Sometimes a person receiving public benefits like SNAP or ADC makes a mistake in the information he or she gives to the Nebraska Department Health and Human Services (DHHS). And sometimes HHS makes a mistake figuring out the amount of benefits a person should get. When a person receives more benefits than he or she is eligible for, this is called an overpayment.

If DHHS discovers an overpayment, they may ask the client to pay back the overpaid benefits—even if DHHS made the mistake that caused the overpayment. This brochure will explain what changes must be reported to DHHS to avoid an overpayment, the process used by DHHS to collect an overpayment, and your rights throughout the process.

**Supplemental Nutrition Assistance (SNAP)**

**What changes must I report while getting SNAP?**

The information that must be reported to DHHS depends on which reporting category you are in.

If you have transitional benefits, you do not need to report any changes during the 5 months you are receiving SNAP.

In all other cases (“simplified reporting”), you must report:

- If your monthly income goes over the limit for your family size. The income limit should be included on the letter you got from DHHS when you were last notified that you were eligible for SNAP.
- When an adult who is required to work while receiving benefits begins working fewer than 20 hours/week or 80 hours/month.

These changes must be reported to DHHS within 10 days of the last day of the month in which the change occurred.

**What are my rights if I am overpaid SNAP?**

In all cases of overpayments:

- You have the right to ask DHHS to settle, compromise, or reduce the amount you owe” whether the overpayment was due to your mistake or the error of DHHS.
- 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 in writing within 90 days.

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

If your SNAP benefits are automatically reduced:

- DHHS cannot take more than 10% or $10/month (whichever is greater) unless you agree to pay more. However, if your benefits were overpaid because you were not truthful on your application, DHHS can take up to 20% or $20/month.
- HHS must notify you by letter at least 10 days before they collect from you. If they don’t give this notice, you may have grounds to appeal. For more information see Appleseed’s brochure: *Basic Q&A about Appeals and Mediation*.

**What if my case is turned over to the Treasury Department?**

Once you reach 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 appeal and challenge HHS’ actions turning your case over to the Treasury Department.

**Who can DHHS collect overpaid benefits from?**

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

**How can DHHS collect the overpaid benefits?**

DHHS has many different ways to get the money back. Two options that you can choose from are:

- **Automatic Benefit Reduction** - If you are still getting SNAP, you can let DHHS automatically reduce your benefits.
- **Cash Payment** - You can choose to make payments by cash, check, or credit card. You can pay in one lump sum or make smaller payments over time.

If you no longer get SNAP and do not select a repayment plan, DHHS may collect the overpayment in other ways, including:

- Through small claims court.
- By taking money out of your Unemployment benefits.
- By garnishing your wages.
- By getting the legal right to sell your property for the money you owe.
- By taking your lottery winnings.

If you have not paid the amount within 210 days, HHS may turn your case over to the Treasury Department who can take 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 do that.

- DHHS may also take money from your state tax refund.*For all of the above methods of collection, DHHS may also charge you for the cost of collecting the overpayment, meaning you can pay more than you originally owed.

**Aid to Dependent Children (ADC) & Medicaid**

**What changes do I need to report while I am receiving ADC and/or Medicaid?**

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

- An increase or decrease in your income
- A change in how many hours you work each week
- Buying or selling property
- A change in the number of dependents in the home
- Moving to a different house or apartment
- Getting a new job or losing a job

**What happens if I am overpaid in ADC or Medicaid?**

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

1) Paying the money you owe in one lump sum or through a series of smaller payments, OR
2) Getting less money or benefits in the future.

**How much time do I have to respond to the notice?**

You must respond within 10 days of receiving the letter, either telling DHHS how you will repay the amount or by filing an appeal challenging the overpayment.
Basic Questions & Answers about Overpayments and Collections

Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. We take a systemic approach to complex issues – such as child welfare, immigration policy, affordable healthcare and poverty – and we take our work wherever we believe we can do the most good, whether that’s at the courthouse, in the statehouse or in the community.

What are my rights if DHHS says I was overpaid ADC/Medicaid?

**Right to Notice:** You have the right to be notified that DHHS thinks you have been overpaid. The notice must be given to you at least 10 days before your benefits can be reduced. This notice must tell you:
- The reasons DHHS believes an overpayment happened
- What DHHS 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 the notice.

**Right to Continued Benefits:** If you appeal within 10 days of your notice, you will keep your benefits until the appeal process is over. But, if you lose your appeal you will have to pay DHHS back for any benefits you get between when you appeal and when you get a decision from the hearing officer.

**CHILD CARE SUBSIDY (TITLE XX)**

What changes must I report while receiving Title XX?

You must contact DHHS within 10 days when:
- You have changes to your address, income, family makeup, childcare schedule, or need for child care or;
- You are unhappy or have problems with your service delivery plan; or
- DHHS asks you to contact them

What are my rights if DHHS says I had a Title XX overpayment?

**Right to Notice:** You have the right to be notified that DHHS thinks you have been overpaid at least 10 days before your benefits can be reduced. This notice must tell you:
- The reasons DHHS believes an overpayment happened
- What DHHS 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 the notice.

**Right to Continued Benefits:** If you appeal within 10 days of your notice, you will keep your benefits until 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 appeal and when you get a decision from the hearing officer.