

Sec. 17b-749-20. Benefit errors

(a) Underpayments and Overpayments

(1) The CCAP administrator shall take prompt action in accordance with the requirements of this section whenever an error occurs that causes benefits to be underpaid or overpaid.

(2) Underpayments occur when the parent does not receive all the benefits to which the family is entitled due to an administrative error made by the department, the CCAP administrator or upon submission of satisfactory documentation of an error made by the Department of Labor or its designee for a family participating in an employment services activity. The evidence shall clearly demonstrate that an administrative error occurred. Errors caused by the family or the provider shall not be considered underpayments, except when a provider makes a billing error on an invoice and the CCAP administrator is notified of the error within thirty days of the date the payment is issued to the provider.

(3) Overpayments occur whenever the amount paid exceeds the benefit that would have been paid if the payment had been calculated correctly based on accurate information that was reported, verified and acted on in a timely manner. The cause of each overpayment shall be classified as administrative, parent or provider caused. Parent and provider caused overpayments shall be further classified as intentional or unintentional.

(4) No overpayment shall exist if the difference between the benefits paid on behalf of the family and the correct benefit amount is less than ten dollars in any month.

(b) Administrative Errors

(1) An overpayment or underpayment shall be classified as an administrative error if the error was caused solely by actions taken by the department, the CCAP administrator or the Department of Labor or its designee. Administrative errors shall include, but not be limited to the following types of errors:

(A) errors caused by delays in processing applications or taking prompt action on changes that were reported timely;

(B) errors in determining eligibility, the benefit amount or the payment authorization period;

(C) data entry errors;

(D) errors caused by the incorrect application of state regulations, policy or procedures; and

(E) fraud committed by an individual who works for the CCAP program.

(c) Errors Caused by Parents and Providers

(1) Overpayments that are not due to administrative error shall be classified as parent or provider caused.

(2) Overpayments caused by the parent shall include, but not be limited to errors caused by reporting false or inaccurate information, delays in reporting changes in household circumstances or provider arrangements, or excess payments made as the result of a request to continue benefits pending an administrative hearing.

(3) Overpayments caused by the provider shall include, but not be limited to the following types of errors:

(A) inaccurate reporting of information concerning licensing status, age or other provider eligibility requirements;

(B) inaccurate reporting of the provider's relationship to the child or the location at which care is given;

(C) inaccurate reporting of household circumstances;

(D) committing an illegal act, such as cashing a replacement check after falsely claiming that the original check was lost, stolen or destroyed;

(E) inaccurate reporting of actual charges, attendance or dates of service; and

(F) any other false claim for goods or services provided as enumerated in section 53a-290 of the Connecticut General Statutes.

(4) The error shall be classified as both parent and provider caused if the parent and the provider both had knowledge and actively participated in the action that caused the overpayment to occur.

(5) The CCAP administrator shall make a preliminary determination of whether the overpayment was intentional or unintentional pursuant to guidelines established by the department. Overpayments shall be classified as intentional if the parent or provider knowingly withheld or provided false information on matters affecting eligibility, benefits or a claim for services. An overpayment shall be considered unintentional under the following circumstances:

(A) if there was clearly no intent to commit fraud or to obtain benefits or payments under false pretenses;

(B) if the parent or provider did not purposefully withhold or provide erroneous information;

(C) if illness, a family emergency or other good cause reasons exist for not reporting information timely or accurately; or

(D) if the error was due to a delay in taking action as the result of an administrative hearing request.

(6) Where the CCAP administrator makes a preliminary determination that a parent or provider may have committed fraud, the case may be referred as appropriate to the Office of the Attorney General, the Office of the Chief State's Attorney or for an administrative disqualification hearing. Administrative disqualification hearings shall be conducted in accordance with the requirements of section 17b-749-22 of the Regulations of Connecticut State Agencies.

(7) A final determination that an error was intentional shall be made only as the result of a decision by a court or administrative hearing official, or if the parent waives his or her right to an administrative hearing. If the error was intentional, the CCAP administrator shall disqualify the family or the provider from participating in CCAP for the period specified in subsection (h) of this section.

(d) Calculating the Error

(1) Benefit errors shall be calculated by comparing the benefits paid during the applicable benefit period to the payment that would have been payable if eligibility and payment had been calculated correctly. The difference between the correct benefit and the amount actually paid shall be the amount of the error.

(2) If benefits are underpaid due to an administrative error, the amount owed shall be paid within sixty days of the date the error was discovered, unless information needed to calculate the correct payment is pending or if the family or provider has an outstanding

overpayment. The amount of the underpayment shall first be used to offset an outstanding overpayment.

(3) Underpayments shall be corrected regardless of whether the family's case is active or closed. The parent and provider shall be notified of the determination.

(4) For overpayments caused by the parent or provider that are unintentional, the error shall begin on the first day of the month following the month in which the circumstances that caused the overpayment occurred.

(5) For administrative overpayments, the overpayment shall begin on the first day of the month following the month in which the circumstances that caused the overpayment occurred, unless action would have been taken after that date due to a required period of advance notice. If advance notice would have been required, the overpayment shall begin on the day after the period of notice of adverse action would have expired. To determine this date, the CCAP administrator shall assume that the notice of adverse action would have been issued on the day sufficient information existed to warrant taking the proposed action.

(6) For intentional errors, the overpayment shall begin on the date the circumstances that caused the overpayment occurred without regard to advance notice requirements. If the CCAP administrator fails to take timely action to correct the overpayment following discovery of the error, any benefits overpaid as the result of the administrative delay shall be considered administrative error.

(e) Responsibility for Repayment

(1) The parent shall be responsible for repaying the overpayment unless the overpayment was caused solely by the provider. If the parent is responsible for the overpayment and recoupment is initiated by reducing the parent's monthly benefits, the provider may require the parent to pay the difference between the regular payment and the reduced amount.

(2) If the provider is solely responsible for the error, the provider shall repay the overpayment. Providers shall not increase charges for children subsidized by CCAP to compensate for the loss of income due to the recoupment of an overpayment caused by the provider.

(f) Notice of Overpayment

The party responsible for the overpayment shall be provided with advance notice of the overpayment, the amount and repayment options. The responsible party shall be asked to select a repayment method as outlined in subsection (g) of this section. If the parent is responsible for repaying the overpayment, the provider shall be notified in advance of the proposed change in benefits. Written notice to the parent shall not be required if the provider is responsible for repaying the overpayment.

(g) Methods of repayment

(1) If the recoupment method and rate has not been set by a court, the CCAP administrator shall first attempt to recover overpayments by a lump sum repayment or by offsetting the amount of the overpayment against any benefits owed as the result of an underpayment. If the parent or provider does not agree to a lump sum repayment, the CCAP administrator shall reduce the parent's or the provider's ongoing payments by the lesser of the following amounts until the overpayment has been recouped:

(A) ten percent of the parent's monthly benefits or the provider's monthly payment if the overpayment was due to an administrative or unintentional error; or

(B) twenty-five percent of the parent's monthly benefits or the provider's monthly payment if the overpayment was due to an intentional error.

(2) The percentage reduction shall be applied to each child for whom the parent receives CCAP assistance or who are in the provider's care. Recoupment shall be initiated automatically if the parent or provider does not respond to the advance notice.

(3) If the parent or provider do not actively receive CCAP payments, the department shall attempt to recover the overpayment by establishing a monthly billing schedule.

(4) If the parent or provider does not comply with the repayment plan, the commissioner may, to the extent allowed by law, take whatever action deemed appropriate to recover such overpayment.

(h) Disqualification Penalties in Fraud Cases

(1) Parents who are overpaid due to an intentional error may be referred to an administrative disqualification hearing or to a court of appropriate competent jurisdiction if the CCAP administrator determines that the parent may have committed fraud. Child care providers shall not have the right to an administrative hearing.

(2) The CCAP administrator shall impose a disqualification penalty on the family if the parent is found to have knowingly committed fraud in connection with obtaining benefits from CCAP. A penalty shall be imposed only after a final determination that the parent committed fraud has been made pursuant to the requirements of subsection (a) of section 17b-749-22 of the Regulations of Connecticut State Agencies.

(3) For the first finding of fraud committed by a parent, the period of ineligibility shall be three months from the date the notice of disqualification is issued or from the date the family's benefits are discontinued, whichever is later. For the second finding of fraud, the disqualification period shall increase to six months. For any subsequent finding, the disqualification period shall be one year for each occurrence.

(4) Child care providers convicted of committing vendor fraud by an appropriate court of competent jurisdiction shall be permanently disqualified from participation pursuant to the requirements of sections 17b-99 and 53a-290 of Connecticut General Statutes.

(5) Parents may reapply and be approved for assistance at the conclusion of the disqualification period.

(Adopted effective July 10, 2001)