



Memorandum

Date: March 26, 2007

To: Community Social Services
Supervisors – EIA and
EIA Rural Program Managers

From: Louis Leclerc, Acting Executive Director
Disability Programs and Employment and
Income Assistance Division

Telephone:

Subject: **Calculation of Overpayments**

In recent months, the Employment and Income Assistance (EIA) Program has pursued fraud charges on a number of cases under The Canadian Criminal Code and/or *The Employment and Income Assistance Act*. In the course of reviewing and prosecuting these cases, Legal Services has advised the EIA Program that adjustments are necessary in the way overpayments are calculated. These changes are required in order to provide the participant with all EIA benefit entitlement regardless of potential fraud.

Revisions to the EIA Administrative Manual, Section 24.2.6 - Calculation of Overpayment will be made to reflect the changes described below.

Overpayments From Unearned/Earned Income (Section 15 & 16)

In order to accurately complete the overpayment calculation when a participant has unearned/earned income, EIA staff must first give the participant the opportunity to provide documentation on the actual earnings or unearned income during each month in question while they were in receipt of EIA benefits. A review of all documentation submitted by participants within a reasonable timeframe is necessary to finalize the amount of the overpayment.

Legal Services have advised that staff should re-calculate EIA benefits each month for the duration of time that a participant provides financial documentation. For example, during the re-calculation process files should not be “closed” after two months excess income when determining the potential overpayment, as participants would have had the right to re-apply to the EIA program and have his/her eligibility re-assessed.

Overpayment calculations for earned/unearned income are to be calculated month by month. If the result is a carry forward of income after two months, workers are to continue manual calculations for the following month/s and **apply income overage to the following month/s calculations**. The result in some months may be that the participant had eligibility and the overpayment total amount would be reduced.

In addition, please note that depending on the categorical eligibility, staff must allow required employment supports (e.g., transportation, work clothing, child care), mandatory payroll deductions (as outlined in Section 16.2.6 for Persons with Disabilities and Section 16.3.3 for Other Categories), and earnings exemption amount when calculating an overpayment due to unreported earnings.

If the participant has been given reasonable opportunity to gather the necessary documentation (i.e., income tax statement, pay stubs, etc.) and the participant is unwilling to provide what is required to assess the overpayment amount, staff shall then consider all EIA benefits paid, including additional benefits for special needs, non-insured health needs, major/minor repairs AND prescription drug costs* in determining the overpayment amount. The earnings exemption cannot be calculated if the participant elects not to provide the necessary documentation on earnings.

Prescription Drug Costs*

When calculating the overpayment, EIA will only recover up to the Pharmacare deductible amount if EIA staff receives information from the participant documenting any income (over and above their income assistance benefits) for all years in question. If this information is not received, EIA will not be able to calculate the Pharmacare deductible amount and will then consider all prescription drugs in the overpayment amount.

Once all calculations are complete for all months, the total overpayment amount would be assessed on the participant's file. If applicable, then add prescription drug costs up to the Pharmacare deductible amount (Pharmacare deductible amount based on income tax statement and estimator and not the standard rates referred to in Directive 2007-15), any special needs issued, minor/major repairs and any non-insured health needs expenditures to complete the final amount of the overpayment.

Original signed by Louis Leclerc

Louis Leclerc
Acting Executive Director
Disability Programs and Employment and Income
Assistance Division

Attachments

cc: Gerry Schmidt
Debbie Besant
Janet Wikstrom
Community Area Directors
FSH Area Directors
Regional Directors
Distribution List

Attachment 1

24.2.6 CALCULATION OF OVERPAYMENT

1. Any funds improperly received by a participant as the result of a deliberate attempt to falsify income assistance eligibility shall be calculated as follows:

a) Offences under the *Employment and Income Assistance Act*: Only the amount of assistance paid between the period beginning with the 31st day following the change of circumstances (such as the receipt of employment income) and the date upon which the person discloses the change in circumstances (whether in an interview or not), can be taken into account in calculating the amount.

For example, if a person first receives employment income on July 1st and that person discloses the receipt of the employment income the following October 1st, the period of time in which income was improperly obtained would be that which was paid from July 1 to September 30th.

These guidelines do **not** apply to cases in which prosecution is brought under the Criminal Code, because in such cases there is not a 30 day period to report changes in circumstances.

b) Criminal Code Offences: In a Criminal Code charge, all of the funds paid from the date that the change in circumstances occurred to the date the Department was informed (directly or indirectly) of the change by that person must be included in the calculation of the overpayment.

2. To accurately complete the overpayment calculation when a participant has earned/unearned income, EIA staff must first give the participant the opportunity to provide documentation on their actual earnings/unearned income during each month the participant was in receipt of EIA benefits. A review of all documentation submitted by participants within a reasonable timeframe is necessary to finalize the amount of the overpayment.

Once all calculations are complete, the total overpayment should be assessed on the participant's file.

If the participant has been given reasonable opportunity to gather necessary documentation and the participant is unwilling to provide what is required to assess the overpayment amount, staff shall then consider all benefits paid including additional benefits for special needs, non-insured health expenditures, major/minor repairs AND prescription drug costs in determining the overpayment amount.

3. When calculating the overpayment, EIA will only recover up to the Pharmacare deductible amount if EIA staff receives information from the participant documenting any income (over and above their income assistance benefits) for all years in question. If this information is not received, EIA will not be able to calculate the Pharmacare deductible amount and will consider all prescription drugs in the overpayment amount.