

93.140(3) *Right to request a hearing.* A participant who is enrolled in the PROMISE JOBS program may request a hearing if dissatisfied with working conditions, the availability of workers' compensation coverage or the wage rate used in determining hours of community work experience program participation. When any involved party is dissatisfied with the decision on the appeal, the dissatisfied party shall be informed of the right and, if so desired, assisted with appealing the issue to the Secretary of Labor, at Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of receipt of the department's final decision. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery day. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

93.140(4) *Right to appeal the content of the family investment agreement.* A participant shall have the right to appeal the content of the FIA when the informal resolution process described at 93.138(1) does not resolve a disagreement between the participant and the PROMISE JOBS worker and the participant wishes to continue in the FIA process.

441—93.141(249C) Participant recycling, deactivation, and waiving participation. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.142(249C) Eligibility-termination. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.143(239B) Confidentiality. The departments of education, workforce development and economic development, Job Training Partnership Act agencies, and local education agencies shall safeguard client information in conformance with Iowa Code section 217.30.

The department and PROMISE JOBS provider agencies may disclose client information to other state agencies, or to any other entity or person who is not subject to the Iowa Administrative Procedure Act, when that agency or other entity or person must have that information in order to provide services to PROMISE JOBS participants which have been determined to be necessary for successful participation in PROMISE JOBS.

441—93.144(239B) PROMISE JOBS grievance procedure. The PROMISE JOBS program shall provide a grievance procedure to address and resolve public complaints regarding the displacement of regular workers with program participants.

93.144(1) The procedure will provide that:

a. Complaints must be filed in writing and received by the PROMISE JOBS contractee within one year of the alleged violation.

b. A representative of the PROMISE JOBS contractee must schedule a face-to-face interview with the complainant within seven days of the date the complaint is filed, to provide the opportunity for informal resolution of the complaint.

c. Written notice of the location, date and time of the face-to-face interview must be provided.

d. An opportunity must be provided to present evidence at the face-to-face interview.

e. The representative of the PROMISE JOBS contractee shall issue a decision in writing within 14 days of the date a complaint is filed.

f. A written explanation must be provided to all involved parties of the right to file a written appeal, according to 441—Chapter 7, if the opportunity for informal resolution is declined, if a party receives an adverse decision from the PROMISE JOBS contractee, or if there is no decision within the 14-day period.

(1) To be considered, an appeal must be filed with the department within ten days of the mailing date of the adverse decision or ten days from the date on which a decision should have been mailed.

(2) An appeal hearing will not be granted until informal resolution procedures have been exhausted, unless a decision has not been issued within 24 days of the complaint filing date.

93.144(2) The department shall issue a final decision within 90 days of the date the complaint was filed with the PROMISE JOBS contractee.

93.144(3) Any dissatisfied party shall be informed of the right to appeal the decision of the department to the Secretary of Labor at Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 111 20th Street N.W., Washington, DC 20036, within 20 days of the receipt of the department's final decision. For the purposes of this rule, the department's final decision shall be considered received the second day after the date that the written decision was mailed, unless the intended recipient can demonstrate that it was not received on the second day after the mailing date. When the second day falls on a Sunday or legal holiday, the time shall be extended to the next mail delivery date. The option to appeal to the Secretary of Labor does not preclude an individual from exercising any right to judicial review as provided in Iowa Code chapter 17A or as described in 441—Chapter 7.

93.144(4) Upon notice of a complaint or grievance, the PROMISE JOBS office must provide the complaining party with a copy of the grievance procedures, notification of the right to file a formal complaint and instruction on how to file a complaint.

93.144(5) Upon filing a complaint, and at each stage thereafter, each complainant must be notified in writing of the next step in the complaint procedure.

93.144(6) The identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation must be kept confidential to the extent possible, consistent with due process and a fair determination of the issues.

93.144(7) All employers who participate in the PROMISE JOBS program shall provide assurances that all regular employees are aware of this grievance procedure.

441—93.145(239B) Workers' compensation for PROMISE JOBS work experience participants. The department shall provide workers' compensation coverage for all PROMISE JOBS work experience participants.

441—93.146(239B) Safety rules from PROMISE JOBS work sponsors. Each work experience program sponsor shall provide to the PROMISE JOBS contractee a copy of the safety rules in effect in that entity before participants are referred for work site placement.

441—93.147(249C) Required notices to the department. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.148(239B) Records maintenance. All agencies who contract with the department to provide PROMISE JOBS services shall maintain all records related to the program for three years.

93.148(1) Agencies shall allow federal or state officials access to all records upon request.

93.148(2) Rescinded IAB 3/3/93, effective 5/1/93.

441—93.149(249C) Responsibilities of any organization with a UP-CWEP work site other than the provider agency. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.150(239B) Financial. The provider agency shall receive financial reimbursement as specified in contracts negotiated with each agency. Contracts shall also specify in detail the expenses which are not eligible for reimbursement.

441—93.151(239B) Recovery of PROMISE JOBS expense allowances. When a participant or a provider receives an expense allowance greater than allowed under these rules or a duplicate payment, an overpayment is considered to have occurred and recovery is required. The PROMISE JOBS worker shall notify the department of inspections and appeals (DIA) to record the overpayment in the Overpayment Recovery System at the same time that the client or provider is notified of the overpayment. The outstanding balance of any overpayments which occurred prior to July 1, 1990, shall be treated in the same manner. An overpayment shall be recovered through repayment in part or in full, or through offsetting against future payments in the same category. Underpayments and overpayments may be offset against each other in correcting incorrect payments in the same category. There are three categories of PROMISE JOBS expense allowances, based on the source of federal funding. The first category is child care. The second category is transportation. The third category is all other supportive expense allowances. Repayments received by the PROMISE JOBS unit and information about recoveries made through offsetting shall be transmitted to the Department of Human Services, Cashier's Office.

93.151(1) The PROMISE JOBS worker shall promptly notify the client or the provider of the amount and causes of the overpayment, the date the overpayment was received, and appeal rights using the Notice of Overpayment—PROMISE JOBS Expense Allowances, Form 470-2666. The client or provider has 30 days to appeal the Notice of Overpayment—PROMISE JOBS Expense Allowances. However, the existence and amount of the overpayment must be appealed within 30 days of the issuance of the Notice of Overpayment—PROMISE JOBS Expense Allowances. If a client or provider files an appeal request, the PROMISE JOBS unit shall notify DIA within three working days of receipt of the appeal request.

a. Actual offsetting in the PROMISE JOBS office cannot begin until after the end of the 30-day appeal period which begins with the day following issuance of the Notice of Overpayment—PROMISE JOBS Expense Allowances. If a client or a provider files an appeal request during the 30-day appeal period, the PROMISE JOBS unit shall not initiate offsetting until the appeal is resolved by withdrawal or a final appeal decision which permits offsetting as a method of overpayment recovery.

b. When a client or a provider offers repayment in part or in full before the end of the 30-day appeal period, the PROMISE JOBS unit or the department of human services local office shall accept the payment. If a subsequent appeal request is received, the PROMISE JOBS unit shall notify DIA and shall not accept any further payments on the claim. The amount of the voluntary payment shall not be returned to the client or provider unless the final decision on the appeal directs the department to do so.

93.151(2) When offsetting is to be used to recover the overpayment, the PROMISE JOBS worker shall issue a Notice of Decision-Services, Form SS-1104-0, after the end of the 30-day appeal period, informing the client or the provider of the amount to be offset. In those instances where the amount to be offset changes, a new Notice of Decision-Services shall be issued. The notice must be timely and the client or provider has the right to appeal the notice which initiates offsetting and any subsequent notice which changes the amount to be offset.

93.151(3) When a participant receives an overpayment and is unable or unwilling to make a refund, the PROMISE JOBS worker shall recover the overpayment by offsetting it against future months' expenses in the same category.

a. In those instances when the PROMISE JOBS worker is offsetting to recover a child care overpayment, sufficient current child care shall be paid to ensure the availability of child care to the participant.

b. In those instances when the PROMISE JOBS worker is offsetting to recover support services, sufficient current expenses shall be paid to enable continued participation in the activity.

c. When it becomes impossible to recover through offsetting, either because the participant is no longer participating in PROMISE JOBS or because any potential offsetting would jeopardize the participant's progress toward the employment goal, the PROMISE JOBS worker shall notify DIA so that recovery procedures can be initiated.

93.151(4) When a child care provider or support services provider receives an overpayment on behalf of a PROMISE JOBS participant and is unable or unwilling to make a refund, the PROMISE JOBS worker may recover the overpayment by offsetting it against future months' expenses for the same client.

a. The period of time available to complete the offsetting will be limited according to the amount of the overpayment. For amounts up to \$500, three months is the maximum period; for amounts over \$500 and up to \$1,000, six months is the maximum period. Offsetting shall not be initiated for overpayments which do not meet these limits.

b. When it becomes impossible to recover through offsetting, because the client is no longer participating in PROMISE JOBS, or because the overpayment amount exceeds the limits described in paragraph "a" above or because the provider will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall notify the DIA so that repayment procedures can be initiated.

c. If the provider does not agree that an overpayment has occurred or will deny service to the client if offsetting is initiated, the PROMISE JOBS worker shall not initiate offsetting. The worker shall explain that DIA will contact the provider regarding recovery procedures and shall explain appeal rights as found in 441—Chapter 7.

93.151(5) When a client or a provider has been referred to DIA to initiate recovery, DIA shall use the same methods of recovery as are used for the FIP program, described at DIA rules 481—71.1(10A) to 71.9(10A), except that the FIP grant shall not be reduced to effect recovery without the client's written permission.

a. When the client requests grant reduction on the Agreement to Repay, Form PA-3164-0, grant reduction will be made as described in 441—subrule 46.25(3), paragraphs "a," "b," and "c," based on definitions of client error and agency error in rule 441—46.21(239B).

b. With regard to provider overpayments, DIA is authorized to take any reasonable action to effect recovery such as, but not limited to: informal agreements, civil action, or criminal prosecution. However, DIA shall not take any action which would jeopardize the participant's continued participation in the PROMISE JOBS program.

441—93.152(239B) Disadvantaging the family by a change in child care method. In the case of a family which was receiving ADC from Iowa on October 13, 1988, based on application of child care through the provision of special needs, if the family would be disadvantaged as a result of meeting the cost of child care through PROMISE JOBS, the family's ADC eligibility and payment (including child care needs) shall be determined as if the method of provision which was applicable on October 31, 1988, is still in effect.

These rules are intended to implement Iowa Code Supplement sections 239B.17 to 239B.22.

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