

SA-3410 RECIPIENT FRAUD

Re-issued 09-01-2010

I. INTRODUCTION

This section provides procedures to comply with State/County Special Assistance requirements regarding potential fraud and/or overpayment cases. Although methods for handling cases may vary between county departments of social services (DSS), disposition and reporting of these cases must be consistent.

II. LEGAL RESPONSIBILITY

Both the state and the county departments of social services have a legal obligation to assure proper administration of public funds and an obligation to take necessary legal steps in cases of fraud and/or overpayments. This obligation rests on the efficiency, thoroughness and integrity of the processes by which initial and continuing eligibility are determined.

A. Designation of Fraud Staff

The county DSS director should designate at least one staff member to be responsible for suspected fraud investigation. The staff member need not have law enforcement authority but is responsible for thorough investigations, preparing the case for presentation to the county board of social services and assisting the district attorney as needed.

B. Confidentiality (10NCAC 24B, 10NCAC24B.0205, 10NCAC24B.0206)

All county DSS staff are bound by rules of confidentiality.

C. Legal Restrictions

1. The Privacy Act permits an individual to have some control over the accuracy and disclosures of records maintained by Federal Agencies. However the Privacy Act of 1947 (P.L. 93-579) Section 552 b(7) allows a caseworker/fraud investigator to obtain information necessary to conduct a civil or criminal investigation.
2. The a/r and legal counsel have the legal right to view and have a copy of the information in the eligibility or services record at anytime with the exception of:
 - a. Information that the county DSS is required to keep confidential by state or federal statute or regulation.
 - b. Confidential information originating from another source.
 - c. Information that would breach another individual's right to confidentiality. (Reference: 10 NCAC 24B.0306 and 20 NCAC.32S.0306)

- d. Investigative records.

III. FRAUD VS. MISREPRESENTATION

A. General

Although fraud is a question for the courts to determine, the county DSS must determine whether there is a basis for belief that fraud may have been committed. In making this decision, intent and the mental capacity of the individual must be considered. Also, a clear distinction, based on verified facts, must be made between misrepresentation with intent to defraud and mis-statements due to the misunderstanding of eligibility requirements or of the responsibility for providing the county DSS with information. It is also important to distinguish between intent to defraud and omission, neglect or error by the county DSS in helping an a/r to understand his/her responsibilities and in securing and recording pertinent information.

NOTE: For the purpose of fraud a/r includes the representative/provider.

B. Fraud vs. Misrepresentation

1. Fraud

Fraud is, by law, a crime against society which can only be determined in a criminal court. It is the willful and intentional act that creates the crime, rather than the resulting overpayment.

An a/r is suspected of fraud when the a/r willfully and knowingly and with the intent to deceive:

- a. Makes a false statement or misrepresentation; or
- b. Fails to disclose a material fact; or
- c. Does not report changes in income or other eligibility factors that effect the benefit; and
- d. As a result of his/her action or inaction, attempts to obtain or continues to receive assistance.

2. Misrepresentation

Misrepresentation causes monetary loss as a result of an a/r's action or inaction. Misrepresentation can be intentional or unintentional.

- a. Intentional misrepresentation - The a/r gives incorrect or misleading information in response to either oral or written questions. The information is provided with the

knowledge that it is incorrect, misleading or incomplete. This may or may not be fraud, but that must be decided by a court of law.

- b. Unintentional misrepresentation - There is no proof that the a/r acted willfully and intentionally to obtain more benefits than those to which he/she was entitled. The a/r gives incomplete, incorrect or misleading information because he/she does not understand the eligibility requirements or his/her responsibilities to provide the county DSS with required information.

3. Criteria for Fraud and/or Intentional Misrepresentation

To have a cause for action for fraud in public assistance cases, there must be proof of a statement made by the a/r, and the following conditions must be found with regard to such statement:

- a. The statement is false; and
- b. The a/r knows that the statement is false, or the a/r makes the statement recklessly and not while consciously ignorant of the truth or falsity of the statement; and
- c. The statement is made by the a/r with the intent that it will be used by the county DSS and that it will result in assistance being authorized by the county DSS to which the a/r is not entitled or to assistance greater than that to which the a/r is entitled; and
- d. The county DSS does in fact rely upon the statement given by the a/r and awards assistance to which the a/r is not entitled or assistance greater than that to the a/r is entitled; and
- e. The county DSS has informed the a/r of the law relating to fraud and appropriate information has been entered in the agency record; and
- f. The a/r has signed a statement that all information given by the a/r pertaining to his/her eligibility is correct and true to the best of his/her knowledge.

IV. PREVENTION

A. Interviewing

1. Prior to interviewing the a/r, examine all available case records. Take note of previous work history, income, prior resources (such as bank accounts, insurance policies, etc.) and other eligibility factors.
2. A key to fraud prevention is skillful interviewing during the initial application, at reviews, and when changes in situation occur. Ask the a/r specific questions, evaluate his/her reaction and document the responses thoroughly.

3. The interview process involves two-way communication. Be specific and thorough in the questions asked. Phrase questions in a way the a/r will understand. For example, identify/define specific items included as resources to avoid any misunderstandings. Provide the a/r an opportunity to respond in his/her own words without interruption. Always require an identifiable verbal response to all questions. Listen carefully to the a/r's responses.
4. At all applications and reviews:
 - a. Explain to the a/r his/her obligation to report all changes in situation within five (5) days after the change occurs.
 - b. Inform the a/r of the consequences of failure to report changes. Stress the penalties for fraud and misrepresentation.
 - c. Inform the a/r about computer matches in which the county DSS participates. Obtain all Social Security numbers and names used by the a/r.
 - d. Give the a/r a copy of the fraud pamphlet and explain the meaning of fraud.
 - e. If the a/r's living standards appear to exceed his/her income, question the a/r regarding unreported income.
 - f. Ask the a/r about any changes which have occurred since application or the last review.

B. Documentation and Verification

Thorough documentation and verification provides the caseworker necessary information for the next review or for a possible fraud case and avoids erroneous eligibility decisions and undetected cases of fraud. The following procedures are recommended at all applications and reviews as a method of fraud prevention:

1. Complete an EIS inquiry to ensure each a/r does not already receive assistance in your county or another county. Document the results of the inquiry.
2. Complete all available on-line inquiries, using all SSN's provided (Refer to [SA-3410 Figure 1](#)). Check all paper matches.
3. Document and verify all eligibility factors as required in policy.
4. When a change is anticipated, flag the case for review.
5. Review characteristics of fraud/error prone cases.

C. Other Preventive Measures

1. Intra-agency

Establish communications among the various units in the county DSS. Fraud prevention is the responsibility of the entire agency. A systematic method of reporting changes and exchanging information would enhance communication.

2. Inter-agency

To obtain prompt and accurate information needed to determine eligibility, it is important to establish a good relationship with other agencies, employers and institutions. Inform them of the program requirements and the importance of receiving prompt and accurate information.

3. Public awareness

Informing the public about your county DSS's attempts to prevent fraud is important both as a deterrent and as a public relations measure. Information regarding court actions, amount of recoupments, etc., should be made public. Publicize the phone number to call to report cases of possible fraud, stressing that such reports are confidential. If the public realizes they will be supported in their efforts, the county DSS may be able to obtain much more information and cooperation.

V. DETECTION

Referrals for investigations may be received from the following sources:

A. State Office

Any leads received by the state office will be referred to the county DSS for investigation. Once the investigation is completed, advise the State Office of the outcome. If a fraud case or an overpayment is established, submit the appropriate reporting forms.

B. Quality Assurance Reviews

During their regular review, Quality Assurance staff sometimes detects possible fraud. Cases found in error or suspected of fraud will be referred to the county DSS for further investigation.

C. Private Sector and Other Agencies

If you receive information from other agencies, institutions, providers, other a/r's or private citizens, you are required to investigate the lead. Emphasize that such reporting will be kept confidential. Some people may be reluctant to report suspected cases of fraud if they feel their names will be disclosed.

D. Agency Staff

During the application and review processes, the county DSS staff may discover cases of possible fraud, abuse or misrepresentation.

E. Other sources include but are not limited to:

1. Computer matches such as the TPQY, SOLQ, DOC, DMV, ESC/UI, SDX, BENDEX, Financial Resource Report, BEER, etc.
2. Tax records (unreported personal property, automobiles, farm equipment)
3. Register of Deeds records (marriage, transfer of property)
4. Social Security records (increases, lump sum payments, dual benefits)
5. Court records (support, prior convictions)
6. HUD records (household composition, reported income)
7. School records (address, household composition, responsible party)
8. Utility company records (address, responsible party)
9. Landlords, neighbors, relatives (collaterals)
10. Newspaper reports (births, deaths, marriages)

Refer to [SA-3410 Figure 2](#), Referral for Investigation.

VI. INVESTIGATIONS

A. Investigation Procedures

When a referral for possible Special Assistance fraud or misrepresentation is received from any source, or when there is an indication an a/r may have received benefits to which he/she was not entitled, the county DSS must conduct an investigation to assess whether eligibility has been correctly determined and documented according to policy regulations.

1. Review all county DSS case records for that a/r, including Medicaid, Work First, Food Assistance, Protective Services, etc. These records furnish basic information and must clearly show the findings on all eligibility factors and appropriate statements regarding information and explanations made to the a/r.
2. Determine from documentation and verification documents that adequate explanations were made to the a/r and that help was offered to ensure that the a/r understood and accepted responsibility for reporting changes in circumstances to the county DSS. If the county DSS failed to meet this obligation, any resulting overpayment is deemed an agency error. Refer to [SA-3300, Administration of Checks and Payments](#).
3. Determine from the case record if the information is already known to the agency.

- a. Any information reported in a timely manner to any county DSS staff is considered information known to the agency. If the information is known to the agency but not communicated to the appropriate caseworkers, any resulting overpayment is deemed an agency error. Refer to [SA-3300, Administration of Checks and Payments](#).
 - b. The IMC's who worked with the case during the period in question are valuable assets in the investigation. Discussion with the caseworkers involved may clarify unclear documentation and/or other critical points.
4. If the investigation establishes there is no fraud or misrepresentation, no further investigation is required.

EXAMPLE: A private citizen calls to report that an a/r is employed. A review of the case record indicates that his/her income was reported and considered in determining his/her eligibility.

5. If the investigation gives the county DSS reason to believe fraud or intentional misrepresentation has occurred, continue the investigation. The investigation should continue until legal action is initiated, the case is resolved by seeking recoupment of the overpayment and/or the case is closed because of insufficient evidence to support the allegations or for other reasons.

Note: The IMC must take appropriate action to correct the case regardless of the reason for the overpayment.

B. Verification of Reported Information

1. Verify reported information to establish whether fraud/misrepresentation exists. Obtain verifications by written or verbal contact with the a/r, employers, financial institutions, other agencies, collaterals, etc.
2. Document your findings in the investigative case file. Include complete names and dates.

C. Investigative Interview

1. Conduct an interview with the a/r if a case appears to be suspected fraud or an a/r responsible overpayment. If the case is resolved without a finding of a/r error, you may forego the interview.
2. In cases in which no SA payments were made, the question of whether the a/r clearly understood the eligibility requirements may warrant an interview to clarify policy to avoid future overpayments.

3. The investigative interview with an a/r suspected of fraud or misrepresentation can be the most important element of the investigation. It is important to employ techniques of skillful interviewing.
 - a. Interview the a/r in an area where you will have privacy. Document all of the evidence necessary to substantiate whether the overpayment is due to intentional/unintentional misrepresentation. Consider the a/r's:
 - (1) Mental Capacity
 - (2) Past History with the agency
 - (3) Understanding of his/her responsibility
 - (4) Educational level
 - (5) Accountability (if he has a substitute payee, the payee is responsible)
 - b. Discuss the subject of fraud. Explain the a/r's rights and responsibilities to determine if the a/r understands the concept of fraud. Ask the a/r to explain his/her understanding of his/her rights and responsibilities.
 - c. Inform the a/r you are investigating for possible overpayments. Ask the a/r if there is anything he/she wishes to tell you that he/she has not previously revealed to the county DSS.
 - d. Review the case file with the a/r. Cover the eligibility points in question. Confirm that the client came in to make application and did in fact make the statements documented on the signed form(s).
 - e. Ask again if the a/r wishes to change any of the statements made or has any new information to report.
 - f. If the a/r admits wrong doing and wishes to acknowledge the truth, take a statement and have the a/r sign and date it. It is recommended that a witness also sign the statement.
 - g. Review the case file and have the a/r identify those statements which are false.
 - h. If the a/r continues to affirm that all statements previously made are true, question the a/r further with the known facts. Use open-ended questions and mirror questions. Allow the a/r as much time as needed to answer. Present any evidence gathered to substantiate the facts.

Example: "How did you say you disposed of the property?" "Help me understand your statement and why you did not report it."

- i. Document the interview thoroughly.

VII. NOTICES AND APPEALS

A. Notices

Follow requirements in [SA-3330, Notices](#) regarding adverse action notices. State the intended action, the reason for this action, applicable manual sections and hearing information. An a/r must be given the opportunity to present evidence to rebut any action affecting their claim, both past and present.

EXCEPTION: In the case of probable fraud, the timely notice may be shortened to 5 days. However, the county DSS must have verified all pertinent information and concluded that the action must be taken because of probable continued fraudulent receipt of benefits.

B. Appeals

An a/r has the right to an appeal when benefits are modified or terminated. In the case of fraud/misrepresentation, the a/r may request an appeal of the corrected eligibility determination made during the investigation. Follow procedures in [SA-3340, Hearings](#).

VIII. CALCULATING OVERPAYMENTS

This section provides rules for establishing overpayments for the Special Assistance program. Overpayments may result when the a/r is found ineligible because he/she no longer resides in an ACH, has excess resources, excess income, etc. Compute the amount of the overpayment (Refer to [SA-3300, Administration of Checks and Payments](#), and [SA-3410 Figure 3](#)) and determine whether there is suspected fraud or an unintentional misrepresentation.

NOTE: If there is a Medicaid overpayment, refer to [MA-2900, Recipient Fraud and Abuse Guidelines](#).

A. General Rules

1. Allow time for the change to have been made (i.e., 5 calendar days for a/r to have notified county DSS of the change, 10 working days for timely notice of change in eligibility).
2. Use the appropriate resource and income levels for the time period in question.
3. Rebudget using actual verified resources available or income received during the period of ineligibility.
4. For cases with unreported income, compute eligibility separately for each payment period.
5. For ineligible money payment cases, the overpayment period begins with the first month of ineligibility for money payment.

IX. INVESTIGATIVE SUMMARY

- A. Prepare a summary upon completion of the investigation, detailing all factors causing the overpayment and the period and amount of the overpayment. A suggested format is found in [SA-3410 Figure 4](#). For details on computing and collecting refer to [SA-3300, Administration of Checks and Payments](#).**
- B. The summary should contain recommended action based upon the investigator's knowledge of the situation. Weigh the merits of the alternatives for that case to determine the case objectives.**
- C. The overall objectives for any fraud investigation are restitution, legal action, and deterrence or protection of society.**
- D. Present the completed summary to the County Board of Social Services or its designee for a decision on whether to refer for prosecution or to use administrative procedures for collection.**
- E. All available procedures must be utilized to attempt collection on any debt owed to Special Assistance.**

NOTE: If a Special Assistance a/r is found ineligible for Special Assistance money payment, assess the a/r's eligibility for Medicaid. See [MA-2900, Recipient Fraud and Abuse Guidelines](#).

X. CONCLUSIONS AND RECOMMENDATIONS

A. Administrative Action

1. **Voluntary a/r Refund:** If the agency accepts repayment by a voluntary refund, the amount should not be less than the amount that would be collected in an involuntary grant reduction. The a/r must be asked to sign a written agreement regarding the method of repayment, the time period, and the amount. Give the a/r a copy and file a copy in his/her record.
2. **Voluntary Grant Reduction:** Obtain an agreement, dated and signed by the a/r, showing the amount of the reduction, the length of time the reduction will be made and the reason for the reduction. Give the a/r a copy and maintain a copy in the file.
3. **Involuntary Grant Reduction:** In domiciliary care cases, grant reduction may be required only if the a/r has disregarded earned income or excess resources. The amount of reduction may not exceed the amount available as disregarded earned income or excess resources. If the a/r has no resources, the board may direct the agency to require him to sign a statement that he will repay the overpayment if he acquires resources in the future.

B. Referral to County Board of Social Services

1. The County Board of Social Services or their designee is responsible for the review of the case circumstances and the final decision on whether to recommend referral for prosecution in accordance with state statutes.
2. The following factors must be given consideration:
 - a. Was there a violation of policy?
 - b. Was the violation of policy against the law?
 - c. Were the elements of criminal action present?
 - d. Did an a/r willfully and knowingly, with intent to deceive:
 - (1) Make a false statement or representation,
 - (2) Fail to disclose a material fact,
 - (3) And as a result, obtain, attempt to obtain or continued to receive Special Assistance.
 - e. Mitigating factors
 - (1) Prior/repeat offenses
 - (2) A/R's physical and/or mental capacity
 - (3) Recommendation of County District Attorney
 - (4) Any other factors pertinent to the case (such as the Statutes of Limitations)

C. Determining Court Action

Factors to consider in deciding whether to initiate court action include the amount of the overpayment, the cost of court action, and the likelihood of satisfying a judgement given under the North Carolina exempt property law in G.S. 1C-1601. Under the law each individual can keep a certain amount of property (called exempt property) that a state or county department of social services cannot obtain even after judgement. Consult the county attorney for assistance.

1. Statutes of Limitations

When referring cases for prosecution in either criminal or civil court, the county DSS must be aware of the statutes of limitations that apply to these cases. These statutes affect the amount of overpayment presented in court and the specific charges brought against the recipient.

- a. The North Carolina Attorney General's opinion:
 - (1) An act is determined as the initial false statement, misrepresentation, and/or omission of fact, running to the next recertification or contact with the client at which time false statement, misrepresentation, and/or omission of fact could have been corrected.
 - (2) Each certification period or period between contacts, thereafter, during which time the recertification, misrepresentation, and/or omission of fact is perpetuated, is considered a separate offense.
- b. Criminal Statute (NCGS 15-1 statute of limitations for criminal misdemeanors)
 - (1) Allows prosecution action of misdemeanors (case involving less than \$1000.00) to be taken no later than two years after the fraudulent act occurred.
 - (2) No statute of limitations for felonies (cases involving over \$1000.00).
- c. Civil Statute - The civil statute of limitations, NCGS 1-52, runs for three years from the date the act is discovered, or should have been discovered through the exercise of reasonable care.

NOTE: If the recipient has signed a repayment agreement containing the word "Seal" next to the signature, the civil statute of limitations for enforcement of collection is ten years from the date the document was signed. However, the word "Seal" must be circled by the client. The investigator should contact the county attorney for further information regarding this point.

2. Civil court action
 - a. Small claims court is limited to amounts of \$4000 or less. This process is designed to be used without an attorney although one may be helpful. A booklet entitled "How to Use the Magistrate's Court to Resolve Claims" is available at the county courthouse or through the Consumer Protection Division of the Attorney General's office.
 - b. District court handles cases of \$4,501-\$10,000 while Superior Court handles cases of over \$10,000. The county or agency attorney will handle these cases with the investigator's assistance.
 - c. Judgement by confession may be awarded by the clerk of court if the a/r willingly acknowledges the debt to the State/county. This would eliminate the need for a court trial while still giving the county a legal judgment against the a/r. The attorney will assist in getting the judgment finalized. If a person is asked to sign, he/she must be told that he/she is waiving his/her right to a trial, that he/she is entitled to consult a lawyer and that he may be eligible for free legal aid.

3. Criminal Court Action

Criminal court is for punishment and not collection, however the judge may include a repayment order in the judgement. If no repayment order is given, the agency may refer the case back to the board for consideration of civil action or administrative action for restitution. If the County Board of Social Services determines that a case should be referred for prosecution, there are several actions that will help ensure the case is justly dispositioned.

a. Relationship with the Prosecuting Attorney

- (1) The county DSS should establish a good working relationship with the district attorney or county attorney, whichever handles prosecution of fraud cases. The worker responsible for the case should assist the attorney by:
 - (a) Explaining program requirements as they relate to the case,
 - (b) Providing all case documentation, including a clear and concise investigative summary,
 - (c) Answering any questions that the attorney may have about any specific case or about program policies, procedures and regulations, and
 - (d) Explaining exactly how the overpayment amount was computed and the time restraints on social services actions (timely notices, 5-day reporting requirement).
- (2) The county DSS should expect advice on cases for prosecution from the attorney on whether the case is a good one for prosecution, whether further evidence is required or the type of information the attorney considers necessary for successful prosecution.
- (3) The attorney should be expected to help the agency in such areas as issuing warrants, appearing as a witness in court, etc.

b. Relationship with Law Enforcement

- (1) It is important to maintain a good relationship with the law enforcement branch that serves warrants in cases that have been referred for prosecution.
- (2) Provide them with clear directions to the a/r's home, hours the a/r may be home and any other information which might expedite the serving of the warrant.

c. Classes of Criminal Action

It is imperative that the fraud investigator and the person designated to prosecute suspected fraud cases have a good working relationship. Each must be able to rely fully on the other for assistance and advice. Although the prosecuting attorney determines the direction taken in criminal court actions, the following will be helpful:

- (1) A misdemeanor involves less than \$1000.
- (2) A felony involves more than \$1000 and has no statute of limitations.
- (3) Although most cases are prosecuted under General Statute 14-72, "Larceny," they may be prosecuted under General Statute 14-100, "Obtaining Property by False Pretenses", under which an act is a felony regardless of the dollar amount involved. There is no statute of limitations for felony cases.

NOTE: Even though non-monetary restitution may be ordered by the court, federal regulations require that all overpayments be collected, regardless of any court action. When the court imposes an active sentence, this is punishment for the crime. The county must continue to seek restitution for the SA overpayment. If the dismissal of restitution is a part of the court order, it is advisable for the county, in collaboration with its attorney, to work with the court to have the order amended.

4. Federal Prosecution for Fraud and False Statements

a. Legal Base

The Office of Inspector General, Department of Health and Human Services, may prosecute SA a/r's in federal courts for fraud and/or false statements. The legal base for such prosecution can be found in 18 U.S.C. Section 1001 and in the case of U.S. of America v. Lewis, No. 77-5376.

b. Worker Responsibility

The a/r must be informed that making false statements to receive SA can lead to prosecution in federal courts.

5. Court Jurisdiction

- a. If the a/r moves to another county in North Carolina, the first county can still pursue civil or criminal action against him. The action is done in the first county, where the suspected fraud occurred.
- b. If the a/r moves out of North Carolina, the county has two options:

- (1) If the suspected fraud would be a felony the agency may request that the district attorney have the a/r extradited for prosecution.
 - (2) If the county does not request extradition or the offense would be a misdemeanor, the county should flag the case for future reference should he return.
- c. If the county cannot determine the a/r's whereabouts, file all the evidence gathered on the suspected fraud case in the a/r's record "for future reference if he returns".

6. No Action Taken Due to Hardship

D. Appearing in Court

1. When appearing in court in a possible fraud case, know the case thoroughly before taking the stand to testify. If you do not know the answer to a question, state you do not know. However, if the answer can be found in the record, state this fact and look in the record.
2. Only testimony from the case file should be given to avoid violating confidentiality and to avoid giving opinions. For this reason, the case summary should be a complete history of the investigation and should include all documentary evidence. Do not give opinions. If the case is fully developed, everything needed for testimony will be contained in the investigative summary.
3. Answer all questions as concisely as possible. Organize your thoughts before answering a question. Avoid giving unnecessary or confusing information.
4. Remember the following:
 - a. Prepare and present the evidence as a professional; do not get personally involved in a case.
 - b. Stop your testimony immediately when there is an objection. Do not resume until the objection has been ruled on and instructions are given to continue or answer another question.
 - c. Have all witnesses or materials to prove your case.
 - d. Always dress neatly and be well-groomed.
 - e. Be on time.
 - f. Assume a comfortable position.
 - g. Never chew gum; avoid nervous habits

- h. Always be completely honest.
- i. Speak clearly, slowly and loudly enough to be heard.
- j. Address the judge as "Your Honor" in the courtroom. "Judge" is proper outside the courtroom.
- k. If addressed by a court official when you are not in the witness stand, it is proper to stand before answering.
- l. Call witnesses the day before the court date to remind them of the time and place of the trial.
- m. Do not react to the disposition of the case in court.

XI. COLLECTION OF DELINQUENT ACCOUNTS

For current accounts, refer to [SA-3300, Administration of Checks and Payments](#).

Upon notification of delinquent accounts, take the following actions:

A. Voluntary Repayments

- 1. When an individual misses the first payment of a voluntary repayment agreement, send a reminder letter. If a payment is not received within 30 days, take action to establish personal and/or telephone contact with the individual.
- 2. If the individual continues to refuse to repay, consider small claims court, civil court action.
- 3. In the case of the death of an individual with an outstanding debt, the county DSS must file a claim against the deceased's estate for restitution.

B. Court Ordered Restitution

- 1. Probation Office: For individuals who fail to comply with the terms of court ordered restitution and are on probation, contact the probation office to determine appropriate follow-up action.
- 2. Clerk of Court: For individuals who fail to comply with the terms of court ordered restitution and are not on probation, contact the Clerk of Court to determine appropriate follow-up action.

NOTE: Investigators are encouraged to seek permission from the Clerk of Court to issue non-compliance orders.

C. Liens and Recoveries

The county DSS may place a lien against an individual's property, both personal and real, because of claims paid or to be paid on behalf of that individual following a court judgement which determined the benefits were incorrectly paid for that individual.

XII. AGENCY RESPONSIBILITY

A. Continue to Work with A/R

Regardless of what the board or its designee decides or what action is taken by the court, the agency must continue to work with the a/r. Promptly notify the a/r of any action taken in the case. If the a/r remains eligible, the case cannot be terminated just because fraud is suspected.

B. Agency Records

1. The agency must maintain records on the number of cases referred for investigation, the number of suspected fraud cases referred to the board, action taken to recover overpayments and the amounts recovered. ([SA-3410 Figures 5](#) and [6](#) are suggested formats for maintaining agency records.)
2. The agency must keep in the record or separate fraud file, copies of all documentation, evidence and summaries for future reference.
3. Reporting Requirements and Forms
 - a. Complete a [DSS-1656, Refund Receipt](#), when a Special Assistance (SA) recipient refunds an overpayment either by cash or personal check. Submit the [DSS-1656](#) according to instructions in Section 3250 of the [EIS Manual](#).
 - (1) Remit to:
Program Benefits Payment Section
2109 Mail Service Center
Raleigh, NC 27699-2109
 - b. Notify DMA Program Integrity of any possible Medicaid fraud. Refer to [MA-2900, Recipient Fraud and Abuse Guidelines](#).