

WAC 388-410-0033 How and when does the department collect a basic food, FAP, or WASHCAP overpayment? (1) After we set up a basic food, Washington combined application project (WASHCAP), or food assistance program for legal immigrants (FAP) overpayment under WAC 388-410-0030, we collect the amount you were overpaid even when the total is less than those in WAC 388-410-0030 (4)(b) or (c). This includes when we:

(a) Modify an established overpayment to an amount we would not have to set up under WAC 388-410-0030(5); or

(b) Establish an overpayment that we do not have to establish under WAC 388-410-0030(4).

(2) You may repay your overpayment by:

(a) Paying the entire amount at once;

(b) Having us take the amount of your overpayment out of your electronic benefit transfer (EBT) account;

(c) Making regular payments under a scheduled repayment agreement as described in subsection (4) of this section; or

(d) Having your current basic food, FAP, or WASHCAP benefits reduced.

(3) If you have an inactive EBT account and we cancelled basic food, FAP, or WASHCAP benefits in the account under WAC 388-412-0025, we use the cancelled benefits to reduce the amount of your overpayment.

(4) If you are responsible for repaying an administrative or inadvertent household error overpayment, we reduce your monthly benefits unless you:

(a) Pay the overpayment all at once;

(b) Set up a repayment agreement with us;

(c) Arrange with us to reduce all or part of your overpayment under subsection (13) of this section; or

(d) Request a hearing and continued benefits under WAC 388-458-0040.

(5) If you are responsible for an intentional program violation (IPV) overpayment, you must tell us how you want to repay this overpayment within ten days of the date we sent your collection action notice. If you do not do this, we reduce your current monthly benefits.

(6) If your AU currently receives basic food, FAP, or WASHCAP benefits, you may choose to repay your overpayment by making monthly payments. The payments must be more than we would recover by reducing your benefits. Your AU or the department may request a change to the agreement if necessary.

(7) If you receive ongoing basic food, FAP, or WASHCAP benefits, we reduce your monthly benefits to repay the overpayment. We do not reduce your first basic food, FAP, or WASHCAP allotment when we first approve your application for benefits.

(a) If you have an administrative or inadvertent household error overpayment, we reduce your benefits by the greater of:

(i) Ten percent of your monthly benefits; or

(ii) Ten dollars per month.

(b) If you have an IPV overpayment, we reduce your benefits by the greater of:

(i) Twenty percent of your monthly benefits; or

(ii) Twenty dollars per month.

(8) We send you a change letter under WAC 388-458-0025 before we reduce your basic food, FAP, or WASHCAP benefits.

(a) You may request a hearing on the change letter if you do not believe the amount of the overpayment was calculated correctly, making the reduction incorrect.

(b) The administrative law judge (ALJ) does not have authority to compromise, terminate, write-off, defer or otherwise waive the overpayment claim or recovery.

(9) If you do not meet the terms of a repayment agreement, we reduce your current benefits unless you:

(a) Pay all overdue payments to bring your repayment agreement current; or

(b) Ask us to consider a change to the repayment schedule.

(10) We may also collect overpaid food benefits with an order to withhold and deliver property under RCW 43.20B.635.

(11) If your overpayment claim is past due for one hundred twenty or more days, we refer your overpayment for federal collection. A federal collection includes reducing your income tax refund, Social Security benefits, or federal wages. We do not count your overpayment as past due if you:

(a) Repay the entire overpayment by the due date;

(b) Have your monthly benefits reduced to repay the overpayment;

(c) Arrange with us to reduce all or part of your overpayment under subsection (13) of this section; or

(d) Meet the requirements of your scheduled repayment agreement.

(12) If you no longer receive basic food, FAP, or WASHCAP benefits, we may garnish your wages, file a lien against your personal or real property, attach other benefits, or otherwise access your property to collect the overpayment amount.

(13) Based on your request or our own, we may reduce all or part of your overpayment at any time.

(a) We may reduce a claim or any portion of a claim if we determine that your household's economic circumstances dictate that you will not be able to pay the claim in three years.

(b) If you disagree with our decision not to reduce all or part of a food benefits overpayment, you may ask for a review of that decision.

(i) The review will be heard by someone other than the person who made the decision you disagree with.

(ii) You do not have a right to an administrative hearing to contest our decision not to reduce all or part of a food benefits overpayment.

(c) If your claim becomes delinquent because you have failed to follow a written repayment agreement entered with the office of financial recovery (OFR) we may reinstate the reduced portion of your claim.

(14) We write off unpaid overpayments and release any related liens when:

(a) The claim is invalid;

(b) All adult household members die;

(c) The claim balance is less than twenty-five dollars and is delinquent for ninety days or more;

(d) We determine it is not cost effective to pursue the claim further;

(e) We agreed to accept a partial payment that left an unpaid balance after this payment; or

(f) The claim is delinquent for three years or more unless we plan to pursue the claim through the treasury offset program.

(15) If your AU has an overpayment from another state, we may collect this overpayment if the state where you were overpaid does not plan to collect it and gives us the following:

(a) A copy of the overpayment calculation and overpayment notice made for the client; and

(b) Proof that you received the overpayment notice.

[Statutory Authority: RCW 43.20A.550, 43.20B.630, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.18. WSR 17-13-006, § 388-410-0033, filed 6/8/17, effective 7/9/17. Statutory Authority: RCW 43.20A.550, 43.20B.630, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and 7 C.F.R. § 273.18. WSR 15-22-051, § 388-410-0033, filed 10/29/15, effective 11/29/15. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.18. WSR 14-05-062, § 388-410-0033, filed 2/18/14, effective 3/21/14. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 06-20-062, § 388-410-0033, filed 9/29/06, effective 11/1/06. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510, 7 C.F.R. 273.18. WSR 02-06-090, § 388-410-0033, filed 3/1/02, effective 4/1/02.]