

52. Specialized Overpayment Issues

52.1 Technical Overpayments [EAS 44-350.151]

52.1.1 Definition

It must be determined that a technical overpayment has occurred when the aid paid to a client is due to ALL FOUR OF THE FOLLOWING CONDITIONS:

1. The client failed to meet a condition of eligibility, e.g., cooperating with the DA, applying for UIB, applying for SSNs, etc.]
2. The amount of aid paid would have been the same had the eligibility condition been met.
3. The client's failure was because the EW's error in not advising the client what was required or a State Agency (e.g., EDD) failed to notify the EW that the client had failed to meet a condition of eligibility.
4. The error is discovered, an overpayment is being calculated, or the technical overpayment is being recouped on or after January 1, 1985.

52.1.2 EW Error

For purposes of this section, "EW Error" is the EW's failure to inform a client that he/she must perform an act which constitutes a condition of eligibility.

52.1.3 State Agency Error

For purposes of this section, "state agency error" is the state agency's failure to promptly notify the EW that the client does not, or no longer, meets a condition of eligibility.

Client Error

For purposes of this section, "client error" shall occur only when the applicant or recipient:

- Was notified, either verbally or in writing, of the need to perform the act which constitutes a condition of eligibility, and
- Did not perform the act in question after notification, within a reasonable period of time under the circumstances.

**Note:**

Client error shall be considered to occur only if the case record specifically documents that the client was notified either verbally or in writing of the eligibility act required and the client failed to meet the requirement within a reasonable period of time.

**Example:**

A client and her three children have been receiving CalWORKs for two years. Her new EW discovers in May that the client reported on the February SAR7 received on March 10 that the 17-year-old child left the home on February 25th. No action was taken on the information. The payment for April and May would have been a different amount if the EW had acted on the information that the child had left the home. Therefore, the overpayments for April and May are determined to be administrative overpayments and must be recouped.

**Example:**

The U-parent left the home in April 2006. The EW removed him from the AU at the end of April (Submit Month), but failed to have the mother complete the CW 2.1 and the CW 2.1Q and make a referral to LCSA until August 2006. Therefore, absent parent deprivation was not established until August 2006. The months of May, June, and July are technical overpayments. The whole case was ineligible during this period since deprivation was not established. The grant would have been the same amount as already paid to the client if the worker had informed the client and completed the CW 2.1, and CW 2.1Q and the LCSA referral in a timely manner. The error was made by the EW, not the client.

52.1.4 Delayed Sanction

When a sanction period is delayed due to WTW communication procedures or CalWORKs Notice of Action (NOA) requirements, the interim period is NOT considered an overpayment. In addition, if the WTW registrant files a timely appeals request, and the sanction period is delayed pending the State Hearing, the aid paid pending is not considered an overpayment.

52.1.5 Treatment of Technical Overpayments

Technical overpayments shall not be considered overpayments in the State of California.

- Any technical overpayment which was discovered on or after January 1, 1985 cannot be considered an overpayment.
- Recoupment of any technical overpayments, regardless of when they occurred or were discovered, stopped effective January 1, 1985.



Example:

A technical overpayment occurred in a case between July and October 1984 because the U-father had not applied for UIB. The EW began to recoup the overpayment in December 1984. Beginning January 1, 1985 further recoupment is prohibited.

52.1.6 Procedures When a Technical Overpayment Is Determined

The EW must do the following:

STEP	ACTION
1.	Select "Technical Overpayment" from the Error Types dropdown menu on the Capture Discrepancy Information window.
1.	Review the Benefit Recovery subsystem to ensure a claim is established in Cal-WIN.
1.	Select the claim from the Display Claim Summary by Case window.
2.	Click the [Adjustment] button.
3.	Select "Write Off" from the Adjustment Type drop down field and "Technical Overpayment" from the Adjustment Reason to adjust the claim. Refer to the OLUM, "Adjust Claim" section for step by step instructions.

52.2 Excess Property Overpayment [EAS 44-352.11]

52.2.1 General Principle

Unless the excess property was spent down prior to the first day of the next SAR payment period, the EW must determine an excess property overpayment based on an accurate report and/or correct county action when:

- Property information that should have been reported on the SAR 7 was not reported; or
- The county failed to act correctly on property information reported on the SAR 7.



Example:

The May SAR 7 received on June 3rd, reports that the client received a \$2,400 tax return (no EITC was included) on May 23rd. She purchased a car worth \$1,300 and bought clothing for her children with the tax return on May 26th. The property (tax refund) was converted to exempt personal property (a car worth less than \$1,500 and exempt personal property) before July 1st. Therefore there is no overpayment due to excess property.



Example:

An AU received a tax return of \$3,200 (no EITC included) on March 5th and failed to report on the SAR 7 due in May. Finally, the AU reports the tax return on the next SAR 7 in November and states that the entire refund remains in a saving accounts. Since the excess property was not spent down prior to the first day of the next SAR payment period, there is an overpayment in June, July, August, September, October and November due to excess property.

52.2.2 Overpayment Calculation

When an AU has held property in excess of eligibility limits, the overpayment must be calculated as follows:

Step	Action
1	Determine the period of time in which the recipient held property exceeding the property limits. Note: The period that the AU held excess property includes ALL months in which the total property value of the same items of property exceeds limits on the first day of the month, even though there may be months in which the total property value is below limits.
2	Determine the month within the period in which the property value, on the first day of the month, was the highest and calculate the amount by which the property exceeded the eligibility limit.
3	Calculate the total amount of aid actually paid to the AU during the months excess property was held, subtracting any money, excluding child support recoupment, received by the county.
4	Determine whether the AU received aid in "good faith." See section 52.2.3 on page 5" for detail.

52.2.3 Good Faith Determination

Prior to determining the amount of an overpayment due to excess property, the EW must make a determination of whether or not the aid was received in “good faith”. Clients shall be considered to have received aid in “good faith” when:

- Within their capabilities, they met their reporting responsibilities
- and
- The evidence indicates that they believed they were eligible to the grant received.

**Note:**

Clients who have completed a SAWS 2 (or other statement of facts) and the SAWS 2A at application and redetermination have been properly informed of the CalWORKs reporting responsibilities. Unless there is some barrier, such as language or mental competency, which prevent understanding, it shall be considered that they “know their responsibilities”.

“Good faith” is also determined if a recipient is unaware that interest posted to a Restricted Account brings the total over \$5,000 or causes the \$2,000 property limit to be exceeded.

52.2.4 Questions to Assist in the “Good Faith” Determination

The following questions are guides to assist the EW in making the “good faith” determination:

- How was the individual informed of their reporting responsibilities (e.g. mass mailing, personal intake interview, home visit, never)?
- Is there information in the case record which indicates that the recipient apparently understood their reporting requirements in regards to property?
- What is the recipient's history of reporting?
- Did the recipient know the value of the property in question?
- Did any actions taken by the EW or another county representative contribute to the situation causing the overpayment?
- Is there any information about the recipient's situation which would have an influence on the determination (i.e., language or age barrier)?

52.2.5 Decision Process

The EW must use the following chart to assist in making a “good faith” determination:

STAGE	WHO	ACTION
1.	EW	Holds a conference with the EW Supervisor to evaluate the case information.
2.	EW and Supervisor	Weighs the information provided by the client and the case record and make a “good faith” determination.
3.	EW	<ul style="list-style-type: none"> • If the client received aid in "Good Faith," the overpayment is the lesser of the amount of excess property determined in Step 2 of the section 52.2.2) above, or the total grant paid (determined in Step 3 of the section 52.2.2). • If the client did not receive aid in "Good Faith," the overpayment is the total grant paid during the month(s) the excess property was held.
4.	EW	Documents the determination and the basis for the decision on the Maintain Case Comments window.



Example:

A client has been receiving \$638 each month in CalWORKs beginning in January. In April the client sold a family heirloom for \$3,000. She banked the money but failed to tell the EW or report this on the SAR 7s due in June, as she wished to save for a car. In December, when the EW is completing the RD, the information regarding the bank account is disclosed. The account balance is \$3,075, due to accrued interest. The client has no other property. The excess property amount is \$1,075.

The client was ineligible from May through December as her property exceeded the maximum on the first of those months. The total aid paid in the ineligible months was \$5,104 (\$638 X 8). As the client knew the value of the property and did not report this to the EW, the EW and EW Supervisor make a determination of “no good faith”. The overpayment is \$5,104.



Example:

The client applies for CalWORKs in July. She shows the EW an old insurance policy with a face value of \$900 which has been paid up for a number of years. The cash surrender value indicates that the value is \$900. The client appears to have property within the eligibility limits. Aid is established in the amount of \$762 per month. Since the policy is quite old, the EW sends a request to the insurance company to verify the current value of the policy. The reply does not come until October 5th. It indicates that the accumulated dividends on the paid-up policy have increased the value of the policy to \$2,400 by the date of the client's application for CalWORKs.

The EW determines that the client acted in “good faith” in providing what information and knowledge she had available.

The client had excess property in July, August, September and October. The amount of the excess property is \$400. The total grant paid for the period is \$3,048 ($\762×4). The overpayment is the lesser of the \$3,048 or \$400; therefore it is \$400.

52.2.6 Fiscal Procedures

When an excess property overpayment occurs and the amount of the overpayment is determined to be the amount of the actual grant paid, regardless of whether in “good faith” or not in “good faith”, the overpayment month shall be claimed as federal (assuming the case is otherwise federally eligible). No claiming changes will be required.

When an overpayment occurs due to excess property and the overpayment amount is determined to be the amount of the property excess rather than the actual amount paid in the overpayment month, that month may not be claimed for federal participation.

