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## 6.2.1 Request for Fact Finding Review

All applicants and recipients have the right to request a Fact Finding Review. The Fact Finding Review is completed by the [W-2](#) agency's Fact Finder. It is the first level of the dispute resolution process an applicant or recipient can petition if one of the following occurs or the individual believes occurred:

- The agency did not act upon the [EA](#) application within ten working days after receiving the completed application;
- The EA application was denied;
- The EA Payment amount was modified or canceled;
- The EA Payment amount was calculated incorrectly; or
- The agency's determination of an IPV was incorrect.

The dispute resolution process for EA overpayments is separate from the Fact Finding process for EA application and IPV decisions. (See [7.1.5](#))

An applicant or recipient who requests a Fact Finding Review should be encouraged to use the form [Request for Wisconsin Works \(W-2\) Fact Finding Review \(10783\)](#). However, the Petitioner may use other documentation containing the same information

found in the form. A W-2 agency must also accept phone requests for Fact Finding Reviews and must document the phone request using the form [Request for Wisconsin Works \(W-2\) Fact Finding Review \(10783\)](#).

If an applicant or recipient requests a Fact Finding Review for a complaint not related to any of the above reasons, the W-2 agency must provide the petitioner with a completed [Fact Finding Review Denial Notice \(2686\)](#) form.

## 7.1.1 EA Overpayments Recoupment

An EA overpayment may occur due to a variety of circumstances, including when incorrect information is provided by an applicant or landlord.

Agencies cannot recoup EA overpayments from other program payments because it is not specifically authorized by state law.

Although agencies cannot recoup EA overpayments from other program payments, agencies may elect to recover EA overpayments on a manual and voluntary basis. To do this, the agency would send a letter(s) to the appropriate person(s) to request recovery of an EA overpayment. The agency may select applicable language from other program's letters or forms to insert in the EA overpayment letter. The agency must customize the letter to the specific EA overpayment situation.

Overpayments occur when an individual receives an EA payment they were not eligible for. EA overpayments may occur as a result of an error by either the individual applying for EA or the W-2 agency.

There are three types of overpayments:

Overpayment Type	Description	Recovered from
Administrative Error	The W-2 agency commits an error that results in an incorrect payment. This type of error is also known as an <b>agency error</b> .	W-2 agency that issued the payment (See 7.1.3)
Client Error	The EA applicant reports incorrect information or fails to report information due to a misunderstanding or unintended error.	Adult(s) in the EA group (See 7.1.4)
Intentional Program Violation (IPV)	The EA applicant intentionally misrepresents or withholds information and as a result will receive an IPV.	Adult(s) in the EA group (See 7.1.4 and Chapter 8)

### **7.1.1.1 EA Overpayment Investigations**

Any EA payment potentially paid in error must be investigated for accuracy, capturing details and outcomes in the EA Overpayment SharePoint. All EA overpayment investigations have three potential outcomes:

1. No overpayment claim needed. Based on further investigation, the payment made was accurate;
2. An overpayment claim is needed for either an agency error or an unintentional client error; or
3. A fraud investigation determines an IPV was committed. An overpayment claim and IPV are required (see 8.2.1).

Investigations must begin promptly upon learning about the potential error, but no later than within five working days.

### **7.1.1.2 Calculating EA Overpayments**

The W-2 agency must establish liability for only the amount of EA benefits incorrectly paid to the individual.

For accuracy and consistency, W-2 agency workers are required to use the form [EA Overpayment Worksheet \(5822\)](#) to calculate an overpayment for all types of overpayments.

## **7.1.2 EA Overpayment SharePoint**

The EA Overpayment SharePoint is a secure website to document all information related to EA overpayments.

All EA overpayment investigation and claim details must be recorded in the EA Overpayment SharePoint. If fraud is suspected in other programs, the W-2 agency must create a referral in the Benefit Recovery and Investigation Tracking System (BRITS) so they can conduct their own investigations.

For all error types, the following must be documented in the EA Overpayment SharePoint within 90 calendar days of the Investigation Start Date:

1. Overpayment investigation information;
2. The investigation decision; and
3. Claim information, when applicable.

The Investigation Start Date is the date the agency begins investigating a potential overpayment.

Additionally, the following must be uploaded into the EA Overpayment SharePoint as part of required documentation:

1. Copies of all notices and EA Overpayment Worksheets when the investigation results in a claim;
2. Copies of any documentation related to overpayment or fraud investigations; and
3. Anything else relevant to the determination or calculation of an overpayment claim.

This does not bar the establishment of claims that fall past this timeframe. See section 7.1.5 for deadlines. Any information entered later than 90 calendar days must have a documented rationale.

### 7.1.3 Recovering Overpayments from the Agency

An EA overpayment caused by an agency error will be recovered via contract offset from the W-2 agency that issued the benefits.

After determining that an agency error overpayment claim is needed, the form [EA Overpayment Worksheet \(5822\)](#) must be uploaded into the EA Overpayment SharePoint.

The Bureau of Working Families will send the form [EA Agency Error Overpayment Notice \(5823\)](#) to the W-2 agency with the claim information and contract offset month. The notice will be provided at least 30 calendar days prior to the offset.

W-2 agencies may dispute an agency error overpayment determination by following the Dispute Resolution process outlined in the W-2 Agency Contract with the Wisconsin Department of Children and Families, Section XV.

Notification to the individual who received the payment in error due to agency errors is not necessary, as they are not responsible for repayment.

### 7.1.4 Recovering Overpayments from the Individual

W-2 agencies should establish liability for overpayments only from adults of an EA group on the application that was paid in error.

As part of establishing the claim, W-2 agencies must send the following to each liable individual via U.S. Mail within two working days of the Overpayment Decision Date:

1. [EA Overpayment Claim Notice \(5821\)](#); and
2. [EA Overpayment Worksheet \(5822\)](#).

Copies of these documents must be uploaded into the EA Overpayment SharePoint.

#### **7.1.4.1 Overpayment Repayment**

All overpayments must be repaid in full. EA overpayments can be repaid through the repayment process with the Public Assistance Collection Section (PACS).

PACS will send out repayment agreements for new claims. All liable individuals must receive, sign, and return the agreement to PACS. If there is more than one liable individual for the overpayment, each liable individual must sign an agreement. They may return their own or both sign the same copy. PACS will work with the applicant to negotiate the repayment terms.

The negotiated monthly repayment amount must be at least \$20 per month per liable individual. It is recommended that the individual pay a monthly amount that will repay the overpayment in full within 36 months. Failure to either return a signed Repayment Agreement or make the agreed upon payment will result in a dunning notice sent to the individual(s) by PACS. Dunning notices inform the liable individual that they have missed a payment or have a past due balance. A total of three dunning notices will be sent. Once an individual has been sent three dunning notices, the overpayment will be considered delinquent and delinquency collections actions may occur.

#### **7.1.4.2 EA Eligibility and Overpayments**

EA overpayments have no impact on an individual's ability to receive subsequent EA benefits provided they meet all other eligibility requirements as described per policy. Eligibility following an IPV determination is described in EA Manual [Chapter 8](#).

### **7.1.5 Deadlines for Establishing Overpayment Claims**

Overpayment claims can be established for any payments issued on or after October 1, 2024.

EA overpayment claims must be established within the following timeframes:

1. One year after the W-2 agency or the department discovers an administrative error; and
2. Six years after the W-2 agency or the department discovers a client error or IPV.

See Section 7.1.2 for EA Overpayment entry requirements.

See Section [8.2.2](#) for deadlines in establishing an Intentional Program Violation.

## 7.1.6 Overpayment Dispute Resolution Process

The dispute resolution process for EA overpayments is separate from the Fact Finding process for EA application and IPV decisions (See EA Manual [Chapter 6](#)). If an applicant wishes to dispute both an overpayment and an application or IPV decision, they must initiate both distinct processes.

Individuals may appeal an overpayment decision by submitting a written request directly to the Division of Hearings and Appeals no later than 30 days from the date of the EA Overpayment Notice.

### To send a request via U.S. Mail:

Division of Hearings and Appeals  
P.O. Box 7875  
Madison, WI 53707-7875

### To hand deliver a request:

Division of Hearings and Appeals  
4822 Madison Yards Way  
Madison, WI 53705

### To send a request via fax:

Division of Hearings and Appeals  
(608) 264-9885

## 8.1.1 Intentional Program Violation (IPV) Overview

An *Intentional Program Violation (IPV)* means that an individual did any of the following for the purpose of establishing, using, maintaining, increasing, receiving, transferring, or trafficking Emergency Assistance (EA) benefits:

1. Intentionally made a false or misleading statement;
2. Intentionally misrepresented or withheld facts; or
3. Intentionally committed any act that constitutes a violation of state or federal law.

To determine whether to impose an IPV penalty, the IPV must have been committed on or after November 1, 2012. An applicant does not have to receive payments or services prior to the agency imposing an IPV penalty. If an individual commits an IPV during the application process and prior to eligibility determination, the agency can still impose an IPV penalty.

The following are examples of IPV: Examples of IPV may include, but are not limited to:

- Concealing or intentionally not reporting unearned income or assets;
- Failing to report employment; Concealing or intentionally not reporting employment;
- Failing to disclose/report Intentionally not disclosing non-Wisconsin residency;
- Intentionally submitting documentation that has been forged or tampered with; or
- Intentionally submitting false information.

## 8.2.1 Fraud Investigation

The primary goal of a fraud investigation is to determine the accuracy of an allegation that an applicant or recipient of EA intended to misrepresent his or her eligibility criteria or committed any act that constitutes an IPV.

In most suspected fraud cases referred to an investigator by the W-2 agency:

- A benefit overpayment is suspected, and the agency has reason to believe the overpayment is the result of intentional misrepresentation of program eligibility requirements. The misrepresentation of program eligibility or fraudulent activity may be the result of:
  - False or misleading statements of circumstances,
  - Concealed or withheld facts, or
  - Violation of a program regulation or State statute relating to program benefits.
- The benefit(s) would not have been provided, but for the false representation.
- The conduct of the applicant or recipient indicates the misrepresentation or fraudulent use of the benefit was done with knowledge and intent.

A fraud investigation occurs to determine whether an individual intentionally misrepresented their eligibility criteria or committed an IPV (see 8.1.1).

In most potential fraud cases, an agency has reason to believe an overpayment is the result of intentional misrepresentation of program eligibility requirements as the result of:

- False or misleading statements of circumstances, including income, assets, and household composition;
- Concealed or withheld facts;
- Violation of a program regulation or State statute relating to program eligibility; or
- A payment that would not have been provided if case information had not been misrepresented.

## 8.3.1 IPV Penalties Overview

If the [W-2](#) agency determines that an individual has committed an [IPV](#), the W-2 agency must impose an IPV penalty denying [EA](#) payments to the individual for the following timeframes:

1. Six months for the first IPV;
2. One year for the second IPV; and
3. Permanently for the third IPV.

If the IPV was the result of a denied EA application, the penalty period begins the first day of the month following the IPV determination.

If the applicant already received an EA payment, an IPV may still be determined and a penalty applied. Since all individuals who receive an EA payment are not eligible to receive EA for 12 months following the EA application date, if the EA IPV was the result of an approved EA application, the penalty period begins the day following the end of this 12-month timeframe. [See Chapter 7 for information on recovering benefits due to an IPV.](#)

If the W-2 agency suspects that fraud may have occurred in more than one public assistance program, the W-2 agency should communicate with other affected programs so they can conduct an investigation as well. (See [W-2 Manual 13.6.1](#))

## 8.5.1 Overpayment Recoupment for EA IPVs

State law does not authorize the recoupment of [EA](#) overpayments from other benefit payments, i.e., [W-2](#) payments. The W-2 agency may elect to recover EA overpayments on a manual and voluntary basis. See [7.1.1](#) for additional information. [See Chapter 7 for information about EA Overpayment recovery.](#)