

OTDA-4357-EL (Rev. 7/01)
GIS 04 TA/DC006

UPSTATE & NYC MESSAGE

GENERAL INFORMATION SYSTEM
DIVISION: Temporary Assistance

March 26, 2004

Page: 1

TO: Commissioners; TA & FS Directors; Finance Directors; CAP Coordinators, Resource and Recovery Staff

FROM: Patricia A. Stevens, Deputy Commissioner, Division of Temporary Assistance

SUBJECT: Overpayment/Repayment Detail Worksheet

EFFECTIVE DATE: Immediately

CONTACT PERSON: Central Regional Team @ 1-800-343-8859, extension 4-9344

When calculating an overpayment, districts must consider potential sources of repayment/recovery. Recipients of Temporary Assistance are obligated to repay overpayments. This is done by recoupment when the overpaid household is in receipt of TA. The head of household may enter into a repayment agreement if the family is no longer in receipt of TA. There are other sources of recovery of TA, correctly paid or not. These include child support collections, lawsuit settlements, lottery offsets, Interim Assistance Reimbursement, property liens, EBT expungements, etc. It is possible that one or more such sources will repay all assistance for the period of an overpayment. Due to the number of different possible sources of repayment, the potential for failure to credit one or more payments or payment types exists.

When an overpayment is being calculated, when a tally of unreimbursed TA is being calculated, or when a client requests a review of an overpayment amount, each potential source of repayment or recovery must be considered. In addition, some districts ask an individual to sign a Confession of Judgment (COJ) for an overpayment. Before being asked to sign a COJ, the individual must understand the debt amount and that by signing, he or she will legally acknowledge the debt. When a recipient or former recipient of TA will be asked to sign a confession of judgment for an overpayment debt owed, he or she must be offered an accounting.

The Overpayment/Repayment Detail Sheet must be used as part of the review process. The DSS reviewer must consider each source from which repayment or recovery could have been received as of the date of the review and determine if the overpayment balance is correct. The Overpayment/Repayment Detail Sheet must be offered prior to an individual being asked to sign a COJ. The individual must sign the form and indicate that a review is requested or not. The individual must be provided with a copy of the signed, and if a review is requested, completed form. A copy must be retained in the case file.

The Overpayment/Repayment Detail Sheet will allow the recipient/former recipient to see which repayment/recovery sources DSS has considered for the assistance period, or the period during which an overpayment accrued. It will also serve to inform the individual of the implications of acknowledging the overpayment balance amount in a confession of judgment.

If a source of repayment was received for the overpayment period, that does not necessarily mean that the amount that the individual or family owes will be reduced.

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DIVISION: Temporary Assistance

March 26, 2004
Page: 2

For example:

- ⇒ If child support was collected for the period of an overpayment, it will not reduce the overpayment unless the support is more than the correctly paid TA plus the support pass-through payments for that period.
- ⇒ The Support Collection Unit may inform TA via the monthly CSMS 8649 Report: "Obligations and Collections Greater Than Assistance Granted" that more child support was collected and retained than the family received in TA. If so, that information will affect other potential collections. For example, if the family accrued overpayments while on TA but all TA has been repaid by the support collections, the overpayment balances must be adjusted to zero. If a lien was placed against a family home, the lien must be removed if the case closed with all TA repaid.

Medicaid:

Medicaid recipients should not be asked to sign a Confession of Judgment. In order to enforce a recovery of incorrectly paid Medicaid against the property of a Medicaid recipient, it is necessary for the district to commence an action or proceeding in a court of competent jurisdiction, and obtain a determination by such court affirming the recipient's legal liability to repay the incorrectly paid Medicaid.

Districts are allowed to request and accept voluntary repayments of Medicaid incorrectly paid, subject to the conditions specified in administrative directive 02 OMM/ADM-3, pages 19-20.

An Administrative Directive will follow.

OVERPAYMENT/REPAYMENT DETAIL WORKSHEET

County Department of Social Services Date:

Client Name: Case Number:

AT ANY TIME, INCLUDING BEFORE YOU SIGN A CONFESSION OF JUDGMENT FOR AN OVERPAYMENT THAT WE SAY YOU OWE, YOU ARE ENTITLED TO ASK IF THE BALANCE THAT WE SAY YOU OWE IS CORRECT.

You can ask DSS to report about recoupments and other kinds of repayments such as child support. If DSS does not report a payment that you think was made, you can ask DSS about that payment.

We may ask you to sign a Confession of Judgment (COJ). Signing a Confession of Judgment is a serious matter. If you sign a Confession of Judgment, and fail to make a payment within 90 days, we will file the judgment. Once we have a judgment against you, we may be able to collect the debt that you owe from income or resources that you have, without going to court.

You are not required to sign a Confession of Judgment. If you do not sign the confession of judgment, and we want to get a judgment against you for failure to make payments on your debt as agreed, we would have to take you to court in order to get a judgment.

A judgment will be reflected on your credit record.

You are not required to sign any of these documents. If you like, you may seek legal help before you decide if you want to sign a Confession of Judgment. Free legal assistance may be available from Legal Aid at phone #

I UNDERSTAND THAT I CAN ASK DSS TO REPORT TO ME ALL PAYMENTS MADE ON MY DEBT.

=> I HAVE ASKED FOR AN ACCOUNTING OF ALL PAYMENTS MADE ON MY DEBT.

Sign full name: Date:

=> I AGREE WITH THE BALANCE AMOUNT ON MY DEBT AND I HAVE NOT ASKED FOR AN ACCOUNTING OF PAYMENTS MADE ON MY DEBT.

Sign full name: Date:

DSS REVIEWER SIGNATURE: Date:

Overpayment original amount \$, for the period from to. The current balance is \$.

(If more than one overpayment attach a separate sheet.)

Possible Sources of Debt Reduction - Read BOTH Sides of This Form

Child Support Collected and kept by DSS. We have determined that: Support was collected and considered in the overpayment(s) calculation. Support was collected and not considered. We will recalculate the overpayment(s). No support was collected for any member of your case.

Recoupments. We have determined that: Recoupments were taken and already considered. Recoupments were taken but not considered. We will recalculate your debt. No amount was recouped for the overpayment(s) in question.

Interim Assistance (collection from your first SSI benefit). We have determined that: Interim assistance payments were received and already considered.

Interim assistance payments were received but not considered. We will recalculate your debt. Interim assistance was not collected for the period of the overpayments(s).

Lottery Offset: We have determined that:

A lottery offset payment was received and already considered.

A lottery offset payment was received but not considered. We will recalculate your debt.

No lottery offset was received.

Lawsuit Settlement: We have determined that:

A lawsuit settlement is pending but no money has been collected by DSS *

A lawsuit was settled and the payment was already considered.

A lawsuit was settled and the payment was not considered. We will recalculate your debt.

We have no record of a pending lawsuit or lawsuit settlement.

*If you have a pending lawsuit but you repay public assistance before the lawsuit is settled, DSS cannot recover the amount you already repaid from your lawsuit settlement.

Workfare (prior to 1997): We have determined that:

Workfare was done prior to 1997 but was already considered when we determined the amount of your overpayment(s).

Workfare was done prior to 1997 but was not considered. We will recalculate your debt.

No workfare was done prior to 1997.

Other (for example, cash repayments; expired EBT benefits): We have determined that:

There were no other repayments or collections that could have reduced the overpayment(s)

The following repayments or collections were received: _____

These repayments or collections were already considered.

These repayments or collections were not considered and your debt will be recalculated.

Liens/ Mortgages on your house or property. We have determined that:

DSS does not have a lien or mortgage against your property.

DSS has a lien or mortgage against your property but no money has been collected. **

** If you own property and DSS has a lien or mortgage against that property, the lien or mortgage must be reduced by any amounts that you repay.

Tax Offset (This is when a state tax return is taken to repay a public assistance overpayment(s))

A tax offset was taken and already considered in this overpayment(s) or was applied to a different overpayment(s)

A tax offset was taken but was not considered. We will recalculate your overpayment.

No tax offset was taken.

The following must be completed when a repayment source was not considered and the debt must be recalculated. When DSS determines that the debt must be recalculated, NO Confession of Judgment can be gotten from the debtor until the recalculation is completed and the amount of the COJ is adjusted as appropriate.

We have considered the following source(s) of potential repayment and recalculated your debt.

We have determined that the amount of your debt balance:

Remains the same. The balance is \$ _____

Was incorrect and is reduced from \$ _____ to \$ _____

DSS REVIEWER SIGNATURE: _____ Date: _____

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