
WORK FIRST
FINANCIAL RESPONSIBILITY
Part I - Overpayments

Change # 1-2009

March 1, 2009

263 - FINANCIAL RESPONSIBILITY: PART I - OVERPAYMENTS

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I. RESPONSIBILITY AND REQUIREMENTS

County Departments of Social Services (DSS) are required to recover overpayments and to correct underpayments. It is the responsibility of county Work First staff to refer possible claims to the Program Integrity section. It is the responsibility of the program integrity section to act on these referrals.

A. Counties must take prompt action to collect any overpayments of Work First Family Assistance (WFFA) or Benefit Diversion (BD). Prompt action is defined as within the second quarter following the quarter in which the overpayment is first identified. Collect the overpayment from Benefit Diversion only if the family unit was monetary ineligible for WFFA. Non financial services are not subject to collection.

B. If an overpayment occurs due to county responsible overpayment (AE) in complying with program regulations, the overpayment must be entered in the Enterprise Program Integrity Control System (EPICS) and recouped by state office adjustment.

Inadvertent Household Error (IHE) may occur if an overpayment occurs because of a State or county error in processing the payment. Counties may recoup the overpayment amount from the recipient, only if the recipient was properly notified. The notification requirements are in [Notice and Hearings Process \(264\)](#)

C. Unless the county board or its designee determines that an overpayment results from suspected fraud, all overpayments are collected according to the policy in this section. When there is suspected Intentional Program Violation (IPV) the policy in [Fraud and Intentional Program Violation \(207\)](#) must be followed.

D. Overpayments must be collected from:

The payee or any Work First recipient if at the time the overpayment was:

- 18 years of age or older,
- Lived with the overpaid family unit, and was part of the overpaid family unit.

If the payee was not included in the assistance unit, recoupment is the only collection method that cannot be used.

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- E. All county and recipient responsible overpayments must be reported to the Division of Social Services. (Refer to VI, VII, and VIII. Below).
- F. When an overpayment and underpayment occur during the same period, the difference must be reconciled. ([Refer to Part III. Reconciliation](#)).
- G. For cases in which overpayments are identified, counties must maintain sufficient documentation to substantiate legally that an overpayment occurred. If such documentation is not available, counties will not be able to collect the overpayment. In addition, the DHHS Controller's Office must have documentation of a valid EIS Case ID Number.

Sufficient documentation consists of copies or original profiles, budgets showing the overpayment calculation, verifications used for the overpayment, etc. Neither a ledger card showing the overpayment information, nor the Claim Detail screen in EPICS is sufficient documentation to substantiate the overpayment.

II. WHEN AN OVERPAYMENT OCCURS

An overpayment occurs when an individual or a family unit:

- A. Receives a payment in which the recipient was not eligible;
- B. Fails to report a change in situation or provides false or incorrect information which, if reported timely, would deny, reduce, or terminate assistance; **or**
- C. Receives a payment greater than the authorized payment; **or**
- D. Receives continued benefits at the same level during the hearing process, and the hearing officer affirms the reduction or termination ([Refer to Notice and Hearings Process 264.](#)).

NOTE: Counties are to review for possible over issuance of Medicaid.

When timely notice period for a downward payment change extends past the pull check deadline, and the next month's check is issued because of the timely notice period, an overpayment is not created.

III. HOW TO CALCULATE AN OVERPAYMENT

The following procedures to calculate both county responsible and recipient responsible overpayments must be used.

- A. Verification of all changes according to the eligibility criteria outlined in the Work First Manual, using the policy in effect at the time the overpayment occurred.

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- B. Determination of the overpayment period is the first month DSS would have made the change effective had it acted timely and/or the recipient reported timely based on when the change occurred until the month the change is made. To determine the first potential month of overpayment, the county allows for ten (10) calendar days for the recipient to notify the agency of the change and ten (10) workdays for the timely notice (DSS 8110).

NOTE: The month of change would not be an overpayment month.

For example: A family member began working in April 4, 2008 but reported it in August. The change would have been made effective no later than the June payment. The overpayment period is June, July, and August and September (unless the change can be made effective with the September check).

<u>Date of change</u>	<u>04/04/08</u>
<u>+ 10 calendar days</u>	<u>04/14/08</u>
<u>+ 10 workdays from 8110</u>	<u>04/28/08</u>
<u>Enter the following month</u>	<u>05/2008</u>
<u>Pull check deadline was</u>	<u>04/25/08</u>
<u>First month of overpayment</u>	<u>June</u>

- C. Determination of the overpayment amount.
1. Based on the reported income calculate the Work First payment to determine the amount the family unit was eligible to receive. Include all verified income used to determine the Work First payment actually received. Compute the income as instructed by appropriate policy in effect at the time. Apply any appropriate penalties.
 2. Recalculate the Work First budget using the actual unreported income received for each overpayment month. If a change in situation or income is enough to cause ineligibility, consider the first month of change and apply reported procedure. Refer to II. B for the overpayment period. For subsequent months, follow appropriate budgeting procedures depending on policy in effect during the overpayment period. Follow all policy including notice requirements. Refer to Notice and Hearings Process (264).
 3. Subtract the amount the family unit was eligible to receive from the amount actually received. The difference is the overpayment amount.

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- D. Completion of an on-line inquiry into ACTS to determine if child/spousal support is routed through the Child Support Enforcement Section.

When determining the collection amount for the overpayment month, the child/spousal support obligation is always considered. This is also applied when a check is returned, or the agency is responsible for an overpayment.

1. If no support obligation is routed through the Child Support Enforcement Section, the entire overpayment amount is collected. Refer to C. above.
 2. If a support obligation is routed through the Child Support Enforcement Section, the calculation procedures in F. below are used.
- E. For overpayments that occurred November 1, 1989 Through June 30, 1997, the following procedures apply:
1. Verification of the amount of the child/spousal support obligation. To verify, complete an on-line inquiry into ACTS.
 2. Determination of whether the absent parent paid support in the overpayment month. To determine, use the Clerk of Superior Court records, ACTS, or other available records.
 3. If the absent parent paid support in the overpayment month, the following actions are taken.
 - a. Determine the adjusted support obligation by subtracting \$50 from the amount of the total support obligation. If the total obligation is less than \$50, subtract the total obligation amount.
 - b. Determine the net Work First payment by subtracting the adjusted support obligation from the amount of Work First actually paid.
 - c. Compare the net Work First payment to the overpayment amount.
 - d. If the overpayment amount equals, exceeds, or less than the net Work First payment, collect the lesser amount.
 - e. If the net Work First payment is a negative amount, do not collect the overpayment amount.

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4. If the absent parent did not pay support in the overpayment month, take the following actions.
 - a. Determine the net Work First payment by subtracting the support obligation from the amount of Work First actually paid.
 - b. Compare the net Work First payment to the overpayment amount.
 - c. If the overpayment amount equals, exceeds the net Work First payment, collect the lesser amount.
 - d. If the net Work First payment is a negative amount, do not collect the overpayment.
 5. When it is not possible to verify if the absent parent paid support in the month the overpayment occurred, the procedures in 4. above are applicable.
- F. For Overpayments That Occurred On Or After July 1, 1997 through April 1, 2000.
1. Determine correct overpayment period. (The month of change would not be an overpayment month.)
 2. Determine whether income disregards are appropriate. (\$30 and 1/3, \$90 work-related expense, and childcare. During this period of time earned income deductions would not have been given had the client not reported their income timely.)
 3. Determine the correct payment amount using actual unreported income received for each overpaid month.
 4. Subtract the correct payment amount from the amount they actually received. This is the gross overpayment amount.
 5. Check ACTS to determine whether a child support obligation was in effect at the time of the overpayment. If so, subtract this amount from the gross overpayment amount. This is the net overpayment amount. Compare the net Work First payment to the gross overpayment amount. If the overpayment amount equals or exceeds the Net Work First payment, recoup the lesser amount. If this amount is less than zero there is no overpayment.

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- G. For overpayments that occurred on or after April 1, 2000.
1. Determine correct overpayment period. (The month of change would not be an overpayment month).
 2. Evaluate whether Job Bonus should be applied or 27.5 %. (Effective 4/1/2000 there is no penalty for late reported wages).
 3. Determine the correct payment amount using actual unreported income received for each overpaid month.
 4. Subtract the correct payment amount from the amount they actually received. This is the gross overpayment amount.
 5. Check ACTS to determine whether a child support obligation was in effect at the time of the overpayment. If so, subtract this amount from the gross overpayment amount. This is the net overpayment amount. Compare the net Work First payment to the gross overpayment amount. If the overpayment amount equals or exceeds the Net Work First payment, recoup the lesser amount. If this amount is less than zero there is no overpayment.
- H. When determining the overpayment for Benefit Diversion,
1. Calculate the Work First payment based on the reported income to determine the amount the family unit was eligible to receive.
 2. Recalculate the Work First budget with the verified unreported income. If a change in situation or income is enough to cause monetary ineligibility, collect the entire overpayment.

IV. HOW TO COLLECT RECIPIENT RESPONSIBLE OVERPAYMENTS

Collection action is initiated when the claim information is entered into EPICS. EPICS sends the [DSS-8226](#), Letter of Overpayment to all debtors for claims with a balance greater than "0".

If the referral status changes to TE or CL status or is deleted the same date the claim is established, the [DSS-8226](#) notice will not be sent. If a change occurs in either the claim category or the overpayment amount after the [DSS-8226](#) has been mailed, no additional notices will be mailed to the debtor.

The [DSS-8226](#) incorporates a repayment agreement for non-participating debtors and notifies participating households that their Work First assistance payment may possibly be reduced each month until the claim is paid in full, if previous arrangements for repayment have not been made.

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When recoupment is the method used to collect a claim, a [DSS-8110](#) timely notice must be sent in addition to the DSS-8226. Recoupment should not occur prior to the expiration of the 10 workdays on the [DSS-8110](#). Recoupments begun prior to the expiration of the 10 workdays will show on the FRD-401 EIS Recoupment Error Report. Refund the recoupment back to the recipient, by issuing an adjusted payment and completing the DMA-5022. Refer to the Work First User Manual.

A. Methods of Repayment

1. Voluntary Repayments

The individual may choose to repay the overpayment by one of the following methods.

- a. Payment Reduction (for active Work First recipients) -** When the recipient agrees to a payment reduction, the recipient shall not be treated more harshly than the recipient who has an involuntary recoupment.

The recipient must sign and date a repayment agreement. It is recommended the agreement be notarized. The agreement must contain the amount of the overpayment, the amount of the collection, the length of time the collection will be made, and the reason for the collection. The recipient receives a copy and the original remains in the case record.

- b. Refunds (for active and former recipients) -** When repayment is by voluntary refund, do not collect more than collected through involuntary collection.

The individual must sign and date a repayment agreement. It is recommended the agreement be notarized. The agreement must contain the amount of the overpayment, the amount of the refund, when the refund will be made, and the reason for the refund. The individual receives a copy and the original remains in the case record.

2. Involuntary Repayment

- a. For active Work First recipients,** establish a monthly recovery schedule based on the amount of the recipient's Work First payment and the family unit's countable income.

Use this method when the recipient does not wish to make a voluntary repayment either through a payment reduction or refund.

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- b. When a ***former recipient who is not currently receiving Work First*** refuses to repay the overpayment voluntarily, consider initiating civil court action.
1. Small claims court is limited to amounts of \$5,000 or less. This process is designed to be used without an attorney, although one may be helpful. A booklet entitled "A Guide to Small Claims Court" is available at the county courthouse or through Legal Aid of North Carolina, Inc. www.legalaidnc.org
 2. District court handles cases of \$5,001 - \$10,000 while superior court handles cases of over \$10,000. The county attorney can handle these cases with the investigator's assistance.
 3. The county may have the individual sign a judgment by confession if the individual willingly acknowledges the debt to the State/county. Before a person is asked to sign a judgment by confession, the individual must be informed they are:
 - Waiving their right to a trial.
 - Entitled to consult a lawyer and;
 - Possibly eligible for free legal aid.This would eliminate the need for a court trial while still giving the county a legal judgment against the individual. The county attorney can assist in getting the judgment finalized.

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 judgment 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 the State or a county department of social services cannot obtain even after judgment. For assistance, the worker should consult the county attorney.

Regardless of any court action, all overpayments must be collected. A court may reduce or dismiss the amount of the overpayment to be repaid. It may also order community service work in lieu of or in reducing the overpayment to be repaid. If either or both situations occur, the county, in collaboration with its attorney, must work with the court to have the order amended.

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When the court has ordered a repayment of the overpayment and the individual later files for bankruptcy, the individual must continue to repay the overpayment. Filing for bankruptcy does not remove the provisions of the court order.

If an individual is repaying an overpayment, either voluntarily or involuntarily, and later files for bankruptcy, contact the county attorney to determine if the county can continue to collect the overpayment.

- c. Wage Garnishment – Garnishment is a method of collection for IPV claims only. In order for garnishment proceedings to be initiated, the account **must be 60 days delinquent and a civil action must be initiated**. The garnishment cannot exceed 20% of the monthly net income (gross earned income minus legally withheld deductions such as federal and State taxes, Social Security, etc.); income must be verified by contacting the employer or the client. The ESC wage match can be utilized as a last resort.

NOTE: Garnishment should only be used after all other means of collecting payments have been exhausted. For example, if the claim is being recouped or cash payments are being made, garnishment is not allowed.

Garnishment is not an option when an individual has been guilty of an IPV in criminal court and has been ordered by the court to pay restitution. If the individual does not pay in accordance with the court order, a separate civil action can be filed. This needs to be coordinated with the probation officer.

- (1) Prior to garnishment being initiated, the county department of social services **must** obtain a civil judgment against the individual for the amount of the fraudulently received benefits and the cost of the action to recover the benefits. A judgment may be obtained after the civil court hearing is held or by default of the hearing. Default of the hearing occurs when the individual fails to appear for the hearing or fails to make a plea regarding the matter. (Refer to [Figure 263-1.](#))

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- (2) The county department of social services may petition the district court for an Order of Garnishment.
- (3) The Petition for Order of Garnishment (Refer to [Figure 263-2.](#)) must include all of the following.
 - (a) Indication that the person is a former recipient;
 - (b) An explanation of which public assistance programs are involved;
 - (c) The amount of the fraudulent overpayment;
 - (d) Circumstances surrounding the fraudulent benefit and the reason it is fraudulent;
 - (e) Information that all administrative methods to collect the benefits have been exhausted successfully;
 - (f) Verification that county department of social services has obtained a civil judgment (A copy must be attached.);
 - (g) The name and the address of the garnishee - usually the individual's employer;
 - (h) The amount of the individual's net earned income; **and**
 - (i) Verification that the proposed garnishment does not exceed 20% of the individual's net earned income.
- (4) The petition for an Order of Garnishment must be served on the individual and on the garnishee. The service must be in accordance with Rule 4 of the North Carolina Rules of Civil Procedure, which states that upon the filing of the complaint, a summons shall be issued within five days. The summons shall run in the name of the State and be dated and signed by the clerk of court or his deputy clerk. Service must be made within 30 days after the summons has been issued.

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- (5) The individual and the garnishee have 30 days from the date of service to respond to the petition in accordance with Rule 12 of the Rules of Civil Procedure. A hearing is set and is heard before a district court judge. If the judge enters an Order for Garnishment (refer to [Figure 263-3](#)), a copy must be served on the individual, as well as the garnishee. The order must include sufficient findings of facts to support the action by the court and the amount to be garnished each pay period. A certified letter must also be mailed to the garnishee advising him of his responsibilities regarding the Order of Garnishment. (Refer to [Figure 263-4](#).)

NOTE: The Order for Garnishment may be entered in the county where the individual resides, or is found, or in the county where the overpayment occurred. The order may be served personally or by certified or registered mail, with return receipt requested.

The order is subject to review for modification and dissolution upon filing of a motion in the cause.

- (6) The amount to be garnished is based on the individual's verified monthly net earned income. The amount garnished each pay period may be increased an additional \$1, which is a processing fee retained by the garnishee (employer) for each payment under the order. The \$1 processing fee is the responsibility of the garnishee.
- (7) Upon receipt of the Order of Garnishment, the garnishee transmits, without delay, to the Clerk of Superior Court the amount ordered by the court to be garnished. The funds are then disbursed to the county department of social services.
- (8) Any garnishee that violates the terms of an order of garnishment is subject to punishment for contempt.
- (9) The court may not enter an order for garnishment if they find that the order jeopardizes the individual's ability to become or remain financially self-sufficient and will result in the likelihood of an increased or recurring dependency on public assistance or

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an ability to secure basic necessities. The investigator must complete budgets to determine if the garnishment would jeopardize the individual's ability to remain self-sufficient.

- (10) Once the fraudulent benefits and the court costs are paid in full, the county is responsible for removing the judgment in the Clerk of Court's office. The county must remove the judgment within 30 days of the last payment.

3. NC Debt Setoff Collection (Tax Intercept) Procedures

a. What is Setoff Debt Collection (Tax Intercept)?

- (1) Definition of Setoff Debt Collection (Tax Intercept)

NC Debt Set-off (Tax Intercept) is the process by which the North Carolina Department of Health and Human Services (DHHS) intercepts income tax refunds through the North Carolina Department of Revenue (DOR) to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) Claims.

- (2) Legal Basis

North Carolina General Statute 105A provides that the North Carolina DHHS collect from North Carolina income tax refunds money owed by "debtors" because of AFDC/Work First Program IPV and IHE Claims. Senate Bill 39 revised the Department of Revenue (DOR) processing of setoff claims effective January 1, 2000. The new procedures obsolete the N-5001 certification process, mailing of the [DSS-8653](#) (Notice of Intercept) and manual posting of payments. EPICS selects debtors/claims that meet the criteria to be submitted for tax intercept, and send a [DSS-8653](#) when DHHS receives the intercept and post the payment at the appropriate time.

b. Rules for Selecting Claim Debtors for Tax Intercept

- (1) EPICS selects AFDC/Work First cases/debtors for submission to the NC DOR for NC Debt Setoff using the following criteria:

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- (a) Claim must be in Collection Status or Terminated Status (Referral Status = 'CO' or TE).
 - (b) Claim Type must be 'IHE' or 'IPV.'
 - (c) Total of all selected current Claim balance amount(s) must be \$50.00 or more.
 - (d) Must not be in Recoupment status (identified as a recoupment in the last 60 days).
 - (e) Claim Debtor must be delinquent on the particular claim. Delinquent is defined as: The Claim Establishment Date (located on the Claim Detail Screen) must be at least 60 days prior to the Current Date **and** the last payment received (located on the EPICS Payment History by Referral or Individual) is at least 60 days prior to the Current Date.
 - (f) Debtor must not have a NC Debt Setoff Indicator of H, L, S, or X
- (2) The Repayment Approach information in EPICS, such as the frequency of payment and the repayment amount, has no impact on the determination of delinquency for DOR selection. Delinquency is determined at the Claim Debtor level. It is possible for a Claim Debtor to be delinquent on one claim and not delinquent for another claim.
- (3) In determining delinquency, EPICS examines the Payments and/or Adjustments (adjustments could offset a payment) that have been recorded in EPICS within the last 60 days.

Following types of payments are considered:

- C - Cash
- LR - Local Recoupment
- R - Recoupment

EPICS will look at the methods of collections (payments) and adjustments for the past 60 days, tracking the total dollar amounts of all payments vs. adjustments. The only value that offsets a payment for delinquency determination is ADJ-Adjustment.

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- (4) 'NC Debt Setoff' field on the Debtor Detail Screen must be blank. This means that the person has not been determined exempt from a NC Debt Setoff for the claim or he has already been selected for NC Debt Setoff. The following exemption codes may be keyed in the NC Debt Setoff field. These codes are +used for reasons other than a DOR hearing such as a request for a fair hearing and this is used prior to DOR's selection of Claim Debtors for debt setoff.
- H = Hearing in progress (county use)
L = Litigation in progress (county use)
S = State controller waived (You will be notified by State DSS and instructed to enter this code.)
X = Permanently excluded (State office use, only)
- (5) If a Claim Debtor is identified on more than one Claim for the program, and he meets all of the requirements, the Current Balances for all delinquent claims are totaled. If this amount is \$50.00 or more, the Claim Debtor is forwarded for NC DEBT SETOFF.
- (6) EPICS sets the 'NC Debt Setoff' flag to 'Y' on each claim debtor record for any that has been identified as 'eligible' and forwarded for collection to DOR. The NC Tax Debt Setoff field is on the Debtor Detail Screen.
- (7) If a Claim Debtor does not have a Common Client ID (CCID) address (EPICS MAILING ADDRESS), the claim is forwarded to DOR without the address. If a claim debtor has neither a CCID Name nor a SSN, the debtor is not forwarded to DOR.

c. Claims Selected for NC Debt Setoff Report (FRD213)

- (1) The "Claims Selected for NC Debt Setoff" report is produced for each investigator to report debtors and claims that were selected for the NC Debt Setoff process. It is sorted by individual name and program. This report runs weekly and is in X/PTR. The report will not be mailed.
- (2) This report includes Name, Program, SSN, Individual ID, Referral ID, Case ID, Claim Balance, Claim Category, and Claim Status. This entire statewide report is viewable in X/PTR.

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- (3) This report does not identify which debtors have had a NC tax refund intercepted by DOR. That information is provided on the '30 Day Notice Report.'

d. Notice to the Debtor (DSS-8653)

- (1) Upon receipt of intercepts, EPICS generates the Notice to the Debtor, [DSS 8653](#), and enters code 'D' in the NC Debt Setoff field on the Debtor Detail Screen. A claim debtor may receive multiple notices if there were multiple claims in different counties. The multi-county indicator on the "NC Debt Setoff 30 Day Notice Report" indicates when more than one county is involved. Each notice provides the Claim Debtor with the county name, address and phone number for the Owner County. The "Amount Eligible for NC Tax Intercept" column on each notice will be the total balance for which DOR sent money for that particular county.
- (2) The NC Debt Setoff Pending Intercepts Screen allows an EPICS user to determine if a Claim Debtor had a NC Income Tax refund intercepted because of NC Debt Setoff. Claims appear on this screen from the time the NC Debt Setoff 30 Day Notice is sent, until the time the payment is applied and/or the money is refunded to the Claim Debtor. After the money is applied to the Claim Balance(s) or refunded, the claims no longer appear on this screen as the NC Debt Setoff is now considered complete.
- (3) The debtor has 30 calendar days from the date on the notice to appeal the intercept.
- (4) The debtor can waive the right to a hearing by signing a statement that he does not want EPICS to wait 35 days before proceeding with the process. When the waiver is signed, key code 'S' in the Selection Column on the NC Debt Setoff Pending Intercept Screen and enter a code 'W' in the 'APL IND' (Appeal Indicator) column and press the F9 key to update the screen.
- (5) Also if the Claim Debtor requests an appeal of the intercept, key code 'R' in the 'APL IND' Column on the NC Debt Setoff Pending Intercept Screen.

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- (6) Once the appeal has been decided, update the 'APL IND' column with a 'Y' or 'N' to show the results of the appeal.
- (7) When the NC Debt Setoff Pending Intercept screen is updated with either of the codes, EPICS updates **all** Claim Debtor records for claims included in the intercept.

e. NC Debt Setoff 30 Day Notice Report (FRD 431)

- (1) The "NC Debt Setoff 30 Day Notice Report" is produced for each Investigator to list Claim Debtors mailed a 30-day notice. The "Notice Date" is the date the 30-Day Notice Letter was mailed. It is sorted by name and program. This report runs weekly. The report is not mailed but is viewable in X/PTR. The statewide report is viewable by all counties.
- (2) The report contains the name, program, amount that was sent for NC Debt Setoff and shown on the 30-day notice, amount intercepted, a multi-county indicator to identify if a claim debtor has one or more claims in other counties, address, SSN, and Individual ID.

f. Hearings

When EPICS sends a [DSS-8653](#), Notice to Debtor, to an individual whose state tax refund has been intercepted, the debtor may request a hearing through the Office of Administrative Hearings (OAH) by filling a written Petition. The debtor has a right to request a hearing to contest the intercept unless the debt had been previously litigated in a court proceeding.

- (1) The debtor must obtain the Petition from the Office of Administrative Hearings by calling or writing the Office of Administrative Hearings (OAH) and requesting the form. Additional information may also be obtained online at <http://www.oah.state.nc.us/hearings>.
- (2) The request for a hearing must be mailed with postage prepaid and properly addressed or delivered to OAH by the 30th calendar day following the date of the DSS-8653. The debtor may not request a hearing by telephone or by contacting the county department of social services.

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- (3) The debtor must mail or deliver the original and one copy of the Petition requesting the hearing to the Office of Administrative Hearings at the following address:

OAH Mailing Address:	OAH Physical Address:
Office of Administrative Hearings	Office of Administrative Hearings
6714 Mail Service Center	424 North Blount Street
Raleigh, NC 27699-6714	Raleigh, North Carolina
(919) 733-2698	(919) 733-2698

- (4) As DHHS is the Respondent, the debtor is also required to mail or to deliver a copy of the Petition to: Ms. Satana DeBerry, Office of Legal Affairs, DHHS, 2005 Mail Service Center, Raleigh, NC 27699-2005.
- (5) When OAH receives the Petition, a “Notice of Contested case and Assignment” is sent to all parties, including the Office of Legal Affairs, DHHS, and to the Economic and Family Services Section.
- (6) The Economic and Family Services Section will then contact the county and notify them that the debtor has requested an appeal. Upon notification that the debtor has requested a hearing, the county must update the NC Debt Setoff Pending Intercept screen, which is Option 4 of the Collections menu in EPICS. In the APL IND (Appeal Indicator field), enter an “R” to indicate the debtor has requested an appeal.
- (7) Upon notification of the hearing decision, Economic and Family Services Section will contact the county with the decision. The county must update the Appeal Indicator field with “Y” or “N” on the NC Debt Setoff Pending Intercepts Screen depending upon the hearing decision.
- (8) The codes and definitions for the Appeal Indicators are as follows:
- “R” Debtor requested a hearing. EPICS will not process payment regardless of the time elapsed since the 30 Day Notice was sent to the Debtor.
 - “N” Hearing was in favor of the State/County action to intercept. EPICS will process payment and reset the Appeal Indicator back to a space.

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- “0” Other - Debtor did not request a hearing, but debtor should not have been intercepted for some reason. The State Controller’s Office will issue a refund to the debtor for the amount intercepted in addition to any interest accrued and the collection fee. The following workday EPICS resets the Appeal Indicator field on the NC Debt Setoff Pending Intercepts screen and the NC Debt Setoff field on the Debtor Detail screen to space. This allows the debtor to be reselected for future submission for NC Debt Setoff Collection. If debtor should be blocked from future submission, enter an appropriate code (H, S, L) in the NC Debt Setoff field of the Debtor Detail screen(s) the next workday after the “O” Appeal Indicator is entered on the NC Debt Setoff Pending Intercept screen.
- “Y” Hearing was in favor of the debtor. EPICS will not process the intercept. The State Controller’s Office will issue a refund to the debtor for the amount intercepted in addition to any interest accrued and the collections fee. Once the “Y” is entered, the debtor will not be submitted in the future for NC Debt Setoff Collection for the claim(s) listed on the NC Debt Setoff Pending Intercept screen. Refunds are shown on the FRD105, Refund Report for TOP and DOR.
- “W” Debtor waived the right to a hearing by signing a written statement that the individual waives their right to an appeal and wants the intercept to be applied immediately. EPICS will process the payment and will reset the Appeal Indicator back to a space.

g. How Payments are Applied

- (1) Money intercepted by DOR is applied to all selected claims for a single program. It is possible that EPICS may receive up to three separate intercepts for a Claim Debtor. A DOR intercept for the Food and Nutrition Program **can not** be applied to a Work First or Medicaid claim under any circumstance.

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- (2) When a claim is paid 'in full' by the tax intercept, the claim/referral is 'closed' by EPICS.
- (3) Each night, EPICS applies intercept payments to eligible claims. Claims are paid off in the order of oldest claim first, based on the Claim Establishment Date. If two or more claims have the same Establishment Date, the payment is applied to those claims at random.
- (4) If the amount of money intercepted exceeds the total amount owed by the Claim Debtor, the remainder is refunded to the Claim Debtor. The remainder is **not** applied to any other program. This may be a point of confusion to the client, as it is possible to receive a refund from the over_collection of one program type, and continue to have an outstanding balance for another program.
- (5) If a claim debtor becomes nondelinquent from the time of intercept and the time EPICS applies the payment, the payment will still be applied. In the case where the intercepted amount now exceeds the current outstanding balance, a refund will be issued to the claim debtor for the amount of the overcollection.
- (6) The State Controller processes all NC Debt Setoff refunds to the Claim Debtor. Refund checks will be written each week on Tuesday. All NC Tax Intercept Refunds will appear on the FRD105 Refund Report for TOP and DOR overcollections. This report is produced daily and available in X/PTR.
- (7) After the intercepted amount has been either applied, refunded (or both), all claims that were part of the intercept will have their NC Debt Setoff Indicator set to space by EPICS.
- (8) EPICS record all NC Debt Setoff payments as an "N" for the 'method of collection.' Once the payment is applied, it is visible on the Payment History by Referral and Payment History by Individual screens.

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h. Claims Exempt from NC Debt Setoff Report (FRD 429)

- (1) EPICS generates a weekly “DOR Exempt Report” of debtors who meet the selection criteria for NC Debt Setoff but were not submitted for the following reason.
 - (a) Claim Debtors on the report have one of the following codes entered in the NC Debt Setoff field – H, L, S, or X.
 - (b) The Appeal Indicator on the NC Debt Setoff Pending Intercept Screen has an ‘R’ or ‘Y’.
- (2) This report contains Name, Program, SSN, Individual ID, Referral ID, Case ID, NC Debt Setoff Indicator and Appeal Indicator. This report is produced for each Investigator and is sorted by name and program. This report is mailed and available in X/PTR. The statewide report is viewable by all counties.

i. O Appeal Indicator Report (FRD 160)

- (1) EPICS generates a daily report of debtors with an Appeal indicator of “O”. This report is not cumulative and will not display if the county has not entered an “O” the previous workday. Use this report to determine if the debtor should be blocked from future submission for the NC Debt Setoff collection. If appropriate, update the NC Debt Setoff field on the Debtor Detail screen with one of the following codes- H, S, L, or X (State office only).
- (2) This report contains Name, Program, SSN, Individual ID, Referral ID, Program Case ID, NC Debt Setoff APL Ind, Claim Amount, and Intercept Amount. This report is produced for each investigator and is sorted by name and program. This report is available in X/PTR.

j. DOR Intercept Requirements

- (1) In order to participate in the NC Debt Setoff Collection Act, agencies must register with DOR. The priority order for DHHS programs to collect intercepts are: Child Support, Medicaid (TPR), Food Stamps, AFDC/Work First, Medicaid (recipient overpayments), respectively.

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- (2) DHHS provides a file to DOR each week on Tuesday. Each weekly file replaces the previous week's file. It reflects EPICS latest claim balance and adds or drops records depending on current balance and selection criteria.
- (3) DHHS receives a file back from DOR reporting the offset amounts. DOR sends a notice directly to the taxpayer as soon as they make the intercept. In the 7 weeks time it takes DHHS to apply the payment, other payments by the debtor may reduce the claim balance, which may result in a refund.

EXAMPLE: A Claim Debtor entitled to receive a \$300.00 NC Tax Refund has a \$400.00 Food Nutrition claim and \$200.00 AFDC/Work First claim. These amounts were submitted to DOR. Treasury Offset Program (TOP) pays off the Food Nutrition claim after submission to DOR but before the intercept is received by DHHS. DOR sends the \$300.00 refund to the Food Nutrition Program. Since the Food Nutrition claim was paid out, the \$300.00 must be refunded to the taxpayer. DOR does not allow intercepts targeted for one program to be applied to another program.

- (4) The following procedure explains the approximate 7 weeks time frame for posting of payments in EPICS.
 - (a) DHHS creates a file of the current AFDC/Work First claim balances each weekend.
 - (b) DOR decides which tax refunds can be intercepted and processes the Refund Job on the following weekend.
 - (c) The following Monday, DHHS receives the file from DOR to show individual offset amounts by SSN.
 - (d) DOR sends bi-weekly electronic funds transfers to DHHS Controller's Office. The DHHS Controller's Office and State DSS reconcile balances. The State Controller then notifies EPICS to run the 30-Day Notices.

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- (e) EPICS mails the 30-Day Notice, ~~mails~~ it to the debtor using DOR address, and waits 35 calendar days (30-days for the client to request a hearing plus 5 days for mailing). EPICS display's the referral on the NC Debt Setoff Pending Intercept screen during this timeframe.
- (f) Unless the setoff is appealed, EPICS automatically applies payments 35 calendar days after the 30-Day notice date. The payment may be applied earlier if the debtor waives the right to a hearing and code 'W' is entered in the NC Debt Setoff field on the Debtor Detail screen. Once payment is applied, the referral is removed from the NC Debt Setoff Pending Intercept screen.

4. North Carolina Education Lottery Interceptions

a. What is NC Education Lottery (NCEL)?

(1) Definition of NC Education Lottery Interception (NCEL)

The NC Education Lottery Interception (NCEL) is a process in which lottery winnings are intercepted to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) claims. Lottery winnings must be at least \$600.00 for an interception to take place.

(2) Legal Basis

North Carolina General Statue 18C provides that prize payments may be used to satisfy debts owed to NC DHHS. NCGS 18C-133(a) states: By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the game-play rules adopted by the Commission that apply to any particular lottery game involved.

b. NCEL Interception Requirements

- (1) NCEL uses the same rules for selecting eligible debtors as the NC Department of Revenue (DOR). Refer to 3. B. above. EPICS use the same codes in the same fields for DOR and NCEL.

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- (2) The DHHS provides a file to NCEL each week. Each weekly file replaces the previous week's file. It reflects EPICS latest claim balances and drops or adds claims depending on the current balance and selection criteria.
- (3) NCEL provides a file to DHHS as money is intercepted. EPICS or DHHS sends a notice, DSS-8234, to the debtor regarding the interception and the claim balance. The notice will advise the household of the following:
- a. The amount intercepted, applied, and the claim is paid in full or,
 - b. The amount intercepted, applied, and the remaining balance of the claim or,
 - c. The amount intercepted, applied, and the amount to be refunded.
- (4) Unlike DOR interceptions, the debtor does not have a right to a hearing or appeal regarding the NCEL interception.

B. Sources of Repayment and Repayment Limitations

Overpayments may be recovered from the following:

1. The payee of the overpaid assistance unit.

- a. When the parent is payee only, the county must collect from his countable income (unless SSI) and the countable income and resources of the assistance unit. If he receives SSI, he may agree to a voluntary repayment. Refer to A. above.
- b. When the payee is a specified relative other than a parent and not included in the assistance unit, collect from the countable income and resources of the family unit.

2. Any Work First recipient if at the time the overpayment occurred:

- a. Was age 18 or older;
- b. Lived with the overpaid family unit; and
- c. Was part of the overpaid family unit.

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For both a voluntary and involuntary repayment, collect overpayments from all countable income and assets of the family unit. This includes the family's gross countable income, liquid assets, and the Work First payment. However, the family unit must be allowed to retain an amount not less than 90% of the Work First payment received by a family of similar composition with no other income.

When calculating the repayment amount, consider only income and assets used to determine eligibility for and payment amount of Work First. Refer to [Income and Needs Assessment \(114\)](#). When you calculate a repayment amount that would result in a zero payment case or ineligibility, authorize a \$25.00 payment. Recalculate the collection period so the assistance unit will be eligible for \$25.00.

C. Writing Off Overpayments

1. When an individual no longer receives Work First Family Assistance, collection may be suspended when:
 - a. All responsible debtors are deceased; or
 - b. Debtor has filed bankruptcy and the bankruptcy court has discharged the overpayment. To determine whether the overpayment can be collected, consult with your county attorney.

2. To request that a claim for an overpayment be written off, send a written request on county letterhead to the Economic and Family Services Section, 2420 Mail Service Center, 325 North Salisbury Street, Raleigh, NC 27699-2408. The request must include:
 - Referral ID
 - Casehead Name
 - Program Case ID
 - Overpayment Period
 - Current claim balance
 - Reason for the write off
 - Invigator's signature
 - Program Integrity supervisor's signature

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3. The Economic and Family Services Section will forward the request to the DHHS Controller's Office or the Attorney General's office for approval to write off the claims. Once approval is obtained, the State will proceed to close the claims in EPICS.
4. The county must maintain the written notices to the individuals responsible for the overpayment and sufficient documentation to substantiate that an overpayment occurred. See I. G. above.

V. COLLECTION OF RECIPIENT RESPONSIBLE OVERPAYMENTS WHEN FAMILIES MOVE FROM ONE COUNTY TO ANOTHER

- A. The collection of recipient responsible overpayments is the responsibility of the first county until the case becomes active in the second county.
- B. When the case becomes active in the second county, the collection of the overpayment becomes the second county's responsibility.
- C. The overpayment may be collected either by a refund or a payment reduction.
- D. Because the second county assumes the administrative costs for **collection, it will not reimburse the first county when collections are received.**

VI. HOW TO REPORT COUNTY RESPONSIBLE OVERPAYMENTS - ACTIVE AND INACTIVE CASES

- A. When a county has determined that an overpayment occurred because of a county responsible overpayment in complying with program regulation, the overpayment must be recouped by state office adjustment. The claim must be entered into EPICS with a claim type of **AE**, agency error type of **C**, the **overpayment amount, the over issuance period, and current balance**. After the claim information has been entered, press the F9 UPDATE function key twice. The claim will close and the referral status will change to CL.
- B. The overpayment is collected by State Office adjustment of county funds.
- C. If the county responsible overpayment is collectible from the recipient (See I. B. above.), enter the claim into EPICS as an Inadvertent Household Error (IHE). EPICS will mail the DSS-8226, Letter of Overpayment to all debtors on the claim if the amount is greater than zero. The claim balance will remain collectable from DOR and NCEL until there is a zero balance.

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VII. STATE RESPONSIBLE OVERPAYMENTS - ACTIVE AND INACTIVE CASES

If an overpayment occurs because of a State Office error in interpreting Federal and State rules and regulations, the overpayment is charged to the State.

VIII. HOW TO REPORT RECIPIENT RESPONSIBLE OVERPAYMENTS - ACTIVE AND INACTIVE CASES

Recipient responsible overpayments are reported through EPICS. Enter the overpayment with a claim type of **IPV** or **IHE** and the current balance on the Claim Detail screen. Complete the Debtor Detail screens for all debtors associated with the claim. The claim balance will remain collectable from DOR and NCEL until there is a zero balance.