

### What if I was overpaid?

HHS will ask you to pay back the amount of the overpayment, even if it was caused by your caseworker's error.

### What is the process HHS will use to collect overpayments?

HHS will first send you a letter, asking that you repay them. They will give you a choice between:

- Paying the money you owe in a lump sum or through a payment plan;
- Getting less money/benefits in the future.

### After I receive this letter, how much time do I have to respond?

You must respond within 10 days of receiving the letter, either telling HHS how you will repay the amount or by filing an appeal challenging the overpayment.

### What are my rights if HHS tells me I have been overpaid?

Right to Notice: You have the right to be notified that HHS

thinks you have been overpaid. This notice must tell you:

- The reasons HHS believes an overpayment happened
- What HHS will do about the overpayment
- The legal rules that allow them to recover the overpayment

The Notice must be given to you at least 10 days before your benefits can be reduced.

Right to Appeal: If you believe you have not been overpaid, you have the right to appeal and have a fair hearing. If you want to appeal you must do it within 90 days of getting your notice.

Right to Continued Benefits: If you appeal within 10 days of getting your notice, you will not lose your benefits or have them reduced until after the appeal process is over.

But, if you lose your appeal you will have to pay HHS back for any benefits you get between when you file your appeal and when you get a decision from the hearing officer.

### CHILD CARE SUBSIDY

### If I get child care assistance, what changes in my situation do I need to tell my caseworker about?

You must contact your caseworker within 10 days when you have had a change in:

- Address, income, family makeup, childcare schedule, your need for child care, or;
- You are unhappy or have problems with your service delivery plan or;

- You are told by the caseworker you need to contact him/her.

### What if HHS tells me I owe them money for child care payments because I made a mistake?

HHS will try to get this money back from you.

### How will HHS try to get this money back?

HHS will send you a letter asking you to repay the overpayment and give you options on how you can repay the amount.

### What are my rights if HHS tells me I have been overpaid?

If you have been told you have been overpaid, you have the following rights:

Right to Notice: You have the right to be notified that HHS thinks you have been overpaid. This notice must tell you:

- The reasons HHS believes an overpayment happened
- What HHS will do about the overpayment
- The legal rules that allow them to recover the overpayment

The notice must be given to you at least 10 days before the action is taken.

Right to Appeal: If you believe you have not been overpaid, you have the right to appeal and have a fair hearing. If you want to appeal you must file your appeal within 90 days of getting your notice.

Right to Continued Benefits: If you appeal within 10 days of getting your notice, you will not lose your benefits until the appeal process is finished. But, if you lose your appeal you will have to pay HHS back for any benefits you got between the time you filed your appeal and when the hearing officer makes a decision.

- **Do not assume your caseworker understands everything about Public Benefits.**
- **Ask questions.**
- **Do not sign anything without knowing what you are signing.**
- **Get and keep copies of what you sign and what you are sent in the mail.**

NEBRASKA APPLESEED CENTER  
FOR LAW IN THE PUBLIC INTEREST  
941 O Street, Suite 920 . Lincoln, NE 68508  
402.438.8853 . Toll Free 1.800.845.3746  
Fax: 402.438.0263  
Email: info@neappleseed.org  
www.neappleseed.org

Printed April 2008.

# Understanding Your Rights in the Welfare System

Basic Questions  
& Answers About

## OVERPAYMENTS & COLLECTIONS

To contact the  
Nebraska Appleseed  
Intake Line, call:

438-8853 ext. 105  
(in Lincoln)

or 1-800-845-3746 ext. 105  
(outside Lincoln)

CORE VALUES  
COMMON GROUND  
EQUAL JUSTICE



## Health & Human Services says you owe them money:

### What are your rights and what is the process?

If you are on public benefits, you might make a mistake in the information you give to Health and Human Services (HHS), or HHS might make a mistake in figuring out the amount of benefits you can get. When you get more than you qualify for it is called an “overpayment.” If HHS makes a mistake that causes an overpayment, in some cases they will ask you to pay this money back. This brochure will help you understand what changes must be reported to your caseworker to avoid an overpayment, the process used by HHS to collect an overpayment, and what your rights are throughout the process.

## FOOD STAMPS

### I am on Food Stamps. What changes in my situation should be reported to my caseworker?

What information needs to be reported to your caseworker depends on the type of reporting category you are in. There are three categories:

- **Six-Month Reporting:** If you are in this category, you have to report a change in income within 10 days of the change *only if your monthly income goes over the limit for your family size*. The income limit should be provided to you by your caseworker and should be listed on the notice that says you are eligible for Food Stamps.
- **Transitional Benefit Reporting: If you are in this category, you do not** need to report any changes during the 5 months you are receiving Food Stamps.
- **Change Reporting Households:** If you are in this category, there are many changes you must report within 10 days of the change, such as: 1) A change in how many people live in your household, 2) Moving to a different home or apartment, 3) Getting a car, 4) A change in how much money you make or how many hours you are working, and 6) Changes in child support payments.

### What happens if I get a Food Stamps overpayment, either because I accidentally did not report needed information or because HHS accidentally gave me more than I qualified for?

HHS will collect the amount of Food Stamps you received that was incorrect.

### What are my rights?

1) If you are still getting Food Stamp benefits and they are automatically reduced:

- HHS cannot take more than 10% or \$10 (whichever is higher) from you unless you agree to pay more. So, unless you want to pay more than that, do not agree to pay more.
- HHS must notify you by letter at least 10 days before they collect from you. If they don't provide notice in time, you may have grounds to file an appeal. (See Appleseed's brochure on Appeals and Mediation.)

2) If your benefits are automatically reduced or another method is used:

- You have the right to ask the agency to settle, compromise, or reduce the amount you owe.
- You have the right to look at your records to see how the amount was calculated.
- You have the right to appeal and have a hearing. (You must request a hearing within 90 days of receiving notice).

If you request a hearing within 10 days of notice, you will continue to receive Food Stamps until your hearing. But, if you lose your appeal you will have to pay HHS back for any overpayment received between the time when you file for an appeal and when the hearing officer makes a decision.

### What are my rights if my case is turned over to the Treasury Department?

Once you have reached this stage, the Treasury Department will automatically take money from your taxes. However, you still have the following rights:

- You have the right to be notified that your case is being turned over to the Treasury Department to reduce your income tax return before the claim is turned over.
- You have the right to file an appeal challenging HHS' actions to turn your case over to the Treasury Department.

### Who can HHS collect from?

HHS can collect from every adult who was a member of the household when the overpayment happened.

### How can the agency collect an overpayment?

HHS has many different ways to get the money back in this situation. First, you will be allowed to choose how HHS collects the overpayment. You can choose between:

#### 1) Automatic Benefit Reduction

If you are still getting Food Stamps, you can choose to have HHS automatically reduce your food stamps by 10% or \$10, whichever is more.

#### 2) Cash Payment

You can choose to make a payment by cash, check, or credit card. You can pay in one lump sum or over several months using a payment plan.

### What other ways can the agency collect from me?\*

If you are no longer getting Food Stamps and you do not make a cash payment or enter into a payment plan, there are many other ways HHS can try to collect from you, such as:

- Collection through small claims court
- Taking the money owed out of your Unemployment Compensation
- Taking your wages through a court order, sometimes called a garnishment
- Getting the legal right to sell your property for the money you owe
- Taking lottery winnings
- If you have not paid the amount within 210 days, the agency may turn your case over to the Treasury Department who can take out the money you owe from your federal income tax refund. You have the right to receive notice that your case is being turned over to the Treasury, and you have the right to appeal whether HHS can turn your case over to the Treasury.
- The state may also take the money from your state income tax refund.

\* For all of the above methods of collection, the agency may also charge you for the costs of collecting the overpayment, which means it will cost you more than the amount you originally owed.

## AID TO DEPENDENT CHILDREN / MEDICAID

### What changes in my situation should be reported to my caseworker?

All of the following changes in your situation should be reported to your caseworker within 10 days of the change:

- Increase or decrease in money; buying or selling property such as a car, stocks, and bonds.
- A change in the amount of people who are dependent on you; a person/child moving out or moving in.
- Moving to a different house or apartment
- Getting a new job or losing a job
- A change in how much money you make:
  - Earning more/less money;
  - Working more/less hours per week

### What if I don't report changes? What could happen?

It depends on what information you did not give HHS. If the information is related to an increase in your money/wages you might have been overpaid.