

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Monday, December 16, 2024, and filed with the agency secretary on Wednesday, December 18, 2024.

AGENCY NAME: Alabama Department of Human Resources Family Assistance Division

INTENDED ACTION: Amend

RULE NO.: 660-2-2-.13
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

RULE TITLE: Erroneous Payments

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted without changes. No comments received;

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLIII, ISSUE NO. 1, AAM,
DATED THURSDAY, OCTOBER 31, 2024.

STATUTORY RULEMAKING AUTHORITY: Code of Ala. 1975, §38-2-6

(Date Filed)
(For LRS Use Only)

REC'D & FILED
DEC 18, 2024
LEGISLATIVE SVC AGENCY

LaTonya Hughes

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Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

660-2-2-.13 Erroneous Payments.

(1) In general, an erroneous payment means an underpayment, overpayment, delayed payment, or a payment for a period of ineligibility. The following definitions are applicable:

(a) A delayed payment is defined as a payment that has been properly authorized but the issue of a check has been improperly delayed. Corrective action will consist of a special payment processed for the period for which the individual or family had accrual rights regardless of current eligibility as soon as possible after identification of the failure to issue the check.

(b) An underpayment is defined as either a payment received by or for an assistance unit for the payment month which is less than the amount for which the assistance unit was eligible or failure to issue a payment for a payment month to an eligible assistance unit. The Department will not correct underpayments resulting from a client's failure to report information or the incorrect/incomplete reporting of information. The Department will not correct other underpayments occurring more than 12 months prior to:

1. The date the county department receives a request for correction from a member of the underpaid unit or
2. The date the county department discovers that a loss to an assistance unit has occurred.

Corrective action will involve either the issuance of a special payment or reinstatement of eligibility. The period of the special payment is from the first month of error on the 12th month prior to (1) or (2) above whichever is later, to the month in which the payment is correct.

(c) An overpayment is defined as a situation when an assistance payment received by or for an assistance unit for the payment month exceeds the amount to which the assistance unit was eligible. Recovery of all overpayments will be sought by the Department by methods described in (2) below. Corrective action will depend on the causal reason for the overpayment, the current recipient status of the assistance unit, and whether the erroneous payment is defined as non-fraud or suspected fraud as below:

1. A non-fraud overpayment is defined as an overpayment due to continued or unreduced benefits when a request for a fair hearing is submitted during the advance notice period; or due to administrative (or agency) error caused by an active or passive error on the part of a Departmental agent although the client made full disclosure of facts; or due to a payment during the advance notice period to which the assistance unit is entitled but not eligible; or due to client error when the applicant/recipient fails to disclose facts

regarding his situation, but there is no demonstrable intent to defraud.

2. A suspected fraud overpayment occurs when a recipient has received an overpayment occasioned or caused by his willful withholding of information concerning any household circumstances which would affect the amount of payment. To sustain an allegation of suspected fraud, the following elements must be present: documented evidence to substantiate the facts upon which the overpayment has been determined, an actual overpayment, and evidence that the individual intentionally committed the action or inaction which has prompted the overpayment.

(2) Corrective action for overpayments should generally consist of one or more of the following recovery activities depending on the type of claim (i.e., non-fraud, suspected fraud, or fraud confirmed by court action), on the amount of the overpayment, on whether the client currently receives financial assistance, on what steps may have already been taken to collect the overpayment, on whether civil or criminal legal action is permitted under the laws or on the age of the overpayment:

(a) Monthly recoupment of the payment standard based on the current family size; the monthly percentage amount of the recoupment will be stipulated in department program operating manuals.

(b) Monthly cash repayment based on a negotiated repayment agreement; the monthly amount of the repayment shall be based on the household's current ability to repay with a suggested minimum of \$20 per claim per month. The repayment agreement may be renegotiated at any time the household's situation changes.

(c) Civil or criminal legal action as permitted to the Department under applicable state law, including claims against the estate of a deceased person through filing of a claim with the court of appropriate jurisdiction.

(d) State income tax refund intercept as permitted under the Code of Ala. 1975 for collection of debts owed to the Department and Federal income tax refund intercept as permitted for collection of debts owed to the Department.

(3) The Department shall also operate a fraud control program which will disqualify intentional program violators from participation in the Family Assistance program as described below:

(a) For this purpose, the appropriate disqualification penalty shall be imposed against an individual who is a member of a family (regardless of whether included or excluded from the assistance unit) applying for or receiving assistance who is found on the basis of a plea of guilty or nolo contendere or otherwise by a state or federal court or

by a department administrative disqualification hearing and to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or to have committed any act intended to mislead, misrepresent, conceal, or withhold facts or profound a falsity, for the purpose of establishing the family's eligibility for benefits or of increasing (or preventing a reduction in) the amount of the grant or in seeking reimbursement of stolen benefits.

(b) The disqualification penalty for the violator included in the assistance unit shall be the removal of the needs of the individual found to have intentionally committed a program violation as described above in the following manner: for a period of 6 months upon the first occasion of any such offense; for a period of 12 months upon the second occasion of any such offense; and permanently upon the third or a subsequent occasion of any such offense.

(c) The disqualification penalty for the violator excluded from the assistance unit but serving as grantee relative, including SSI parents, ineligible alien parents, and non-parent grantee relatives, etc. shall be the removal of the individual as grantee relative for a period of 6 months upon the first occasion of any such offense; for a period of 12 months upon the second occasion of any such offense; and permanently upon the third or a subsequent occasion of such offense. During these penalty periods, payments to the assistance unit will be made to another relative living in the home or other protective payee pursuant to Department operating guidelines. The ineligible grantee relative may continue to receive benefits for other eligible assistance unit members for a temporary period while appointment of another grantee relative/protective payee is being processed.

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Statutory Authority: Social Security Act, Title IV-A; 45 C.F.R. 233.20; P.L. 98-369, effective October 1, 1984; State Plan for Title IV-A; Ala. Code §38-2-6; Ala. Code §38-4-1, et seq.

History: Effective June 28, 1983. Emergency amendment effective October 1, 1984. Permanent amendment effective December 10, 1984. Sections 402 and 403 of the Social Security Act; Section 9102 of P.L. 100-203; permanent amendment effective October 7, 1988. **Amended:** Filed January 3, 1997; effective February 7, 1997. **Amended:** Filed September 6, 2000; effective October 11, 2000; operative November 1, 2000. **Amended:** Filed August 6, 2007; effective September 10, 2007. **Amended:** Published December 31, 2024; effective February 14, 2025.