

WAC 388-410-0030 How does the department calculate and set up my basic food, FAP, or WASHCAP overpayment?

(1) We calculate the amount of your basic food, Washington combined application project (WASHCAP), or food assistance program for legal immigrants (FAP) overpayment by counting the difference between:

- (a) The benefits your assistance unit (AU) received; and
- (b) The benefits your AU should have received.

(2) To calculate the benefits your AU should have received, we determine what we would have authorized if we:

- (a) Had correct and complete information; and

(b) Followed all the necessary procedures to determine your AU's eligibility and benefits.

(3) If you did not report your earned income as required under WAC 388-418-0005 and 388-418-0007, you do not receive the earned income deduction under WAC 388-450-0185 when we calculate your overpayment amount.

(4) We must set up an inadvertent household error or administrative error overpayment if:

(a) We discovered the overpayment through the federal quality control process;

(b) The overpayment is over eighty-five dollars and you currently receive basic food, FAP, or WASHCAP benefits; or

(c) The overpayment is over one hundred twenty-five dollars and you do not currently receive basic food, FAP, or WASHCAP benefits.

(5) We do not set up an inadvertent household error or administrative error overpayment if all of the following are true:

(a) We did not discover the overpayment through the federal quality control process;

(b) You do not currently receive basic food, FAP, or WASHCAP benefits; and

(c) The total amount your household was overpaid was one hundred twenty-five dollars or less.

(6) If you have an inadvertent household error that we referred for prosecution or an administrative disqualification hearing, we will not set up or start collecting the overpayment if doing so could negatively impact this process.

(7) We must set up an intentional program violation overpayment based on the results of an administrative disqualification hearing under chapter 388-02 WAC, unless:

- (a) Your AU has repaid the overpayment; or

(b) We have referred your inadvertent household error for prosecution and collecting the overpayment could negatively impact this process.

- (8) We must calculate the overpayment amount:

(a) For an administrative error overpayment - up to twelve months prior to when we became aware of the overpayment;

(b) For an inadvertent household error overpayment - for no more than twenty-four months before we became aware of the overpayment; and

(c) For intentional program violation (IPV) overpayments - from the month the IPV first occurred as determined under WAC 388-446-0015, but no more than six years before we became aware of the overpayment.

(9) If we paid you too few basic food, FAP, or WASHCAP benefits for a period of time, we will use the amount we underpaid your AU to reduce your overpayment if:

(a) We have not already issued you benefits to replace what you were underpaid; and

- (b) We have not used this amount to reduce another overpayment.

(10) We will send you an overpayment notice under RCW 43.20B.630 and 7 C.F.R. Sec. 273.18. We send notices as required under chapter 388-458 WAC. If all adult AU members live at the same address, we serve an overpayment notice on the head of household.

(11) The overpayment becomes an established (set-up) debt in one of the following ways:

(a) By operation of law if you do not respond within ninety days of service of the overpayment notice;

(b) By administrative order if you timely request a hearing; or

(c) By written agreement.

(12) You may request a hearing to contest an overpayment of your basic food, FAP, or WASHCAP benefits.

(a) The hearing may include issues such as whether you were overpaid, whether we calculated the amount of the overpayment correctly, and the type of the overpayment.

(b) The administrative law judge (ALJ) does not have the authority to compromise, terminate, write-off, defer, or otherwise waive the overpayment claim or recovery of the claim.

(13) If the overpayment has been referred for prosecution in accordance with WAC 388-446-0001(4), you may request that the administrative hearing related to the overpayment be postponed.

[Statutory Authority: RCW 43.20A.550, 43.20B.630, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.18. WSR 17-13-006, § 388-410-0030, filed 6/8/17, effective 7/9/17. Statutory Authority: RCW 43.20A.550, 43.20B.630, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and 7 C.F.R. § 273.18. WSR 15-22-051, § 388-410-0030, filed 10/29/15, effective 11/29/15. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.18. WSR 14-05-064, § 388-410-0030, filed 2/18/14, effective 3/21/14. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 06-20-062, § 388-410-0030, filed 9/29/06, effective 11/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 03-21-027, § 388-410-0030, filed 10/7/03, effective 12/1/03; WSR 03-01-005, § 388-410-0030, filed 12/4/02, effective 2/1/03. Statutory Authority: RCW 74.04.057, 74.04.500, 74.04.510, 7 C.F.R. 273.18. WSR 02-06-090, § 388-410-0030, filed 3/1/02, effective 4/1/02. Statutory Authority: RCW 74.04.510. WSR 01-14-032, § 388-410-0030, filed 6/28/01, effective 8/1/01. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-410-0030, filed 7/31/98, effective 9/1/98.]