

**County of Orange Social Services Agency
Family Self-Sufficiency**

Program/Area: CalWORKs/Welfare to Work

Title: Overpayments and Underpayments

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PURPOSE

The purpose of this policy is to provide guidelines for the establishment and recoupment of overpayments (OP) and underpayments (UP) in the CalWORKs (CW) and Refugee Cash Assistance (RCA) programs. Rules governing the establishment of the OP/UPs vary depending on the eligibility factor in question and the timing of recipient reports and required actions.

OVERPAYMENT

An overpayment is that amount of aid payment an Assistance Unit (AU) received to which it was not eligible. It may be all or a portion of an aid payment. This includes an Immediate Need (IN) payment, a Special Needs payment, or Aid Paid Pending (APP) a state hearing.

CalWIN allows the creation of manual OP claims Refer to the CalWIN Resource Guide [Non-System Determined Claim – Active Cases Resource Guide](#) for guidelines on when to create a manual claim in CalWIN.

**ESTABLISHMENT
OF CALWORKS
OVERPAYMENTS**

CalWORKs OPs will be established based on:

1. Recipient's failure to report accurate and complete information;
2. County error;
3. Recipient's late reporting; and
4. Recipient reports information timely, completely and accurately and the worker is unable to issue the correct grant amount because a timely notice could not be issued.

In the CalWORKs program, "late reporting" applies to the timing of mandatory mid-period reports, as well as the timing of the completion of the Semi-Annual Report (SAR 7) or Redetermination/Recertification (RRR).

An OP cannot be assessed based on an AU/household making a voluntary mid-period report.

The OP will be established based on mandatory reports of information and/or omissions and county-initiated changes impacting eligibility when the recipient received a grant amount to

which they were not entitled, regardless of whether or not the recipient reported timely.

Notice of Action (NOA)

The OP must also be established for benefits that were released at a higher level when a 10-day notice could not be provided regardless of whether the AU reported the change timely or not. This is true for all mandatory and county-initiated changes.

For all OPs, a NOA must be sent to the recipient that explains the cause of the overpayment, the time frame in which the OP occurred and OP computations for each month of the OP period. In addition to the OP NOA, a demand for repayment must also be sent to the recipient or former recipient specifying that an OP has occurred for which the County has a right to collect.

Note: CalWORKs allows recipients the opportunity to waive the 10-day notice requirement in order to avoid incurring an OP in their case. If the recipient waives their right to a 10-day notice of adverse action in writing, the County may decrease the grant amount or discontinue the AU without having to provide timely (10-day) notice to the AU.

INVESTIGATION OF OVERPAYMENTS

When information indicates that an OP may have occurred, the worker shall take the following actions:

1. Review the eligibility and grant factors to find what the correct grant amount should have been.
2. Calculate the OP.
3. Determine from whom the OP may be recovered.
4. Determine the appropriate recovery method and the amount to be recovered.
5. If appropriate, initiate any referrals to the District Attorney – Public Assistance Division (DA-PAD). 100-H4 CalWORKs Fraud Referrals for more information
6. Complete CalWIN Case Comments indicating the cause of the OP, what action was taken, and if a fraud referral was completed.

CalWIN automatically initiates the Benefit Recovery process when workers make a change in Data Collection for the current or past months. Refer to the CalWIN [Benefit Recovery Resource Guide](#) for CalWIN entries.

Note: All OPs due to the recipient's failure to report must be

referred to the DA-PAD, including OPs caused by alleged Intentional Program Violation (IPV). Refer to Policy 100-H4 CalWORKs Fraud Referrals for instructions on how to complete the fraud referral process.

**OVERPAYMENT
RELATED TO
PROPERTY**

Changes in property are considered voluntary reports and are only required to be reported on the SAR 7 or RRR forms. No OP shall be assessed for any months the AU was over the property limit and not required to report the change.

For SAR cases, AUs are only required to report when property exceeds the limit in the SAR Data Month on their SAR 7 or RRR forms.

For AR/CO cases, changes in property are only required to be reported at RRR.

If a CalWORKs AU owned property exceeding the resource limit and failed to report it on the appropriate SAR 7 or RRR forms, the worker will determine the benefits the AU should have received based on an accurate report and/or correct County action, including a determination of whether the failure to report the excess property was in good faith. If however, the worker failed to act timely or correctly on the excess property reported, it is to be assumed that the recipient would have spent-down the resources prior to the discontinuance, and would have remained eligible. In this case, no OP would be established.

Example #1: In the January through June SAR payment period, an AU/household is receiving CalWORKs benefits and does not contain anyone over the age 60. In April, the AU receives an inheritance of \$3,000. In May the AU still has \$2,800 of the inheritance. They do not report the \$2,800 on the May SAR 7 that was turned in on June 10. The worker finds out about the resource from an Asset Match in December. The worker contacts the AU and learns that they still have \$2,800 in a bank account. The AU should have reported on the May SAR 7 that they received the inheritance and that they still had \$2,800 left in May. Had the worker known about the resource, the worker would have discontinued cash aid effective June 30.

The worker must determine if the AU exceeded the resource limit in each month after June 30 to determine if the month should be considered an OP. Only months in which the AU was over the resource limit will be considered an OP. Unless the AU spends down the money, puts it into a restricted account and/or has a

person in the AU over the age of 60, the worker will discontinue the case, effective December 31.

Example #2: Using the same scenario as above, except the AU spends all of the \$3,000 inheritance before May 1. In this case, even if the AU fails to report on the May SAR 7 that they received the \$3,000 inheritance, there is no OP because in May (the Data Month) the family is below the resource limit and remains eligible for continuing benefits.

**OVERPAYMENT
RELATED TO
FAILURE TO
REPORT INCOME
AND/OR COUNTY
ERROR**

Income related failure to report and County error OPs will be determined based on the mandatory/county-initiated reporting requirements. Mandatory income reporting includes reporting on the SAR 7 (if applicable), the RRR forms, and income over the Income reporting Threshold (IRT).

If a recipient fails to report income any time he/she is required to report or if the worker fails to act correctly on a mandatory recipient report, the worker shall determine the benefits the recipient would have received if the income was reported timely or correct County action was taken. If the recalculation results in an OP, the date that the OP begins will be the first date that the change would have been made if timely and correct action was taken on a timely and accurate report.

Note: If a recipient receives income under IRT that could not be reasonably anticipated at the time of the last mandatory report, this is NOT considered a failure to report and no OP shall be assessed.

If an AU/household reports increased income that exceeds the IRT, resulting in either ineligibility or a decrease to the grant amount and it is too late to provide 10-day notice, the County must release benefits for the next month at the previous (higher) grant and determine the amount and duration of any potential OP.

When recalculating an AU's benefits results in an OP, the worker shall recreate case circumstances, including the determination of what income can be reasonably anticipated at the time. The worker will use correct County processing timeframes based on when and what the recipient should have reported.

Actual income is not to be used retroactively to calculate OPs, unless the income is being used to reduce the amount of an OP that is currently being established.

If information is reported and is considered a voluntary report, it is not to be considered when establishing OPs.

Verified mid-period reports are considered part of the case record and shall be entered into CalWIN at the time they are verified. Failure to include information from verified mid-period reports is considered an Agency error OP because the recipient has timely and accurately reported.

If an unverified mid-period voluntary report is not reported when the SAR 7 or RRR forms are submitted, the household has failed to report and the worker must act to resolve the discrepancy. If the discrepancy cannot be resolved and the change should have been reported on the SAR 7 or RRR, the report is incomplete. In this case, the worker is required to notify the AU/household of an incomplete SAR 7 or RRR, and issue the appropriate NOAs. If the worker fails to send the NOAs, any resulting OP is considered an Agency error and the OP is to be established for the amount the AU/household was not entitled to receive; the OP collection will begin the first month of the period following the incomplete SAR 7 or RRR.

Example #1 No Overpayment: A recipient works through a temporary employment agency. They report on the SAR 7 that their job ended in the Data Month. They further report that they are on-call, do not have consistent placement and cannot anticipate whether they will get another job or make any money in the upcoming six months. The worker agrees that they cannot reasonably anticipate any income and budgets no income for the upcoming SAR Payment Period, without any further contact with the recipient. The County later learns that the temp agency found the client a new job that started in the Submit Month. Unless the client failed to report income over IRT or the County has evidence that there was a job offer with a confirmed start date and income prior to the completion of the SAR7 or RRR, there would be no OP.

Example #2 Overpayment: A recipient assigned to the January through June semi-annual period reports receiving income over the IRT within 10 days of receipt, on March 28. After ensuring that the income will continue at the same level, the worker determines that the recipient is financially ineligible for CalWORKs based on the new income amount and should be discontinued. The report was timely, but was received too late in the month for the worker to discontinue the recipient effective March 31 due to 10-day noticing requirements. The worker must issue a 10-day notice of

discontinuance effective April 30. The cash grant for April is an OP. April CalFresh benefits are not considered to be an OI, because the recipient timely reported. Due to the April 30 discontinuance, Transitional CalFresh benefits would begin on May 1.

Example #3 Income Fluctuations: An AU of 6 in the January through June SAR Payment Period reported no income at the last RRR. Fluctuating income is discovered in August in the following amounts: \$2,000 in January, \$2,000 in February, \$2,350 in March, \$500 in April, \$1,000 in May and \$1,000 in June. The income received is over the IRT for the family and an OP is to be established.

The income was first over the IRT in January, and since the income continued, the grant should have been decreased and the IRT recalculated beginning in February. February's OP will be calculated using \$2,000 of income and a new IRT is to be established for March through June. March's income was not over the newly calculated IRT, so that increase of income is not considered a mandatory report and March's OP will continue to be based on \$2,000. April's OP will be based on \$500 and the IRT will be recalculated. Because May and June's income of \$1,000 is under the newly calculated IRT, the income is not considered a mandatory report and the OP for May and June will be based on \$500 monthly income. If the income ended in June, June will be the last month of the OP.

NOTE: CalWORKs recipients may choose to waive the 10-day noticing requirement in order to avoid an OP. If the AU chooses to have their grant discontinued on March 31, Transitional CalFresh would begin on April 1.

Refer to CalWORKs Policy 100-E5 Semi Annual Reporting (SAR) and Budget Processing, CalWORKs Policy 100-E5A Mid-Period Reporting in SAR, CalWORKs Policy 100-E13 Annual Reporting/Child-Only (AR/CO) Cases, and CalWORKs Policy 100-B14 Income Reporting Threshold for SAR for more information.

**OVERPAYMENT
RELATED TO
LATE AND/OR
INCOMPLETE**

Workers are to assess OPs caused by late submission of a SAR 7 that results in reduced benefits for the next SAR Payment Period.

Incomplete SAR 7s may also result in an OP if the AU/household

SAR 7 REPORTING

voluntarily reports an unverified change mid-period and that change is not included on their next SAR 7. The worker must attempt to resolve the discrepancy. If the worker cannot resolve the discrepancy, it must consider the SAR 7 incomplete. If the discrepancy is resolved late in the submit month and the worker does not have time to issue 10-day notice of decreased benefits, benefits must be released at the higher level and an OP/OI assessed.

Example #1: In the January through June semi-annual period, a recipient submits their SAR 7 late on June 28. After recalculating benefits based on information reported on the SAR 7, the worker determines that the July through December benefits should be reduced. The SAR 7 was submitted too late in the month for the worker to provide 10-day notice and decrease benefits for July. The worker issues a 10-day notice of decreased benefits effective August 1, pays July benefits at the June level, and the correct amount for August through December are to be issued. The worker calculates an OP for the month of July. The OP amount is the difference between the amount paid and the amount that should have been paid.

GOOD FAITH

CalWORKs good faith property OP rules state that if excess property was held in good faith, the amount of the excess property OP will be the lesser of:

1. The amount by which the excess property exceeded the property limit in the one month the property had the highest value; or
2. The total amount of aid the household received while they were over the property limit.

The determination of good faith receipt of aid shall be based on a preponderance of evidence establishing that the recipient believed himself/herself to be eligible to the aid received. The worker shall consider information in the case record and all other available information, including an interview with the recipient if he/she is available and willing to cooperate. The determination of "good faith" receipt of aid shall be reasonable, objective, and drawn from all available information.

The worker shall not determine that a recipient has received aid in good faith in cases where the worker has informed the recipient of his/her reporting responsibilities and, under the circumstances, the recipient knew of his/her reporting responsibilities and failed to report within his/her competence.

The following questions shall be used when making a good faith determination.

1. How was the recipient informed of his/her reporting responsibilities? e.g., Mass Mailing? Personal Intake Interview? Home Visit?
2. Is there information in the case record which indicates the recipient's apparent understanding of his/her reporting requirements with regard to property?
3. What is the recipient's history of reporting?
4. Did the recipient know the value of the property in question?
5. Did County actions contribute to the situation causing the overpayment?
6. Is there other information about the recipient's situation that would have an influence on the determination (i.e., language barrier)?

OVERLAPPING OVERPAYMENTS

When there is more than one cause or type of OP in the same month, separate OP claims should be established for that month and collected sequentially at the appropriate rate level.

CalWIN is not automated to determine multiple OP claims within the same month. It only calculates one OP claim in any given month. Subsequent OP claims must be processed manually.

METHODS OF RECOVERY

Recovery refers to the process by which the County can collect OPs. Recovery methods include grant adjustment, voluntary grant offset, voluntary cash recovery, demand for repayment, action for civil judgement and balancing.

Workers shall take all reasonable steps necessary to promptly correct and collect any OP that is known to the county including recovery of OP due to either applicant/recipient and/or County administrative errors.

In general, to make changes in CalWIN on established OP claims, staff should correct information in Data Collection and run EDBC rather than changing the status of an overpayment claim in the Benefit Recovery Subsystem.

OP recoupment levels:

1. 5% of the MAP level for Agency errors,
2. 10% of the MAP level for all other types of errors.

SAR/ARCO rules do not change a county's ability to compromise claims.

Grant Adjustments

Grant adjustment is the recovery of an OP by reducing the grant of a presently eligible individual or family.

Under AR/CO, recoupment by grant adjustment is considered a County-initiated mid-period change. Grant adjustments will be discontinued mid-period when the debt is paid in full. Under SAR, recoupment by grant adjustment will only be initiated at the beginning of a semi-annual period, unless it does not result in a decrease to the grant amount. Grant adjustment will be discontinued mid-period as appropriate when the debt is recouped. Grant adjustments to recover OPs are not a County-initiated mid-period change.

If the worker completes recoupment of one OP mid-period and wishes to initiate recoupment of another OP in the following month (i.e., before the next SAR Payment Period), the County may begin recoupment of the next OP mid-period as long as the amount being adjusted does not result in the benefits being decreased mid-period. Any remaining OP balance shall be applied to succeeding months and the adjustment process shall be repeated.

CalWORKs may continue to offset, as long as it doesn't result in a mid-period decrease to an AU's benefits. Per the *Lopez v. Glickman* lawsuit, offsetting administrative error claims against any UI for CalFresh is prohibited.

Supplemental payments resulting from reports of decreased income or other household changes are not considered "corrective underpayments" and may not be used to offset OP. This is true whether or not the supplement is provided in the month of the report or in the following month(s).

Note: Counties must collect child care OPs if the county determines it is administratively cost effective. Counties cannot offset the OP against the grant unless the recipient agrees or volunteers to the offset. Counties have the option to defer collection of the OP if it would disrupt child care arrangements, preclude participation in county-approved activities, or prevent employment. For other supportive services, counties must defer

collection.

Voluntary Grant Offset

Voluntary grant offset is a voluntary repayment made to the County by a recipient, foregoing all or a portion of a grant to which he/she is eligible.

When the OP could not be recovered in the appropriate adjustment period, the worker should explain the voluntary grant offset process to recipients with available income and resources. However, no request for voluntary repayment should be made.

If the recipient chooses the voluntary grant offset as a method of recovering an OP, the worker must obtain a written agreement to repay. This agreement must indicate that repayment is voluntary.

The recipient is not required to fulfill any voluntary grant offset agreement he/she enters into and may request payment of the full grant to which he/she is eligible at any time.

NOTE: Contact Family Self Sufficiency (FSS) Program via chain of command for CalWIN instructions to perform a voluntary grant offset.

Rules regarding offsetting of OPs with UPs have not changed by the implementation of SAR and AR/CO systems.

Voluntary cash recovery

Voluntary cash recovery is a voluntary repayment made to the County by a recipient who has incurred an OP.

The County will explain voluntary cash recovery to a recipient (or former recipient) but no request for voluntary payment is to be made.

If a recipient or former recipient offers to repay all or a portion of an OP that is not subject to grant adjustment or a demand for repayment and action for civil judgment, the County must obtain a written agreement to repay. This agreement must indicate to the individual that repayment is voluntary.

The recipient is not required to fulfill a voluntary cash recovery agreement he/she enters into and may suspend at any time payments he or she has agreed to make.

Demand for repayment

Demand for repayment is the notification provided to a recipient or former recipient that an OP occurred, for which there is a right for judicial restitution. Where demand for repayment is appropriate, it may be used concurrently with other methods of adjustment.

Action of Civil Judgment

Action of Civil Judgment is the action taken by the appropriate County official to take the recipient or former recipient to court.

Balancing

Balancing is a method for the recovery of all or a portion of an OP by applying an OP against a repayable underpayment.

Example #1: In the January through June semi-annual period, the worker is recouping an administratively-caused OP via grant adjustment at a rate of five percent. The OP is fully recouped after an adjustment is deducted from the February grant. The worker begins adjusting the March grant at the five percent rate to initiate recoupment of a second administrative-error OP. Grant adjustment is allowed in this situation, because the recouped amount per month is the same as the previously recouped claim and there is no mid-period change to the benefits for the AU.

Example #2: Same scenario as above, except the first OP is fully recouped and the second OP was due to client error. Since collection for the second OP would be at the ten percent collection rate, the worker may not initiate a mid-period recoupment for the second OP that would result in a mid-period decrease to the AU's benefits.

PRIORITY ORDER FOR OVERPAYMENT RECOUPMENT

OPs shall be recouped in the following priority order:

Caretaker Relative Recipient

When the caretaker relative was a member of the AU at the time of the OP, the worker shall first seek recoupment from the caretaker relative recipient. Recoupment should be through grant adjustment if the AU is receiving CalWORKs/RCA.

The worker shall continue to seek recovery of the OP from the caretaker relative even when he/she moves to another AU, or is no longer on aid.

Example: A caretaker relative is receiving aid for one child in the

AU and an OP is established with the caretaker as the responsible adult for the claim. The caretaker relative moves out of the home and the child is now in a different AU. The caretaker relative remains the responsible adult for the OP and recovery will continue to be sought by the County from the caretaker.

Unaided Caretaker Relative

The worker may not demand repayment from the caretaker who was not a member of the AU at the time of the OP. If the unaided caretaker relative is presently receiving CalWORKs on behalf of aided children who were in the overpaid AU, then the worker may recoup the overpayment by grant adjustment.

**HARTLEY V.
LIGHTBOURNE
COURT ORDER**

The Hartley v. Lightbourne court order provided instructions to terminate OP collection actions from adults who were minors in a CalWORKs AU effective January 6, 2012.

Also, effective January 6, 2012, CalWORKs OP shall not be recouped from any minor who becomes a member of a new AU when the OP occurred while the minor was a member of a previous AU.

Note: Only the parent(s) or the caretaker relative should be designated as the liable individual(s). Refer to CalWIN Benefit Recovery Resource Guide for CalWIN entries.

**OVERPAYMENTS
ON
DISCONTINUED
CASES**

When discontinuing a CalWORKs case, the worker must verify that all of the appropriate OP NOA(s) have been issued before the case can be transferred. If the worker determines that an OP NOA was not sent, the worker will send out the appropriate OP NOA(s) before transferring the case.

CLOSED CASES

Program Integrity and Accounting/Collections units handle collection efforts from individuals who were overpaid and no longer receiving aid.

Program Integrity receives a monthly OP report that provides all necessary information to proceed with the OP collection. It is no longer necessary to complete and send to Program Integrity a Notice of Non-Fraud Overpayment form F063-07-96 when a case closes and there is a remaining OP balance.

OVERPAYMENTS

Prior to approving a CalWORKs case the worker will review

AT APPLICATION CalWIN to verify if there are open or suspended OPs. If there are outstanding OPs the worker will send an email to the Program Integrity Fraud Unit Supervisor of the impending approval and all collection activities are to stop, as Recoupment will continue by CalWORKs Grant Adjustment.

WHEN OVERPAYMENTS UNDERPAYMENTS WILL NOT BE ASSESSED Under SAR and AR/CO, clients are only required to report income mid-period when it is over their IRT. Any income received mid-period that is under the IRT is considered a voluntary report and does not need to be reported.

OPs shall not be assessed based on more income than the recipient actually received. Case circumstances must be recreated based on all reports that were required to be made. Any subsequent decreases in income that would have increased the benefit amount, decreasing the OP amount, shall also be taken into consideration when recreating case circumstances and calculating OPs. The IRT must be recalculated based on the income used in each month of the OP calculation and the multiplier must be used when necessary to determine a monthly average for weekly and biweekly income. This policy applies to both client-caused and administratively-caused OPs.

In the SAR and AR/CO reporting systems, benefits are generally frozen during the payment period and can only be lowered based on a few specific mandatory reports. However, benefits can be increased based on a change in income or circumstances at any point during the payment period. This rule is meant to benefit recipients and this same rule is to be applied when calculating OPs.

UNDERPAYMENTS An UP occurs when the AU receives less cash aid than the AU was entitled to receive and shall be corrected in accordance with the regulations and County policy in effect on the date of discovery.

UPs are corrected either by authorizing an additional cash aid payment or by balancing against any existing OP.

Note: There is no time limit for corrective action on UPs.

For any UP that is over \$1,500.00, the worker will discuss the proposed action with their supervisor and inform the recipient that they have the option of receiving the additional cash aid payment by warrant, direct deposit or EBT account. This can be done verbally or in writing. Case comments should be made in CalWIN

to indicate that the recipient was given the option and the recipient's preference.

Form [CW2203](#) (Request for Supplemental Payment by Check or Direct Deposit) may be used to inform recipients of their options when these large UPs are established. It gives the recipients 15 days to choose the method of payment.

Upon sending form CW2203, set a **Batch Authorization Exception** in CalWIN with a 2 week end date to prevent the supplement from being authorized in the batch process. If the recipient opts for an issuance method other than EBT, the **Case Issuance Method** page must be updated with the new issuance type prior to authorizing the benefits. If a warrant was issued, change the issuance type back to EBT after the issuance of the supplement.

AID PAID PENDING (APP) Aid Paid Pending (APP) is the continuation of a recipient's benefits in the amount that the recipient would have been issued if the proposed action was not taken.

If a recipient has received APP at a higher amount, and then loses the hearing mid-period, their APP must end and aid shall be decreased mid-period. Any amount of APP that the recipient received but was not eligible for will be considered an OP.

Only a Program Integrity Appeals Representatives can authorize a worker to start and stop APP.

**INCOME
ELGIBILTY
VERIFICATION
SYSTEM (IEVS)
OVERPAYMENTS**

When Income Eligibility Verification System (IEVS) matches are received showing unreported income, the worker must process these matches to determine the actual monthly income received.

An IEVS match that reveals a recipient had unreported income under their IRT during any month of the SAR or AR/CO Payment Period, except for the Data Month, will not result in an OP because it was not required to be reported.

All income received in the Data Month is required to be reported and any unreported income from the Data Month will result in an OP if that income continued into the upcoming SAR or AR/CO Payment Period.

When an IEVS match reveals that a recipient had unreported income in any month that was over their IRT, the worker must first determine if that income lasted for more than just one month. If so, that income will result in the establishment of an OP. If the income was only received in one month, there is no OP.

Refer to the following for further assistance:

- IEVS Recipient NHR/PVS Reports Resource Guide
- NHR Processing Guide
- PVS Processing Guide
- Tips for Processing PVS Reports
- Tips for Processing NHR Reports

REFERENCES

ACL 84-93; 95-55; 12-02; 12-66; 12-25; 15-95
ACIN I-113-84; I-80-09
EAS 44-340; 44-350 – 44-355
100-B14 Income Reporting Threshold for SAR
100-H4 CalWORKs Fraud Referrals
100-E5 Semi Annual Reporting (SAR) and Budget Processing
100-E5A Mid-Period Reporting in SAR,
100-E13 Annual Reporting/Child-Only (AR/CO) Cases

ATTACHMENTS

1. Benefit Recovery Resource Guide
2. [CW2203](#)
3. IEVS Recipient NHR/PVS Reports Resource Guide
4. [Non-System Determined Claim – Active Cases](#)
5. NHR Processing Guide
6. PVS Processing Guide
7. Tips for Processing NHR Reports
8. Tips for Processing PVS Reports