

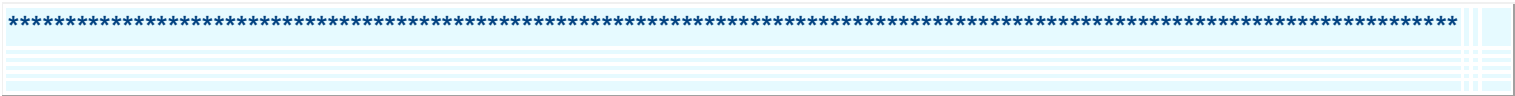
Department of Social and Health Services
Olympia, Washington
EAZ Manual

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Category Basic Food Overpayment
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Summary

Updated clarifying information under WAC 388-410-0020 and WAC 388-410-0030 to clarify overpayments that Administrative Errors and Inadvertent Household Errors are reviewed using a 12-month lookback period from the date we became aware of the overpayment. Also made minor cosmetic changes (e.g., correcting numbers and spacing).

Updated November 6, 2023
See below for edited text:



Basic Food Overpayments

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Feb 27 2023

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WAC 388-410-0020 What happens if I receive more Basic Food or WASHCAP benefits than I am supposed to receive?

- Clarifying Information

WAC 388-410-0025 Am I responsible for an overpayment in my assistance unit?

- Clarifying Information

WAC 388-410-0030 How does the department calculate and set up my Basic Food or WASHCAP overpayment?

- Clarifying Information

WAC 388-410-0033 How and when does the department collect a Basic Food or WASHCAP overpayment?

- Clarifying Information

Clarifying Information - WAC 388-410-0020

1. **Examples of an Administrative Error (AE) overpayment include when we:**
 - a. Didn't act timely on a reported or known change in circumstances;
 - b. Made a mistake in determining the AU's eligibility or benefits;
 - c. Incorrectly issued duplicate benefits;
 - d. Issued allotments after the end of the AU's certification period without redetermining the AU's eligibility;
 - e. Didn't disqualify a client for an IPV on time as required under chapter [388-446 WAC](#);
 - f. Made an incorrect change to the case or failed to make a needed change that caused the department to make an incorrect decision on the AU's eligibility or benefit amount.
2. **Examples of an Inadvertent Household Error (IHE) include when the AU:**
 - a. Understood what they were required to report; or

- b. Failed to report a change or provided inaccurate and incomplete information, but without the intent to get more food assistance than they were eligible to receive.
3. **Examples of an Intentional Program Violation (IPV) include when a client does any of the following on purpose:**
- a. Makes an oral or written false or misleading statement that affects their benefits;
 - b. Misrepresents, conceals, or withholds facts; or
 - c. Violates the Food Stamp Act, Basic Food regulations, or any state laws that cover:
 - i. How someone can get, have, and use Basic Food benefits or EBT cards; or
 - ii. The transfer of Basic Food benefits or EBT cards; or
 - iii. Trafficking.

NOTE: See chapter [388-446 WAC](#) for information and rules on IPV disqualification hearings and penalties. [WAC 388-446-0015](#) explains that an administrative disqualification hearing (ADH) is a formal hearing to determine if a person committed an IPV. Eligibility staff can't write an overpayment as IPV until an ADH or court hearing is held and the outcome determines an IPV was committed and caused the overpayment. See [Fraud](#) chapter: Clarifying Information #6 under [WAC 388-446-0001](#).

4. Date of awareness:

The *Date of Awareness* is the earlier of the:

- a. Date the overpayment is processed (Benefit Error Group (BEG) status is changed to OP and the letter is sent), or
- b. Date a request for information letter is sent to validate the overpayment.

4.5. Date of discovery:

The *Date of Discovery* is the date we have adequate information to validate ~~that~~ the AU has an overpayment, and determine the amount overpaid. It **isn't** the date of a system-generated ~~Benefit Error Group (BEG)~~, because these only give enough information to identify a potential overpayment.

The date we "open" the BEG in ACES is the official date of discovery. The exception to this rule is Basic Food errors discovered through the federal Quality Control review process. The official date of discovery for a QC error is the date the QC error report in a client's electronic case record (ECR).

5.6. Date of establishment:

The date staff establishes an overpayment, sends the household notification of the claim, and refers the case to the Office of Financial Recovery (OFR) for collections. The date of the overpayment letter is the official date of establishment.

6.7. Timeframes to set up overpayments :

We must process at least 90% of all overpayments by the end of the calendar quarter after the quarter we discover an overpayment. A claim ~~is not~~ **isn't** timely if we sent the AU an overpayment letter later than the last day of the quarter after the quarter in which we "opened" the overpayment BEG. Even though we can set up a valid overpayment after the timely processing period, federal rules require the department to meet this timeframe.

NOTE: Potential overpayments discovered by the Basic Food quality assurance (QA) process ~~must be~~ **are** "priority". Every attempt must be made to establish overpayments within federal time limits after the payment errors associated with these overpayments have been finalized by the Division of Program Integrity (DPI).

To ensure that staff review potential overpayments and promptly act on this information, the department monitors BEG lists.

Claims Establishment Timeline				
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
If your date of discovery is in:	January; February; or March	April; May; or June	July; August; September	October; November; or December
You must establish the claim by:	June 30th	September 30th	December 31st	March 31st

To measure if we are meeting federal timeliness standards for establishing overpayments, staff compares the dates an overpayment BEG was "opened" to the date we sent the overpayment letter.

EXAMPLE

1. If we discover an overpayment on February 6th (1st quarter) we must set up the overpayment by June 30th (end of the 2nd quarter).
2. If we discover an overpayment on June 28th (2nd quarter) we must set up the overpayment by September 30th (end of the 3rd quarter).

78. Other program reporting requirements and Basic Food overpayments:

*If someone ~~does not~~ doesn't report a change in circumstances required under [WAC 388-418-0005](#), we determine if there is an overpayment for **each program** based on **that program's** reporting requirements.*

- For Basic Food, the household must report changes as required under [WAC 388-418-0005\(2\)](#).
- If a Basic Food assistance unit wouldn't have to report the change based on the AU's circumstances, we **don't** set up an overpayment even if the household had to report a change for another department program.

EXAMPLE: Julie, Spencer, and their two children receive TANF and Basic Food. They fail to report that Spencer got a job earning \$900 monthly. Spencer received his first paycheck on August 25th. We discover this information in November.

TANF: The family was required to report getting a job *for TANF*. We determine amount of TANF benefits the family was eligible for if they reported the change timely on September 10th and set up an overpayment for October and November.

Basic Food: The new job didn't cause the family to go over the income limit for a family of four. Since they didn't have to report this change for Basic Food, we don't set up an overpayment.

EXAMPLE: Diane receives TANF and Basic Food for herself and her daughter. Diane doesn't report she has switched to full-time status at work and now earns \$2,500 monthly. Her paycheck on April 30th puts her over the income limit for Basic Food. We discover this information in July.

TANF: Diane was required to report the change in employment status and going over the earned income limit *for TANF*. We treat this change as if Diane had reported it timely on May 10th. We would set up an overpayment for the TANF benefits the AU received in June and July.

Basic Food: Diane's \$2,500 monthly income is over the income limit for a two-person AU. Since she was required to report this change for Basic Food, we set up a Basic Food overpayment for benefits the AU received in June and July.

Clarifying Information - WAC 388-410-0025

Even though all adult members of an AU with an overpayment are liable for the full overpayment, ~~the Office of Financial Recovery (OFR)~~ tracks payments to ensure that we don't collect more than the amount of the overpayment.

Clarifying Information - WAC 388-410-0030

1. Calculating the Overpayment

- a. The overpayment amount is the difference between what the client received and what they were eligible to receive.
 - i. For Administrative Errors where the household has earned income, apply the earned income deduction to all earned income, reported or unreported.
 - ii. For Inadvertent Household Errors with unreported earnings, don't apply the earned income disregard to the portion of earnings that wasn't reported timely.

Example: Tori has been working at Target part time with income budgeted for Basic Food. Her income increased above 130% of the FPL but the increase wasn't reported timely.
To calculate the overpayment continue to allow the 20% deduction on the reported income, but not on the unreported portion of the earnings.
 - iii. For trafficking, the overpayment amount will be provided by the court or in a signed agreement.

b. When determining an overpayment amount, subtract any outstanding underpayment from an overpayment to get the net overpayment amount.

2. Overpayment timeframes: For both AE and IHE overpayments, review 12 months from the date of awareness.

Example: Millie provides a change of circumstance form reporting new income on November 10, 2022. The form is processed on March 10, 2023 (4 months later). The lookback period spans the 12 months prior to awareness, back to March 2022.

Example: Deangelo is completing an eligibility review. TALX shows income exceeded 130% FPL starting 18 months ago that was not budgeted. This income ended and all income was properly budgeted during the 12-month lookback period. The current worker doesn't need to pursue this overpayment as it ended prior to the 12-month lookback period.

3. **Overpayments discovered by QC Reviews:** If the department discovered an overpayment or ineligibility for benefits through the federal QC process we must set up an overpayment regardless of the amount.
4. **Overpayments discovered outside the QC Review process:** If we didn't discover the overpayment through the federal QC process, we set up an overpayment if:

- a. The responsible household members **still receive** Basic Food or WASHCAP benefits and the overpayment is **over \$85**; or
- b. The overpayments total **more than \$125** and the responsible household members **don't receive** Basic Food or WASHCAP.
- c. The thresholds remain the same when the overpayment will be referred as IPV.

NOTE: Overpayments discovered through internal audits, Management Evaluation reviews, or any payment accuracy initiatives **aren't** considered as discovered through the federal QC process.

5. **OFR collects on established debts regardless of the amount.** The \$85 and \$125 thresholds related to QC findings apply to whether or not we establish an overpayment for Basic Food or WASHCAP. OFR collects on established overpayments regardless of the amount. This includes when we:
 - a. Set up an overpayment for an AU who no longer receives Basic Food; or
 - b. Modify an existing overpayment.

OFR is the point of contact for “compromising” (reducing) overpayment balances or making decisions on waiving overpayment collections. Clients must be referred to OFR for these requests.

5. **Trafficking claims** are for the entire amount trafficked.

NOTE: During the Public Health Emergency, Basic Food households were issued monthly emergency allotments in addition to the regular benefit allotment. Overpayments of the emergency allotments are established when the AU was totally ineligible for regular food assistance. In that situation, both the regular allotment and the emergency supplement are included in the overpayment, subject to the threshold amounts listed above. When overpaid but still eligible, the emergency supplement isn't increased to make up the overpaid amount.

Clarifying Information - WAC 388-410-0033

1. Repaying an overpayment:
 - a. The Department collects from the client by reducing Basic Food benefits. Clients can also repay an overpayment by paying the OFR directly.

- b. The adults in the overpayment assistance unit share the responsibility for repaying an overpayment even if they later belong to different assistance units.
 - c. We consider a person who receives Basic Food or WASHCAP benefits as having the ability to repay an overpayment.
2. When can an overpayment be reduced:
- a. The CSO can reduce an overpayment debt only if the overpayment was incorrectly calculated for an amount larger than is actually owed.
 - b. An Administrative Law Judge (ALJ) can order an overpayment debt waived or reduced to correct an overpayment that was calculated in error. An ALJ ~~does not~~ **does** ~~doesn't~~ have the authority to reduce or waive an overpayment based on hardship.
 - c. OFR can reduce an established overpayment:

A person responsible for an overpayment may be able to negotiate a reduction of the debt. OFR is the secretary's designee for the department under [RCW 43.20A.110](#) and uses criteria under [RCW 43.20B.030](#) to determine if an overpayment should be reduced or dismissed as allowed under [Title 7 CFR §273.18\(c\)\(7\)](#)

- i. OFR determines if a reduction of the debt would be cost effective for the department instead of continuing collections through other means.
- ii. Normally, reducing the debt is cost effective only if the person is willing to pay the remaining debt off in full.
- iii. People can contact OFR to negotiate a reduction in the overpayment by calling at 800-562-6114.

3. OFR takes the necessary steps to collect the overpayment. This includes allotment reduction, installment payments, and lump sums, as well as other means of collection.

We don't recover an existing overpayment from the first month's benefits of a newly-approved application for WASHCAP or Basic Food. We do recover an overpayment from the first month of an AU's certification period if we recertified the AU with no break in eligibility. How overpayments are collected:

NOTE: If we remove Basic Food benefits from a client's EBT account through the expungement process, OFR will reduce the client's overpayment by the amount we expunged from the client's EBT account.