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| Item 03-01-02E -- OVERPAYMENT RECOUPMENT |
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11. In All County Letter 02-74, on page 3, the first paragraph says:

"For purposes of the 60-month time limit, an overpayment month (i.e. an entire month of aid in which the recipient was not entitled to the cash aid) that is fully repaid by grant reduction or any other means, does not count toward the CalWORKs /TANF 60-month time limit."

Does any other means include child support recoupment?

Answer: YES

12. May the county apply overpayment recoupments made after January 1998 to overpayments that occurred prior to 1998?

Answer: YES, if the overpayment recoupment is made by grant adjustment, voluntary partial or lump sum payment or tax intercept. The county may not, however, apply child support recoupments made in or after January 1998 toward collection of overpayments made prior to January 1998.

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - January 8, 2003*

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| Item 03-01-02D -- JUDGE'S ROLE |
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9. Should Administrative Law Judges make specific findings regarding months in dispute and months not in dispute?

Answer: Judges should make specific findings as to what months CalWORKs was received rather than merely concluding that the county has established or has failed to establish that the claimant received CalWORKs for 60 months. This will avoid the relitigation of the same months in the future. If specific findings are made and a rehearing is not requested, MPP Section 22-054.34 will preclude relitigation of the case by either party, regarding these specific months.

Example:

An Administrative Law Judge finds that a claimant has received CalWORKs for 56 months between January 1998 and December 2002, based on a specific finding of fact or because those months were not in dispute. The Administrative Law Judge finds that the claimant did not receive aid in the months of March 2000 through June 2000 based on the testimony of the claimant and the county's failure to present sufficient evidence that the claimant received aid in those months.

If the county disagreed with this finding, it would have to request a rehearing. If the county does not request a rehearing or its rehearing request is denied, then the county would not be able to later present evidence that the claimant did in fact receive cash aid in March through June 2000.

Likewise, the claimant would have to request a rehearing if he/she disagreed with a Judge's finding that he/she did receive CalWORKs in March 2000 through June 2000. If the claimant did not request a rehearing or if the claimant's rehearing request was denied, the claimant would not be able to later present evidence that he/she did not receive CalWORKs in March 2000 through June 2000 or that other months during the noted 60-month time period should not be counted (absent changed circumstances such as subsequent collections of overpayments or child support.)

10. If a Judge determines that a claimant has received CalWORKs for less than 60 countable months because one or more months are now found to have been improperly included towards the 60-month time limit, how should a Judge set forth such determination in the Order?*

Answer: Judges should order the county to "untick" the specific months that should not be counted toward the 60-month time limit.

Example:

In the decision, the Judge finds the following:

- a. The claimant did not receive CalWORKs in March 1998.
- b. The claimant was sanctioned from WTW in December 1999.
- c. The claimant was entirely ineligible for CalWORKs in February 2001. The county recouped that entire overpayment by grant adjustments.
- d. The county received child support arrearages that were used to pay for aid received in January 1998, the first month of CalWORKs.

The Judge ruled in favor of the county on all other disputed months.

The Decision's Order in the above scenario would be as follows:

The claim is granted in part and denied in part.

_____ County shall rescind its action deleting the claimant from the CalWORKs AU effective January 1, 2003. The county shall "untick" the months of January, 1998, March 1998, December, 1999 and February 2001.

_____ County shall issue CalWORKs effective January 2003 as otherwise eligible and shall consider the claimant to have received aid for only 56 countable months.

*Note that any aid paid pending that the claimant receives after requesting a hearing will count as a month on aid if no time limit exemption applies in that month. In the above example, if the claimant receives aid paid pending in January and February 2003, the county should count those months as month 57 and 58 unless a time limit exemption applied.

*California Department of Social Services - State Hearings Division
Notes from the Training Bureau - January 8, 2003*

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| Item 03-01-02C -- HEARING RIGHTS |
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7. The county issues a time limit notice of action in the 54th month and the claimant fails to file a hearing request within 90 days of that notice. May the claimant have months 1 through 54 reviewed if the claimant then requests a hearing after the county issues a notice of action discontinuing aid in the 60th month?

Answer: If the county issued an adequate notice of action in the 54th month, the claimant's request for hearing on the 60th month notice of action would be untimely and the claimant would not be entitled to a review of months 1 through 54.

In order to be adequate, the notice of action must meet the requirements of MPP Section 22-001 (a) 1. In addition, the notice of action must include warning language similar to the following:

"If you do not request a hearing, you may never get another chance to change the number of months shown on this notice for your 60-month time limit on aid."

Note that the above language tells the claimant that he or she "may" never get another chance to change the number of months shown on the notice. "May" is appropriate in view of the fact that some of these months may, in the future, be "unticked" because of changed circumstances, such as subsequent collections of overpayments or child support.

Also, per All County Information Notice (ACIN) I-90-02 dated December 11, 2002, the above warning language appears on the NA 530 dated 11/02. The NA 530 is a required notice.

8. May the claimant request a hearing and have a Judge review the number of months that count towards the 60-month time limit, if the claimant received an informing notice, rather than a notice of action, or received no notice of action at all?

Answer: YES, unless the claimant received an earlier adequate notice of action and failed to file a timely hearing request on that notice of action. The claimant's hearing rights would be cut off only as to those months set forth in an adequate notice of action.