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Overpayments - Health Care Programs

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This policy replaces the following VPPM 2 policy: 5.11 Overpayments.

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Purpose

This policy provides direction to be followed when there is an overpayment made to a client or a beneficiary with respect to treatment benefits, Veterans Independence Program (VIP) or the Long Term Care (LTC) Program.

Policy

General

1. All overpayments that occur with respect to health care are considered to be Crown debts and, as such, are to be addressed by recovery, write-off or remission.
2. All overpayment cases which involve suspected fraud or wilful misrepresentation should immediately be referred to appropriate authority for action.
3. Once it has been determined that an overpayment exists, it should be ascertained whether or not the overpayment is due to administrative error.

Administrative Error

4. Administrative errors may occur as a result of a:
    a. system error;
    b. misinterpretation of legislation;
    c. misunderstanding of a decision;

d. mistake concerning an effective date; or
e. procedural error.

5. If an administrative error is deemed to be the responsibility of both the Department and the client, VAC will undertake to determine the portion of the overpayment which can be attributed respectively to the Department and the client.

Recovery

6. Recovery is normally the first course of action in the overpayment process. Every effort must be made to recover the overpayment debt from the client or the provider. Nevertheless, there may be instances where recovery is not desirable.
7. If a client is unwilling or unable to repay the overpayment directly, using set-offs against other government income should be considered.
8. Set-offs should be applied in the following order, if possible:
    a. against other payments of a similar nature;
    b. against any other payment made by the Department; or
    c. against any payment made by another department.

Remission

9. Although recovery is normally the first consideration in the overpayment process, there may be instances where such action is not desirable.
10. If a person has received or obtained an overpayment and:
    a. the overpayment cannot be recovered within the reasonably foreseeable future;
    b. the administrative costs of recovering the overpayment are likely to equal or exceed the amount to be recovered;
    c. the repayment of the overpayment would cause undue hardship to the person; or
    d. the overpayment is the result of an administrative error, delay or oversight on the part of a public servant,

    the responsible Departmental authority may remit all or any portion of the overpayment, unless there was a criminal act in the obtaining of the payment.
11. Factors to note when considering remission of overpayment include:
    a. the physical and mental health of the client (i.e. clients who are very ill should be given special consideration);
    b. the client's financial situation;
    c. other government benefits received;
    d. any other pertinent facts.
12. Once remission has been approved, VAC gives up its right to recover the overpayment at a later date.
13. No part of an overpayment may be remitted if the person, or the executor of the estate, or the liquidator of the succession, has been convicted of an offence under the *Criminal Code* in connection with receiving or obtaining the overpayment.
14. There is a graduated scheme for authorizing remission, whereby the level of Departmental authority increases based on the amount of the debt. These levels are outlined in the Departmental Delegation of Authorities Manual.

Write-off

15. Write-offs should be limited strictly to matters of uncollectibility; debt write-off does not forgive or extinguish the debt.
16. An overpayment may only be written-off in accordance with the *Debt Write-off* Regulations, 1994, which list the criteria under which an overpayment is considered uncollectible. Write-off is an accounting action which removes the debt, in whole or in part, from the active accounts receivable records in the Public Accounts. Write-off does not mean that the debt is forgiven. Collection of the debt, presumably, could resume in future if information is received that would appear to make the prospect of recovery likely. Authority for write-off is contained under section 25 of the *Financial Administration Act*. There is a graduated scheme for authorizing write-off, whereby the level of departmental authority increases with respect to the amount of the debt. These levels are outlined in the departmental Delegation of Authorities Manual.

Review

17. Overpayment decisions may be reviewed in accordance with Departmental policy.

References

Department of Veterans Affairs Act

Financial Administration Act

Veterans Health Care Regulations