

121 CMR: OFFICE FOR REFUGEES AND IMMIGRANTS

121 CMR 3.000: AUXILIARY ACTIVITIES

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3.050: Overview of Auxiliary Activities

121 CMR 3.000 describes activities that affect the delivery of benefits and are required to ensure the proper and accurate direction of funds under the Massachusetts Refugee Resettlement Program (MRRP). Auxiliary activities include:

- (a) Complaints and Inquiries, 121 CMR 3.100 through 3.150;
- (b) Overpayments, Underpayments, Corrections and Recovery, 121 CMR 3.200 through 3.240;
- (c) Prevention of False or Erroneous Representation, 121 CMR 3.300;
- (d) Lost and Stolen Checks, 121 CMR 3.400 through 3.420; and
- (e) Quality Control, 121 CMR 3.500.

3.100: Complaints

(1) A complaint is an oral or written communication expressing dissatisfaction with or inquiring about the policies and procedures of MRRP or the practices of the Office for Refugees and Immigrants (ORI) or a Case Management Provider in administering it. Complaints may be made by persons, institutions, or other agencies. A complaint may be oral or in writing.

(2) Case Management Providers shall have written complaint procedures which at minimum shall:

- (a) Be given to anyone who requests them;
- (b) Provide that a complainant who is dissatisfied with a lower level staff response shall receive a response from the director of the agency; and
- (c) Provide that if the complainant is dissatisfied with the Case Management Provider's response and requests further review, the complaint will be forwarded to ORI for response.

3.150: Inquiries

(1) General Inquiries. The Case Management Provider and Employment Services Provider shall respond promptly to general inquiries related to the MRRP.

(2) Case Inquiries. The Case Management Provider and Employment Services Provider shall respond to case specific inquiries subject to the confidentiality requirements of M.G.L. c. 66A and 45 CFR 400.27.

3.200: Overpayments and Underpayments

(1) An overpayment to an assistance unit is a payment for which the assistance unit is ineligible or a payment that exceeds the amount for which the assistance unit is eligible. An overpayment may result from ORI error; Case Management Provider error; participant error, misrepresentation or withholding of information, including failure to report changes affecting eligibility or grant amount within five working days of the change(s); or payment of assistance pending implementation of a fair hearing decision in which a proposed action is upheld.

(2) An underpayment is a payment to an assistance unit which is less than the amount for which the assistance unit was eligible or a failure to issue a payment due to an eligible assistance unit.

3.210: Correction of Overpayments and Underpayments

(1) Identification and Correction. The Case Management Provider has the responsibility to identify and to correct overpayments and underpayments of cash assistance. If both an underpayment and an overpayment exist, the Case Management Provider may offset one against the other before correcting the payment if the existence and amount of both the underpayment and the overpayment can be promptly determined. Otherwise, the Case Management Provider shall proceed to correct the underpayment and overpayment independently.

(2) Underpayments. Upon notification by a Case Management Provider, ORI shall promptly correct underpayments. The Case Management Provider shall explain in writing to the participant the amount and cause of the underpayment and advise the participant of the right to request a fair hearing if he or she disputes the amount.

Retroactive corrections of underpayments are not income for purposes of determining eligibility and amount of assistance.

A refugee may request the correction of an underpayment, appeal the denial or failure to act on such request and appeal the amount determined to have been underpaid.

(3) Overpayments. All overpayments are subject to recovery. The Case Management Provider shall give the participant an opportunity for a conference in which the Case Management Provider shall give the reason(s) for the overpayment, describe the factual basis for the existence and amount of the overpayment, and explain, when appropriate, the methods of repayment available to the participant. The participant may furnish information concerning the amount of the overpayment.

The Case Management Provider shall give the participant timely notice (121 CMR 2.660: *Notice*), unless waived in writing by the refugee, before acting to recoup an overpayment.

3.220: Recovery from Current Participants

(1) Method of Recovery.

(a) The Case Management Provider shall seek recovery of an overpayment from current and previous MRRP participants.

(b) The methods of recovery shall be by:

1. recoupment, which is the recovery of an overpayment by means of a reduction in the assistance unit's grant;
2. a lump sum payment;
3. installment payments; or
4. a combination of the three.

(c) If a participant refuses to pay or fails to comply with an agreement to repay through a lump sum payment or installment payments or a combination of methods, he or she shall be required to repay the remaining overpayment by recoupment.

(d) The Case Management Provider shall recover overpayments only from the assistance unit that was overpaid.

(2) Effect on Refugee Cash Assistance Status. If through recoupment the monthly grant amount is reduced to zero, the assistance unit shall be considered still to be receiving assistance.

The amount to be used in redetermining eligibility shall be the original amount of the cash assistance, that does not include the amount of the recoupment.

3.220: continued

(3) Amount of Recovery. The Case Management Provider shall recover overpayments as long as the assistance unit retains from its assistance grant and other gross income combined a monthly amount equal to 90% of the appropriate Standard of Assistance. In determining gross income, earned income shall be determined without application of the Work-related Expense Deduction, Dependent Care Deduction or \$30 and 1/3 Disregard (121 CMR 2.535: *Deductions from Earned Income*).

3.230: Recovery from Previous Participants

Recovery shall continue after cash assistance terminates unless ORI determines it is no longer cost-effective. When cash assistance terminates while an overpayment is still due, or when an overpayment is discovered after the cash assistance terminates, the Case Management Provider shall attempt to arrive at an agreement with the refugee for repayment through installments or lump sum or combination of the two. If the Case Management Provider and refugee are unable to reach an agreement, or if they reach an agreement and the refugee fails to adhere to it, the overpayment shall be referred to ORI which may pursue it further, including taking legal action if appropriate.

3.240: Intentional Withholding of Information or Misrepresentation

When the Case Management Provider has reason to believe that an overpayment was the direct result of a participant's intentional deception, it shall refer the matter to ORI for referral to the Bureau of Special Investigations.

3.300: Prevention of False or Erroneous Representation

The Case Management Provider shall periodically inform participants of their responsibility for prompt and complete reporting of changes that may affect their eligibility and the amount of their assistance grant.

3.400: Lost and Stolen Checks

(1) When a participant reports that a check is lost or has not been received, the Case Management Provider shall determine the address to which the check was mailed and whether the check has been returned to ORI. If the participant has reason to believe that the check has been stolen, he or she must report the theft to the police.

(2) If a check has not been returned to ORI and four days (including the check date) have elapsed, the participant may request a replacement check by signing a check replacement request form prescribed by ORI. If he or she does so, he or she must be advised of the need to return the original check if it is received at a later date.

3.410: Authorization of a Replacement Check

Unless the Case Management Provider has reason to doubt the validity of the claim, the Case Management Provider must approve a request for a replacement check when:

- (a) The original check is reported lost or stolen and four days (including the check date) have elapsed; or
- (b) The original check has been returned to the Case Management Provider or ORI and the participant has corrected the circumstances that made the check undeliverable.

3.420: Issuance of a Replacement Check

Before issuing a replacement check, ORI shall:

- (a) Request a stop payment order on the original check if the original check has not been cashed; or
- (b) If the original check has been cashed, require that the participant sign a form prescribed by ORI stating that the endorsement is not his or hers.

3.500: Quality Control

(1) Quality Control is a system of review designed to measure the accuracy of decisions on eligibility and the amount of assistance for MRRP. ORI or its designee shall administer the review system.

(2) When an assistance unit is selected for review, the participant(s) is required to cooperate with the ORI Quality Control review process as a condition of continued eligibility. Cooperation includes, but is not limited to, a personal interview with the Quality Control reviewer and the furnishing of information necessary to determine eligibility and the amount of assistance.

REGULATORY AUTHORITY:

121 CMR 3.000: M.G.L. c. 6, § 206 and 207; c. 30A.