Policy for Compromise and Termination of MAXIS Overpayment Claims

TOPIC
Implementation of policy that authorizes the compromise and termination of MAXIS claims for overpaid income maintenance benefits.

PURPOSE
To inform affected staff of modifications to notices, procedures and MAXIS functionality to support policy for the compromise and termination of overpayment claims.

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I. BACKGROUND

The Program Integrity Section of the Department convened a workgroup comprised of representatives from Financial Management and the MAXIS Division of DHS, the Minnesota Department of Finance (MDF) and local agency staff affiliated with the Minnesota County Recovery Association (MCRA). The primary objective of the workgroup was to develop policy for compromising and terminating MAXIS claims for overpaid public assistance benefits that:

- satisfies legal requirements of Minnesota Statute and Federal Food Stamp Regulations and
- establishes objective criteria that can be applied consistently from case to case to ensure equal protection of similarly situated debtors.

An additional responsibility of the workgroup was to recommend changes in procedure and MAXIS functionality to support the policy proposals.

Food Stamp claims were terminated and compromised by the Department until ten years ago under federal regulatory authority that allowed state agencies to approve those actions. This practice ended when responsibility for MAXIS claims was transferred to the Program Integrity Section.

Program Integrity discontinued this practice because of equity issues in the existing system for terminating and compromising claims. Under that system, the decision to terminate or compromise a claim was made by a representative of the Department, but was dependent upon a local agency initiative to refer a specific claim for consideration. Local agencies were not provided guidelines to determine whether a claim qualified for referral. Consequently, some agencies did not refer any claims while others submitted claims without any determinable pattern to their referrals. Moreover, the Department had not developed written standards to assist its decision as to whether a referred claim qualified for termination or compromise.

In the intervening years, several changes occurred which prompted a re-examination of Department policy for compromising and terminating claims. In 1996 federal legislation was enacted to authorize Temporary Assistance for Needy Families (TANF). This gave the Department flexibility in setting policy for family assistance claims, including latitude to dispose of these claims through compromise and termination. In 1994 Minnesota enacted the State Debt Collection Act, which was amended in subsequent years to give the Department authority to terminate and compromise claims. In 2000 Food Stamp Regulations were promulgated that revised claim policy. These changes in legal authority provided an opportunity for the Department to develop policy for termination and compromise of claims that could be applied consistently to all programs with client overpayment claims that are managed on the MAXIS system.
II. CLAIM COMPROMISE POLICY

Compromising a claim consists of accepting a partial payment as full satisfaction of a claim on the condition that the payment is received promptly. Separate policies will apply to claims depending on when initial notification is received on the claim.

A. New Claims

This policy applies to all claims for which the initial notification of overpayment is provided on or after December 1, 2002. The text of all MAXIS overpayment notices issued on or after December 1, 2002 has been modified to include language that advises each debtor of:

- the right to have their claim compromised and
- the conditions that must be met to have their claim compromised.

The time limit for a debtor to make the compromise payment is 90 days from the initial notification of the claim to the household. If the initial overpayment notice is sent by first class mail, the 90 day period begins with the date the notice is issued. If the initial notice is returned to the local agency by the postal service, the right to an overpayment notice and compromise is renewed. If the initial overpayment notice is sent by certified mail and accepted by the household, the 90 day period begins with the date a household member signs for receipt of the notice.

The right to compromise does not apply when the initial notification of an overpayment occurs in conjunction with a criminal or civil court proceeding. This includes the occasion of securing a confession of judgment which also happens to be the initial notification of overpayment. None of these methods of establishing a claim, in fact, requires a MAXIS overpayment notice. If a MAXIS overpayment notice precedes any of these other actions and a timely compromise payment is received, the local agency is bound by the compromise. Consequently, a local agency that pursues criminal action would not be able to seek monetary restitution for the full amount of a previously compromised claim. This does not, however, prevent a local agency from charging the full amount of a compromised claim or from requesting additional fines, penalties, interest or non-monetary restitution in the sentencing phase of the criminal proceeding.

Claims are subject to compromise if voluntary payment is received within the 90 day time limit and either of the following conditions apply:

- Claims for excess assets may be compromised if the amount of the overpayment is greater than the amount that assets exceeded program limits. A compromise payment can be made for the amount of excess assets. If the value of excess assets changed during the period of an overpayment, the acceptable compromise payment is based upon the maximum amount assets were over program limits.
• Claims for any basis may be compromised by 25% if the remaining 75% is repaid. A claim for excess assets can be compromised under this provision if this method establishes a smaller payment than the prior provision.

B. Existing Claims

This policy applies to claims that provided the initial notice of overpayment prior to December 1, 2002. Compromise of these claims may be done upon inquiry of the debtor to the local agency. A local agency representative may offer a compromise proposal subject to the following limitations:

• The compromise is based upon the account of the debtor rather than an individual claim. This account includes all existing claims for which the debtor is responsible except new claims identified in Part A, fraud claims resulting from criminal conviction or pre-trial diversion and claims that have already been referred to the Minnesota Collection Enterprise or the Treasury Offset Program (TOP).

• At least 50% of the total amount owed on the claims in the account has been repaid prior to the compromise proposal.

• The debtor repays 50% of the remaining balance within 90 days of the compromise proposal.

III. CLAIM TERMINATION POLICY

A claim may be terminated and the claim balance adjusted to 0 when there is no realistic prospect for future recovery. This practice differs from a write off which is an accounting mechanism to remove a claim as an accounts receivable asset even though the claim is retained against the possibility of future recovery. All terminated claims are automatically written off, but claims that are written off are not necessarily terminated.

This bulletin affirms existing practice in local agencies to terminate claims when:

• the only responsible debtor for a claim has died and no future recovery actions are available or

• the only responsible debtor for a claim has had that debt discharged by federal bankruptcy court in a Chapter 7 or Chapter 13 proceeding.

This bulletin authorizes the termination of a claim in two additional situations:

• when a claim is the sole responsibility of a debtor who resides in a Long
Term Care Facility, there is no prognosis for a return to residential living in the community and there is no estate to repay the claim or there are existing commitments to repay higher priority obligations and

- when initial notification on a claim occurred at least ten years previous, there has been no recovery on any of the claims in the debtor’s MAXIS account in the preceding six years, criminal restitution is no longer required by district court, there is no docketed judgment and the debt is not certified for Revenue Recapture.

IV. MAXIS SUPPORT FOR CLAIM COMPROMISE AND TERMINATION

When all or part of a claim is adjusted to reflect a compromise or termination, it will be necessary to continue to use the current Type Codes - 05 (Adjust Subtract) for all programs except MFIP and 55 (MFIP Cash), 56 (State Cash), 57 (State Food) and 58 (Federal Food) for the different funding components of an MFIP overpayment.

If there is an MFIP compromise that requires a partial adjustment of an overpayment, apply payment and adjustment proportional to the funding sources that comprise the overpayment. For example, if a compromise payment of $750 is received on a $1,000 MFIP overpayment and the overpayment consists of $900 MFIP Cash and $100 Federal Food, post 90% of the payment ($675) to MFIP Cash and 10% to Federal Food ($75). Apply 90% of the $250 adjustment ($225) to MFIP Cash and 10% of that adjustment ($25) to Federal Food.

Six new reason codes have been created to represent the adjustments described in this bulletin:

20 - Compromise - New
21 - Compromise - Existing
22 - Terminate - No Recovery
23 - Terminate - LTC
24 - Terminate - Ch 7/13 Dschrg
25 - Terminate - Deceased

These additional transactions have been added to the Claims and Adjustments (Worker and County) Monthly Report (FN 790401) on INFOPAC. Supervisors whose staff have security roles allowing them to enter adjustments are encouraged to obtain this report so that they can periodically review this activity to ensure that these transactions are done properly.

An INFOPAC report will be made available monthly that provides local agencies with a list of claims that qualify for termination under reason code 22. This will display all MAXIS claims for a county that are at least ten years old with no recovery posted to any of the claims in the debtor’s account in the previous six years. County collection officers should regularly review this report so that claims can be promptly terminated. The initial report will be lengthy. If this report is processed timely, terminated claims will not reappear on subsequent monthly reports. The report
will not exclude fraud claims, claims identified as having a judgment or claims that have been reported as certified to Revenue Recapture. Consequently, it will be necessary to confirm whether a restitution order is still in force on a fraud claim or whether a claim with a judgment was docketed and renewed timely. If a local agency terminates a claim from MAXIS that has been referred for Revenue Recapture, it will need to concurrently complete the Revenue Recapture decertification. It will be necessary to enter an explanatory claim note when terminating a fraud claim or judgment claim.

The first of these reports will be available by the end of the current year. A MAXIS E-mail will be issued to all eligibility and collection staff as soon as the report is made available.

V. SPECIAL NEEDS

This information is available in other forms to persons with disabilities by calling (651) 296-4410 or contact us through the Minnesota Relay Service at 1 (800) 627-3529 (TTY) or 1 (877) 627-3848 (speech-to-speech relay service).