

**3400.0187 RECOUPMENT AND RECOVERY OF OVERPAYMENTS.**

Subpart 1. [Repealed, 47 SR 391]

Subp. 1a. [Repealed, 33 SR 695]

Subp. 1b. **Calculation of overpayment.** When determining an overpayment, a CCAP agency or the commissioner must assess the dates during which a family or child care provider received more child care assistance than the family or child care provider was eligible to receive. With the exception of overpayments designated solely as agency error under Minnesota Statutes, section 119B.11, subdivision 2a, paragraph (a), the overpayment must include all amounts that the CCAP agency or commissioner determines were overpaid according to time frames specified in Minnesota Statutes, section 119B.11, subdivision 2a, paragraph (h).

Subp. 2. **Notice of overpayment.** A CCAP agency or the commissioner must notify the person, persons, or entity who is assigned responsibility for the overpayment of the overpayment in writing. A notice of overpayment must specify the reason for the overpayment, the time period during which the overpayment occurred, the amount of the overpayment, and the right to appeal the CCAP agency's or commissioner's overpayment determination.

Subp. 3. [Repealed, 47 SR 391]

Subp. 4. **Recoupment of overpayments from participants.** A CCAP agency or the commissioner must recoup an overpayment by reducing the amount of assistance paid to or on behalf of the family for every service period at the rates in item A, B, C, or D until the overpayment debt is retired.

A. When a family has an overpayment due to a child care provider error or a combination of child care provider and agency error, the recoupment amount is one-fourth of the family's copayment or \$10, whichever is greater.

B. When a family has an overpayment due to the family's first failure to report changes as required by part 3400.0040, subpart 4, or a combination of a family's first failure to report and agency error, the recoupment amount is one-half of the family's copayment or \$10, whichever is greater.

C. When a family has an overpayment due to the family's failure to provide accurate information at the time of application or redetermination or the family's second or subsequent failure to report changes as required by part 3400.0040, subpart 4, or a combination of these violations with agency error, the recoupment amount is one-half of the family's copayment or \$50, whichever is greater.

D. When a family has an overpayment due to a violation of Minnesota Statutes, section 256.98, as established by a court conviction, a court-ordered stay of a conviction with probationary or other terms, a disqualification agreement, a pretrial diversion, or an administrative disqualification hearing or waiver, the recoupment amount equals the greater of:

- (1) the family's copayment;

- (2) ten percent of the overpayment; or
- (3) \$100.

E. This item applies to families who have been disqualified or found to be ineligible for the child care assistance program and who have outstanding overpayments. If a disqualified or previously ineligible family returns to the child care assistance program, a CCAP agency or the commissioner must begin recouping the family's outstanding overpayment using the recoupment schedule in items A to D unless another repayment schedule has been specified in a court order.

F. If a family has more than one overpayment, the overpayments must not be consolidated into one overpayment. Instead, each overpayment must be recouped according to the schedule specified in this subpart from the child care benefit paid for the service period. If the amount to be recouped in a service period exceeds the child care benefit paid for that service period, the amount recouped must be applied to overpayments in the following order:

- (1) payment must first be applied to the oldest overpayment being recouped under item D and then to any other overpayments to be recouped under this item according to the age of the claim;
- (2) payment then must be applied to the oldest overpayment being recouped under item C and then to any other overpayments to be recouped under this item according to the age of the claim;
- (3) payment then must be applied to the oldest overpayment being recouped under item B and then to any other overpayments to be recouped under this item according to the age of the claim; and
- (4) payment then must be applied to the oldest overpayment being recouped under item A and then to any other overpayments to be recouped under this item according to the age of the claim.

Subp. 5. [Repealed, 33 SR 695]

Subp. 6. **Recoupment of overpayment from child care provider.** If a child care provider continues to receive child care assistance payments, a CCAP agency or the commissioner must recoup an overpayment by reducing the amount of assistance paid to the child care provider for every payment at the rates in item A, B, or C until the overpayment debt is retired.

A. When a child care provider has an overpayment due to a family error or a combination of family and agency error, the recoupment amount is one-tenth of the provider's payment or \$20, whichever is greater.

B. When a child care provider has an overpayment due to the child care provider's failure to provide accurate information or a combination of a child care provider's failure to report accurate information and agency error, the recoupment amount is one-fourth of the child care provider's payment or \$50, whichever is greater.

C. When a child care provider has an overpayment due to a violation of Minnesota Statutes, section 256.98, as established by a court conviction, a court-ordered stay of conviction with probationary or other terms, a disqualification agreement, a pretrial diversion, or an administrative disqualification hearing or waiver, the recoupment amount equals the greater of:

- (1) one-half of the child care provider's payment;
- (2) ten percent of the overpayment; or
- (3) \$100.

D. This item applies to child care providers who have been disqualified from or are no longer able to be authorized by the child care assistance program and who have outstanding overpayments. If a child care provider returns to the child care assistance program as a child care provider or a participant, a CCAP agency or the commissioner must begin recouping the child care provider's outstanding overpayment using the recoupment schedule in items A to C unless another repayment schedule has been specified in a court order.

E. If a child care provider has more than one overpayment assessed for different incidents, a CCAP agency or the commissioner must not consolidate the overpayments into one overpayment. Instead, each overpayment must be recouped according to the schedule in this subpart from the payment made to the child care provider for the service period. If the amount to be recouped in a service period exceeds the payment to the child care provider for that service period, the amount recouped must be applied to overpayments in the following order:

- (1) payment must first be applied to the oldest overpayment being recouped under item C and then to any other overpayments to be recouped under this item according to the age of the claim;
- (2) payment then must be applied to the oldest overpayment being recouped under item B and then to any other overpayments to be recouped under this item according to the age of the claim; and
- (3) payment then must be applied to the oldest overpayment being recouped under item A and then to any other overpayments to be recouped under this item according to the age of the claim.

F. If the commissioner or more than one CCAP agency assesses multiple overpayments to a child care provider for the same incident, the commissioner or each CCAP agency must assess each overpayment separately. A CCAP agency or the commissioner must recoup only one overpayment per incident at a time according to the schedule in this subpart until the overpayment debt is retired. A CCAP agency or the commissioner must recoup any overpayment that the commissioner or CCAP agency assesses for a different incident simultaneously under item E.

**Statutory Authority:** *MS s 119B.02; 119B.04; 119B.06; 256.01*

**History:** *26 SR 253; 33 SR 695; 47 SR 391*

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