult in the filing group or required to be in the filing group is liable for an individual overpayment, and a provider is liable for an overpayment caused by the provider. The individual and provider are jointly and severally liable for an overpayment caused by both. In situations where there is joint liability, the amount of the overpayment cannot exceed the total benefit amount. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.

Use this general rule of thumb in figuring out who is liable for the overpayment:

- If the provider provided the child care service and the individual is not eligible, it is the individual's overpayment;
- If the provider did not provide the service or was not eligible and the individual is eligible, it is a provider overpayment;
- If both the provider and individual were not eligible, it is a joint liability overpayment.

The following chart should be used to determine who is liable for a child care overpayment:

1. Were the individual and/or child eligible for child care services?

   *This means the individual and/or child were:*
   
   a. *Engaged in an activity that made the individual eligible for child care, and*
   
   b. *Eligible for child care benefits*

   **YES** – go to next step   **NO** - Write OVP for the individual or Admin Error
2. Is the provider eligible for approved listing status?
   
   YES – go to next step  NO - Write OVP for provider

3. Did the provider on billing form provide the child care services?
   
   YES – go to next step  NO - Write OVP for provider

4. Was the child in provider's care the same # of hours as billed?
   
   YES – go to next step  NO - Write OVP for provider

5. Was child care billed at correct rate?
   
   YES – go to next step  NO - Write OVP for provider

6. Did DHS data entry make the correct payment?
   
   YES – go to next step  NO - Write OVP as Admin Error for provider

7. Is there evidence that the parent and provider collaborated to receive a payment for which they were not eligible (other than parent signature on billing form)?
   
   This means the parent was not eligible for the service and the provider was not eligible to provide or did not provide the child care.

   YES – Write OVP for both provider and parent.  NO - Does an OVP really exist?

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**Eligibility of Child Care Providers Rule**

461-165-0180 — Eligibility of Child Care Providers

**Liability for Overpayments Rule**

461-195-0541 — Liability for Overpayments

(F) Noncitizen overpayment liability

Except as provided otherwise in SNAP, in all programs, both a noncitizen and the sponsor of the noncitizen are liable for an overpayment incurred if the
overpayment results from the failure of the sponsor to provide correct information see OARs 461-145-0820 to 461-145-0840). If the sponsor had good cause (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.

In SNAP, the sponsor of a noncitizen is not liable for payments on or after November 21, 2000.

### Liability for Overpayments Rule

| 461-195-0541 | Liability for Overpayments |

### B. Reporting changes in individual-liable overpayments

When changes occur to an individual liable overpayment, the information needs to be reported to either the Overpayment Writing Unit (OWU) or the Overpayment Recovery Unit (ORU) within the Office of Payment Accuracy and Recovery as follows:

Report to the Overpayment Writing Unit (OWU) when:

- The original amount of the overpayment needs to be adjusted;
- The reason for the overpayment needs to be changed;
- An allowable credit not deducted previously needs to be applied against the overpayment balance; or
- The adjustment is due to a hearing.

**NOTE**

_The change information will be entered on the Overpayment/Overissuance Change Report form (MSC 284A) and processed by OWU._

Submit an Overpayment/Overissuance Change Report form (MSC 284A) to the Overpayment Recovery Unit (ORU) when:

- The department recovered on an overpayment that is later determined to not be an overpayment;
NOTE

When recovery occurred by reduction of cash benefits and a reimbursement is needed, ORU will process the reimbursement and add the benefits to the EBT card.

- TANF overpayment recovery is being restored to the individual because they requested unreduced benefits pending a hearing decision on the overpayment or the EOP (TANF overpayment recovery from earned income deduction);
- For all programs except SNAP, when a benefit check (that the individual was eligible to receive) is canceled to recover an overpayment and no check is reissued, report the amount of the check and the amount the overpayment is to be reduced on the MSC 284A.

Do not submit a MSC 284A when an overpayment is recovered from:

- Payment by cash when a DHS General Receipt Book (DHS 29) (paper only) is issued. The DHS 29 will be used to adjust the overpayment balance;
- For cash benefits, when benefit reduction is coded on UCMS, except as required above. The computer adjusts the balance(s);
- For TANF, disallowance of earned income deduction coded EOP on UCMS. The computer adjusts the balance.

9. Overpayment recovery

(A) Collecting overpayments

Collection action is initiated by sending liable persons (see OAR 461-195-0541) notice of overpayment and demand. The demand includes a due date and options for repayment. The Overpayment Recovery Unit (ORU) will allow 10 working days before taking any recovery action. Individuals requesting continuation of benefits must make the request within 10 days of the notice date to delay benefit reduction. When the request is made within this time frame, no recovery action is taken until a hearing decision is reached.
In addition to judicial process, the department may recover an overpayment (see OAR 461-195-0501) through an agreed repayment plan, reduction in benefits, voluntary payment from the individual or authorized representative (see OAR 461-115-0090), and offset of the debt.

NOTE

Involuntary recovery may begin 90 days from the date of the initial notice if the individual has not requested a hearing or agreed to an acceptable payment plan.

NOTE

All correspondence received from a bankruptcy court on an individual's or former participant’s bankruptcy must be forwarded to ORU.

The department reduces current benefits to collect an overpayment only as follows:

- In the GA and OSIP programs, the department may recover an overpayment by reducing cash benefit payments by the lesser of the following:
  - The total overpayment amount;
  - The total benefit amount; or
  - Ten percent of the individual’s total benefit requirement at the standard of need.
In the REF, SFPSS and TANF programs, the department:

- Allows only half of the 50 percent earned income deduction described in OAR 461-160-0160;

- Reduces the benefit payment by 10 percent of the total benefit requirement of the benefit group (see OAR 461-110-0750) at the appropriate program payment standard. The reduced benefit payment after such reduction, when combined with all other income (before allowing the 50 percent earned income deduction), may not be less than 90 percent of the benefit group’s adjusted income payment standard for a family with no income. In the TANF program, the cooperation incentive (see OAR 461-135-0210) is not included in the calculations prescribed by this paragraph.

**NOTE**

Mandatory recovery is automated through overpayment system linkage to the CM system. No recovery can be made if the monthly benefit amount is less than $10. If the amount is $10 or more, the computer will enter the overpayment amount on UCMS, enter an OVM Resource code, compute 10 percent of need, round this amount down to the next lowest dollar and enter the amount as the OVM amount. If the benefit amount is less than $10 after the 10 percent mandatory reduction, a check will be issued to the individual.

**Example:** If the total need is $322, 10 percent equals $32.20. The computer will round $32.20 down to $32 and enter $32 as the OVM amount.

**NOTE**

Recovery by a reduction in benefits will end when benefits are:

- Suspended or ended;

- Converted to medical only, where there is no financial eligibility;

- For TANF, under $10. The case will remain open with a zero monthly benefit. No overpayment recovery credit will be allowed for the amount of money the benefit group did not receive because it was under the $10 limit. In such cases, the Recovery Resource code must be on UCMS so that overpayment records will not show a reduction of the overpayment balance(s).
In the SNAP program, the department collects an overpayment from a liable member of a filing group participating in the SNAP program by reducing the food benefits allotment of the benefit group each month as follows:

- For an overpayment caused by an individual’s error (see OAR 461-195-0501) or administrative error (see OAR 461-195-0501), 10 percent of the group’s monthly allotment or $10 a month, whichever is greater;

- For an overpayment caused by an IPV (see OAR 461-195-0601), 20 percent of the group’s monthly entitlement or $20 a month, whichever is greater.

In the child care programs:

- The department may not recover an overpayment through reduction of the individual's child care program benefits;

- When a child care program provider is liable for a child care overpayment (see OAR 461-195-0501) the department may recover the child care overpayment by reducing up to 100 percent any future child care payment for which the provider bills the department.

Voluntary agreement to reduce benefits above any mandatory benefit reduction:

- The benefit group may voluntarily request to repay their existing overpayment with unused EBT benefits in the following programs:

  (a) SNAP benefits can be applied toward SNAP overpayments.

  (b) TANF benefits can be applied toward TANF or ERDC overpayments.
The department may recover an overpayment by offset as follows:

- Using the collection services provided by the Department of Revenue and any other state or federal agency to collect a liquidated claim established by:
  - A court judgment;
  - A confession of judgment;
  - A document signed or acknowledged by the debtor that acknowledges the debt, such as:
    - (a) The department-designated form to acknowledge an IPV (see Agreement to Intentional Program Violation, Temporary Assistance to Needy Families (TANF – cash for families), Supplemental Nutrition Assistance Program (SNAP – food benefits) Waiver of Right to Hearings (MSC 649C), Agreement to Waive Child Care Provider Hearing for Intentional Program Violation (MSC 649CP)).
    - (b) A plea-bargain agreement;
    - (c) Any other document acknowledging the overpayment.
  - A written notification of overpayment from the department to the debtor, advising the debtor of the basis and amount of the overpayment and the right to request a hearing, if the debtor has exhausted his or her rights of administrative appeal;
  - A written communication from the debtor acknowledging the debt.
A voluntary agreement to reduce benefits, or a mandatory reduction, does not prevent or preclude recovery from other sources, such as state income tax refund offset.

- Through use of a warrant authorized by ORS 411.703. Upon issuance of the warrant, the department may issue a notice of garnishment in accordance with ORS 18.854;
- The amount of any retroactive payment or restoration of lost benefits otherwise payable to the individual, when the retroactive payment corrects a prior underpayment of benefits in the program in which the overpayment occurred;
- In the SNAP program, by offsetting the full amount of the overpayment against restored benefits owed to the benefit group or to another benefit group that a liable member of the overpaid group has joined.

The retroactive payment amount is credited to the overpayment by the following method: Complete a Notice of Restoration of Benefits form (DHS 362). Issue to the individual only the portion of the retroactive payment that exceeds the overpayment balance. Send a copy of the completed DHS 362 to ORU for the retroactive payment to be credited to the overpayment.

FOR CALCULATING RESTORED BENEFITS, SEE SNAP-H.16 AND IB-B.3.

Calculating Restored and Supplemental Benefits Rule
461-165-0210 — Calculating Restored and Supplemental Benefits

Methods of Recovery Overpayments Rule
461-195-0551 — Methods of Recovery Overpayments

Effective Dates: Restored Benefits Rule
461-180-0130 — Effective Dates: Restored Benefits
A confession of judgment is used in the case of the individual’s error (see OAR 461-195-0501) overpayment. The department may not file a confession of judgment while the individual receives public assistance or medical assistance and may file one only if the individual has refused to agree to or has defaulted on a repayment plan.

When individuals are found by a court to be guilty of fraud, the court may order restitution. The department will initiate recovery actions for the full amount of the overpayment even if:

- The court did not order restitution; or
- The amount of the restitution ordered is less than the full overpayment amount.

The department may not take collection action against a filing group while a member of the filing group is working under a JOBS Plus agreement.

### Methods of Recovery Overpayments Rule

**461-195-0551** — Methods of Recovery Overpayments

**(B) Over-collection of SNAP overpayments**

If money was collected in error or if the overpayment claim is over-collected, ORU will reimburse the individual the over-collected amount including over-collected benefit reductions.

**(C) Receipting direct overpayment reimbursements**

The branch must transmit all money it collects to the Department Receipting Unit via DHS 29 (receipt) (paper only) system. For direct reimbursements via check, cash or money order, enter the following receipt codes (for additional receipting codes, see the Business Integrity Manual, now titled *Field Business Procedures Manual*):

- 745 for administrative error overpayments in the SNAP program;
- 746 for an individual’s error in the SNAP program;
- 747 for IPV in the SNAP program;
- 231 for all TANF overpayment recoveries that have a MSC 284;
- 232 for all ERDC and GA reimbursements with appropriate MSC 284 forms processed;
- 216 for Medical overpayment recoveries that have a MSC 284;
NOTE

Make sure all checks or money orders are made out to the Overpayment Recovery Unit.

- Do not use these codes when benefits are reimbursed to prevent an overpayment; use code 216.

10. Compromise of overpayment claims

For overpayments in, Child Care, SNAP, Medical and TANF programs, the Overpayment Recovery Unit (ORU) will consider requests for a compromise on the unsatisfied balance. When an individual or former participant has questions regarding recovery of their overpayment claim, including compromising, refer them to ORU. The following specifies when and how the department compromises an overpayment (see OAR 461-195-0501) claim:

- The department may consider a request to compromise an overpayment claim only if the estimated administration and collection costs necessary to collect the account in full likely exceed the current balance of the overpayment.

The following limitations apply to the compromise of an overpayment claim:

- The authority of the department to compromise may be limited by federal or state law;
- The department may compromise a claim only after it is liquidated (see OAR 461-195-0551);
- The department may compromise a claim only if the requester has made a good faith effort to repay the overpayment;
- The department may not compromise:
  - A fraud overpayment (see OAR 461-195-0501) claim;
  - Any overpayment claim, unless 36 months have passed since the requester initially was notified of the overpayment;
  - An overpayment claim if the debtor has the ability to repay the overpayment in full within 36 months of the request date;
- An overpayment claim for less than 75 percent of the total amount of the claim;
- An overpayment claim if the debtor is a member, currently or in the previous 12 months, of a filing group or OCCS Medical Program household group that received benefits under the program in which the overpayment occurred;
- A child care provider overpayment claim if the provider, currently or in the previous 12 months, received a direct provider payment for child care under division 165 of this chapter.

The department may allow a compromised claim to be paid in installments over a period not to exceed 90 days.

During the 12 months following the date of the compromise agreement, the department reserves the right to collect the original unmitigated claim through benefit reduction under OAR 461-195-0551.

### Compromise of an Overpayment Claim Rule

| 461-195-0561 | Compromise of an Overpayment Claim |

#### 11. Referrals to the Investigations Unit

(A) Role of the investigator

The investigator conducts investigations as needed to support the operations of the branch office in case management. Results of these investigations are reported to the branch and/or OWU and can result in eligibility determinations, overpayments, Intentional Program Violations and/or referral to a district attorney for criminal prosecution.

(B) Protocol for appropriate referrals to the Investigation Unit

Do not disclose to an individual that a case will be or was referred to a DHS Investigator, or the status of an investigation.

Do not narrate that an investigator referral was made.

The following are examples of referrals that are appropriate for the Department Investigator:

- Individuals/providers receiving duplicate benefits using different names and SSNs;
- Individuals receiving cash, medical or SNAP benefits simultaneously from more than one state or in more than one filing group in Oregon;

- Individuals failing to report receipt of earned or unearned income;

- Under reported earned or unearned income;

- False report of nonreceipt of benefit and receipt of duplicate benefit;

- Not reporting assets (e.g., real property, boats, recreational vehicles, livestock, etc.);

- Unreported liquid or easily converted assets (e.g., cash, bank accounts, bonds, stock, etc.);

- Unreported marriage;

- Unreported self-employment;

- Unreported property settlement;

- Presentation of forged documents by an individual;

- An individual’s receipt of assistance for nonexistent children or children no longer in the household;

- “Absent” parent in the household;

- False presentation of child care expenses including falsified or forged documents, care not provided, a fictitious provider, etc.;

- Presentation of false claims for OHP benefits including unreported and under reported income, false claim of residency, unreported assets/resources, false financial groups, etc.

Do not refer routine eligibility matters such as:

- Routine home visits on new, reopened, or ongoing cases;

- Separate financial group verification;

- Instate motor vehicle license checks;

- Vital statistics checks;

- School attendance verification;

- Citizenship verification;
• Determining value of assets.

Do not ask the Department Investigator to investigate sale of drugs or income from illegal activities. These are police matters.

(C) Reporting the result of an investigation

Upon completion of an investigation, the Department Investigator will send a written report (enclosing any documentary evidence obtained) to the branch office/DPU with a copy to the ORU Overpayment Writer and/or the IPV Team if appropriate.

If a case is referred to a district attorney for consideration of prosecution, the branch office/DPU will be notified in writing and will receive a copy of the report to the district attorney when the case has reached its disposition.

If the Investigator has documentary evidence of an IPV and has decided not to refer the case for prosecution, the Investigator will refer the case to the IPV Team for IPV processing.

The IPV Team will notify claimants that they can avoid an IPV hearing by signing an Agreement to Intentional Program Violation, Temporary Assistance to Needy Families (TANF – Cash for families), Supplemental Nutrition Assistance Program (SNAP – food benefits) Waiver of Right to Hearing (MSC 649C). If the claimant signs the MSC 649C, they waive all rights to an IPV hearing for the offense and accept the disqualification period (unless the waiver is set aside by an ALJ or court because the waiver was signed under duress). OWU will initiate collection and disqualification. OWU will notify the branch/DPU of the IPV.

When claimants choose not to sign a MSC 649C, and the IPV Team has documentary evidence to support IPV, an IPV hearing will be initiated by the IPV Team. The hearing is scheduled and the claimant and branch/DPU office’s designated contact person are notified of the time and place of the hearing.

When the final hearing order is received by the IPV Team, and the claimant is found to have committed an IPV, the case is referred to OWU for initiation of disqualification penalties and collection of the overpayment.

12. IPV disqualification periods

IPV (Intentional Program Violation) person disqualification periods:

1st DQ = 12 months
2nd DQ = 24 months
3rd DQ = permanently
Additionally, effective 10/96:

For SNAP, when an IPV is established against any person found guilty of:

- Trading SNAP benefits for firearms, ammunition or explosives, the person will be disqualified from SNAP benefits permanently starting with the first DQ;

- Trading SNAP benefits for controlled substances, the person will be disqualified from SNAP benefits for 24 months with the first DQ and permanently for the second DQ;

- Trafficking (buyer or seller) in SNAP benefits of $500 or more, the person is permanently disqualified from SNAP benefits.

A person is disqualified for a 10-year period from receiving benefits in the program in which the person committed fraud if the person –

**In the TANF Program:**

(A) Is convicted in state or federal court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states under programs that are funded under title IV or XIX of the Social Security Act; **OR**

(B) Is found in an IPV hearing or admits, in a written waiver of the right to an IPV hearing, to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive benefits simultaneously from two or more states.

**In the SNAP Program:**

Is convicted in state or federal court, is found in an IPV hearing, or admits in a written waiver of the right to an IPV hearing, of having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously from one or more states under programs that are funded under the Food Stamp Act of 1977 and Nutrition Act of 2008.

SNAP IPVs established in another state or established in the Food Distribution Program on Indian reservations continue in effect in Oregon.

**For ERDC,** an individual is not subject to an IPV disqualification but is still required to repay overpayment amounts.

A child care provider who has incurred an overpayment established as an IPV claim between April 1, 2001, and September 30, 2005, is permanently disqualified to receive payments.
A child care provider who has incurred an overpayment in the child care program established as an IPV after September 30, 2005, is disqualified:

a. for six months and until the full amount of the overpayment is paid or,

b. permanently, if the Child Care Program Manager finds it in the best public interest.

**NOTE**

*The following is a nonexclusive list of reasons that support a determination of permanent ineligibility: safety concerns; or the likelihood of future violations; or the degree of egregiousness of any of the established IPVs; or the degree of primary involvement in the violation by the provider.*

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### Intentional Program Violations; Establishment and Appeal Rule

| 461-195-0611 — Intentional Program Violations; Establishment and Appeal |

### Intentional Program Violations; Penalties and Liability for Overpayments Rule

| 461-195-0621 — Intentional Program Violations; Penalties and Liability for Overpayments |

### Methods of Recovering Overpayments Rule

| 461-195-0551 — Methods of Recovering Overpayments |

### Forms

Use a *DHS General Receipt Book* (DHS 29) *(paper only)* to receipt monies received directly from the individuals or providers.

Use a *SNAP Benefits Computation* *(DHS 221)* or the SNAP Calc, (or PC facsimile) to compute SNAP overpayments.

Use an *Overpayment/Overissuance Report* *(MSC 284)* to compute and record all overpayments, except child care provider overpayments.
Use an *Overpayment/Overissuance Change Report (MSC 284A)* to adjust the amount of an overpayment already reported. Do not use this form to submit a new overpayment or to increase an overpayment if the reason to increase is different from the reason for the original overpayment. Submit to OWU within three days of completion.

Use Form CO 01ST to notify an individual or former participant of an overpayment and their hearings rights. Show the computation of the overpayment on the *TANF Calc* used to compute the overpayment.

Use a *Notice of Overpayment and Planned Action for Provider Overpayments (MSC 284BP)* to notify child care providers of overpayments.

Use a *Daycare Overpayment Worksheet (MSC 284DC)* to compute all child care overpayments. Additionally for child care overpayments, indicate on the *MSC 284* which ERDC program the overpayment occurred in. Complete and attach a *MSC 284DC*. Send the completed forms to OWU within three days of completion.

Use a *Shared Services – Self-Sufficiency Overpayment Referral (MSC 284F)* to refer potential participant-caused overpayments to the Overpayment Writing Unit.

When the overpayment is calculated using the TANF calculation program, be sure to include an explanation of the calculation.

Use a *Notice of Medical Overpayment and Planned Action (MSC 284M)* to notify an individual or former participant of a medical program overpayment and their hearing rights. Show the computation of the overpayment on medical overpayment calculation worksheets. Attach a copy of the participant notice and the calculation sheets to the *MSC 284*.

Use a *Provider Overpayment/Over-Issuance Report (MSC 284P)* to record a claim for a child care provider overpayment.

Use a *Notice of Restoration of Benefits (DHS 362)* when benefits are restored to an individual who has been underpaid. Send a copy to ORU when restored benefits need to be applied to an overpayment.
Use an Investigation Referral (MSC 371) to refer a case for investigation to the Investigation Unit.

*Authorization of Cash Payment (MSC 437).*

*Voluntary Agreement to Take Action on Case (MSC 457D).*

Use an Agreement to Intentional Program Violation, Temporary Assistance to Needy Families (TANF – cash for families), Supplemental Nutrition Assistance Program (SNAP – food benefits) Waiver of Right to Hearing (MSC 649C) when the individual agrees that they intentionally violated an eligibility requirement or withheld information.

*Verification of Earnings (MSC 851).*
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