

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-52  
FAMILIES FIRST UNDERPAYMENTS AND OVERPAYMENTS**

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**1240-1-52-.01 DEFINITIONS.**

- (1) Administrative (Agency) Error. An overpayment or underpayment caused by an error made by any representative of the Department of Human Services. Administrative errors may include, but are not limited to:
  - (a) Failure to take timely action on a change reported by the AG or known to the department;
  - (b) Incorrect computation of the AG's income or deductions, or authorization of an incorrect grant amount; or
  - (c) Incorrect application of policy.
- (2) Claim. The data describing a debt due the state and the unpaid balance of that debt.
- (3) Collection. The process of collecting an overpayment.
- (4) Grant (Benefit) Reduction. Process of recovering an overpayment from an active assistance group by withholding an amount equal to 10% of the payment standard from the monthly Families First check, so that the AG retains, for any payment month, from the combined aid, income, and liquid resources (without application of earned income disregards) not less than 90% of the amount payable to a family of the same composition with no other income.
- (5) Improper Payment Error. An overpayment caused by a change that was reported timely but caused ineligibility for the month the change occurred. An improper payment error occurs when the AG was overpaid because the caretaker relative was on strike as of the last day of the month. For the purpose of this section, "caretaker relative" is defined as any natural or adoptive parent.
- (6) Inadvertent Client Error. A misunderstanding or unintentional failure on behalf of the A/R to provide correct information or to report changes timely and accurately.
- (7) Intentional Program Violation. An intentional program violation is an action by an individual for the purpose of establishing or maintaining a family's eligibility for Families First, or for increasing or preventing a decrease in the amount of the grant, which is intentionally a false or misleading statement, or a misrepresentation, concealment or withholding of facts, or any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- (8) Overpayment. Benefits received by an AG which exceed the amount of benefits they were eligible to receive.

(Rule 1240-1-52-.01, continued)

- (9) Suspected Intentional Program Violation. A determination made by the agency that an overpayment has occurred because the client intentionally provided information that was possibly incorrect or misleading.
- (10) Underpayment. Benefits received by an AG that are less than the amount of benefits they were eligible to receive.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 233.20; 45 CFR 233.106.

**Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-52-.02 LEGAL PROVISIONS.** Title IV-A, Section 402(a)(22) of the Social Security Act and 45 CFR 233.20(a)(13) require prompt recovery of overpayments and correction of underpayments. The law provides for criminal prosecution of individuals who fraudulently receive Families First benefits to which they are not entitled.

**Authority:** TCA §§4-5-201 et seq., 71-1-105, and 71-3-120; Public Chapter 950 (1996); 45 CFR 233.20.

**Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-52-.03 OVERPAYMENTS AND CLAIMS.**

- (1) A claim must be established against any assistance group that received more Families First benefits than they were eligible to receive, regardless of the reason for the overpayment.
- (2) Overpayments may occur as a result of:
  - (a) Administrative (agency) error;
  - (b) Inadvertent client error;
  - (c) Improper payment error; or
  - (d) Suspected intentional program violation.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 233.20. **Administrative**

**History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-52-.04 CORRECTION OF FAMILIES FIRST UNDERPAYMENTS.**

- (1) A Families First underpayment occurs when an assistance group receives less cash assistance than they were entitled to.
- (2) Corrective Action must be taken to restore benefits retroactively any time an underpayment for a prior period is discovered.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 233.20. **Administrative**

**History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-52-.05 PROCEDURES FOR PROCESSING CLAIMS.** Procedures for processing claims in each county are to be established by the district and county administrative staff. The provisions at 1240-1-19-.07 regarding notice of adverse action and right to appeal shall be followed.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 205.120. **Administrative**

**History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-52-.06 ESTABLISHING THE PERIOD AND AMOUNT OF THE OVERPAYMENT.**

- (1) The policies and need/payment standards that were in effect during the time the overpayment occurred must be used to establish the period and amount of the overpayment. An overpayment can be established for any prior period if the circumstances and overpayment can be determined.
- (2) The amount of the gross overpayment is the difference between all IV-A benefits the assistance group received and the benefits they were entitled to receive. The net overpayment is determined by reducing the gross overpayment by any IV-D reimbursements of the grant.
- (3) Overpayment Determinations. Overpayments/ineligibility begin the month a change could have been effected if timely reported by the client or if the case action had been completed timely by the Department.
- (4) Earned Income Penalty. When the individual responsible for causing the overpayment has earned income, the earned income disregards are not allowed when calculating the amount of the overpayment.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

**1240-1-52-.07 COLLECTION OF FAMILIES FIRST OVERPAYMENTS.**

- (1) Collection action must be initiated after the overpayment has been established and the claim prepared.
- (2) The overpayment must be recovered from:
  - (a) The assistance group which was overpaid; or
  - (b) Any AG of which the caretaker and/or other adult member of the overpaid AG has subsequently become a member.
- (3) The net overpayment will be collected through:
  - (a) Grant reduction;
  - (b) Lump sum repayment; or
  - (c) Installment payments, through a repayment agreement. If an active recipient fails to make a scheduled installment payment, the case may go immediately to grant reduction.

**Authority:** TCA §§4-5-201 et seq. and 71-1-105; Public Chapter 950 (1996); 45 CFR 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.