

**Effective 5/12/2015**

**35A-3-603 Civil liability for overpayment.**

- (1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:
  - (a) upon receiving written notice of the overpayment from the department; or
  - (b) upon discovering the overpayment, if that occurs before receiving notice.
- (2)
  - (a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.
  - (b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.
  - (c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.
- (3) A person who knowingly assists a recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.
- (4)
  - (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally, knowingly, and recklessly" are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, including committing any of the acts or omissions described in Sections 76-8-1203, 76-8-1204, or 76-8-1205.
  - (b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:
    - (i) a civil penalty of 10% of the amount of the overpayment; and
    - (ii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); or
    - (iii) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).
  - (c) Unless otherwise provided by federal law, the period of a disqualification under Subsection (4)(b)(ii) and (iii) is for:
    - (i) 12 months for a first offense;
    - (ii) 24 months for a second offense; and
    - (iii) permanently for a third offense.
- (5)
  - (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.
  - (b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.
- (6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

- (7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.
- (8) Jurisdiction over benefits is continuous.
- (9) This chapter does not preclude the Department of Health from carrying out its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20, Utah False Claims Act.

Amended by Chapter 221, 2015 General Session