

Factsheet - Recovery of overpayments of benefits

What are reviews?

When you are applying for or receiving a benefit from the Department of Work and Pensions (DWP), you have a duty to provide them with certain information if they ask for it.

You also have a general duty to tell them (either in writing or by telephone) of any change of circumstances that you might reasonably be expected to know would affect your continued entitlement to the benefit you are receiving. For example, if you would need to tell them if your partner moved into your home or if you started a new job.

You must tell the DWP about the change of circumstances “as soon as reasonably practicable¹”.

As it is sometimes difficult for you to know what changes are going to affect your benefits, it is advisable to tell the DWP about **any** change of circumstances as soon as possible after the change has happened.

For example, you are admitted into hospital for treatment. You are told that you may have to remain in hospital for several weeks. Attendance Allowance, Disability Living Allowance and Personal Independence Payment stop being paid once you have been in hospital for 28 days. Therefore, you or your appointee (if you have one) should contact the DWP as soon as possible after you are admitted into hospital to let them know about your admission. You will then need to update the DWP as soon as you leave hospital so that they know to restart your benefit payments.

If you delay in reporting the change of circumstance to the DWP or do not tell them about the change of circumstance then you may:

- Have to repay the overpayment;
- Receive a civil penalty of £50 for failing to inform the DWP without having a reasonable excuse;
- Be prosecuted for fraud if it looks like you deliberately failed to tell the DWP about the change of circumstances so that you could continue to receive the benefit

Repaying an overpayment

If you delay in telling the DWP about a change of circumstances or do not tell them about that change of circumstance then the DWP is likely to demand that the overpayment is

¹ Regulation 32 (1B) Social Security (Claims and Payments) Regulations 1987

repaid to them. The overpayment is likely to be the amount of benefit paid to you between the date of the change of circumstance and the date that they became aware of the change of circumstance.

- This may be deducted from any other benefits you are still receiving; or
- Deducted from earnings; or
- Recovered through the courts.

Who has to repay the overpayment

Depending on the circumstances, an overpayment can be recovered from the person who was receiving the benefit or the person acting as their appointee. For example, if you did not make your appointee aware of the change of circumstance the DWP may not find it appropriate to go after the appointee for the overpayment. However, if the appointee was aware of the change of circumstances but did not tell the DWP, then the DWP may decide that the appointee should have to repay the overpayment. The DWP should send out a decision saying whether the person claiming the benefit or their appointee will be liable for the repayment.

Challenging the overpayment

If an overpayment has occurred because you did not tell the DWP about a change of circumstances or because you did not properly explain the facts or situation you can appeal (after going through Mandatory Reconsideration process- see separate factsheet) if you disagree that:

- An overpayment has occurred; or
- That an overpayment can be recovered; or
- With the amount to be recovered

Recovering the overpayment

The DWP can decide not to recover all or part of the overpayment. However, DWP guidance says that the DWP should only decide not to recover the overpayment in exceptional circumstances.

The DWP can use their discretion not to recover the overpayment if you acted in good faith and recovery of the overpayment would cause you hardship or be detrimental to you or your family. Therefore, even if you do not have grounds to challenge the overpayment you should still ask the DWP to use their discretion not to recover the overpayment.

We hope that you have found this factsheet useful. Whilst you are here, we have a small favour to ask. More people are using our service than ever before. We can't keep up with demand. We don't want to turn people away, and we want to keep on developing more information resources like this factsheet, but we don't have enough money to expand. So you can see why we need to ask for your help. We know that our information and advice can make a real difference to the quality of life of the people we support. If people using our service could help to support us, our future would be much more secure.

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