CHAPTER 46
OVERPAYMENT RECOVERY
[Prior to 7/1/83, Social Services[770] Ch 46]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—46.1 to 46.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—46.1(239) to 46.8(239)]

441—46.21(239B) Definitions.
"Agency error" in overpayments means: (a) The same as circumstances described in 441—subrule 45.24(1) pertaining to underpayments, or (b) any error that is not a client or procedural error.
"Client" means a current or former applicant or recipient of the family investment program.
"Client error" means and may result from:
1. False or misleading statements, oral or written, regarding the client's income, resources, or other circumstances which may affect eligibility or the amount of assistance received;
2. Failure to timely report changes in income, resources, or other circumstances as required by rule 441—40.27(239B);
3. Failure to refund to the child support recovery unit any nonexempt payment from the absent parent received after the date the decision on eligibility was made; or
4. Access of benefits issued via the electronic access card at a prohibited location pursuant to 441—subrule 41.25(11).
"Overpayment" means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive or the amount of any payment accessed and any associated fees for accessing the benefits at a prohibited location pursuant to 441—subrule 41.25(11).
"Procedural error" means a technical error that does not in and of itself result in an overpayment. Procedural errors include:
1. Failure to secure a properly signed application at the time of initial application or reapplication.
2. Failure to secure a properly signed Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months, as described at 441—subrule 41.30(3).
3. Failure of the department to conduct the interviews described in 441—subrules 40.24(2) and 40.27(1).
4. Failure to request a Review/Recertification Eligibility Document at the time of a semiannual or annual review.
5. Failure of department staff to cancel the family investment program benefits when the client submits a Review/Recertification Eligibility Document that is not complete as defined in 441—paragraph 40.27(4)*"b."* However, overpayments of grants as defined above based on incomplete reports are subject to recoupment.
"Recoup" means reimburse, return, or repay an overpayment.
"Recoupment" means the repayment of an overpayment, either by a payment from the client or an amount withheld from the assistance grant or both.
[**ARC 1207C**, IAB 12/11/13, effective 2/1/14; **ARC 2272C**, IAB 12/9/15, effective 2/1/16; **ARC 6496C**, IAB 9/7/22, effective 11/1/22]

441—46.22(239B) Monetary standards.
46.22(1) *Amount subject to recoupment.* All family investment program overpayments shall be subject to recoupment.
46.22(2) *Grant issued.* When recoupment is made by withholding from the family investment program grant, the grant issued shall be for no less than $10.

441—46.23(239B) Notification and appeals. All clients shall be notified by the department of inspections and appeals, as described at 441—paragraph 7.4(3)*"i,"* when it is determined that an overpayment exists. Notification shall include the amount, date and reason for the overpayment. The department shall provide additional information regarding the computation of the overpayment upon the client's request. The client may appeal the computation of the overpayment and any action to recover the overpayment through benefit reduction in accordance with 441—paragraph 7.4(3)*"i."*
[**ARC 4973C**, IAB 3/11/20, effective 4/15/20]

441—46.24(239B) Determination of overpayments. All overpayments due to agency or client error or due to assistance paid pending an appeal decision shall be recouped. A procedural error alone does not result in an overpayment.

46.24(1) *Agency error.* When an overpayment is due to an agency error, recoupment shall be made, including those instances when errors by the department prevent the requirements in 441—subrule 41.22(6) or 41.22(7) from being met or when the client receives a duplicate grant.

a. An overpayment of any amount is subject to recoupment with one exception: When the client receives a grant that exceeds the amount on the most recent notice from the department, recoupment shall be made only when the amount received exceeds the amount on the notice by $10 or more.

b. An overpayment due to agency error shall be computed as if the information had been acted upon timely.

46.24(2) *Assistance paid pending appeal decision.* Recoupment of overpayments resulting from assistance paid pending a decision on an appeal hearing shall begin no later than the month after the month in which the final decision is issued.

46.24(3) *Client error.*

a. An overpayment due to client error shall be computed as if the information had been reported and acted upon timely.

b. Overpayments due to failure to refund payments received from the absent parent shall be the total nonexempt support payment made for members of the eligible group at the time the support payment was received. In addition, assistance payments made to meet the needs of the eligible group may also be subject to recoupment under provisions in 441—subrule 41.22(6).

c. An overpayment due to a recipient's accessing benefits via the electronic access card at a prohibited location shall be the total of the transactions and any associated fees for accessing the benefits at the prohibited location pursuant to 441—subrule 41.25(11).

46.24(4) *Failure to cooperate.* Failure to cooperate in the investigation of alleged overpayments shall result in ineligibility for the months in question and the overpayment shall be the total amount of assistance received during those months.
[**ARC 1207C**, IAB 12/11/13, effective 2/1/14; **ARC 2812C**, IAB 11/9/16, effective 1/1/17]

441—46.25(239B) Source of recoupment. Recoupment shall be made from basic needs. The minimum recoupment amount shall be the amount prescribed in subrule 46.25(3). Regardless of the source, the client may choose to make a lump sum payment, make periodic installment payments when an agreement to do this is made with the department of inspections and appeals, or have repayment withheld from the grant. The client shall sign Form 470-0495, Agreement to Pay a Debt, when requested to do so by the department of inspections and appeals. When the client fails to make the agreed upon payment, the agency shall reduce the grant.

46.25(1) and **46.25(2)** Reserved.

46.25(3) *Basic needs.*

a. Recoupment by withholding from basic needs for overpayments due to client error or a combination of client and agency errors shall be 10 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

b. Recoupment by withholding from basic needs for overpayments due to the continuation of benefits pending a decision on an appeal as provided under rule 441—7.9(217) or a combination of continued benefits and agency or client errors shall be 10 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).

c. Recoupment by withholding from basic needs for overpayments due to agency error shall be 1 percent of the basic needs standard in accordance with the schedule in 441—subrule 41.28(2).
[**ARC 6496C**, IAB 9/7/22, effective 11/1/22]

441—46.26 Reserved.

441—46.27(239B) Procedures for recoupment.
46.27(1) Reserved.
46.27(2) *Referral.* When the department determines that an overpayment exists, the case shall be referred to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.
46.27(3) Reserved.
46.27(4) *Change of circumstances.* When financial circumstances change, the Agreement to Pay a Debt is subject to revision.
46.27(5) *Collection.* Recoupment for overpayments shall be made from the parent or nonparental relative who was the caretaker relative, as defined in 441—subrule 41.22(3), at the time the overpayment occurred. When both parents were in the home at the time the overpayment occurred, both parents are equally responsible for repayment of the overpayment.
46.27(6) *Suspension and waiver.* Recoupment will be suspended on nonfraud overpayments when the case is canceled and the amount of the overpayment is less than $35. If the case is reopened within three years, recoupment is initiated again. Recoupment will be waived on nonfraud overpayments of less than $35 which have been held in suspense for three years.
[**ARC 6496C**, IAB 9/7/22, effective 11/1/22]

441—46.28 Reserved.

441—46.29(239B) Fraudulent misrepresentation of residence. A person convicted in a state or federal court, or in an administrative hearing, of having made a fraudulent statement or representation of the person's place of residence in order to receive assistance simultaneously from two or more states shall be ineligible for assistance for ten years. For the purpose of this rule, the term "assistance" means assistance under Titles IV-A or XIX of the Social Security Act, or the Food Stamp Act of 1977, or benefits in two or more states under the Supplemental Security Income program under Title XVI. The ten-year period begins on the date the person is convicted. The prohibition does not apply to a convicted person who is pardoned by the President of the United States, beginning with the month after the pardon is given.
These rules are intended to implement Iowa Code sections 239B.2, 239B.3, 239B.7, and 239B.14.

[Filed 4/23/81, Notice 3/4/81—published 5/13/81, effective 8/1/81]
[Filed emergency 9/25/81—published 10/14/81, effective 10/1/81]
[Filed emergency 10/23/81—published 11/11/81, effective 11/1/81]
[Filed 1/28/82, Notice 11/11/81—published 2/17/82, effective 4/1/82]
[Filed emergency 5/21/82—published 6/9/82, effective 5/21/82]
[Filed 6/15/82, Notice 3/17/82—published 7/7/82, effective 9/1/82]
[Filed 7/30/82, Notice 5/26/82—published 8/18/82, effective 10/1/82]
[Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
[Filed emergency 11/18/83 after Notice 10/12/83—published 12/7/83, effective 1/1/84]
[Filed 12/16/83, Notice 11/9/83—published 1/4/84, effective 2/8/84]
[Filed without Notice 9/28/84—published 10/24/84, effective 12/1/84]
[Filed emergency 1/21/85—published 2/13/85, effective 2/1/85]
[Filed emergency after Notice 3/22/85, Notice 2/13/85—published 4/10/85, effective 4/1/85]
[Filed 3/22/85, Notice 2/13/85—published 4/10/85, effective 6/1/85]
[Filed 4/29/85, Notice 10/24/84—published 5/22/85, effective 7/1/85]
[Filed 11/15/85, Notice 10/9/85—published 12/4/85, effective 2/1/86]
[Filed emergency 7/25/86 after Notice 6/4/86—published 8/13/86, effective 8/1/86]
[Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]

[Filed 1/12/89, Notice 11/16/88—published 2/8/89, effective 4/1/89]
[Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
[Filed 1/16/90, Notice 11/15/89—published 2/7/90, effective 4/1/90]
[Filed emergency 9/17/93—published 10/13/93, effective 10/1/93]
[Filed 12/16/93, Notice 10/13/93—published 1/5/94, effective 3/1/94]
[Filed 8/12/94, Notice 7/6/94—published 8/31/94, effective 11/1/94]
[Filed 8/15/96, Notice 5/8/96—published 9/11/96, effective 11/1/96]
[Filed emergency 1/15/97—published 2/12/97, effective 3/1/97]
[Filed 4/11/97, Notice 2/12/97—published 5/7/97, effective 7/1/97]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 2/1/98]
[Filed 11/12/97, Notice 9/10/97—published 12/3/97, effective 3/1/98]
[Filed 3/10/99, Notice 11/18/98—published 4/7/99, effective 6/1/99]
[Filed 6/10/99, Notice 4/21/99—published 6/30/99, effective 9/1/99]
[Filed 9/12/00, Notice 7/12/00—published 10/4/00, effective 12/1/00]
[Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
[Filed emergency 11/14/01—published 12/12/01, effective 11/14/01]
[Filed 2/14/02, Notice 12/12/01—published 3/6/02, effective 5/1/02]
[Filed 10/20/06, Notice 8/30/06—published 11/8/06, effective 1/1/07]
[Filed emergency 10/14/08 after Notice 8/27/08—published 11/5/08, effective 11/1/08]
[Filed emergency 12/11/08 after Notice 10/8/08—published 1/14/09, effective 2/1/09]
[Filed ARC 1207C (Notice ARC 1001C, IAB 9/4/13), IAB 12/11/13, effective 2/1/14]
[Filed ARC 2272C (Notice ARC 2147C, IAB 9/16/15), IAB 12/9/15, effective 2/1/16]
[Filed ARC 2812C (Notice ARC 2684C, IAB 8/17/16), IAB 11/9/16, effective 1/1/17]
[Filed ARC 4973C (Notice ARC 4675C, IAB 9/25/19), IAB 3/11/20, effective 4/15/20]
[Filed ARC 6496C (Notice ARC 6369C, IAB 6/15/22), IAB 9/7/22, effective 11/1/22]