

| | | | |
|--|------------------------|---------------------------------|-------------------------------|
| <i>Act/Regulations</i> <i>Reg. 28(5)</i> <i>Act s. 6.1</i> | Section | Social Programs | 7 |
| | Program | Social Assistance | 13 |
| | Instructions | OVERPAYMENTS: OUT OF PAY | 7-2-1 |
| Effective: April 1, 1986 | Authorized by: | | Page: 1 of 5 |
| Revised: January 6, 2011 | Deputy Minister | | |

PURPOSE

- To identify, account for, and recover social assistance benefits received in excess of eligibility by applicants who no longer qualify for benefits, but carry an outstanding overpayment balance.

DEFINITIONS

- Overpayments:**
 - Cash and/or material benefit which an applicant was not entitled to receive.
 - Advance of funds to assist an applicant in securing or preventing the loss of living accommodations or basic utilities.
- Applicant:**
 - A recipient of social assistance benefits
 - A past or former recipient of social assistance benefits
 - An applicant's estate
 - A trustee for an applicant
- Out-Of-Pay Client:** An applicant who is no longer eligible for social assistance benefits.
- Deliberate Misrepresentation:** Any action, inaction or omission which, in the opinion of the department, is a wilful attempt to obtain benefit payments or service to which the applicant is not entitled.
- CRA Set-Off Program:** A federal government program administered by Canada Revenue Agency (CRA) that allows other government programs to register an individual's outstanding debt for collection. CRA will redirect all or a portion of income tax refund amounts for a registered client to the provincial department to be applied to outstanding overpayment debt.

PRINCIPLES

- Every effort will be made to minimize overpayments and pursue recovery.

| | | | |
|--|------------------------|---------------------------------|-------------------------------|
| <i>Act/Regulations</i> <i>Reg. 28(5)</i> <i>Act s. 6.1</i> | Section | Social Programs | 7 |
| | Program | Social Assistance | 13 |
| | Instructions | OVERPAYMENTS: OUT OF PAY | 7-2-1 |
| Effective: April 1, 1986 | Authorized by: | | Page: 2 of 5 |
| Revised: January 6, 2011 | Deputy Minister | | |

8. Overpayments should be prevented by accurate information gathering, careful calculations, correct application of regulation and policy, and timely reviews.
9. Assistance must not be granted with the intention of recovering the amount as an overpayment. Exceptions granted pursuant to *Social Assistance Act - General Regulation 16 and 17*.
10. An applicant has the right to appeal to the Appeal Board pursuant to 5.1 of the *Social Assistance Act*.
11. The level and method of recovery will be appropriate to the amount of the debt, the means of the debtor and the cost effectiveness of taking collection action.
12. Every attempt shall be made to recover overpayments when the applicant ceases to qualify for social assistance benefits.
13. Overpayments identified on joint applicants are the responsibility of both parties. If the joint applicants cease to be partners and they either terminate service or file independently or some combination of the two, the overpayment will be split equally and assigned accordingly.

POLICY

Documentation/Notification

14. All overpayments must be recorded in the applicant's electronic file. An explanation of the circumstance and a description of the calculation must be included.
15. An applicant must be notified of the overpayment amount, circumstance and repayment terms. Every attempt should be made to provide an applicant with an *AOverpayment Acknowledgment Form*". Applicants should sign the form and a copy kept in the applicant's file.

Appeal

16. Applicants identified as accumulating overpayments will be provided with appeal information upon request.

| | | | |
|--|------------------------|---------------------------------|-------------------------------|
| <i>Act/Regulations</i> <i>Reg. 28(5)</i> <i>Act s. 6.1</i> | Section | Social Programs | 7 |
| | Program | Social Assistance | 13 |
| | Instructions | OVERPAYMENTS: OUT OF PAY | 7-2-1 |
| Effective: April 1, 1986 | Authorized by: | | Page: 3 of 5 |
| Revised: January 6, 2011 | Deputy Minister | | |

17. If an applicant disputes an overpayment, they can elect to have their dispute heard by the Social Assistance Appeal Board. Pursuant to the Financial Assistance Act 5.1(2) the Appeal Board will make a determination on whether or not the client was eligible to receive the funds the department identified as an overpayment.

Recovery

18. Upon termination or discontinuation of social assistance benefits, an applicant with an outstanding overpayment is contacted by the department, notified of the outstanding amount and a mutually agreeable repayment schedule is negotiated.
19. Overpayment recoveries from “*Out-Of-Pay*” clients may be negotiated as follows:
 - (a) Lump sum repayment; or
 - (b) Regular (weekly/bi-weekly/monthly) payments of a reasonable amount, given the circumstances of the person and the size of the overpayment; or
 - (c) Some combination of (a) and (b).
20. All “*Out-Of-Pay*” clients with an outstanding overpayment amount who negotiate repayment terms with the department will have their file forwarded to the Collection Officer to monitor for payment compliance.

Collection Action

21. Out-Of-Pay clients who do not contact the office within the specified time period as described in a notification letter sent by the social assistance office, will have their file forwarded to the Department’s Collections Officer. The Collections Officer will review the file and make a determination on further collection action.
22. Collection action may take the form of both public and private recovery programs, including collection by department resources, legal debt registration, prosecution, and/or federal CRA Set-Off program.
23. The Collection Officer will forward Out-Of-Pay Client-s file to the CRA Program Coordinator for determination of suitability for CRA Set Off Program.

| | | | |
|--|------------------------|---------------------------------|-------------------------------|
| <i>Act/Regulations</i> <i>Reg. 28(5)</i> <i>Act s. 6.1</i> | Section | Social Programs | 7 |
| | Program | Social Assistance | 13 |
| | Instructions | OVERPAYMENTS: OUT OF PAY | 7-2-1 |
| Effective: April 1, 1986 | Authorized by: | | Page: 4 of 5 |
| Revised: January 6, 2011 | Deputy Minister | | |

24. Notification of further collection action will be forwarded to clients by the appropriate resource, program coordinator, or legal authority.

No Recovery Action

25. No recovery action will be taken when:
- (a) Excess benefits are paid to an applicant as the result of a system error, an interpretation of information, or a judgement lapse by the worker AND it is reasonable to assume the applicant would not have recognized the error.
 - (b) An overpayment has had no collection activity for 6 years from the discovery date.
 - (c) An applicant has filed for bankruptcy and provides the department with documented proof to such effect.
 - (d) An applicant is deceased and there is no estate to collect from.
 - (e) The applicant is out-of-pay AND the clients only source of income is Old Age Security (OAS)/Guaranteed Income Supplement (GIS).
 - (f) The applicant is out-of-pay AND collection costs would exceed the recovered amount.

PROCEDURE

Roles

26. The ACase Worker® is responsible to minimize the occurrence of overpayments by adhering to legislation and policy requirements and by accurate application of case management procedures.
27. The Department will designate an “Overpayment Coordinator” in each office to make first contact with “Out-Of-Pay” clients with outstanding overpayment balances.
28. The Department will designate a “Collection Officer” to manage, monitor and report on the collection process for all “Out-Of Pay” clients.
29. The Department will designate a “CRA Program Coordinator” to register and manage all “Out-Of-Pay” client files registered with the CRA Set-Off Program.

| | | | |
|--|------------------------|---------------------------------|---------------|
| <i>Act/Regulations</i> <i>Reg. 28(5)</i> <i>Act s. 6.1</i> | Section | Social Programs | 7 |
| | Program | Social Assistance | 13 |
| | Instructions | OVERPAYMENTS: OUT OF PAY | 7-2-1 |
| Effective: April 1, 1986 | Authorized by: | | Page: |
| Revised: January 6, 2011 | Deputy Minister | | 5 of 5 |

Process:

30. ***Out-Of-Pay Clients:***

- (a) Worker notifies Overpayment Coordinator of termination of client with outstanding overpayment balance.
- (b) Overpayment Coordinator sends an “out-of-pay overpayment letter” via registered mail to client.
- (c) If client contacts Overpayment Coordinator, repayment terms are set up and file is transferred to Collection Officer for monitoring.
- (d) If, after 30 days, the client has not contacted Overpayment Coordinator the file is transferred to Collections Officers for follow-up and further collection action.
- (e) Further collection action will be determined by considering the circumstances of the clients file and may include recovery by department collection officer, filing of judgement against personal property, or registering debt with CRA Set-Off program.
- (f) Clients overpayment files that meet the criteria for the CRA Set-Off program will be registered with this program by the CRA Program Coordinator.

31. Where it appears an overpayment has resulted from deliberate misrepresentation by a social assistance recipient, refer to Policy 7-5 Prosecution

CROSS REFERENCES

- 5-1 Shelter - Rent/Mortgage
- 6-2 Utility Installation and Deposit
- 6-13 Arrears - Shelter/Utility
- 7-1 Misappropriation of Assistance by Beneficiaries
- 7-2 Overpayments - In-Pay
- 7-3 Appeals
- 7-5 Prosecutions