

## 51. Overpayments General [MPP 44-350]

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### 51.1 Rules [EAS 44-350.16]

An overpayment is any amount of any aid payment an AU received to which it was not eligible. An overpayment may be all or a portion of an aid payment. This includes, but is not limited to, an immediate need payment, regular grant computation, a special need payment or aid paid pending a state hearing.

For a Semi-Annual Reporting (SAR) AU, an overpayment may not be assessed based on any differences between the projected reasonably anticipated income received during the SAR payment period and the income actually received during that period, provided that the recipient's reports were complete and accurate.

For a Annual Reporting/Child Only (AR/CO) AU, an overpayment may not be assessed based on any differences between the amount of projected reasonably anticipated income received during the AR/CO payment period and the income actually received during that period. If the recipients reports were incomplete or inaccurate, an overpayment must be assessed based on what should have been reasonably anticipated at the time of the report, had the recipient reported completely and accurately.

#### 51.1.1 Required Action

The EW must take all reasonable steps necessary to promptly correct and collect any overpayments that are known on active cases. This includes recovering overpayments due to either client error or administrative error, regardless of the dollar amount.

#### 51.1.2 Apparent Eligibility

An immediate need payment is only an overpayment if the applicant was not apparently eligible for CalWORKs when the immediate need was issued. After a full evaluation of the application, a determination that the AU is not eligible for CalWORKs does not, by itself, mean that the immediate need payment is an overpayment.

Additionally, a change in circumstances between the issuance of an immediate need and the full application determination does not make the immediate need payment an overpayment unless the applicant was not apparently eligible for CalWORKs when the payment was issued based on the applicant's circumstances at the time.

The following are examples of when an overpayment **cannot** be assessed for an immediate need payment:

**Example:**

A Pregnant Woman Only (PWO) applied for CalWORKs and was issued an immediate need. When the applicant applied, she was the only adult in the household and was determined eligible for CalWORKs and issued the immediate need payment.

After issuing the immediate need payment, the EW determines that the individual is not eligible for CalWORKs because of income attributed to an adult, who was not a member of the assistance unit when the immediate need payment was issued, who returned to the home before the final determination of eligibility.

In this example, the individual is not liable for an overpayment as the EW correctly determined eligibility for the immediate need when the payment was issued.

**Example:**

An individual applied for CalWORKs and was issued an immediate need payment as it was determined that the individual was apparently eligible. The apparent eligibility determination was based on the individual's statement that a pending claim for Worker's Compensation benefits would not be received for two to three months for an undetermined amount.

Two weeks after the immediate need payment was issued and before the regular application was processed, the individual received a \$2,000 Workers' Compensation payment and a letter stating that \$1,500 in Workers' Compensation benefits would be issued monthly.

In this scenario, the individual is not liable for an overpayment because the AU was apparently eligible when the immediate need was issued because the Workers' Compensation benefit was not reasonably anticipated income.

The following are examples of when an overpayment **can** be assessed for an immediate need payment:

**Example:**

An individual applied for CalWORKs and was issued an immediate need payment as it was determined that the individual was apparently eligible.

After issuing the payment the EW determines that the individual is not eligible for CalWORKs because of income attributed to an adult, who was a member of the household when the immediate need was issued, whom the client failed to report during the intake process.

In this scenario, the individual would not have been eligible for the immediate need payment and an overpayment is assessed.

**Example:**

An individual applied for CalWORKs and was determined to be apparently eligible and issued an immediate need payment. The immediate need eligibility was based on the client's statement that a pending claim for Workers' Compensation benefits would not be received for two to three months and the claim amount was not yet determined.

However, the individual had already received the first \$2,000 Workers' Compensation payment when the immediate need payment was issued which would have made the AU ineligible for CalWORKs. In this situation, the individual is liable for an overpayment because eligibility for the immediate need payment would not have been determined if the Worker's Compensation payment was known.

### 51.1.3 Promptness Requirement

Once the amount of the overpayment is calculated, the EW must ensure that the following actions are taken:

- Send the client an adequate and timely Notice of Action, which shows the overpayment computation and explains the reason the overpayment occurred.
- Identify all liable individuals in CalWIN.
- Begin monthly recoupment to recover the overpayment from a current recipient.
- Refer case to Collections when aid is discontinued (this action occurs automatically in CalWIN).

### 51.1.4 Supplemental Payments

A supplemental payment which was correctly computed, based on the reasonably anticipated income, must not be considered as an overpayment provided that the recipient's report was complete and accurate. If there is a computational error, the supplemental payment must be corrected.

Supplemental payments are not issued retroactively, based on actual income, when a client fails to make a voluntary report of a decrease in income. Although supplements can not be issued retroactively, the benefit to the client is that an OP will not be assessed for that month in which a decrease to the income occurred.

### 51.1.5 Action When CalWORKs Program is Discontinued

The following chart shows what action is taken by CalWIN when CalWORKs program is discontinued with an outstanding overpayment balance:

**Table 6:**

IF the Overpayment Balance is...	THEN CalWIN Sends...
From an IPV or a fraudulent overpayment,	A referral to Collections by CalWIN on any remaining balance regardless of the amount.
\$1.00 or more,	<ul style="list-style-type: none"> <li>The claim to VACS. Collections will send a demand notice for repayment.</li> <li>No further collection efforts will be made if the overpayment is \$250 or less.</li> </ul>

### 51.1.6 Non-System Determined Claim (NSDC)

Claims can be manually recorded in the **Benefit Recovery** subsystem for the following circumstances: (The liable individual and the CalWORKs program must be known in CalWIN).

- An overpayment determined for months preceding conversion to CalWIN a non-converted claim.
- A claim on an Inter-County Transfer.
- When there are multiple claims with different error types within the same month.



**Note:**

When claims are established via NSDC, client correspondence must be manually generated by selecting the overpayment reason in CalWIN.

### 51.1.7 Case Record Information

The information about the overpayment and the balance owing are to be retained in the **Benefit Recovery** subsystem to allow recoupment to begin should any individuals from the overpaid AU reapply and be determined eligible for CalWORKs. This will be displayed on the **Display Claim Summary by Case** window.

Prior to initiating aid for a client with a closed case, the EW must review the **Benefit Recovery** subsystem to determine if there are overpayment balances which must be recouped and that a NOA was previously sent regarding the overpayment.

**Table 7:**

IF...	THEN THE EW MUST...
A referral to Collections has previously been made,	Check if the notice of the overpayment was sent to the client. <b>Note:</b> Funds that have been received through tax intercept or another method of recovery which reduces the amount of the overpayment balance are sent over to CalWIN via VACS. The system updates the balance owing.
The client has previously been notified of the overpayment and the balance is correct,	Ensure that CalWIN resumes the grant adjustment of the overpayment, pro-rating the amount for the initial month of aid and establishing an on-going recoupment amount.
The client has not been notified of the overpayment,	<ul style="list-style-type: none"> <li>• Send the client an appropriate NOA based upon the record in the <b>Benefit Recovery</b> subsystem of CalWIN.</li> <li>• Begin recoupment of the overpayment balance after sending a timely and accurate 10-day NOA.</li> </ul>

## 51.2 Type of Overpayment

The EW must determine whether the overpayment is Administrative Error (AE), Client Error (CE), or “Technical”. Once this determination is made, the EW must take the necessary steps to determine the amount of the overpayment and make any required overpayment adjustment to the ongoing grant. [\[Refer to “Overpayment Definitions/Forms,” page 49-1\]](#) for the definition of overpayment types.

### 51.2.1 Overpayments Due to the Inability to Provide Ten-Day Notice of Adverse Action

Effective January 1, 2017, the establishment of an overpayment is prohibited for the month following a report of income over the Income Reporting Threshold (IRT) for a SAR AU, or a report of income over IRT or household composition for a AR/CO AU, if the change is reported timely and the EW is unable to provide a 10-day notice of the adverse action before the first of the month following the change.

**Example:**

A SAR recipient in an AU of three timely reports income over the IRT, on January 24, that is expected to continue. On the day of the report, the EW sends a 10-day notice regarding the termination of CalWORKs effective the last day of February. The EW did not have sufficient time to issue the 10-day NOA and benefits will be discontinued at the end of February based on January's changes.

**Example:**

On February 21, the timed out adult in an AR/CO case reports timely on behalf of a child only AU of two that one of the children has moved in with the other parent. The next day the EW mails the 10-day notice regarding the reduction in CalWORKs for April 1. Although the decrease in cash does not effect the March grant due to insufficient time to issue the 10-day notice, the EW shall notify the client of the pending change to take place in April based on February's changes in household composition.

The following example illustrates the consequence when a client fails to report a change in income over IRT within the mandated 10-day period.

**Example:**

A client reports on March 22 that in February the AU was over IRT. Since the client failed to meet the 10-day reporting requirement, an overpayment will be assessed for March. Further, if the EW is unable to give timely notice to reduce the cash, aid received in April will also be an OP.

**Note:**

This change applies only when there is a change in income over the IRT for a SAR AU or a change in income over the IRT or household composition for a AR/CO AU and does not change the penalty process for when an AU fails to report IRT or household composition changes timely.

## Semi-Annual Report Processing

An overpayment must be claimed when the AU receives more cash aid than the AU was entitled to receive because the county was unable to provide a valid 10-day notice of action after receipt of a SAR 7.

**Table 8:**

If...	Then...
The SAR 7 is received timely (by the 11th of the Submit Month) but was not processed or was processed incorrectly by the county,	<ul style="list-style-type: none"> <li>Obtain a signed 10-day NOA waiver from the client, or</li> <li>An "Administrative" Overpayment must be established if the assistance unit will receive more benefits than to which it was entitled for the SAR payment period.</li> </ul>
The SAR 7 is submitted late (after the 11th of the Submit Month), but before the NOA cut-off; however was not processed by the county until after the NOA cut-off,	<ul style="list-style-type: none"> <li>Obtain a signed 10-day NOA waiver from the client, or</li> <li>An AE Overpayment must be established if the assistance unit will receive more benefits than to which it was entitled for the SAR payment period.</li> </ul>
The SAR 7 is submitted after the NOA Cut-Off, but by the Extended Filing Date,	<ul style="list-style-type: none"> <li>Obtain a signed 10-day NOA waiver from the client, or</li> <li>A CE overpayment MUST be established if the assistance unit will receive more benefits than to which it was entitled for the SAR payment period.</li> </ul>

For more information regarding SAR 7 processing refer to ["SAR 7 Requirement," page 9-1](#).

### 51.2.2 Fraud Determination

When the DA notifies the IEVS Unit of a fraud determination, the IEVS worker completes the penalty process in CalWIN and sends the notice of action to the AU. The EW will be notified that the overpayment is due to "fraud" and the previous determination has been changed to a Fraudulent or Intentional Program Violation (IPV) overpayment.

### 51.2.3 Administrative Hearing Rulings (Appeals Decisions)

In administrative error overpayments the Administrative Law Judge (ALJ) may take into consideration fairness or equity issues (the legal term is "equitable estoppel"). This means that the ALJ may consider possible harm done to the claimant because they were prevented from:

- Applying for an aid program for which they might have been entitled (i.e. General Assistance, RCA, etc.), or
- Receiving the correct amount of Food Stamps because their CalWORKs grant was too high.

In such cases, the ALJ may order the county to recompute the Food Stamp budget, using the correct grant amount to determine the amount of injury. This number is then used to reduce the CalWORKs overpayment.

Appeals Workers will provide instructions to the EW should this occur and will be available to provide additional information, if required.

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## 51.3 Suspected Overpayment

### 51.3.1 Receipt of Information

When information in the case record, or other information received, indicates that there is the possibility that an overpayment may have occurred or is occurring, it is the responsibility of the EW to review the case and determine if eligibility was or is affected.

There are many indicators which the EW may observe or receive that cause the EW to suspect that there is an overpayment. These include, but are not limited to:

- Conflicting information provided by the client or in the case record.
- Community complaints.
- Needs in excess of the amount of assistance received.
- Referrals from CWES Workers, Social Workers, Child Support Officers, or other persons who would have knowledge of the circumstances in the case.

### 51.3.2 EW/Client Responsibility

It is the responsibility of the client to provide any required information to assist the EW in correctly determining eligibility for the AU. The EW must assist the client in obtaining any required information which is not in the possession of the client. This includes sending for items which verify the client's statements. The client must complete and sign the "Release of Information" (CSF 13) specifically noting the information required.

### 51.3.3 Use of the CSF 2

If clients are unable to provide documentation or verification of their statements, a "General Affidavit" (CSF 2) may be taken.

When having the CSF 2 completed by the client, the EW must:

- Insure that the client understands that the form is being completed under penalty of perjury.
- Have the client provide the requested information in their own writing and using their own words to describe the facts.
- Witness the client's completion of the form and the signature.
- Sign the bottom of the form as the witness to the client's statement and signature.

If the CSF 2 is not completed in the presence of the EW, but is being filled out by another individual who is making a statement in support of the client's facts, the EW must request that the form be notarized. If this is not completed, it is not a valid affidavit.

### 51.3.4 Action Based on CSF 2

Based upon the recipient's statement on CSF 2, the EW must take appropriate action based on the following chart:

Table 9:

IF...	THEN...
The statement seems reasonable and there is no conflicting information,	No further action is needed.
The statement still does not clarify all the questions or does not seem reasonable,	Send a referral for fraud to the DA's office via the <b>Client Referral</b> subsystem of Cal-WIN. The EW must weigh all available information and take appropriate action. The <b>Maintain Case Comments</b> window must be thoroughly documented as to what action was taken and why.



**Example:**

A community complaint is received stating that the recipient's child is not living with the family. The EW must contact the client to determine the validity of the claim. Any required supporting documentation must be obtained, including a "School Enrollment Verification and Release of Information" (CSF 37). Request that the school complete the student's address and return the completed form directly to the EW. If the child is not of school age, ask the client for the names of other persons, providers, or agencies who could verify the presence of the child in the home. A "Release of Information" (CSF 13) must be obtained prior to making an outside contact.

If the child is temporarily absent from the home, the pertinent information must be obtained and documented on the **Maintain Case Comments** window as well as on the community complaint response form. In the absence of any other supporting documentation, the EW may use a CSF 2 which must be completed, signed and dated by the client and the EW.

**Example:**

A community complaint is received stating that the fully employed father of children is in the home. The EW reviews the case record and determines that the basis of deprivation is absent parent. The EW must contact the client to determine the validity of the claim.

The EW may require that the client come in and complete another SAWS 2A and or new absent parent referral forms stating that she understands her reporting responsibilities. If the client completes a CSF 2, it should indicate where the father of the children is living and list all those living in her home.

- If the father is not in the home, the client should add any appropriate statements which may have led to the conclusion that he lives there, such as “father visits children on weekend,” “father picks up children after school and stays until recipient gets home from work,” etc.
- If the father is in the home, the EW needs to secure all required information to determine ongoing eligibility for the AU and take appropriate action.

**Example:**

The recipient reports no income. Her children are in school from 9 a.m. to 2:30 p.m. Whenever EW tries to make contact by phone there is no answer and when an SCD 50 is sent, the recipient responds but can never come into office before 3:30. The client comes into the office to provide an explanation and has no verification other than her statement. The EW must secure a “General Affidavit” (CSF 2) which indicates the recipient's work status, the last date worked if applicable, an explanation as to why recipient isn't available before 3:30; i.e., takes care of mother, volunteers at school, doesn't like to be home alone so visits friends until children get home.

**Example:**

A “Request for Information from Employer” (SCD 549) is returned stating that the recipient left her job to take another position. The recipient previously stated that she quit because of child care problems.

If there is no evidence to the contrary, the EW must secure a CSF 2 indicating the recipient's work status and including an explanation of why the previous employer gave that information; (i.e., recipient had been offered another position but later discovered the position was not a shift she could work, or this is what she told her employer even though it was not true, or her employer was angry with her so he is providing incorrect information). If the SCD 549 indicates another employer's name or if the recipient gives that information, the EW should send an SCD 549 to that employer. Remember, the client must sign the SCD 549 or a specific release of information before the EW may contact the other employer.

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## 51.4 Referral to the Special Investigation Unit (SIU)

### 51.4.1 General

When fraud is suspected, a referral must be sent to SIU using the **Client Referral subsystem** of CalWIN. If there is doubt about the appropriateness of the referral the EW may discuss the case with the SIU liaison. The purpose of the SIU liaison is to give guidance and consultation in case situations in which the SIU is involved or may become involved. If the SIU is already involved, the EW must contact the assigned investigator.

If there has been a community complaint, any other documentation in the case record which substantiates the EW's suspicions should also be attached, as well as any which support the client's contentions.



#### Reminder:

The **Client Referral** subsystem is only to be used to refer cases to the SIU when the EW suspects fraud may be occurring.

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## 51.5 Overpayment Due to Need, Income or Other Circumstance [EAS 44-352.12]

### 51.5.1 Establishment of Overpayments

An overpayment must be established when an AU receives more cash aid than entitled to as a result of:

- Failing to report income or circumstances timely, or
- The EW failing to act correctly or timely on certain client reports.

The EW must redetermine the cash aid the AU should have received based on the required report and correct county action.



#### Reminder:

Effective 1/1/17, Assembly Bill (AB) 2062 prohibits the creation of overpayments for the month following a change in IRT for a SAR AU or following a change in income over the IRT or household composition for a AR/CO AU **if** the recipient reported the change timely **and** the EW is unable to provide a 10-day NOA of the termination or reduction in benefits before the first month following the change.

### 51.5.2 Required Action

When it is determined that an overpayment has occurred, the EW must follow these general guidelines:

**Table 10:**

STEP	ACTION
1.	Carefully review the case record to determine if all eligibility factors are correct. This includes, but is not limited to, deprivation, income eligibility.
2.	Enter the new information in <b>Data Collection</b> and run EDBC for CalWIN to recompute the budgets and determine the amount of the overpayment.
3.	Review the overpayment record from the <b>Display Benefit Discrepancy</b> window of the <b>Benefit Recovery</b> subsystem to validate the overpayment amount.
4.	Print the Notice of Action (M44-350A) from the <b>Search/View Client Correspondence in Print Queue</b> window in CalWIN and send to the client, notifying the individual of the overpayment, the reason for the overpayment, the balance owing, and the grant adjustment determination.

Refer to the OLUM for complete instructions on determining benefit discrepancies.

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## 51.6 Computing the Correct Grant Amount Under Semi-Annual Reporting (SAR)

Overpayment's are determined by using the actual income that the client received when recreating case circumstances based on all reports that were required to be made. When recreating case circumstances and calculating overpayment's, EWs must take into consideration mandatory changes and **any** decreases in income that would have increased the benefit amount.

Additionally, the Income Reporting Threshold (IRT) must be recalculated based on the income and, if appropriate, the multiplier to determine a monthly average for weekly and biweekly income in the overpayment calculation.



**Note:**

This applies to both client-caused and administrative-caused overpayment's.



**Reminder:**

EWs must allow all appropriate income disregards which would have been allowed if the grant had been computed correctly.

EWs must compute the correct grant amount based on the correct information for the month involved in the overpayment. If the recipient was totally ineligible for that month, the correct grant amount is zero. Regulations in effect at the time the overpayment occurred must be used to determine the correct amount of the grant, except in the following situations:

- Regulations invalidated by a court decision must not be used in determining the correct grant for the applicable period(s) as required by the court decision. The instructions implementing the court decision must be used.
- If an AU fails to report income timely or the county fails to act correctly on a recipient report, the county must redetermine the cash aid the recipient should have received based on an accurate report and correct county action. If the recalculation results in an overpayment, the date that the overpayment begins is the first date that the change would have been made if timely and correct action had been taken based on the complete, timely and accurate client report.
- When computing cash aid results in an overpayment, the county must recreate case circumstances using the correct processing time frames based on what the AU should have reported.
- Any decrease in income during the SAR period in which benefits are recalculated shall be taken into consideration however no supplemental payment will be issued based on the actual income.

**Example:**

The AU's aid began and no income was reported. The EW determines through an IEVS match that the AU had income that exceeded the IRT April 5. The AU is still receiving the same level of income in the current SAR payment period and has never reported the income in a mid-period report or on any of the SAR 7s that have been submitted. The EW determines that the AU should have reported this change by April 15, and should have been discontinued due to financial ineligibility effective April 30. The AU should be discontinued with a 10-day notice and an overpayment must be established beginning May through the month of discontinuance.

**Example:**

An AU of 3 in the January through June SAR payment period reported no income. Their IRT is \$907. Fluctuating income is discovered while processing an IEVS match in August in the following amounts: \$1,000 in January, \$1,000 in February, \$1,350 in March, \$500 in April, \$1,000 in May and \$1,000 in June.

The overpayment is calculated by reviewing the initial month of eligibility. The income was first over the AU's IRT of \$907 in January and, because the income continued, the grant should have been decreased and the IRT recalculated beginning in February. February's overpayment will be calculated using \$1,000 of income and the IRT effective for February 1st should be \$1,634 (the AU's Tier 2 IRT). March's income was not over the newly calculated IRT, so that

increase of income did not need to be reported and March’s overpayment will be based on \$1,000. April’s overpayment will be based on \$500 and the IRT will be recalculated at \$1,407 (\$907 plus the last amount of income used to calculate the grant). Because May and June’s income of \$1,000 is under the newly calculated IRT of \$1,407, it was not mandated to be reported and the overpayment for those months will be based on \$500 monthly income. If the income ended in June, June will be the last month of the overpayment.



**Example:**

An IEVS match reveals that a client began working after their application was approved and failed to report the income. The income was over IRT and continued for several months, but stopped prior to the semi-annual report month. An overpayment is assessed beginning in the month following the month in which the income first exceeded the IRT, and continues until the income ends.

## 51.7 Effect of Child Support

The purpose of a child support recoupment is to repay the aid paid to an Assistance Unit (AU). When a child support recoupment results in the repayment of a full months grant, the AU’s CalWORKs time-on-aid clock is adjusted to remove that month from counting in the AU’s time-on-aid clock. When an overpayment exists, the child support recoupment is excluded when recomputing grant and cannot be used to offset an overpayment.

The following examples illustrate how to apply a child support recoupment when a CalWORKs AU has an overpayment (OP):

### Applying Child Support Recoupment to Untick a Full Month of Aid

An AU received a CalWORKs grant in January, February, March, April, May and June. It is later determined that the AU should not have received a grant for February and March and an OP is established for the two months. An OP Notice of Action (NOA) is sent and the grant is reduced effective August 1. A child support recoupment collects for April - July and is enough to fully repay January, April, and May but not enough to full repay June. The child support recoupment must be applied in the following manner:

**Table 11:**

Month	January	February	March	April	May	June
<b>Grant</b>	Eligible	OP- Not Eligible	OP-Not Eligible	Eligible	Eligible	Eligible
<b>Action</b>	Apply child support and untick month	Child support not applied- collect an OP	Child support not applied- collect an OP	Apply child support and untick month	Apply child support and untick month	Tick month

Because February and March are OP months, the child support recoupment is not applied to these two months and applies to the next eligible months starting with April. OP collection efforts continue for February and March until the OP is repaid. Once the OP is fully repaid, February and March are eligible to be excluded from the client’s 48-month time clock.

When a child support recoupment is used to untick a full month of aid, EWs must subtract any money, excluding child support recoupment, received by the county and credit the amount against the aid payment from the aid actually paid. Therefore child support recoupments cannot be used to repay CalWORKs OPs.



**Note:**

In the event that no remaining months are left to reimburse, the excess child support should be returned to the recipient.

Child Support Recoupment and Overpayment Collection to Untick a Full Month of Aid

An eligible adult received a CalWORKs grant in January, February, March, April, May and June. At a later time it is determined that the client was not eligible for the full grant in February and March and a partial OP is established for these two months. A child support recoupment collects for April - July however not enough child support is recouped to repay May and June. The child support recoupment must be applied in the following manner:

**Table 12:**

Month	January	February	March	April	May	June
<b>Grant</b>	Eligible	Partial Eligibility/ Partial OP Month	Partial Eligibility/ Partial OP Month	Eligible	Eligible	Eligible
<b>Action</b>	Apply child support and untick month	Child support applied to eligible portion of grant. OP recoupment applied to OP portion. Untick month once fully reimbursed.	Child support applied to eligible portion of grant. OP recoupment applied to OP portion. Untick month once fully reimbursed.	Apply child support and untick month	Tick month	Tick month

Since February and March are partial OP months, the child support recoupment is applied to the eligible portion of the grant the client was entitled to receive. OP collection efforts continue for the portion of the grant that was overpaid until fully reimbursed. The time clock for February and March will be unticked and not count once the OP is fully repaid.

Child support collected can only be used to repay the portion of the grant that the client was entitled to receive when a month of aid has been determined to have a partial OP month. Time-on-aid for that month cannot be unticked until the aid paid in the month is fully reimbursed.

**Closed Cases**

Arrearages to recoup months of aid paid to the family may be used for closed cases however the amount of the arrearages cannot exceed the unreimbursed assistance pool (UAP). Once the UAP balance is at \$0, any remaining child support amount must be sent to the family. Any current child support payments collected on behalf of families who are no longer receiving cash assistance must go to the family.

**Establishing an Overpayment for a Month Already Reimbursed by Child Support**

An eligible adult received a CalWORKs grant in January, February, March, April, May, and June. Child support is later collected for April - July and applied to January, February, March, and April and the time-on-aid clock is unticked for these months. May and June are not unticked as not enough child support recoupment was received to repay these months. It is later determined that the client was ineligible for a grant in February and March and an OP was established. The child support received is applied in the following manner:

**Table 13:**

Grant	January	February	March	April	May	June
<b>Grant</b>	Eligible	OP Month (determined after Child Support Applied)	OP Month (determined after Child Support Applied)	Eligible	Eligible	Eligible
<b>Action</b>	Unticked by Child Support	Remove child support and pursue OP collection. Tick month. Apply child support to the next available eligible month.	Remove child support and pursue OP collection. Tick month. Apply child support to the next available eligible month.	Unticked by child support.	Apply child support and untick month	Apply child support and untick month

Since February and March are OP months, the child support reimbursement is removed and applied to the next eligible months of May and June. OP collection efforts are pursued for February and March and the time-on-aid would be unticked when the overpayment is fully repaid for each month.

If an OP is found for a month that was previously reimbursed by child support collection, then the reimbursed child support must be excluded from the OP month and applied to the next eligible month of aid.

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## 51.8 Recoupment of an Overpayment [EAS 44-352.3]

### 51.8.1 Recoupment when Liable Individual (Payee) was in the Overpaid AU

Overpayment balances must be recouped from the payee (aka the liable individual) who was a member of the AU at the time of the overpayment, even if that individual moves to another AU or is no longer on aid. Continue to recover from that individual until any one of the following occurs:

- The individual cannot be located.
- The individual has the overpayment discharged in bankruptcy.
- The county is unable to execute a legal process to collect. This occurs when the individual is no longer on aid, the overpayment is non-fraudulent and the balance is less than \$250.00, and there are other members of the overpaid AU who remain on aid.
- The liable individual dies, and the balance cannot be collected from the payee's estate.

Once all efforts to collect from the overpaid individual are exhausted, then collection must begin from other adult members of the overpaid AU until the amount of the overpayment is fully recovered or it is no longer cost effective (less than \$250.00) to collect the remainder of the overpayment.

Recoupment/collection may occur in sequence against any one member at a time or concurrently from any of the members, when in separate AUs or when not receiving aid.



#### Note:

It is critical that EWs communicate overpayment information to the new EW when one member of the overpaid AU moves to another AU and adjustment is to continue from both AUs. If recoupment is to take place in two or more AUs the overpayment balance should be divided equally, if possible.

### 51.8.2 Procedures to Locate the Liable Individual

The EW must take the following steps to attempt to locate the overpaid individual when that individual is no longer receiving benefits in the overpaid AU:

Step	Action
1.	Using the available information in CalWIN, MEDS, and the IDM record, determine if the liable individual can be located. Note: The “Child Support Questionnaire” (CW 2.1Q) may provide the necessary information if the individual is now an absent parent.
2.	Send the current payee a letter, asking for the address of the overpaid liable individual.
3.	Begin grant adjustment for the existing AU if the whereabouts of the liable individual are not known.
4.	Refer the liable individual to Collections with their whereabouts, so they can begin Collection activity. Reminder: Do not grant adjust this overpayment if the liable individual CAN be located.
5.	Continue the grant adjustment until: <ul style="list-style-type: none"> <li>• The overpayment is totally recouped.</li> <li>• The whereabouts of the overpaid liable individual become known.</li> </ul>



### Example:

An overpaid AU consists of the mother, father and two children. The mother was the payee. Due to a late SAR 7, there is a \$450 overpayment. The mother has left the home and the father is continuing to receive CalWORKs for himself and the two children. Before the overpayment can be recouped from the existing AU, the EW must try to locate the mother (liable individual) using the information in the case record (i.e., the CW 2.1Q), CalWIN, MEDS, IDM, and sending a letter to the father (liable individual). If there is information in the case file or on MEDS/CDB or if the father provides the mother’s whereabouts, the EW must refer the case to Collections indicating that Collection activity must begin for the mother. If the mother’s whereabouts are unknown, the EW must begin recouping from the existing AU.



### Example:

A mother is receiving CalWORKs for herself and her child. She is the liable individual of a \$300 overpayment that occurred in the case. She leaves the state and the child’s grandmother comes in to apply for CalWORKs as a non-needy caretaker. The grandmother is questioned about the child’s mother but does not know where she is. The EW is unable to find a match in either MEDS or CalWIN. Since the mother is “unlocatable,” the overpayment cannot be recouped from the existing AU, since the OP cannot “follow” minor individuals.

### 51.8.3 Minors as Liable Individuals

CalWORKs Overpayments OPs must not be collected by any means, including, but not limited to, grant adjustment, tax intercept, administrative or civil action or voluntary repayment agreement, from adults, emancipated minor or Head of Households, who were minors in an overpaid CW AU at the time the OP was incurred.

In addition, CW OPs must not be recouped from any minor who becomes a member of a new AU, if the OP occurred while the minor was previously a member of a different AU.



**Example:**

A child in an overpaid AU moves to a different AU and the responsible relative in the first (overpaid) AU cannot be located, the OP must not follow the child to the new AU, and the county must not grant adjust or otherwise recoup that OP from the new AU.

The following chart contains examples of situations of OPs with minors in the AU:

**Table 14:**

If...	Then...
An 18-year old is being aided as a “child” because he or she is still in high school,	The individual cannot be held as a liable individual. Even though the individual has turned 18, because he/she is attending high school and is considered an “eligible child.”
A client formerly received extended CalWORKs benefits under AB 12,	The individual cannot be held as liable to collect on an OP when that individual reaches age 21 and is no longer a non-minor dependent (NMD). AB 12 payments, though paid through CalWORKs, are for foster youth, and former foster youth are not liable for any OP that occurred while the NMD received AB 12 payments. OPs may only be recouped via grant adjustment while a NMD is actively being aided under AB 12. However, if that former AB 12 recipient receives aid after AB 12 benefits end in a new, non-AB 12 AU, that later OP can be recouped, because in that scenario, the former NMD is the adult head of household of his/her child’s AU.
A grandchild that was in a Senior Parent’s AU if the grandchild’s parent(s) (a former nested teen parent) reaches age 18, completes high school or vocational training before age 19 or becomes emancipated and starts his or her own AU,	Both the nested teen parent and the grandchild of the Senior Parent were receiving aid as children in the Senior Parent’s AU. Thus, they are not considered responsible parties for the prior AU’s OP and the OP cannot be recouped from these individuals. Once the former nested teen starts his or her own AU, the prior OP does not follow him/her to the new AU.
An OP occurs while the minor is living with a non-needy caretaker relative (NNRs), and the child moves back with his/her mother,	The NNR’s OP cannot be collected from the new AU where the child is receiving aid with Mom. Because the OP occurred in the NNR’s AU, the OP would not “follow” the child from the NNR’s AU to the Mom’s AU.

**Table 14:**

If...	Then...
The AU only contains unaided adults and aided children (Child-Only cases),	OPs cannot be collected from unaided adults if the adult was not aided at the time the OP was established. This includes adults who are excluded from the AU because they are a sanctioned individual, drug or fleeing felon, undocumented non-citizen, or NNR. However, recoupment on OPs from active Child-Only cases can occur via grant adjustment. Once the case is discontinued, recoupment from the (previously) unaided adult or the child cannot occur.

### Emancipated Minors and Head-of-Household Minors

Minors can only be held liable for recoupment on an OP if the OP occurred while the minor was a Head of Household (HoH) or emancipated minor.

**Table 15:**

If...	Then...
The OP was incurred when the minor was aided as a child in AU,	Action to collect that OP from the minor <u>cannot</u> be taken.
The OP occurred in the minor's own AU for which they are the HoH,	Action to collect the OP can be taken against the minor.
The OP was established in the emancipated minor's own AU,	Action to collect the OP can be taken against the minor.
The OP was incurred before the minor became emancipated or HoH,	Action to collect that OP from the minor <u>cannot</u> be taken.
The AU is a two-parent HH where both parents are under 18 (i.e. there is no senior parent), and an OP is incurred within that AU,	Action to collect the OP can be taken against the AU because at least one or both of them were HoH at the time the OP occurred.

### 51.8.4 Administrative Error (AE) Overpayment Recoupment

When an overpayment is due to an AE, the grant adjustment amount is 5% of MAP (rounded down - drop the cents) for the AU.

AE's are NOT the result of a recipient reporting too late for a timely notice, but are determined when the EW has all the necessary information and fails to take timely action.

**Example:**

A recipient provides their SAR 7 on the 27th of the month. This is too late for a 10-day NOA, therefore, any resulting overpayment is considered a CE overpayment, not an AE overpayment.

### 51.8.5 Client Error (CE) Overpayment Recoupment

When the overpayment is not an administrative error, the grant adjustment amount is 10% of MAP (round down - drop the cents) for the AU.

[Refer to “Determination of IPV,” page 53-1] for an IPV overpayment recoupment.]

**Note:**

An overpayment adjustment at the 10% rate takes precedence over an adjustment at the 5% rate.

### 51.8.6 Grant of Less Than \$10.00

An overpayment must be adjusted if the grant is less than \$10.00 and there is an outstanding overpayment balance. The recipient does not receive cash grant due to the regulations. However, the recipient is eligible for CalWORKs and the EW must adjust any balance on an existing overpayment.

**Example:**

A recipient is employed and is eligible for \$7.00 in June. The cash grant for \$7.00 will not be issued, however she is eligible for that amount. She has an outstanding overpayment balance of \$54.00. The CalWIN will recoup the \$7.00 from the June's grant and her overpayment balance will then be reduced by the \$7.00.

### 51.8.7 Multiple Overpayment Balances

When a case contains multiple overpayment balances, CalWIN processes the amount of adjustment in the following order:

- First adjust an Intentional Program Violation (IPV), then Client Error (CE), then Technical, and finally Administrative Error (AE); secondly, adjust the overpayment within each category with the largest balance first.

- When the balance on one overpayment is less than the maximum adjustment amount allowed, insure that the total recouped within a given amount equals the maximum allowable adjustment. For example, if the maximum recoupment is \$50 and there is a balance owing of \$10 on one overpayment and \$85 on another, \$10 on the first overpayment and \$40 on the second overpayment are adjusted.

### 51.8.8 Pro-Rated Overpayment Adjustment

If the Maximum Aid Payment (MAP) has been prorated, as in the beginning month of aid, the EW must use the prorated MAP amount when determining the amount of the overpayment adjustment in the beginning month of aid. This occurs when:

- The case had been previously discontinued and the applicant is now reapplying for CalWORKs, and
- The applicant has been previously notified of the overpayment.

### 51.8.9 Recoupment Concerns

Overpayments must be adjusted by either 5% or 10% of MAP for the AU, based upon the type of overpayment.

Whenever an overpayment is calculated, the client must be sent a Notice of Action even though aid may be discontinued and the grant cannot be currently adjusted.



**Note:**

The overpayment recoupment amounts are in the Chart Book. No other computation is required to determine the amount of the recoupment.

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## 51.9 Alternative Repayment Methods

### 51.9.1 Voluntary Grant Offset

In addition to recoupment through monthly grant reduction, an AU may select to have their cash EBT account balances reduced to repay an overpayment. EWs must have the client sign the “EBT Repayment Authorization Form” (SCD 2322) and submit it along with the “Electronic Benefit Transfer (EBT) On-Line Request” (SCD 2201) to the district office fiscal clerk to reduce the AU’s EBT account balances. [Refer to “[Electronic Repayment of Benefits](#),” page 16-50 in the Common Place Handbook for step by step instructions.]

## 51.9.2 Voluntary Cash Recoveries

The EW should explain to the AU about the voluntary cash recovery, but no request for voluntary payment should be made. However, if a client wants to repay all or a portion of an overpayment, the following applies:

- A written agreement indicating the repayment is voluntary must be kept in the case record.
- When a client brings cash or checks to repay overpayments, district office fiscal clerk issues a receipt to the client and forward the payment to Account Receivable department at 333 W. Julian.
- District office fiscal clerk forwards a copy of the receipt to the EW for case comments.
- Account Receivable will record the payment in CalWIN

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## 51.10 Intercounty Collections (ICC)

### 51.10.1 Policy

Overpayment balances must be transferred when a client moves to another county and is applying for CalWORKs benefits in that county. Once the overpayment is transferred, the sending county is no longer responsible for collection of the overpayment. The overpayment record must be deleted from the Ventura Automated Collection System (VACS).

The receiving county is be responsible for collection of the overpayment until it is fully repaid or the client moves to a subsequent county. The county that collects the overpayment will retain the amount collected and any resulting incentive funds.

For clients who will no longer be receiving CalWORKs benefits, the last county welfare department that provides benefits to the client will continue to collect the overpayment until repaid in full.

### 51.10.2 ICTs

When a client moves to another county and the EW is sending the Inter-County Transfer (ICT) request, the EW must:

- Request the “Notification of Intercounty Transfer” (CW 215) by completing the **Record ICT Send** window of the **Interface Activities** subsystem.
- Advise the receiving county of the type of overpayment and the balance owing, on the CW 215.

- Attach copies of the Notice of Action concerning the establishment of the overpayment, screen print from the **Benefit Recovery** subsystem.
- Once the Inter-County Collection (ICC) has been confirmed, the claim must be adjusted in the **Record Adjustment** window of the **Benefit Recovery** subsystem. The “ICT Out” option must be selected for the **Adjustment Type and Adjustment Reason** fields.

When a case is in closed files and Santa Clara County is notified that the client has moved and is receiving CalWORKs benefits in another county, our Public Assistance Collections department must:

- Advise the receiving county of the type of overpayment and the balance owing, using the “Intercounty Overissuance/Overpayment Adjustment Request” (SCD 14.)
- Attach copies of the Notice of Action concerning the establishment of the overpayment and a copy of documents showing the computation.
- Confirm receipt of the overpayment transfer with the receiving county.
- Remove the overpayment balance from Collection’s records (VACS).

### 51.10.3 Overpayments from Other Counties

When an ICT is received from another county, or another county requests that this county recoup their county’s existing overpayment balance, the EW must:

- Review the ICT packet for completion and obtain any missing information and/or verification.
- Record the information in the **Non-System Determined Claim Summary** subsystem and document on the **Maintain Case Comments** window, where the overpayment originated and other information to track the repayments.
- Scan the overpayment paperwork on F6 of the IDM file.



#### Note:

If there are multiple overpayments that are to be collected, follow the currently established procedures. [Refer to “Multiple Overpayment Balances,” page 51-21]

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## 51.11 Supportive Services (CWES) Overpayments

### 51.11.1 Policy

Clients who are receiving CalWORKs may choose to have supportive services overpayments adjusted from their CalWORKs grant provided:

- The client chooses this method of repayment, AND
- The client agrees with the amount of the CalWORKs grant adjustment.

### 51.11.2 Supportive Service Overpayment Computation

The CWES worker computes the overpayment for each month involved using the “CWES Overpayment/Underpayment Worksheet and Referral” (WTW 11).

### 51.11.3 Promptness Requirement

The Eligibility Worker (EW) must begin adjusting any supportive services overpayments from the CalWORKs monthly grant adjustment within 30 calendar days from the date the “Supportive Services Repayment Agreement” (WTW 12) is received from the CWES worker. An adequate and timely notice of action must be sent.



#### Exception:

All CalWORKs overpayments must be collected prior to collecting any CWES overpayments. For multiple CWES overpayments, follow the order of priority per CalWORKs Handbook Section “[Multiple Overpayment Balances](#),” page 51-21.

### 51.11.4 Source of Payment

An overpayment may be related to any of the following types of supportive services payments:

- Child Care
- Transportation
- Ancillary Expenses.

### 51.11.5 Types of Supportive Service Overpayment

Supportive service overpayments are categorized as follows:

- Administrative Overpayment (AE)

The overpayment is caused by the agency or the CWES worker when all the information necessary to determine the correct payment was in the possession of the county. This generally occurs when the client reports the change but appropriate action is not taken, or when the CWES worker makes an incorrect computation.

- Client Error (CE) overpayment

The overpayment does not meet the criteria to be considered an AE overpayment. This may be client-caused or as a result of a fraud conviction.

### 51.11.6 Grant Adjustment Rates

The adjustment rate from the CalWORKs monthly grant is as follows:

- For AE overpayments, the EW must collect five percent (5%) of the CalWORKs grant, unless the client volunteers to pay a higher amount.
- For CE overpayments, the EW must collect ten percent (10%) of the CalWORKs grant, unless the client volunteers to pay a higher amount.

### 51.11.7 Procedure

If the client chooses grant adjustment to repay a supportive service overpayment, follow these steps:

Stage	Who	Action
1.	CWES Worker	Notifies the client of the overpayment by sending the following forms to the client: <ul style="list-style-type: none"> <li>• “Overpayment Notice” (WTW 11),</li> <li>• “Overpayment/Underpayment Computation” (SC 1842C), and</li> <li>• “Supportive Services Repayment Agreement” (WTW 12)</li> </ul>
2.	Client	Marks his/her choice of repayment method.
3.	CWES Worker	Sends a copy of the following to the Eligibility Worker (EW): <ul style="list-style-type: none"> <li>• WTW 11,</li> <li>• SC 1842C,</li> <li>• WTW 12.</li> </ul>
4.	CWES	Records information provided on the WTW 2 in the <b>Record Repayment</b> window.

Stage	Who	Action
EW		Ensures that CalWIN recoups the following percentage from the CalWORKs grant until the overpayment is paid in full or revoked by the client. <ul style="list-style-type: none"> <li>For client-caused overpayments, recoup 10% of the CalWORKs monthly grant, unless the client volunteers to pay a higher amount</li> <li>For administrative overpayments, recoup 5% of the CalWORKs monthly grant, unless the client volunteers to pay a higher amount.</li> </ul> <p><b>Note:</b> All CalWORKs overpayments must be collected first prior to collecting any CWES overpayments. For multiple CWES overpayments, follow the order of priority per CalWORKs Handbook Section 51.6.7.</p>
		Ensures CalWIN sends an adequate and timely Notice of Action to the client.
		Sends the WTW 2 to scan into IDM.
		Notifies the CWES worker when the CalWORKs case is closed and there is a remaining unpaid balance of the overpayment.
6.	CalWIN	Refers the remaining unpaid balance of the overpayment to Collections.



**Note:**

Clients may revoke a repayment agreement incorporating their grant adjustment at any time and enter into a new repayment agreement.

### 51.11.8 Offsetting

The EW must not offset any supportive services overpayments against CalWORKs underpayment unless the client agrees or volunteers.

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## 51.12 Overpayments and Referral to Collections

### 51.12.1 CalWIN Interfaces with VACS

No referral is required while the CalWORKs program is active since CalWIN automatically initiates recoupment once an overpayment claim is established.

If the CalWORKs program discontinues prior to complete adjustment of the overpayment, the active/open claim balance is automatically referred to the Collection’s system, VACS, and the Public Assistance Collections Department will pursue collection of the overpayment balance.

## 51.12.2 Tax Intercept

Collections is working with the Controller's Office and the Franchise Tax Board to intercept state tax refunds and deduct delinquent welfare overpayments from them. All CalWORKs overpayments and all fraudulently obtained Food Stamp overissuances are subject to interception.

The intercept process does not apply if the client is still eligible for grant adjustment, allotment reduction, or is making regular restitution payments.

Questions regarding incorrect tax interceptions must be referred to the Supervisor of the Collection Unit for resolution.

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## 51.13 Mandatory Inclusion [EAS 44-355.1]

### 51.13.1 General

Once it becomes known that a person is living with the AU, a determination must be made as to whether or not that individual is a mandatory member of the AU. The following chart is to be used to assist the EW in taking the correct action once that determination has been made:

**Table 16:**

IF...	THEN...
The person is an optional member of the AU, or has no relationship to the AU,	The EW must look at the specific case situation to determine if an overpayment may have occurred.
The EW determines that the person is a mandatory member of the AU,	The EW must notify the AU that they must apply for that individual and that the income and resources of that person will be counted in determining the AU's eligibility. The "Add Person Appointment Letter" (CSF 10) is available for this purpose.
The mandatory member affects current eligibility or is still in the home,	The case carrying EW must determine ongoing eligibility and make the overpayment calculation.
The mandatory member is no longer with the AU.	Enter information of the new member and or income in Data Collection so that the CalWIN system computes and establishes overpayments. A referral to the DA by the <b>Client Referral</b> subsystem of CalWIN may be appropriate in this situation.

## 51.13.2 Action

When determining the CalWORKs overpayment, the EW must take the following steps:

**Table 17:**

STEP	ACTION
1.	Redetermine eligibility for the AU, based upon the presence of the individual in the AU (i.e. Does deprivation still exist for the children?) and whether the individual's presence was a mandatory or voluntary change that should have been reported.
2.	Review the SAR cycle to determine overpayment month (s).
3.	Update the information in the <b>Data Collection</b> subsystem; Enter the income and resources of the mandatorily included person for the period the individual should have been included in the AU.
4.	Enter the correct Effective Begin Date (EBD) and the Use Effective Month (UEM) accordingly. Run EDBC.
5.	Evaluate the <b>Capture Discrepancy Information</b> window and identify the type of error and the Liable Individual (person responsible for repayment of the overpayment).
6.	Document the reason for overpayment on the <b>Maintain Case Comments</b> window.
7.	Send out the appropriate overpayment NOAs from the <b>Search/View Client Correspondence in Print Queue</b> .
	Note: Underpayment should not be issued, unless the client: <ul style="list-style-type: none"> <li>• Met all technical conditions of eligibility, and</li> <li>• Cooperated in meeting these technical conditions, and</li> <li>• Fulfilled their reporting requirements (made timely and accurate reports of the new person in the AU on the SAR 7).</li> </ul>



### Example:

An investigator notifies the EW that the absent parent has been in the home for the last 6 months and is still there. The case-carrying EW notifies the client of the need to apply for that parent. There is no response and the case is discontinued for failing to add a mandatory AU member. A referral is made to IEVS to determine the amount of the overpayment.

It is then discovered that the parent was employed off and on during this period. The IEVS EE must attempt to determine if there was any other deprivation available to the AU during this period (such as U-parent or incapacity). The client must be contacted to provide information and/or verification, such as UIB or SDI abstracts, etc.

If it is determined that there was no other basis of deprivation for the children, the overpayment would be computed based upon that fact. However, if there was another source of deprivation, the budgets must be recomputed using the resources and income as well as the needs of the additional member.

### 51.13.3 Request for Action by IEVS

There may be situations when IEVS is investigating the circumstances surrounding a specific overpayment period. It is now required that the recipient provide information about the previously unreported person's income, resources, or other eligibility factors. As a result, IEVS may be asking the case-carrying EW to secure necessary information. The case-carrying EW must take prompt action upon receiving such a request.

If the client fails (or refuses) to provide information which they either have or can secure, and which is required in order to accurately determine current or past eligibility, the CalWORKs case may be discontinued following SAR rules with a timely and adequate NOA, for failure to provide essential information. The case record must be thoroughly documented on the **Maintain Case Comments** window, providing the dates of contact, the requested verification and/or information, and the client's response or lack of response. If the client later wishes to reapply or to file a hearing based upon the county's action, the case record must contain this information to support the decisions made.