



Department of Human Resources  
311 W. Saratoga St.  
Baltimore, MD. 21201-3521

## FIA ACTION TRANSMITTAL

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**TO:** DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT  
PURCHASE OF CARE ADMINISTRATORS  
FAMILY INVESTMENT SUPERVISORS/ELIGIBILITY STAFF

**FROM:** *Charles E. Henry for*  
LYNDA G. FOX, DEPUTY SECRETARY FOR PROGRAMS AND LOCAL  
OPERATIONS

*LJ*  
LINDA HEISNER, EXECUTIVE DIRECTOR, CCA

**RE:** PAYMENT IRREGULARITIES

**PROGRAMS AFFECTED:** PURCHASE OF CARE

**ORIGINATING OFFICE:** OPD / CHILD CARE ADMINISTRATION

**SUMMARY:** This action transmittal outlines and clarifies Child Care Administration policy and procedures for addressing overpayments. Effective October 1, 1997, the Child Care Administration amended the regulation covering payment irregularities. **COMAR 07.04.06.11H Payment Irregularities requires** local departments administering the Purchase of Child Care Program to attempt to recover any overpayment to recipients or service providers. The regulation specifies that recovery shall be made by repayment or by reduction of continuing child care benefits.

### POLICY

An overpayment of child care benefits creates a debt owed to the department and may also involve serious charges of misconduct. The local department must act to collect the debt of public money whether the overpayment was caused by the customer, a provider, or the local department. Any suspected misconduct must be referred for investigation and possible prosecution in accordance with local procedures and this policy.

## I. OVERPAYMENT:

### A. POLICY

1. The local department must attempt to recover any overpayment made to providers on behalf of child care recipients.
2. The POC case manager must:
  - a. Compile the facts surrounding the overpayment.
  - b. Determine if sufficient facts are available on which to determine that an overpayment has occurred.
3. If an overpayment case occurred, the case manager must:
  - a. Determine the correct amount to be paid. Reduce the amount of service or subsidy or terminate the case, if necessary, using proper adverse action. If the POC file contains complete information, the changes may be based on the record. In most instances, an interim change or a redetermination of the customer's POC case will be needed.
  - b. Calculate the total amount of incorrect payments. This includes:
    - (1) The month the first wrong payment was made and the number of months it continued. See B. Non Fraudulent Overpayment cases below to determine the starting month.
    - (2) The subsidy amount which should have been paid for each month and using the difference from actual subsidies, the total amount overpaid.
    - (3) Decide whether there is suspected fraud. If suspected fraud, refer to the Fraudulent Overpayments policy that follows on page 6.
  - c. The local department should attempt to collect in all cases of overpayment. The Central Collection Unit will determine when the overpayment would equal or exceed the costs of recovery. See C. Repayment Procedures below.

## **B. NON-FRAUDULENT OVERPAYMENT**

1. The amount of the overpayment is the difference between the amount the provider received on behalf of the customer and the amount to which the customer was entitled based on policy in effect at the time the subsidy was issued. A difference in amount will be determined for each month of overpayment and the sum of these amounts is the amount of the overpayment.
2. The date from which the overpayment is counted is determined by the error cause (agency or customer), the requirement for the customer to report changes in circumstances within 10 days, and the need for 5 working day notice period before a subsidy can be reduced or terminated.
3. The nature of the error can effect the start of the overpayment in three ways:
  - (a) Agency-based overpayments are counted from the month the incorrect subsidy payment is first made.
  - (b) Customer caused overpayments, where the customer provided incorrect or incomplete information at application, are counted from the month of the first incorrect subsidy payment.
  - (c) Customer caused errors, where a change in the customer's circumstances occurred that was unreported or reported late, are counted from the earliest payment month that would have been affected by the change in subsidy.
4. Overpayments that result from the customer's failure to report change in the family's circumstances are to be recovered from the customer.
5. Overpayments that result from the provider's failure to correctly report absences, dates of closure, or their rates are to be recovered from the provider.
6. **Overpayments that result from an agency error must be recouped from either the customer, if the error benefited the customer, or the provider, if the error benefited the provider.**

**c. REPAYMENT PROCEDURES**

1. The customer must repay the overpayment in full, or in installments.
2. The child care provider must repay the overpayment in full or in installments, or have it deducted as a recoupment from the subsequent child care payments.
3. When an overpayment has been identified by the local department, the local department must:
  - a. Notify the provider or customer in writing of the reason and the total amount of the overpayment within 30 days of the discovery of the overpayment.
  - b. The provider or customer must be offered the following options for satisfying their debt:

(1) Customer:

- (a) Repayment in full, or
- (b) Monthly installments may be arranged based on a mutual written agreement between the local department and the customer and signed by both the customer and the local department representative.

(2) Provider:

- (a) Repayment in full, by check, or
- (b) Recoupment in agreed upon installments by reducing subsequent POC payments until the unsolved debt is satisfied.
- (c) Send a second request for payment 30 days after the first request. The letter should reference any contact between the debtor and the local department and again state the amount due and a payment date.

C. **REPAYMENT PROCEDURES (Continued)**

(2) Provider: (Continued)

- (d) Send a third request for payment or to make payment arrangement within 30 days from the second request. The letter should again advise the debtor of the consequences of failure to respond in a positive manner (i.e.) refer to the Central Collection Unit.

- 4. In cases where the local department has erred:
  - a. The error must be rectified immediately; and
  - b. The child care recipient and the provider must be notified in writing of the correction; and
  - c. If necessary, a new voucher must be issued with the corrected information after proper adverse action notice.
- 5. When a customer and/or provider does not cooperate with the local department in paying an unsolved debt and recoupment is not possible the case should be referred to the Central Collection Unit (CCU) in accordance with the procedures within the local department. For fiscal receivables procedures, refer to Reference Chapter, Procedures, **Procedures for Transmitting Receivables to the Central Collection Unit**. These procedures should be located in Section 5 of your Local Department Fiscal Administrative Manual.
- 6. For CCAMIS procedures refer to Section 3: Invoice Processing System in the Invoice Processing User Training Manual and section 3: Fiscal Subsystem in the User Training Manual.
- 7. Sample letters are attached to be used by local staff in notifying customers and providers of an overpayment. There are three letters for each. The letters are to be sent in 30 day intervals. Once the last 30 day period has passed with no response, the case is referred to the Central Collection Unit (CCU). The letters will be added to the CCAMIS library as soon as it is possible.

## II. FRAUDULENT OVERPAYMENT

### A. POLICY

1. Fraud is a violation of law and only a court can ultimately determine if fraud has occurred. The case manager is responsible for making a judgement whether an overpayment may be the result of fraud.
2. The Article 27, Section 230A, Annotated Code of Maryland defines obtaining public assistance by fraud as including: willfully making a false statement; or willfully failing to disclose a material change in household or financial condition; or impersonating another person. For example: (1) a customer submits an application reflecting a need for 40 hours of care and it is later proven that the customer only worked 15 hours per week; (2) a customer reports that both parents are working, but it is later established that the mother was not employed and was available to provide care to the children.
3. Willful action is less obvious when the overpayment occurs because the customer did not report a change in circumstance or reported the change late. In these instances, the case manager should look at the number of times the customer was sent materials reminding them to report changes. For example: Does the POC file contain a fraud statement as a part of the application? Are there signed subsequent application forms, voucher terms, or form letters that reminded the customer to report changes?
4. When there is a clear record that the customer knew that the changes should have been reported within 10 days, and the failure to report resulted in the receipt of benefits or services to which the customer was not entitled, the cause of the overpayment is cited as suspected fraud.
5. If the State's Attorney's threshold for fraud prosecution is not met, then it is handled as an overpayment according to procedures listed above.
6. When the local department receives information that a customer in an active case may have committed an intentional program violation, the local department verifies the information by phone call or letter when possible. The local department then makes a determination whether a field investigation is needed. If a field investigation is needed, the case manager refers the case to the local fraud investigator or to the Office of the Inspector General Division of Special Investigation (DSI) on the DSI - 10.

**A. POLICY (Continued)**

6. DSI conducts statewide investigations of suspected fraud. Requests for investigations, upon supervisor's approval and director's signature, are forwarded to the Office of the Inspector General.
  - a. DSI will determine whether the case can be accepted and will acknowledge receipt of the referral via a preprinted memo which contains the DSI assigned log number. If the case is not accepted, the DSI reason will be given. The local department may ask for reconsideration of the decision.
  - b. Special procedural requests from DSI are handled through the local director or his designee. Local POC staff may not voluntarily notify a customer that a referral to DSI has been made, or that an investigation is under way, or that fraud is suspected, until the DSI finding has been communicated to the local department. Inquiries pertinent to the investigation are to be directed to DSI.
  - c. The customer may not appeal a referral to DSI, if this action becomes known to the customer. When the investigation does not determine evidence of suspected fraud, DSI will notify the department of its findings and terminate the investigation. DSI decisions are communicated to the local director or his designee.

**B. PROCEDURES**

1. The POC case manager must:
  - a. Compile a record of the facts surrounding the overpayment.
  - b. Determine if sufficient facts are available on which to determine that an overpayment has occurred.
  - c. Make a decision on whether fraud may be involved. If fraud is suspected, refer the case to the local fraud investigator or to the Office of the Inspector General, Division of Special Investigation (DSI) according to local practices and the procedures below:
    - (1) DSI referrals are submitted:
      - (a) On form DHR/SSA-SIU 10- an original and two copies are prepared. The original and one copy are sent to DSI. One copy will be filed in the POC file.

**B. PROCEDURES (Continued)**

- (b) With one photo copy of each POC form listed on the DSI 10, if the form contains pertinent information about the case.

DSI will initiate referral to the State's Attorney, or other appropriate law enforcement agency, when they have conducted and completed an investigation which reveals positive evidence that fraud is suspected. If necessary DSI will request that local POC staff complete the DHR/IMA 338 Unresolved Debt Summary.

- d. Complete DHR/IMA 338, Unresolved Debt Summary for the file which contains details about dates, causes, and amounts of the overpayment. (A copy is attached ). Local departments may order the form from the DHR warehouse.
- e. Complete a DHR/IMA 338-W. calculation worksheet for the file which contains back up information about the calculation of the overpayment. Local departments may order this form from the DHR warehouse.
- f. Maintain in the POC file other forms and correspondence related to the overpayment as a record of the debt collection progress.

**ACTION REQUIRED OF:** All local departments of social services administering Purchase of Care.

**EFFECTIVE DATE:** Immediately. Questions may be directed to Pamela Evans at 410-767-7845 of the Child Care Administration. CCAMIS questions should be directed to Anne Webster at 410-767-7815.

cc: CCA Management Staff  
CCA Licensing Regions  
FIA Management Staff  
DHR Executive Staff  
POC Administrators  
Constituent Services



**FIRST REQUEST**

Date of Notice:  
Case Number:  
Overpayment:  
Case Manager  
Overpayment Amount:  
Payment Due Date:

Dear \_\_\_\_\_:

According to the records of this Department, your Purchase of Child Care case has an overpayment in the amount listed above because you were issued benefits to which you were not entitled under Code of Maryland Agency Regulations 07.04.06.\_\_\_\_\_. Even if your case is closed, state regulations require that this overpayment be repaid. The legal reference is Code of Maryland Agency Regulations (COMAR) 07.04.06.11H. This overpayment began with the check issued to your provider for the month of \_\_\_\_\_ 19\_\_\_\_. Your last overpaid check was issued for the month of \_\_\_\_\_ 19\_\_\_\_. The overpayment was caused by:

\_\_\_\_\_

Please pay the entire amount of \$ \_\_\_\_\_ by the "Payment Due Date" above. If you cannot pay the entire balance by this time, please contact the worker whose name and telephone number are listed below to arrange your payment plan.

- o Please make your check or money order payable to " \_\_\_\_\_ Department of Social Services."
- o Write the case number on the check or money order.
- o Keep one copy of this letter for yourself.
- o Return one copy of this letter with your check or money order by the Payment Due Date to:

\_\_\_\_\_, Finance Office.  
Local Department

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECOND REQUEST**

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

On \_\_\_\_\_ our office notified you of an overpayment in the amount of \$ \_\_\_\_\_. This overpayment occurred for \_\_\_\_\_, a child in your care. We requested that you contact our office. To date, we have not heard or received payment from you.

Please call or write to this Department at the above address by \_\_\_\_\_, which is 30 days of the date of this letter, to make arrangements for payment.

Sincerely,

Finance Office

POC 31

1st REQUEST

(Customer) Unresolved Debt

IF YOU DO NOT AGREE WITH THE DECISION, YOU HAVE THE RIGHT TO AN AGENCY CONFERENCE ON THIS MATTER. YOU ALSO HAVE THE RIGHT TO APPEAL THIS DECISION IF YOU DO NOT AGREE AND OUR AGENCY WILL ASSIST YOU IN MAKING AN APPEAL, IF YOU WISH. TURN THIS FORM OVER TO READ ABOUT APPEAL RIGHTS.

If you have any questions call this office on \_\_\_\_\_.

Sincerely,

Finance Office

**SECOND REQUEST**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
Case Number &  
Child Care \_\_\_\_\_  
Unresolved Debt: \$ \_\_\_\_\_  
Payment Due Date: \_\_\_\_\_

Dear \_\_\_\_\_:

We have written to you previously about your overpayment for child care. You have not made payments in a timely manner or requested a Fair Hearing about the overpayment amount. The Code of Maryland Agency Regulations (COMAR reference 07.04.06.11H) requires us to collect this money and requires you to repay it.

Please contact us by \_\_\_\_\_ 19 \_\_\_\_ to make arrangements for payment of the account.

- o Please make your check or money order payable to " \_\_\_\_\_ Department of Social Services."
- o Write the case number on the check or money order.
- o Keep one copy of this letter for yourself.
- o Return one copy of this letter with your check or money order before the payment due date to:

\_\_\_\_\_, Finance Office

Department of Social Services

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank you.

Sincerely yours,

Finance Office

POC 33

3rd Request

Customer Unresolved Debt

**THIRD REQUEST**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date:  
Case Number & Category: \_\_\_\_\_  
Child Care Assistance  
Unresolved Debt: \$ \_\_\_\_\_  
Payment Due Date: \_\_\_\_\_

Dear \_\_\_\_\_:

You have not repaid the money that you owe for Child Care subsidy payments that you received in error. The Code of Maryland Regulations (COMAR 07.04.06.11.H) requires us to collect this money and requires you to repay it.

Please pay the amount of \$ \_\_\_\_\_ by the payment due date above. If you cannot pay the entire amount at this time, contact this office about other arrangements.

If you do not contact us by \_\_\_\_\_ 19 \_\_, we will declare your account delinquent and turn it over immediately to the Central Collections Unit, which is the agency that collects money owed to the State of Maryland.

- o Please make you check or money order payable to " \_\_\_\_\_ Department of Social Services."
- o Write the case number on the check or money order.
- o Keep one copy of this letter for yourself.
- o Return one copy of this letter with your check or money order within 30 days to:

\_\_\_\_\_, Finance Office

Department of Social Services

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank you.

Sincerely,

Finance Office

**FIRST REQUEST**

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

According to our records, the Purchase of Child Care case for \_\_\_\_\_, a child in your care, was overpaid in the amount of \_\_\_\_\_. The overpayment has occurred due to one or more of the following errors:

- \_\_\_ Agency Error
- \_\_\_ Error in Billing
- \_\_\_ Other \_\_\_\_\_

Attached are the invoices you submitted for \_\_\_\_\_ to \_\_\_\_\_. This is the period in which the overpayment occurred. Please call or write to this Department at the above address by \_\_\_\_\_, which is 30 days of the date of this letter, in order to discuss this matter and to make payment arrangements.

Sincerely,

Finance Office

**SECOND REQUEST**

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

On \_\_\_\_\_ our office notified you of an overpayment in the amount of \$\_\_\_\_\_. This overpayment occurred for \_\_\_\_\_, a child in your care. We requested that you contact our office. To date, we have not heard or received payment from you.

Please call or write to this Department at the above address by \_\_\_\_\_, which is 30 days of the date of this letter, to make arrangements for payment.

Sincerely,

Finance Office

**THIRD REQUEST**

Date:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

Twice we have written you reminding you of your outstanding debt of \$\_\_\_\_\_ for an overpayment for \_\_\_\_\_, a child in your care. We have yet to hear from you.

If payment is not received, or you do not call this office within thirty days to make payment arrangements, your account will be forwarded to the Central Collection Unit for handling.

Sincerely,

Finance Office



**UNRESOLVED DEBT SUMMARY**

CASE NAME	ADDRESS	CASE NUMBER	SOC. SEC. NO.
PAYEE NAME		CATEGORY	DATE OF BIRTH

**I - AMOUNT OF OVERPAYMENT -**

**NET OVERPAID**

Date of Payment	PA Grant	Public Assistance	Food Stamps	MA
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____
6. _____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____
10. _____	_____	_____	_____	_____
11. _____	_____	_____	_____	_____
12. _____	_____	_____	_____	_____

Total Overpayment: \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**II - CAUSE OF OVERPAYMENT** - Identify primary cause and give pertinent facts with regard to policies involved, date information received, and when it should have been taken into account.

Name of Interviewer assigned to case when overpayment occurred \_\_\_\_\_

**III - CURRENT REVIEW OF ELIGIBILITY COMPLETED** \_\_\_\_\_  
Date

Case Open for Payment       Grant continued: Amount \$ \_\_\_\_\_ Date \_\_\_\_\_

**RECOUPMENT**

Assistance Unit \_\_\_\_\_ Sch. H Col. II \$ \_\_\_\_\_ Sch. R Col. C \$ \_\_\_\_\_ Sch R Col. D \$ \_\_\_\_\_

\$ \_\_\_\_\_ Divided By \$ \_\_\_\_\_ = \_\_\_\_\_ months: From \_\_\_\_\_ thru \_\_\_\_\_ + \$ \_\_\_\_\_  
Overpayment      Sch. R Col. D      OTO RECOUPMENT

733-R Sent \_\_\_\_\_ Date \_\_\_\_\_       Recoupment Authorized Form DHR / IMA / AIMS 2 \_\_\_\_\_ Date \_\_\_\_\_

Recoupment Authorized Form DHR / IMA / AIMS 3 \_\_\_\_\_ Date \_\_\_\_\_

Case Closed For Payment       Grant cancelled: Date \_\_\_\_\_

Referred for Collection: Date \_\_\_\_\_       Recovery - Repayment Agreement \_\_\_\_\_ Date \_\_\_\_\_

**IV -**

Worker's Signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisor \_\_\_\_\_ Date \_\_\_\_\_