

Ontario Works Policy Directives

9.5 Sharing of Overpayments Between Spouses

Legislative Authority

Sections 19, 20, 21 and 22, 28(6) and 32 of the Act.

Section 62 of Regulation 134/98.

Section 10 of Regulation 135/98.

Audit Requirements

Documentation is on file to support decisions made.

Overpayments are documented properly to support both the decision and the calculation, and are being recovered.

Systems are updated, maintained and accounting principles are adhered to.

Delivery agent employees and contracted agencies adhere to all legislation, regulations, and directives governing the methods and processes for the collection of debts.

Random file reviews are completed to ensure that all requirements are met.

Application of Policy

Delivery agents must ensure that a recipient receives the financial assistance for which he/she is eligible, based on all available information.

All overpayments are subject to recovery. Only in exceptional circumstances is an overpayment considered uncollectible ([see Directive 9.3: Recovery of Overpayments](#) for more information).

Notice must be given to the recipient and spouse of the amount of the overpayment, the period and reason for which it was incurred and appeal rights.

If a benefit unit included a dependent spouse at the time an overpayment was incurred, both the recipient and dependent spouse are held equally responsible for the debt, provided that the dependent spouse is given notice of the overpayment.

Overpayments incurred by a dependent spouse when the dependent spouse was a recipient or dependent spouse in a different benefit unit, is recoverable from the benefit unit to which he/she currently belongs.

The following chart identifies the policies related to the sharing of overpayments between recipients and dependent spouses in active cases:

Scenario	Application of Policy
1. A recipient and dependent spouse incur an overpayment and then separate.	The overpayment is split 50/50 at the time that the overpayment is incurred. It remains split 50/50 after separation and will become payable by both parties on any future benefit unit(s).
2. A recipient and dependent spouse, both with overpayments from previous benefit units, become members of the same benefit unit.	The new benefit unit becomes jointly responsible for both overpayments. Recovery is by deduction from the amount payable to the new benefit unit. Where both parties had overpayments from previous benefit units, the recovery would be attributed equally to each person.
3. A recipient and dependent spouse both have overpayments from previous benefit units, become members of the same benefit unit and then separate.	As described in scenario 2, overpayments are added together and recovery is by deduction from the amount of assistance payable. In the event the couple separates, each party would be responsible to repay his/her original debt less any recovery already made before the separation.
4. A recipient and dependent spouse incur an overpayment as members of the same benefit unit, then one becomes deceased.	The recipient and dependent spouse are equally responsible to repay the overpayment. The 50% attributed to the deceased (less any recovery) would be recovered from the estate.
5. A recipient and dependent spouse both have overpayments from previous benefit units, become members of the same benefit unit and then one becomes deceased.	Any overpayment incurred by the deceased as part of this or another benefit unit (less any recovery) would be recovered from the estate.