
**DEPARTMENT
POLICY****All Programs**

Recoupment policies and procedures vary by program and overissuance type. This item explains Intentional Program Violation (IPV) processing and establishment.

BAM 700 explains the discovery date, types and standards of promptness. BAM 705 explains agency error and BAM 715 explains client error.

DEFINITIONS**All Programs****Suspected IPV**

Suspected IPV means an overissuance exists for which all three of the following conditions exist:

- The client **intentionally** failed to report information **or intentionally** gave incomplete or inaccurate information needed to make a correct benefit determination, **and**
- The client was clearly and correctly instructed regarding his or her reporting responsibilities, **and**
- The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities.

IPV is suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

IPV**FIP, SDA, FAP and CDC**

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client/AR signing a DHS-826, Request for Waiver of Disqualification Hearing, or DHS-830, Disqualification Consent Agreement, or other recoupment and disqualification agreement form.

FIP Only

The Aid to Families with Dependent Children (ADC) program was succeeded by the Family Independence Program (FIP). Treat these programs as interchangeable when applying IPV disqualification policy.

Example: Clients who committed an IPV while receiving ADC are to be disqualified under the FIP program.

FAP Only

IPV exists when an administrative hearing decision, a repayment and disqualification agreement or court decision determines FAP benefits were trafficked.

MA Only

IPV exists when the client/AR or CDC provider:

- Is found guilty by a court, **or**
- Signs a DHS-4350, IPV Repayment Agreement, **and** the prosecutor or the office of inspector general (OIG), authorizes recoupment in lieu of prosecution, **or**
- Is found responsible for the IPV by an administrative law judge conducting an IPV or debt establishment hearing.

OVERISSUANCE PROCESSING

All Programs

FIS/ES Actions

When a potential overissuance is discovered, complete the following steps:

1. Take immediate action to correct the current benefits; see BAM 220, Case Actions, for change processing requirements.
2. Obtain initial evidence that an overissuance potentially exists.
3. Determine if the overissuance was caused by department, provider or client actions.
4. Refer all client or suspected IPV errors to the recoupment specialist (RS) within **60** calendar **days of suspecting an overissuance exists**.

OQA Audits

FIP, SDA, CDC and FAP

Overissuances discovered by the Office of Quality Assurance (OQA) must be referred to the RS within **seven days** of receipt of the OQA findings- since they verified one exists.

Recoupment Specialist Referral

FIP, SDA, CDC and FAP

Bridges refers most client and suspected IPV errors to the RS. Use the DHS-4701, Overissuance Referral, to refer manual overissuances.

Complete the DHS-4701 **and** attach the potential evidence. Send it to the RS for your local office or region. A recoupment specialist listing is in the DHS-Net, Tools under Directories. The listing provides RS contact information by county and district.

The DHS-4701 must be sent to the RS within 60 days of suspecting that an overissuance exists.

MA Only

Do not refer MA overissuances to the RS; see BAM 710 for suspected IPV processing.

SER and ESS

Refer SER and ESS overissuances to the RS only when IPV is suspected and a FIP, SDA or FAP overissuance also exists for the same period. Follow procedures in the SER manual for recoupment of SER. Follow procedures in BEM 232 for Direct Support Services (DSS).

**RECOUPMENT
SPECIALIST
ACTIONS****FIP, SDA, CDC and FAP**

Within **60** days of receiving the referral, the RS must:

- Determine if an overissuance actually occurred.
- Determine the overissuance type.

Within **90** days of determining an overissuance occurred, the RS must:

- Obtain all evidence needed to establish an overissuance.
- Calculate the amount.
- Establish the discovery date.
- Refer all suspected IPV overissuances to OIG for investigation.
- Enter the FIP, SDA, and FAP suspected IPV errors as client errors on the Bridges Recoupment System (BRS).
- Enter the pending CDC on BRS.

Exception: For OQA **discovered** overissuances, the RS will have a total of **90** days from the date of receiving the referral to:

- Obtain all evidence needed to establish an overissuance.
- Calculate the amount.

- Start collection action on all agency and client errors and suspected IPV errors for FIP, SDA and FAP.
- Refer all suspected IPV overissuances to OIG for investigation.

OIG REFERRAL CRITERIA

All Programs

Prudent judgment should be used in evaluating an overissuance for suspected IPV. Consider the following questions when reviewing the case:

- Does the record show that department staff advised the client of his or her rights and responsibilities?
- Does the record show the client's acknowledgment of these rights and responsibilities?
- Did the client neglect to report timely when required to do so?
- Did the client make false or misleading statements?
- Does the client error meet suspected IPV criteria?
- Does the amount meet the OIG dollar threshold found below?

Suspected IPV's are referred to OIG when:

- From preliminary review, it appears that the overissuance falls within the definition of suspected IPV found in this item, **and**
- The total overissuance amount for all programs combined is \$500 or more, **or**
- The total overissuance amount for all programs combined is less than \$500, **and**
 - The group has a previous IPV, **or**
 - It involves concurrent receipt of assistance; see BEM 222, **or**
 - The client has had at least two client errors previously, **or**
 - The alleged fraud is committed by a state government employee.

CDC Provider Error Only

Refer overissuances of \$500 or more caused by a provider's intentional false billings or intentional inaccurate statements. Some examples are:

- Failing to bill correctly.
- Receiving CDC payment for care paid by a third party.
- Receiving CDC payment for hours when the child was not in care and the absence was not allowable; see BEM 706.

SER Only

Suspected IPVs can be combined with FIP, SDA, CDC and FAP programs to meet the OIG referral threshold of \$500. FIS and ES must calculate the overissuance amount and period before sending to the RS.

OIG REFERRALS

All Programs

Refer all suspected IPVs using the DHS-834, Fraud Investigation Request, located on the Michigan Inspector General System (MIGS). Attach all evidence and verifications supporting the overissuance and suspected IPV to the DHS-834.

Indicate on the DHS-834 whether the client was ever disqualified from the program(s) due to IPV and if so, the number of times per program.

Exception: For FIP, do not refer an overissuance to OIG if at the time it occurred, the group did not include an eligible or disqualified adult.

BRS Entry

FIP, SDA and FAP

When the DHS-834 is sent to OIG, enter the overissuance(s) on BRS for collection as a client error.

**OVERISSUANCE
PERIOD****Begin Date****FIP, SDA, CDC and FAP**

The overissuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy **or** 72 months (6 years) before the date it was referred to the RS, whichever is later.

To determine the first month of the overissuance period (for overissuances 11/97 or later) Bridges allows time for:

- The client-reporting period, per BAM 105.
- The full standard of promptness (SOP) for change processing, per BAM 220.
- The full negative action suspense period.

Note: For FAP simplified reporting, the household has until the 10th of the following month to report the change timely; see BAM 200.

End Date**FIP, SDA, CDC and FAP**

The overissuance period ends the month (or pay period for CDC) before the benefit is corrected.

Discovery Date**FIP, SDA, CDC and FAP**

The discovery date for an IPV is the date OIG has verified that an IPV exists. This is the date the referral was sent to the prosecutor or the date that OIG requests an administrative disqualification hearing.

**OVERISSUANCE
AMOUNT****FIP, SDA, CDC and FAP**

The amount of the overissuance is the benefit amount the group or provider actually received minus the amount the group was eligible to receive.

Estimate the overissuance amount pending OIG investigation results **if**:

- IPV is suspected, **and**

There is not enough information to determine the exact amount. Do not enter the estimated IPV as a client error for collection.

FAP Only

When the overissuance involves two or more FAP groups which should have received benefits as one group, determine the amount by:

- Adding together all benefits received by the groups that must be combined, **and**
- Subtracting the correct benefits for the one combined group.

FAP Trafficking

The amount for trafficking-related IPV is the value of the trafficked benefits (attempted or actually trafficked) as determined by:

- The court decision.
- The individual's admission.
- Documentation used to establish the trafficking determination, such as an affidavit from a store owner or sworn testimony from a federal or state investigator of how much a client could have reasonably trafficked in that store. This can be established through circumstantial evidence.

**OVERISSUANCE
CALCULATION****FIP, SDA, CDC and FAP****Benefits Received****FIP, SDA and CDC**

The amount of benefits received in an overissuance calculation include:

- Regular warrants.
- Supplemental warrants.
- Duplicate warrants.
- Vendor payments.
- Administrative recoupment deductions.
- EBT cash benefits issued.
- EFT payment.
- Replacement warrants (use for the month of the original warrant).

Do not include:

- Warrants that have not been cashed.
- Escheated EBT cash benefits (SDA only).

Warrant history is obtained from Bridges under Benefit Issuance; see RFT 293 and RFT 294.

FAP Only

The amount of EBT benefits received in the calculation is the **gross** (before AR deductions) amount issued for the benefit month.

FAP participation is obtained in Bridges under Benefit Issuance.

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the overissuance month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation in an employment-related activity.

Determining Budgetable Income

FIP, SDA, CDC and FAP

If improper reporting or budgeting of income caused the overissuance, use actual income for the overissuance month for that income source. Bridges converts all income to a monthly amount.

Exception: For FAP only, do not convert the averaged monthly income reported on a wage match.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget.

Examples:

- Randy and Andi Andrews both started work. They reported Randy's job but did not report Andi's job. For the corrected calculation, use actual income for Andi and the projected income already budgeted correctly for Randy.
- Minnie and Mickey receive FIP with their three children. Mickey has reported his employment at Disney Corp. They failed to report that one of the children left five months ago to go live with his mother, Mickey's ex-wife. The corrected month budgets will use the income already projected properly for Mickey, but remove the child from the household size.

FAP Only

For client error overissuances due, at least in part, to failure to report earnings, do **not** allow the 20 percent earned income deduction on the unreported earnings.

OVERISSUANCE ADJUSTMENTS

Assigned Support

FIP Only

Subtract from the overissuance amount any net assigned **current** support collections (not arrears) retained by the state for the benefit period:

- If the group was ineligible for FIP during the overissuance period, subtract the net support collections retained.
- If the group was eligible for part of the FIP issued, subtract the portion of the net support collections retained in excess of what the group was eligible for.

Overissuance months prior to October 2011

Example: Subtract \$50 from reported amount before performing the calculation above.

Overissuance Adjustment

Overissuance **exists:**

| | |
|---------|---|
| \$400 | Monthly FIP benefit received by the group. |
| - \$300 | Monthly FIP benefit group should have received. |
| \$100 | One month overissuance |

Reducing the overissuance when paid support exceeds the FIP benefit:

| | |
|---------|---|
| \$375 | Child support paid per DL-060. |
| - \$50 | Child support rebate sent to group. |
| \$325 | Difference in child support. |
| - \$300 | Actual monthly FIP benefit group was eligible for. |
| \$25 | This amount is subtracted to reduce the overissuance amount from \$100 to \$75. |

Do not reduce the overissuance when paid support does not exceed the FIP benefit:

| | |
|---------|--|
| \$300 | Child support paid per DL-060. |
| - \$50 | Child support rebate sent to group. |
| \$250 | Difference in child support. |
| - \$300 | Actual monthly FIP benefit group was eligible for. |
| 0 | Do not subtract anything from the overissuance amount, FIP benefit exceeds the difference in child support |

OIG RESPONSIBILITIES

All Programs

Suspected IPV cases are investigated by OIG. OIG will:

- Refer suspected IPV cases that meet criteria for prosecution to the Prosecuting Attorney.
- Refer suspected IPV cases that meet criteria for IPV administrative hearings to the Michigan Administrative Hearings System (MAHS).
- Return non-IPV cases to the RS.

IPV Hearings

FIP, SDA, CDC, MA and FAP

OIG represents MDHHS and MDE during the hearing process for IPV hearings.

OIG requests IPV hearings when no signed DHS-826 or DHS-830 is obtained, and correspondence to the client is not returned as undeliverable, or a new address is located.

Exception: For FAP only, OIG will pursue an IPV hearing when correspondence was sent using first class mail and is returned as undeliverable.

OIG requests IPV hearing for cases involving:

1. FAP trafficking overissuances that are not forwarded to the prosecutor.
2. Prosecution of welfare fraud or FAP trafficking is declined by the prosecutor for a reason other than lack of evidence, **and**
 - The total amount for the FIP, SDA, CDC, MA and FAP programs combined is \$500 or more, **or**
 - The total amount is less than \$500, **and**
 - The group has a previous IPV, **or**
 - The alleged IPV involves FAP trafficking, **or**

- The alleged fraud involves concurrent receipt of assistance (see BEM 222), **or**
- The alleged fraud is committed by a state/government employee.

Excluding FAP, OIG will send the OI to the RS to process as a client error when the DHS-826 or DHS-830 is returned as undeliverable and no new address is obtained.

OIG DISPOSITIONS

All Programs

Referral Rejected

OIG may return a DHS-834, Fraud Investigation Request, as inappropriate or with insufficient information to pursue as a result of their initial review and screening of the referral.

FIP, SDA, CDC and FAP

Recoup the overissuance as client or provider error if:

- There is enough information to determine the amount, **and**
- It is not due to agency error.

OIG Closure

All Programs

OIG may return an investigation disposition indicating investigation closure if it determines IPV evidence does not exist.

FIP, SDA, CDC and FAP

Recoup the overissuance as client or provider error if:

- There is enough information to determine the amount, **and**
- It is not due to agency error.

Prosecutor Actions

All Programs

The investigation disposition is completed specifying the prosecuting attorney's office action. If the client signed a DHS-830 and DHS-4350 in lieu of prosecution, see the **IPV ESTABLISHED** section in this item. There is no further administrative appeal after a

DHS-830 and DHS-4350 are signed. The client may appeal to circuit court.

FIP, SDA, CDC and FAP

Recoup the overissuance as client or provider error if:

- Prosecution is declined for lack of IPV evidence, **and**
- OIG did not pursue an IPV hearing, **and**
- There is enough information to determine the OI amount, **and**
- It is not due to agency error.

Court Actions

All Programs

The investigation disposition is completed specifying the action of the court.

If it is determined the client or provider committed an IPV, complete the following steps:

- Initiate recoupment as ordered by the court.
- Recoup the full amount as IPV if the court does not address recoupment.
- If the court-ordered IPV recoupment is less than the overissuance amount, recoup the remainder as client or provider error.
- **For FIP, SDA and FAP** apply the court-ordered disqualification period **or** the standard IPV period specified in this item if the court does not address disqualification.

See IPV ESTABLISHED and DISQUALIFICATION sections of this item.

FIP, SDA CDC and FAP

Recoup the overissuance as client or provider error if:

- The charges were dismissed for lack of evidence.
- There is enough information to determine the amount.
- It is not due to agency error.

Reminder: For OIs originally calculated as suspected IPV that are found to be client error only, the OI period may change and affect the OI amount.

Administrative Action

FIP, SDA, CDC and FAP

The investigation disposition is completed when:

- A DHS-826 and DHS-4350 is obtained from the client.
- For FIP, SDA and FAP, when an IPV hearing decision is issued.

IPV ESTABLISHED

All Programs

OIG will send all dispositions to the recoupment specialist within **14** days of their final disposition. The RS will forward SER and MA overissuances to the ongoing specialist and the local office to initiate recoupment actions.

FIP, SDA and FAP

IPV findings result in a higher repayment amount for recoupment of the overissuance **and** member disqualification for the program in which it occurred.

RS must complete recoupment and disqualification actions within 10 days of receipt of the OIG final disposition or signed DHS-4350 and DHS-830.

Exception: OIG may obtain a DHS-325, Provider Repayment Agreement. The original is sent to the Reconciliation and Recoupment Section (RRS) in central office and a copy is sent to the local office RS and should be filed in the provider file. No further action is required by the RS to initiate provider recoupment.

DISQUALIFICATION

FIP, SDA and FAP

Disqualify an active **or** inactive recipient who:

- Is found by a court or hearing decision to have committed IPV.
- Has signed a DHS-826 or DHS-830.
- Is convicted of concurrent receipt of assistance by a court.

- For FAP, is found by MAHS or a court to have trafficked FAP benefits.

A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits.

See BEM 400, BEM 518, and BEM 554 for treatment of the assets and income of disqualified group members.

CDC Providers Only

See BEM 707 for provider disqualifications.

Standard Disqualification Periods

FIP, SDA and FAP

The standard disqualification period is used in all instances except when a **court** orders a different period; see Non-Standard Disqualification Periods in this item.

Apply the following disqualification periods to recipients determined to have committed an IPV:

- One year for the first IPV.
- Two years for the second IPV.
- Lifetime for the third IPV.

FIP and FAP

- Ten-year disqualification for concurrent receipt of benefits if fraudulent statements were made regarding identity or residency; see BEM 203.

CDC Providers Only

See BEM 707 for disqualification periods.

Nonstandard Disqualification Periods

FIP, SDA and FAP

Courts may order nonstandard disqualification periods. Apply the court ordered period.

If the court does not address disqualification in its order, the standard period applies.

Periods Shorter Than Standard

Periods of at least one month, but shorter than the standard period specified are entered on Bridges like the standard period.

When zero disqualification is ordered for a recipient do not enter on Bridges.

Disqualified Grantee

FAP Only

A disqualified member may continue as the grantee **only if** there is no other eligible adult in the group.

When the grantee in a joint FIP/SDA and FAP case is disqualified for FAP, open the group's FAP under a **separate case number if**:

- There is another adult in the FAP case, **and**
- The disqualified member remains the FIP/SDA grantee.
- Continue a joint FIP/SDA and FAP case under a **single case number** after the grantee's FAP disqualification **if** the other adult FAP member becomes the grantee for both groups.

FAP Program Violations

FAP Only

Courts order FAP program disqualifications for misuse of program benefits; see BEM 203 for more information.

Apply disqualification periods when a recipient is convicted by a state or federal court, as follows:

- Two years when the recipient has been convicted of trading FAP to acquire illegal drugs.
- Lifetime period when the recipient has been convicted of:
 - Trading FAP to acquire illegal drugs for a second time.
 - Trading FAP to acquire firearms, ammunition or explosives.
 - Trafficking FAP with a value of \$500 or more.
- The standard IPV disqualification periods apply to FAP trafficking convictions less than \$500.

The standard IPV disqualification periods apply to FAP trafficking determinations made by MAHS or by the client signing a repay agreement.

CLIENT NOTICE

FIP, SDA and FAP

Notify the client of an IPV recoupment and disqualification actions via the DHS-4357, IPV Client Notice. Recoupment specialists have 10 days after receiving disposition from OIG to initiate recoupment and disqualification actions.

Give adequate notice when initiating recoupment and disqualification as a result of an IPV hearing or when a DHS-826 is signed.

Give the client **timely notice** before initiating recoupment as a result of a court action **unless** the client also signed a DHS-826.

CDC Only

See BEM 708 for sending client notices.

Hearing Request on DHS-4357

FIP, SDA, CDC and FAP

If the DHS-4357 is returned with a hearing requested, send a copy to MAHS (see BAM 600). Attach a copy of the signed DHS-826 or DHS-830 and the DHS-4350, court order or hearing decision establishing the IPV. Only hearing requests challenging the

overissuance benefit reduction or repayment amount (not the overissuance amount) are granted by MAHS.

Note: If the hearing request on a **timely** notice was received **by the** administrative recoupment **effective date**, do **not** initiate administrative recoupment, pending resolution of the hearing issue. Begin administrative recoupment if the request arrived **after** the effective date **or** if no request was filed. You must notify the welfare debt unit that a hearing was requested.

Note: CDC providers do not have hearing rights.

INITIATING RECOUPMENT

FIP, SDA, CDC and FAP

Initiate recoupment on the effective date of the DHS-4357 by entering or changing the overissuance on Bridges Recoupment System (BRS).

Note: If a court or OIG specifies an IPV overissuance amount **less** than the total amount, **and** the difference is **not** due to a calculation error, recoup:

- The court ordered amount as IPV.
- The remaining balance as a client error.

Active programs are subject to administrative recoupment to repay the overissuance. Inactive programs are subject to cash repayment. BRS will automatically send collection notices to inactive cases; see BAM 725.

BRS Entry

FIP, SDA and FAP

To start recoupment and other collections on active and inactive FIP, SDA and FAP programs, make the following changes on Bridges:

- Close the client error claim for the suspected IPV.
- Use the remaining balance of the client error when changing it to an IPV.
- Enter the correct discovery date as determined and documented by OIG.

- Enter the IPV repay notice sent date with current date.

CDC Only

Authorize the pending OIG claim.

INITIATING IPV DISQUALIFICATION

FIP, SDA and FAP

All IPV disqualifications must be served immediately. Begin the disqualification the first month after the notice is sent, unless the action is untimely; see Untimely Disqualification in this item.

If multiple IPV disqualifications occur in the same program, they are served concurrently or with overlapping periods. If other program disqualifications occur during an IPV period, they are served concurrently with the IPV disqualification.

IPV disqualification periods **cannot** be interrupted, **even if** the person becomes otherwise ineligible.

IPV disqualification from a program, for example FIP, is **not** counted when later determining the IPV disqualification period for a **different** program, for example FAP.

Disqualifications take precedence over penalties; therefore, disqualification resulting in penalties (benefit reductions) must be ended in order to impose IPV disqualifications.

Update IPV Sanctions to remove the disqualified member.

CDC Providers Only

MDE CDC Policy Unit will initiate disqualifications. Local offices should continue to complete and submit the DHS-834, Fraud Investigation Request, to OIG when it is discovered a provider may be non-compliant with program requirements; see BEM 707.

Standard of Promptness

FIP, SDA and FAP

Send the client a DHS-4357 within 10 days after the receipt of:

- The investigation disposition indicating IPV was determined.

- The hearing decision that IPV occurred.
- The signed DHS-826 or DHS-830.

Begin the disqualification the first month **after** the notice is sent.

Untimely Disqualification

FIP, SDA and FAP

When a disqualification was **not** imposed according to the standard of promptness (above):

- Impose the disqualification for any remaining months.
- Recoup the benefits issued for the months the person should have been disqualified as an agency error.
- If the agency error amount is over \$250, notify the client of this overissuance via the DHS-4358A, B, C and D; see BAM 705.

LEGAL BASE

FIP

MCL 400.60
MCL 400.1 *et seq.*
Mich Admin Code, R 400.3129 - 400.3131
P.L. 104-193 of 1996

FAP

7 CFR 273.16
7 USC 2022
Mich Admin Code, R 400.3011
MCL 400.60

SDA

Annual Appropriations Act

CDC

Child Development and Care, 45 CFR Parts 98 and 99
42 USC 301 *et seq.* Social Security Act, as amended
Mich Admin Code, R 400.5001-400.5020
MCL 400.60

MA

42 CFR 431.230(b)

MCL 400.60