



CDSS

WILL LIGHTBOURNE
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



EDMUND G. BROWN JR.
GOVERNOR

December 11, 2013

Regulation Package No. 0813-10

CDSS MANUAL LETTER NO. EAS 13-04

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

Regulation Package # 0813-10

Effective 12/2/13

Sections 44-352

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG3153.htm>.

Before the implementation of All County Letters (ACLs) 12-02, 12-23 and 12-66, it was possible for County Welfare Departments (CWDs) to establish and conduct overpayment (OP) recoupment processes against any members of an overpaid Assistance Unit (AU) at any time. This meant that if a child moved to a new AU from an overpaid AU, or had been in an overpaid AU as a child, he or she could be held liable for OPs incurred by the AU's parent or caretaker relative.

Hartley v. Lightbourne (Case No. RG11605702, 11/05/2012, Alameda Superior Court) challenged the Department's policy on OP recoupment against certain populations of persons, described above. In an attempt to proactively avoid prolonged litigation, the Department issued a series of ACLs addressing the opposing party's major concerns.

The release of ACLs 12-02, 12-23 and 12-66 reduced the population against whom OP recoupments shall be established. These ACLs mandated that, as of January 6, 2012, CWDs shall no longer collect OPs from the following: 1) adults or emancipated minors who were minors receiving cash aid in an AU when an OP occurred, and 2) any minor who becomes a member of a new AU when the OP occurred while the minor was a member of the previous AU.

The settlement order in the *Hartley v. Lightbourne* litigation required the Department to file these regulation amendments on an emergency basis.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Eligibility and Assistance Standards Manual changes was EAS-13-03.

Page(s)

Replace(s) Page(s)

515 through 516

515 and 516

Attachment

KJ

44-352 OVERPAYMENT RECOUPMENT (Continued) 44-352

- (a) Dies and the county cannot collect the entire unpaid balance of the overpayment from the caretaker relative's estate; or
- (b) Is unlocatable; or

HANDBOOK BEGINS HERE

- (1) In locating former recipients who have outstanding overpayments, appropriate data sources include, but are not limited to: State Employment Insurance Records; State Department of Revenue Records; State Department of Motor Vehicle Records; and Payment Verification System.

HANDBOOK ENDS HERE

- (c) Has the overpayment discharged in bankruptcy; or
- (d) Is no longer on aid; the overpayment is less than \$35 pursuant to Section 44-352.211, and there are other members of the overpaid AU who remain on aid; or
- (e) Is no longer on aid, and the county has determined that it is not cost effective to collect the overpayment from the caretaker relative pursuant to Section 44-352.22.

.32 Unaided Caretaker Relative

When the caretaker relative was not a member of the AU at the time of the overpayment, the county shall seek recovery from the members of the overpaid AU as specified under Section 44-352.33, unless Section 44-352.34 applies.

.33 Recovery from AU Members

There shall be no priority order in seeking collection of the overpayment from members of the overpaid AU who were not the caretaker relative.

.331 Sequential/Concurrent

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.

This page is intentionally left blank

44-352	OVERPAYMENT RECOUPMENT (Continued)	44-352
---------------	---	---------------

.34 CalWORKs Overpayment Recovery from Child AU Members

The county shall not collect an overpayment from an individual who was a non-head-of-household child-member of the overpaid AU at the time of the overpayment, under the following circumstances:

.341 The child moves to another AU,

.342 The child attains the age of 18 years or is an emancipated minor.

.35 Section 44-352.34 shall not apply to collections of overpayments made under the former AFDC program, as required by federal law.

.4 Methods of Recovery

All of the following methods may be used concurrently. However, those methods should be used that will result in the maximum recovery.

44-352	OVERPAYMENT RECOUPMENT (Continued)	44-352
---------------	---	---------------

.41 Grant Adjustments

Section 44-352.41(QR) shall become inoperative and Section 44-352.41(SAR) shall become operative in a county on the date SAR becomes effective in that county, pursuant to the County's SAR Declaration.

(QR) Under QR/PB, recoupment by grant adjustment shall only be initiated at the beginning of a QR Payment Quarter. Grant adjustment shall be discontinued mid-quarter when the debt is paid in full. A new overpayment collection may continue mid-quarter by grant adjustment if the new collection of the overpayment does not decrease aid mid-quarter.

(SAR) Under SAR, recoupment by grant adjustment shall only be initiated at the beginning of a SAR Payment Period. Grant adjustment shall be discontinued mid-period when the debt is paid in full. A new overpayment collection may continue mid-period by grant adjustment if the new collection of the overpayment does not decrease aid mid-period.

.42 If the overpayment is to be recovered by grant adjustment, the following method shall be used:

.421 Agency Error

For overpayments caused by agency error,

(a) The AU's adjusted grant amount is the AU's computed grant amount for the payment month minus 5% of the MAP amount for the AU rounded to the next lower dollar.

.422 Other

For all other overpayments,

(a) The AU's adjusted grant amount is the AU's computed grant amount for the payment month minus 10% of the MAP amount for the AU rounded to the next lower dollar.

.423 Step Five

The overpayment shall be adjusted from the current aid payment. The adjustment shall be the lesser of the following:

(a) The overpayment balance, or

(b) The maximum adjustment amount, or

(c) The current aid payment.